Factors in the Control of Corporations: Structural and Bureaucratic Impediments

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FACTORS IN THE CONTROL OF CORPORATIONS:
STRUCTURAL AND BUREAUCRATIC IMPEDIMENTS

by

Doris Jean Cubbernuss

A Dissertation
Submitted to the
Faculty of the Graduate College
in partial fulfillment of the
requirements for the
Degree of Doctor of Philosophy
Department of Sociology

Western Michigan University
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The extent to which corporate power, in and of itself, is considered a problem in U.S. society is a function of the perceived role of the corporation in social, political, and economic structures. Recognition of the inordinate powers of large corporations in the social and political, as well as economic, institutions of the society serves as an impetus for the analysis of the structures and processes designed to control corporate activities. The structural and bureaucratic impediments to these control mechanisms are illustrated in the Ford Pinto case. The activities of the Ford Motor Company, the National Highway Traffic Safety Administration, and judicial bodies provide the forum in which interrelationships among controlling bodies and the organizations to be controlled are addressed. Furthermore, the related issues of legitimacy of corporate and controlling powers, the role of the state in the economic sphere, and the role of economic organizations in the political sphere are explored within a model of society that allows recognition of major power differentials and the harm that may come from them.

In this research, the mechanisms designed for the control of corporations are examined for their contributions toward the social responsibility of large corporations. The reinforcements and con-
tradictions in the network of control agencies are explicated and the effectiveness of the regulatory mechanism in the Ford case is assessed. The delineation of obstacles to the control of corporate actions within the case study afforded by the criminal prosecution and federal regulation of the Ford Motor Company illuminate political/economic and organizational relations in our society. While support is found for the view that power differentials are, to some extent, mitigated in the structure and processes of interactions between corporations and their controllers, this case study illustrates the form and extent of the advantages associated with corporate actors in these processes.
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ACKNOWLEDGEMENTS

This dissertation could not have been completed without the help of Beti Thompson who knew exactly what I meant when I said:

We do, doodley do, doodley do, doodley do,
What we must, muddily must, muddily must, muddily must;
Muddily do, muddily do, muddily do, muddily do,
Until we bust, bodily bust, bodily bust, bodily bust.

- Vonnegut

This is especially true of the view of societal organization I present in Chapter I. Thanks Beti.

Doris Jean Cubbernuss
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CHAPTER I

THE PROBLEM

The large organizations that exist in the institutional arrangements of U.S. society are social actors that maintain access to power beyond that of individuals within the society. Nowhere is the unequal power of organizational actors more evident than in the large corporations that dominate the economic, social, and political arrangements in U.S. society. The differential ability of the corporation to influence societal definitions, the content of social, political, and economic norms, and the legal processes designed to control the powers of large complex organizations in the society are examined in this study. The problem is two-fold: the form, extent, and bases of the extraordinary powers of the large corporation and the structural and bureaucratic impediments to the control of these powers by other groups and organizations in the society.

The pervasive influence of large corporations in the economic sector is discussed by Parenti (1977):

The giant corporations control the rate of technological development and the terms of production; they fix prices and determine the availability of livelihood; they decide which labor markets to explore and which to abandon; they create new standards of consumption and decide the quality of goods and services...(pp. 20-21).

Corporate power is not limited to economic influence. Many social scientists have viewed large corporations as political systems and social enterprises. These conceptions of large corporations as so-
cial and political, as well as economic, enterprises emphasizes the extraordinary power that corporations wield over other actors, including individuals, in the society. In Galbraith's (1973) view, "The great corporation exercises public power, power that affects the health, well-being, and general happiness of those subject to it" (p. 6).

Public power wielded by corporate actors in the private sector of the economy may require external controls to assure responsiveness of that power to the needs and interests of people in the society. "There is no reason to believe that, except by accident, the exercise of public power by the corporation coincides with the public interest" (Galbraith, 1973, p. 6). The conception of the corporation as a public actor does not negate the very real circumstance of private ownership and control over the goals, resources, and decision-making processes of the large corporations. The danger of such a situation is evident in the costs society has suffered, costs that include harm to the physical well-being of individual members of our society, to the economic well-being of the organizational and individual actors in our economy, and to the social and emotional well-being of all members of the society. Deaths and injuries due to occupational hazards and product defects, the economic repercussions of unfair advertising and market practices, and the threats to personal quality of life accompanying the business decisions of large businesses in the maintenance of a viable labor force exemplify these costs (Schrager & Short, 1978; Dahl, 1973).

The primary focus of this research, the control of corporations,
examines structural and organizational responses to corporate power and the issues that underlie such processes. Attempts to control corporations have focused on regulatory structures, criminal liability, civil liability, the maintenance of organizations which serve as countervailing threats to corporate power, the maintenance of competition among firms, and strategies designed to directly intervene in the decision-making processes of large corporations. The control of large organizations such as corporations presents special problems to policy-makers in their attempts to curb the power and influence of large corporations and to social scientists attempting to construct general theories of social control. Ermann and Lundman (1978) emphasize the necessity of specific attention to the organizational features of the actors to be controlled. The problem of corporate power and its control constitute the two major foci of this research.

The Problem of Corporate Power

An understanding of the position of corporations in U.S. society requires attention to the historical development of the corporation as an acting social entity (Coleman, 1978; Fisse, 1980, Gross, 1980; Haworth, 1959). In the view of the corporation expressed by Galbraith (1973), it is a social actor with a public character and the power to control social and political institutional arrangements as well as economic ones. The dimensions of corporate power, while often alluded to, have not been explored fully. Attention to the ramifications of organizational actions is required for an under-
standing of the power of corporations. The unequal power arrangements existing because of the presence of corporate actors are, in and of themselves, problematic. The lack of public review of the policies generated by what are often treated as private systems of power presents a dilemma for the social scientist, the voter, and the policy-maker. The problems are underscored when the corporate actor misuses the power it commands. The misconduct of corporations and the ill effects of such misconduct are essential considerations in the study of corporate power. The examination of corporate power, corporate misconduct, and corporate responsibilities are necessary for examination of the social control of these corporate organizations. Toward that end, the historical development of the corporate actor, the dimensions of corporate power, and the relationship between corporate power and corporate misconduct are examined.

Historical Development of the Corporate Actor

The transformation of the corporation from a passive repository of rights and privileges into a powerful economic actor parallels the growth of industry and the development of the capitalist economic system (Clinard & Yeager, 1980). As the requirements of the economic system grew and changed, so did the character and functions of the entities within it. Exploration of new territories, exploitation of new resources, and distribution of new products required structures and processes that superseded individual capitalists.

Coleman (1978) traces the roots of the modern corporation to the middle ages and the legal constructions which held the privileges...
and properties granted by land owners and political figures. These legal constructions allowed recognition of the corporation as a juristic person. Since the corporation, even in its passive form, consisted of a collection of positions, rather than persons, its form provided an enduring institutionalized means by which these rights and privileges could be held and administered.

The corporation as a trading and risk-sharing actor evolved from these early passive entities. In 1612, the development of the East India Company provided for corporate management of funds invested in exploration and marked the beginning of active corporate organizational forms (Elkins, 1976; Stone, 1975). Such corporate forms, however, conflicted with other social forces, among them a spirit of individualism, that resulted for a time in a world-wide legal prohibition of the formation of business corporations (Chayes, 1961). Bases for opposition to the corporate form in America included the special privileges granted to it by sovereigns. In keeping with the egalitarian spirit of 19th century America, the concept of the corporation as a juristic person allowed it all of the rights of individuals in the society but none of the special privileges historically associated with incorporation. "As a legal person it was qualified to bear all the rights with which an age of individualism generously clothed persons of flesh and blood" (Chayes, 1961, p. v). Such a conception has two implications for contemporary control of the corporate enterprise: (1) the rights of the corporation to operate without restraint are tied to the freedoms of individuals and may be theoretically justified on that basis and

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the control of incorporations has traditionally remained outside of the federal government, since a source of early distrust of the corporate form was its links to the properties and ruling classes of Western European societies. The maintenance of a system of state, rather than federal, incorporation continues to be a factor in the control of corporations, since state incorporation results in competition "to the lowest common denominator" (Nader, 1973). Objections to corporations in the 19th century were not limited solely to their forms and methods of incorporation. Dudden (1957) points out that corporations, as acting social entities, engaged in business practices that were seen as oppressive to many of the individual actors who competed against them in the marketplace. The success of these practices resulted in concentrations of wealth and power in the hands of corporate management, often with the help of government policies that protected or favored the corporate actor.

Despite the grievances cited by Dudden (1973) against corporations in the 19th century, Best and Connolly (1976) describe them as "small, one-product, geographically bounded, owner-managed firms operating in competitive markets" (p. 47). In tracing the development of the corporate form in the 20th century, they cite the development of the "monopolistic, corporate giant (Best & Connolly, 1976, p. 46) and the "emergence of the state as a dominant force in shaping economic expansion" (p. 46) as major upheavals in the political economy of the U.S. Although the problems of corporate power in 19th century America foreshadowed those of the 20th century, they pale by comparison. Nelson (1959) attributes the extraordinary growth of
corporations to merger activity in the 20th century. The growth of corporations through these mergers allowed the concentration of huge resources, transforming the relatively small corporations of the 19th century into giant enterprises which dominate the economic structures in which they perform (Best & Connolly, 1976). Clinard and Yeager (1980) distinguish between mergers of companies with related product lines, which increase the predictability of the market and, therefore, the economic power of the firm, and conglomerations, which allow corporations to amass extensive resources and capital and to more effectively control economic, social, and political processes.

According to Clinard and Yeager (1980), the characteristics of the corporation in the 20th century, including complex hierarchical structure, profit and growth goals, and control by management, support the effectiveness of the corporation in the control of these processes, since they undermine the development of a corporate conscience (which would be consistent with the juristic person concept) and institutionalization of external mechanisms for the control of corporations (in response to the organizational form of the corporation).

**Dimensions of Corporate Power**

The extent to which corporate power, in and of itself, is considered a problem in U.S. society is a function of the perceived role of the corporation in social, political, and economic structures. Epstein (1969) and Drucker (1964), for example, recognize the inordinate power of the corporate organization in social and political structures but accept that power as a legitimate corollary to the
economic role of the corporation in society. Others, among them Nader and Green (1973), Galbraith (1973), and Gruchy (1979), do not accept the legitimacy of the large corporation as a social and political actor and call for controls on the ability of the corporation to influence economic and non-economic institutions in society. Still others view the corporation as primarily an economic organization and deny the effects of the corporate actor on social and political life (Jacoby, 1977). One major consideration, then, in the definition of corporate power as a problem in society is the degree to which that power is seen as legitimate. A second major consideration is the extent to which corporations exercise different types of power, each of which may be examined within the issue of legitimacy. A third consideration is the relationship between the dimensions of corporate power and the extent to which the various aspects and arenas of corporate power reinforce each other, whether or not that power is legitimated by society. A fourth consideration is the structure of corporate characteristics that allow the effective utilization of corporate powers, irrespective of their legitimacy.

The Legitimacy of Corporate Power

Yankelovich (1977) proposes three sources of legitimacy for institutional power: (1) ideological legitimacy, (2) functional legitimacy, and (3) moral legitimacy. Ideological legitimacy derives from a system of abstract ideas, for example, the concept of the welfare state, private property, or free enterprise, that provide...
the framework within which the institutions operate to meet the needs of the society. Functional legitimacy reflects the success of the institution in meeting society's needs. Moral legitimacy is dependent upon the degree to which the institution operates according to basic precepts for behavior in the society. The corporate structure forms an enduring, integral part of the economic institution of U.S. society. The legitimacy of corporate power, as an institutionalized power, may be examined within Yankelovich's (1977) framework. While any one of these sources may serve to legitimate the power of corporations within the economic institution of society, each may also provide a focus of attack on the overall legitimacy of the corporate actor.

Yankelovich's (1977) trichotomy requires attention to the system of abstract ideas that guide actors in societal institutions, the criteria by which the success of particular actors within the institutions may be judged, and the ground rules by which activities may be defined as moral. The assumptions underlying the organization of society and the social processes by which decisions are made, values are expressed, and agreements are reached affect the validity of the criteria established for the legitimacy of societal institutions and the actors within them. These underlying assumptions serve to distinguish the functionalist and conflict paradigms as well as authors in the field who attack, ignore, or defend the power of large corporations on the basis of legitimacy.

The primary differences between the functionalist and conflict explanations of social behavior may be found in their basic assump-
tions of society. The functionalist explanation is based on the assumptions that society is a lasting social system, it is well integrated, every element within the society has a function, and that society rests on a general consensus of its members. The conflict view is based on the assumptions that social change and social conflict are ubiquitous, every element in society contributes to change, and every society rests upon the constraint of some members by others (Dahrendorf, 1958).

The controversy between these two approaches takes on paradigmatic dimensions. Kuhn (1962) developed the notion that knowledge does not grow in a linear fashion but, rather, grows as theoretical revolutions occur within a science. Ritzer (1975) has applied and elaborated upon Kuhn's ideas within the field of sociology. According to Ritzer (1975), a paradigm is:

...a fundamental image of the subject matter within a science. It serves to define what should be studied, what questions should be asked, and what rules should be followed in interpreting the answers obtained (p. 7).

A paradigm dispute occurs when the fundamental image of a subject matter changes. The dispute between functionalism and conflict has reached that point. In the functionalist approach, society is examined in terms of social order and shared values. The fundamental image of the conflict approach is one of interest groups, differential power, and constraint of societal members. The assumptions of each position prevent effective communication between the two positions, since proponents of each view study different phenomena which may be viewed as irrelevant by proponents of the opposing view.
An underlying issue of the paradigm dispute within the social sciences is the place of values. Sociologists have long been concerned with values. Historically, European sociologists, with the notable exception of Marx, were rather scientific; that is, knowledge came first and meliorism was secondary, if not peripheral. With the rise of functionalist thought and its emphasis on consensus, sociologists adopted a more "scientific" orientation to their discipline. In this view, the sociologist could be an objective observer and isolate himself/herself from the society under observation. As Gouldner (1964) put it, "Seemingly subordinating his own claims to personal priority, in apparent conformity to a higher, selfless principle, the theorist puts himself forward modestly, as a discoverer of consensus rather than an originator of ideas (p. 17). Objectivity and value-freedom were (and, indeed, still are) associated with sociology for decades. In the early sixties, the value-free position again became an issue of discussion. Many theorists (for examples, Becker, 1967; Friedrichs, 1970; Gouldner, 1970) began questioning the ability of sociologists to be value-free. There is still a controversy concerning the place of values within the social sciences.

Value-free sociologists maintain that they, like other scientists, can isolate values from their research. The one value such scientists pursue is science (Rose, 1965, p. 425) and the ultimate goal of science is truth. Thus, in their view, sociologists are truth-seekers who are immune from or able to put aside value-orientations. From this viewpoint, one's personal orientations and
beliefs and the societal context can be overcome when pursuing truth through the practice of science.

Opponents of this view see value-freedom as a myth (Gouldner, 1964) and argue that sociologists are influenced by personal preferences and biases in all aspects of their work. Nicolaus (1970) argues that there never has been "...objective seeking-out of social truth or reality...the eyes of the sociologists...have always been turned downwards, and their palms upwards" (p. 275). Nicolaus (1970) says that social scientists have traditionally studied the lower (subordinate) classes (thus, the "eyes down"), and have found financial benefit from the upper (superordinate) classes. Nicolaus (1970) says that this must, of necessity, involve values. Becker (1967) states that it is impossible for sociologists to do research without involving personal sympathies. He advocates explicit support for subordinates.

Is it possible to separate ideas from values? Marx believed that ideas are closely related to the relations of economic life. He saw ideas as transitory (Coser, 1971) and placed them within an historical context. Ideas, according to Marx, "...are the reflection, direct or sublimated, of the material interests that impel men in their dealings with others" (Coser, 1971, p. 45). In developing a sociology of knowledge, Marx tied the ideas of a society to the social roles and social classes within the society and posited that the economic infrastructure of the society is the ultimate determinant of the particular societal superstructure. The societal superstructure consists of the values, ideas, and culture
of the particular society. Ideas, too, in his view, are based on the infrastructure of the society. The ideas of different societies vary according to the differential infrastructure; a capitalist society develops quite different ideas than a socialist one. This is extremely important in the development of knowledge. Knowledge, from this perspective, is not a reality "out there" but, rather, a dynamic process which changes as societal infrastructures change. Friedrichs (1970) discusses the return to Marxism in the sixties and says, "...the graduate generation of the sixties tended to see itself in humanistic terms rather than simply in the value-free garments that had come to be associated with the behavioral sciences" (p. 34). Friedrichs goes on to describe the resultant conflict within sociology as a paradigm clash between the priestly paradigm which advocates the objective viewing and determining of social reality, and the prophetic paradigm which includes an "awareness of the value-laden choices and implicit commitments" (Friedrichs, 1970, p. 292) of the sociologists.

Inherent in the functionalist paradigm is general acceptance of the existing social, political, and economic arrangements. Although differing interests and values of various groups may be recognized within this paradigm, the existence of mechanisms for dispute settlement is inherent in the functionalist perceptions of social organization. Change can and should occur gradually to allow for adjustment by the system to disturbances in the social organization. Within this framework, the ideological legitimacy of corporate power is assumed for there is agreement on the basic
institutional arrangements in which the corporation operates. The establishment of the functional and moral legitimacy of corporate power is at issue, however. Dissatisfaction with corporate performance, either in terms of functional criteria or moral criteria, may result from (1) disagreement on the criteria established for evaluation or (2) criticism of the corporation for failure to meet the established criteria.

In the conflict paradigm, the social order is assumed to rest on the coercion of some members by other members; the social order is, therefore, always subject to change. The ideological legitimacy of corporate power, since it rests on coercion, is always suspect. Functional and moral legitimacy are also problematic. In addition to the problems specified within the functionalist paradigm, a further consideration is emphasized within the conflict paradigm. Given the unequal power arrangements, a suitable arena for the fair settlement of disputes is unlikely to exist. If coercion is the mechanism by which disputes are settled, corporate actors may have the advantage of defining the criteria by which they, themselves, are legitimated.

**Power as a Multi-Dimensional Construct**

The problem of the legitimacy of corporate power may be clarified by attention to a classification of corporate powers. McConnell (1967) does not define the general concept of power but provides a typology of corporate powers as a means by which to better understand this "conception of much ambiguity and imprecision"
(p. 248). In so doing, he raises a number of issues germane to the problem of legitimacy of corporate power. The influence of corporations over prices in the market, the influence of corporations over the economic structure, the influence of corporations over the quality of life in U.S. society, and the influence of corporations over the policies of government are essential elements in the market, economic, social, and political powers of the U.S. Tied very closely to these issues of power are those of cohesion and autonomy. The extent to which corporations form a cohesive group with elite interests and the extent to which corporations are beyond the control of other members of society are important considerations in the analysis of corporate power.

Although there is widespread agreement that corporate power extends beyond market and economic powers (Graham, 1980; Green, 1973; Shover, 1980; Stone, 1975; Swartz, 1978), the legitimacy of extra-economic powers of corporations is debated. Epstein (1969), Monsen (1973), and Steiner (1977) support the extension of corporate power beyond the economic sphere. Galbraith (1973) and Dahl (1973) call for explicit recognition of the corporation as a social and political organization and advocate the limitation of the activities of corporations in these areas. Yoder (1978) and Elkins (1976) suggest, under certain conditions, limiting the power of large corporations to do business. Viewed only as economic enterprises, corporations may or may not meet the ideological, functional, and moral criteria of legitimacy; at any rate, the corporate status, granted through charters, allows explicit recognition of the corporation as
an economic enterprise. Attention to corporate power, however, can no longer be focused entirely on the economic ramifications of that power. Recognition of the corporation as a social enterprise and political system is necessary for serious consideration of the legitimacy of corporate power. In this research, the political and social powers of one corporation are addressed and the context in which they are wielded is described. The legitimacy of corporate powers may not be automatically assumed or denied; public examination of the goals and practices of the large, complex corporations of U.S. society is necessary.

The Relationships Between Corporate Powers

The distinctions made by McConnell (1967) between the forms of corporate power do not negate the inter-relationships and interdependence between these various forms. Harris (1973) discusses the mechanisms for the translation of corporate economic power into corporate political power. Corporations rely on campaign contributions, advertising, direct lobbying, and government-business job exchanges to ensure their political power (Clinard & Yeager, 1980; Harris, 1973). Campaign contributions open channels of communication between the donor and the recipient. They are so essential to the political power of corporations that various practices have been developed to circumvent the laws passed to control them. The utilization of improper bookkeeping practices and contribution of corporate funds through individual corporate executives are two such practices (Clinard & Yeager, 1980). Advertising is not restricted to product
information and is seen by Harris as a tool for political persuasion. Corporations may present a view of public issues favorable to their operations through the advertising media. The successful utilization of the media is cited by Harris in the delay in federal requirements for air bag installation in automobiles. Like campaign contributions and political advertising, lobbying provides a means for transforming economic power into political power. A final mechanism cited by Harris is the interchange between government and business positions. The political power of corporations is enhanced by their positions as employers, or potential employers, of administrators in the federal government and by the utilization of business personnel in government positions; these situations allow business interests an advantage in influencing the political institution (Burnham, 1975; Jensen, 1972; McConnell, 1976). As a result of the relationship between the economic power and political power of corporations, they are able to use the political institution to further their private economic goals (Harris, 1973). The social power of corporations, that is, the ability of corporations to affect the quality of life in society, is also linked to their economic and political powers. Green (1973) cites lenient tax structures, strategic philanthropic activities, absentee owners, and national banking practices for the ill effects corporations have on the quality of life in communities supporting industrial firms. These ill effects include an exacerbation of the problems of industrial pollution, tax burdens for individuals, community dependence, and discrimination. Shover (1980), in his examination of the coal in-
dustry, reveals the ability of large mining companies to socialize the harmful costs of mining, passing the costs on to the federal government and the consumer. The abilities of corporations to influence consumption practices, to articulate and perpetuate an ideology favorable to corporate goals, to control employment levels, and to construct policies for interactions with foreign governments are indications of the overlap between the social and economic powers of large corporations (Galbraith, 1978).

**Advantages of Large Corporations**

Giant corporations have a number of legal, bureaucratic, and ideological characteristics that contribute to their powers in society. Corporations are enduring legal constructions recognized by the state through chartering, allowing legal recognition of the rights of corporations to hold property and act in the interests of the corporate investors without being limited by the temporal and spatial boundaries of individual actors in the society (Clinard & Yeager, 1980). The accumulation of value and the concentration of resources that may occur in the structure and process of legal incorporation are the primary bases for the economic power of large corporations. Large corporations, by virtue of their size, have a number of bureaucratic characteristics that may also be highlighted.

Unique to the corporate form is the separation of the ownership of corporate resources from the management of corporate resources (Dahl, 1973; Stone, 1975); as a result, the decision-making processes of large corporations occur on a collective level (Davids, 1967;
Kriesberg, 1976). Since the position rather than the individual is the basic unit within the corporate organization (Coleman, 1978), the quality of outcome of corporate activity is largely independent of the qualities of persons inhabiting particular positions (Gross, 1980). The structure of large corporations involves a division of labor and delegation of powers that allows specialization in the tasks necessary for successful corporate action. This specialization, in turn, allows greater efficiency in accomplishing these tasks (Davids, 1967).

Because of the legal and bureaucratic characteristics of large corporations, they enjoy some advantages over the individual in the struggle to accumulate capital and resources. By virtue of its size, the giant corporation is less affected by forces in its environment (Davids, 1967). By virtue of its control over resources, the giant corporation can manipulate the image it presents to the general public (Clinard & Yeager, 1980; Evans & Lundman, 1980; Molotch & Lester, 1978) and control corporate information accessible to public view (Chatov, 1975; Mueller, 1973; Tirman, 1978). By virtue of its relationship to the military complex, it is privy to research and development information generated by public agencies with public funds (Mills, 1957). By virtue of its transnational operations, the giant corporation is better able to neutralize threats against its performance, threats that include adverse tax structures, competition, and uncertain markets (Baran & Sweezy, 1966; Clinard & Yeager, 1980).

The legal, bureaucratic, and ideological characteristics of
giant corporations provide advantages for their economic functioning. These characteristics help to assure the social, economic, and political powers of the giant corporations. They may, however, be factors in the misconduct as well as the conduct of the corporate actor (Davids, 1967). The problem of corporate misconduct stems from the problem of corporate power and is shaped by the characteristics of the corporate actor. The examination of corporate powers requires attention to the abuse of those powers for it is in this area that the unequal power relations between corporate and individual actors are most clearly problematic for society.

Corporate Power and Corporate Misconduct

The abuse of corporate powers occurs when corporations utilize powers not legitimately theirs or when legitimate powers are utilized inappropriately. Analyses of these issues are, in a manner similar to analyses of corporate powers, dependent upon the model of social organization utilized in the examination. Marcuse (1973) relates the abuse of corporate power to market concentration and, ultimately, to the capitalist system.

It seems it [American capitalism] cannot function, cannot grow any more without the use of illegal, illegitimate means, without the practice of violence in the various branches of material and intellectual culture (p. 502).

Marcuse exemplifies the position of those authors who challenge the ideological legitimacy of the powers of the giant corporations. He does not view corporate power as having automatic access to ideological legitimacy on the basis of shared values, such as the value of
private property, in the society. Authors within the conflict paradigm emphasize coercion of rather than consensus concerning societal values. The source and content of values are subjected to analysis within the set of assumptions underlying social organization associated with this paradigm. The ability of the giant corporation to influence societal values through legal, political, and social structures calls into question the ideological legitimacy of all corporate powers. In the conflict view, then, corporate misconduct may reflect and be reflected by the ideological illegitimacy of the power of corporate entities. According to Marcuse, the growth of corporations into monopolistic giants means that "...today's conglomerations and multinational corporations would, by their very structure, exercise conspiratorial and illegitimate power" (1973, p. 502).

Although the ideological legitimacy of corporate power is not an issue in the functionalist paradigm, the functional and moral legitimacy of corporate power is in question in both the functionalist and conflict paradigms. The debates over the functional legitimacy of corporate power generally focus on the economic power of corporations and the mechanisms by which greater efficiency in economic production may be reached. Boyle (1979), for example, argues against the economies of scale in advocating change in the American automobile industry while Sichel (1979) supports the current structure of this industry and defends the level of competition that exists in it. Gramm (1979) challenges the appropriateness of the arguments, pointing out that limiting the issues to those of economic power omits the interrelationships between powers and the effect of such
interrelationships on the locus of power among corporations rather than individuals. Perhaps more importantly, Gramm chastises Boyle for his acceptance of the ideological legitimacy of private market competition without critical evaluation of the principle.

Superficial contact with the historical-institutional setting of the problem is seen in Boyle's apparent acceptance of the existing position of the industry in the nation's economy and overall power structure. He questions neither the industry's domination of transportation in the nation nor the portion of natural resources devoted to the manufacture and movement of automobiles (1979, p. 86).

In the conflict view, then, functional legitimacy may not be evaluated in isolation from the (1) historical and institutional alternatives to the present structure or (2) the interrelationships between the powers that have accrued to the corporate form. In functionalists' view, the existing structure does not provide a basis for criticism of the ideological legitimacy of corporate power since societal agreement on the structure, regardless of alternatives, is assumed. In both models of social organization corporate misconduct may be equated with functional illegitimacy of the powers of corporate entities. In the conflict view, however, the source of the illegitimacy lies in the structure of relations of production and distribution, while in the functionalist view the source of illegitimacy lies in the failure to establish and meet performance criteria within the present structure of relations.

Corporate misconduct may also be equated with moral illegitimacy of the powers of corporate entities. In both the functionalist and conflict paradigms, the failure to follow legal and ethical
standards of behavior in the pursuit of performance goals is a basis for moral illegitimacy. A focus of disagreement between the two models is the extent to which the political and social powers of large corporations have dictated the content, implementation, and application of these standards. The conflict model posits the greatest impact of corporate powers in these standards, a further basis for moral illegitimacy of corporate power and for corporate misconduct.

The abuse of corporate power by corporations may take a variety of forms. The social, political, and economic aspects of corporate power may be differentially susceptible to charges of ideological, functional or moral illegitimacy and, therefore, charges of corporate misconduct. Corporate misconduct, whether it is the illegitimate use of corporate powers or the inappropriate use of legitimate corporate powers, serves to highlight the problematic nature of social, political, and economic relations between corporate and individual actors in the society. When corporate power supersedes other institutional powers in the society, the issues of corporate responsibility and the social control of corporate power must be addressed. It is the form, extent, and effectiveness of institutional and public reactions to corporate power and corporate misconduct that constitutes the second major focus of this research.

The Social Control of Corporations

The utilization of political, economic, and social powers by large corporations raises the issue of the legitimacy of these powers.
The problematic nature of the ideological, functional, and moral legitimacy of corporate powers emphasizes the necessity for their control. The powers of giant corporations are legitimate only if they are subject to other institutionalized powers and mechanisms. Unless the powers of corporations are formally recognized, mechanisms for control are unlikely to be effective. Discussions of the control of corporate power have centered around the issues of corporate responsibility and the efficacy of various institutionalized and public reactions to corporate power.

Corporate Responsibility

Examination of the social control of corporations requires attention to the related issue of corporate responsibility. A view of the corporation as a social and political entity as well as an economic enterprise necessitates that public or social purposes be served by the chartering of corporations (Dahl, 1973). Implicit in the conception of the corporation as an acting social entity is the moral responsibility of acting organizations (Gross, 1980). Alternative views of corporate responsibility are congruent with alternative views of the legitimacy of corporate powers.

Corporate responsibility may refer to responsibilities to the community, responsibilities to the consumer, responsibilities to employees, responsibilities to the stockholders, and responsibilities to the society as a whole (Epstein, 1969). The levels of responsibility are further clarified by a distinction between the legal, economic, and social responsibilities of corporations. Although

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economist Friedman (1977) limits corporate responsibility to profit maximization to help maintain a strong economy, Davis (1977) and Hayes (1977) view corporate responsibility within a broader framework of power. Since corporations, in their views, wield social, political, and economic powers, corporate responsibilities involve legal, social, and economic aspects. Corporate responsibilities, then, while consistent with the profit maximization motive of organizations in the economic sector, are not limited to economic considerations. Davis proposes that the powers of corporations demand attention to social and legal responsibilities as well as economic responsibilities.

If business has the power, then a just relationship demands that business also bear responsibility for its actions in these areas. Social responsibility arises from concern about the consequences of business's acts as they affect the interests of others. Business decisions do have social consequences (1977, p. 182).

The legal responsibilities of corporations are defined by state and federal laws and regulations. The more inclusive view of corporate responsibility reflected in Davis' statement requires not only that corporations not engage in illegal behaviors but also that they live up to their positions in major social institutions. The definition of the role of the corporation in the alleviation of social costs directly related to the corporation's activities or in the alleviation of social needs in general is, in part, a function of the preferred role of the corporate actor and the legitimacy of corporate activities in political and social as well as economic institutions. While political and social activities that enhance the
quality of life may be essential for the moral legitimacy of the corporation, such activities may represent an illegitimate use of corporate powers if the functional legitimacy of corporations requires that corporate attention be focused on economic factors (Freidman, 1971) or if the ideological legitimacy of corporations is questionable (Marcuse, 1973).

Control mechanisms, such as regulation and disclosure, have been suggested as the means by which to legitimate the powers of corporations (McConnell, 1967; Stevenson, 1980). Control mechanisms allow formal recognition of the powers, and at the same time, provide standards for behavior that potentially increase the constituency of the corporation and the scope of benefits and beneficiaries. The symbolic and instrumental effects of these control mechanisms on the legitimacy of corporate powers and their exercise are particularly important foci in societal reactions to the use and abuse of corporate power.

Mechanisms for Corporate Control

Galbraith advocates control of corporations on the basis of their public character and the public effect of their policies and activities.

Where the public interest — in safety of products, effect on environment, effect of price and wage settlements on the economy, the equity of profits and executive compensation — is at issue, there is no natural right to be left alone. Nor is there any natural right to secrecy (1973, p. 7).

The mechanisms that have been utilized to protect the public interest
from illegitimate and inappropriate use of corporate powers have included legal remedies, competition, direct intervention into corporate processes, countervailing forces, democratization of corporate processes, and administrative regulation.

Corporations and the Law

The legal environment of the corporation is of particular importance in its functioning. To a large extent the law has been a supportive force in the functioning of giant corporations. Gross (1980) cites the effects of the law in reducing uncertainty in the environments of large organizations; the predictable character of the law produces a stabilized environment. Emphasis on the formal rationality of the law is congruent with the separation between the legal and business institutions, a basic premise for the legal legitimation of corporations (Albrow, 1975). Harris (1973) demonstrates the corporate use of legal tools to translate economic into political power and to ensure corporate influence over political processes.

The law as an independent mechanism for the social control of corporations suffers from a variety of theoretical and practical impediments. Stone (1975) minimizes the threat of the law to corporate functioning, especially when its effects are compared to other threats in the corporation's environment. The reasons for this ineffectiveness, according to Stone, may be traced to the individual constructs underlying the promulgation and enforcement of laws utilized to control corporations. The law does not respond to

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the organizational features of corporations; the legal concept of juristic person, while allowing the legal system to react to the corporation as an acting entity, has decreased its effectiveness. The ambiguous nature of the substance of the law as it relates to corporate actors and the individual bias in the legal system has meant that corporations are less subject to legal controls than are individuals in the society. Stone finds this situation especially deplorable since "...present law has to carry, vis-a-vis giant corporations, more of the burden of social control than the law has to carry in dealing with ordinary human beings" (1975, p. 36). Pragmatic impediments to the utilization of the law have been cited by a number of authors (for example, Clinard & Yeager, 1980; Lauderdale et al., 1979; Vaughn, 1980). The low public visibility of corporate abuse, the diffuse victimization of corporate abuse, the organizational structure of corporations, the lack of resources to implement legal actions against corporations, the ability of the corporation to use legitimate and illegitimate social and political powers to protect its position, and the ineffectiveness of legal sanctions against corporations are among the most important impediments to the practical application of the law to corporate abuse.

Control of corporations through legal mechanisms has, nevertheless, been attempted. The legal system, unlike other mechanisms for the social control of corporations, involves specific reactions to misconduct as well as standards by which to encourage the moral legitimacy of corporate powers and corporate activities. The legal system is a component of the state and an instrument of public power.
Its major concern is with the moral legitimacy of corporate powers and abuses within that framework. The utilization of civil and criminal proceedings in attempts to curb the social, political, and/or economic powers of corporations have challenged the moral legitimacy of these powers and have raised a number of issues particularly germane to corporate misconduct. Of concern here are (1) theoretical concerns in the application of legal remedies to the illegitimate use and abuse of corporate powers, (2) the organizational impact on legal liability, and (3) the philosophies and goals underlying the sanctioning of corporations and corporate executives.

Legal Remedies in the Control of Corporations. Examination of the role of legal mechanisms is clarified by specification of opposing models of the relationship between law and society (Michalowski, 1977). In the functionalist paradigm, law is assumed to reflect the will of the people; the law serves all people equally; and violators of the law represent a unique sub-group in the society. This model is based on a pluralist model of society and assumes basic agreement of what is acceptable and unacceptable behavior, agreement which is reflected in the legal institution. The model of law and society found in the conflict paradigm assumes an imbalance of power in the society and a continuous struggle to maintain or attain power. In this view, the law is used by people in power to maintain their power so that the legal institution serves the interests of the dominant groups.

The issue raised in these models of the relationships between
law and social organization is the extent to which the legal institution is or can be controlled by powerful actors in other social institutions. The influence of large corporations on the substantive and procedural ramifications of laws relating to corporate operations has been the subject of much discussion in the literature on the control of corporations. Carson (1974) identifies several foci within this debate: the extent to which powerful actors, like large corporations, participate in the formulation of laws related to the control of corporations; the extent to which laws inimical to the interests of powerful actors in the society constitute a challenge to their autonomy and to the conflict view of the relationship between law and society; the extent to which the autonomy of powerful actors and their influence on the law reflect cohesion among dominant groups; the extent to which, through coercive power, the law generates consensus in the society rather than consensus leading to the formulation of laws; and the extent to which the perceived stability of the social order is a function of the coercive power of laws. These concerns emphasize the importance of the law-creation process and the assumptions underlying varying views of this process.

Graham (1980) and Shover (1980) have examined the law creation process for corporate influences, discussing the ramifications of their findings for the debate between the pluralist and radical positions. Both found that a major goal of corporate influence on law is predictability in the environment of the corporation.

The history of strip mining legislation indicates that businessmen do not object to the criminalization of their conduct so much as they object to the inclusion
of irrational or incalculable elements in criminalizing legislation (Shover, 1980, p. 36).

Both authors found that corporate influence is strongest near the end of the legislative process, but neither found unqualified support for the radical position that posits corporate control over the legislative process. Authors advocating the radical position have cited the infrequency with which laws inimical to dominant interests are enforced (Chambliss, 1973; McCormick, 1977), the expressive, rather than instrumental, goals of legislative processes that confront corporate power (Reasons & Goff, 1980), and the conflict between substantive and formal rationality in the application of legal processes to powerful actors (Sutton & Wild, 1978) as explanations for the ineffectiveness of the law in controlling dominant actors, despite the presence of laws and legal mechanisms by which they could be controlled.

Legislation against the interests of powerful actors may reflect interelite conflicts, conflicts which may be reduced by the legislation, if not the implementation, of laws (Chambliss, 1973). Shover (1980) found evidence of such conflicts between large and small operations in his study of the coal industry, an industry already characterized by concentration of production. Reich (1973) discusses the role of the law in allowing private organizations to exercise public power and in the concentration of power and resources in the private sector.

While furthering the power of the Corporate State, the law has also served the function of advancing private interests. As the nation has become a legalistic society, law has increasingly become the medium in which pri-
vate maneuver for power, status, and financial gain could take place (p. 448).

The law, then, may be used to resolve interelite conflict and as a tool in the struggle for power between dominant groups. While the ability of the giant corporation to utilize the law effectively has been established (Clinard & Yeager, 1980; Green et al., 1979; Harris, 1973; Schonfield, 1965), the conditions under which this ability is utilized against other elites have not been examined fully (Chambliss, 1973; Freitag, 1978).

The existence of and reaction to inter- and intra- group conflict raises a final issue, the relationship between the law and stability of the social order. The relationship between law and social stability is subject to diverse interpretations within the functionalist and conflict paradigms. In the functionalist position, the law is a mechanism that is independent of political and economic domination and is, therefore, viewed as a tool by which public interests, rather than corporate interests, are served. Selznick (1968) expresses this view in discussing the increasing importance of social interests in the legal order.

The increasing interdependence of existence in modern society and correlative changes in values have weakened the claims of private interests and stimulated the quest for criteria of social worth (p. 57).

The importance of social concerns, according to Selznick, is growing despite the emergence of "the large organization as the representative institution of modern society" (Selznick, 1968, p. 57), revealing his assumption that significant differentials do not exist among the abilities of actors in the society to influence legal decisions.
An alternative view is presented by Reich (1973), who views the law as a means by which to perpetuate a bias in favor of more powerful elements of the society, when he says:

> When law is employed to serve the Corporate State, the people do not know what has been done to them, for law gets into the individual's mind and substitutes its external standards, whatever they may be, for the individual's own standards (p. 452).

Those aspects of the law that give expression to particular values without attention to enforcement problems or practice are especially suited to the process delineated in Reich's statement (Reasons & Goff, 1980). This, however, is not necessarily a conscious process on the part of law-makers. Laws which effectively serve the interests of corporate actors in the society may reflect "the mobilization of bias" in the legal system, a system which accepts and promotes the ideological legitimacy of the institutional powers of corporate actors (Chambliss, 1974).

The civil and criminal legal remedies for illegitimate or inappropriate use of corporate powers are restricted by the ideological bases that underlie the corporate economic and legal systems.

The heart of a capitalist economic system is the protection of private property which is, by definition, the cornerstone upon which capitalist economies function. It is not surprising, then, to find that the criminal law reflects this basic concern (Chambliss, 1974, p. 25).

The ideological legitimacy of corporate powers is assured within the legal system and the functional legitimacy of business is considered beyond the scope of the legal system (Albrow, 1975); the application of legal remedies are a response to questions of the moral legitimacy of corporate powers. The effectiveness of the law in the control of...
corporate social, economic, and political power is affected by concerns in the application of the law as well as those in the creation of the law. A basic question in the application of legal remedies centers on the legal liability of corporations and their executives.

Organizational Versus Individual Liability. The effective use of legal mechanisms in the control of corporations is based on the premise that delineation of liability will enhance the responsibility of corporations and their executives. The philosophical and practical impediments to the effective application of civil and criminal laws decrease the likelihood of a direct link between the application of the law and control of corporate behavior. It must be recognized that legal liability is a mechanism that is used in conjunction with other responses, for example, regulation, and its effectiveness cannot be divorced from those responses. The organizational nature of corporate violations and the complex structure of interactions within corporations necessitates attention to the effects of the legal liability of corporate actors versus the effects of the legal liability of corporate executives on the control of corporations through the application of the law. This issue arises because corporate executives exercise power on behalf of the corporation and for the benefit of the corporation.

The relative effectiveness of the legal liability of the corporation or the executive is contingent upon a variety of factors and processes. Among these are the extent to which the personal ethics of executives or the corporate ethics of the organization influence
the use and abuse of corporate power, the extent to which the decision-making processes within the corporation allow the infusion of personal ethics and determination of the influence of particular executives, the extent to which the corporation is responsible for the activities of its employees, and the extent to which the corporation and/or the executive is able to neutralize legal threats. Coleman (1978), Davids (1967), Elkins (1976), Fisse (1980), Haworth (1959), and Yoder (1978) defend the principle of corporate liability, citing the collective decision-making processes within organizations, the ineffectiveness of procedures institutionalized within organizations to deal with the abuse of corporate power, and the problems of identifying specific individuals within the corporation responsible. Among those advocating that individual executives be considered liable for the abuse of corporate power are Clinard and Yeager (1980), Dershowitz (1961a), Geis (1978), and Sutherland (1949). The ineffectiveness of sanctioning a giant corporation, the fall-out effects on other societal actors not responsible for the abuse of corporate power, and the greater deterrence value of prosecutions of individuals support their positions.

The influence of personal and/or corporate ethics on the activities of corporations is an area of concern related to the legal liability of corporations and/or corporate executives. Some authors, among them Conklin (1977), Epstein (1969), Garrett (1968), and Stone (1975), view the corporation as capable of achieving morality in its behaviors and practices. In Stone's formulation, it is not mere conformity to external rules that constitutes social responsi-
bility, but a cognitive process that allows autonomy and creativity. Stone does not view corporate responsibility as essentially different from individual responsibility; corporate ethics may, therefore, be determined by the personal ethics of individual actors within the corporation. Ladd (1970) argues against this position. In his view, membership in formal organizations depersonalizes the individual to the extent that individuals within organizations, and their personal ethics, are interchangeable and expendable.

A distinctive mark of such organizations is that they make a clear-cut distinction between the acts and relationships of individuals in their official capacity with the organization and their private capacity. Decisions of individual decision-makers in an organization are attributed to the organization and not to the individual. In that sense they are impersonal. Individual office-holders are in principle replaceable by other individuals without affecting the continuity or identity of the organization (p. 488).

The formal rationality of corporations in their attempts to reach organizational goals, according to Ladd, mitigates against the development of corporate ethics and the infusion of personal ethics into corporate processes. Kriesberg (1976) has delineated three models of organizational decision-making: the corporation as a rational actor with unified decision-making processes, the corporation as a conglomeration of sub-units that make decisions within a framework of standardized procedures, and the corporation as a bureaucratic structure in which a system of individuals contribute to, but do not control, the decision-making processes. The decision-making processes of corporations, to a large extent, determine the organizational receptivity to personal ethics of the executives. Kriesberg's models
accentuate the conclusion by other authors, for example, Gross (1978), Jackall (1980), and Needleman and Needleman (1979), that the procedures for decision-making in large organizations supersede the ethics of individuals, providing a context conducive to varying degrees to the moral illegitimacy of corporate powers. Gross contends that organizations are inherently criminogenic, that the organizational structure precludes the moral legitimacy of the corporation. Needleman and Needleman posit variation between crime coercive and crime facilitative models of criminogenic organizations. Jackall, congruent with Ladd's position, concludes that the depersonalization of decision-making separates the individuals from the consequences of their decision, thus encouraging the abuse of corporate powers. Reiss (1978), Schrager and Short (1978), and Shover (1978) take a more moderate position and view the organizational context as a potential impetus for the violation of legal standards but do not eliminate the effects of personal characteristics and values. Steiner (1977) remains optimistic about institutionalizing procedures within the organizational process that would support the moral legitimacy of the corporation.

An alternative consideration in the effectiveness of the application of legal mechanisms is the scope of corporate responsibility for the activities of corporate employees. The Harvard Law Review (1979) provides some analysis of the relationship between the corporation and its individuals. The three models that emerge, that the corporation is responsible for: (1) its agents and actors, (2) its policy-makers, or (3) reasonable procedures to ensure the
moral legitimacy of the corporation, provide a basis for the dispute between Elkins (1976) and McVisk (1978) over the imputation of behaviors and intent from the inner circle of corporate management and subordinates to the corporate actor. Elkins supports a broad application of this process of imputation since employees at all levels may act illegally for the benefit of the corporation and/or with the knowledge of the corporation. Clinard and Yeager (1980) found evidence that the nature of the legal offense is likely to be an important factor in the level of employee involved.

The ability of the corporation and corporate executives to neutralize legal threats against their functioning may reduce the effectiveness of legal liability, independent of the issues already considered here. The leniency with which executives are treated, indemnification procedures, corporate support for individual executives, and the complexity of illegal behaviors are likely to inhibit the control of corporate executives (Clinard & Yeager, 1980). The utilization of the nolo contendere plea (Davids, 1967; Dershowitz, 1961a), the insignificance of maximum penalties (Davids, 1967; Lauderdale et al., 1979), the ability of giant corporations to resist criminal definitions (Lauderdale et al., 1979), and the ineffectiveness of stigmatization processes (Clinard & Yeager, 1980; Davids, 1967) are additional impediments to successful control of the corporation's internal structure through the application of legal liability. The sanctioning of the corporate actor raises questions concerning the underlying philosophies of criminal sanctions, the third major focus of this discussion of the relationship between law and
corporations.

Philosophies of Criminal Sanctioning of Corporate Actors. The use of criminal sanctions have been of particular concern to a variety of authors in their attention to the relationship between the law and corporations. Proposed sanctions for the control of the corporate actor include fines, formal publicity of criminal practices, corporate quarantine, and forced dissolution. Yoder (1978) examines the purposes of punishment delineated by traditional theories of crime control and the applicability of these to the control of corporate crime.

Yoder takes the position that because the corporation is threat sensitive, in that corporate decision-making structures allow time to consider the consequences of corporate actions, knowledge of the sanctions is likely to be available to the corporate actor, and the economic base of corporate functioning allows the punishment to fit the crime, general deterrence may be the purpose most congruent with the utilization of criminal law against corporations. Specific deterrence requires more severe punishments than corporations usually receive. Retribution is criticized by Yoder as having an emotional rather than a rational basis and is, therefore, not suitable for application to corporate activities. Fisse defends the retributive philosophy of punishment as a mechanism for limiting the autonomy of the corporate actor (1980a) and proposes the imposition of community service as a means by which to sanction the corporation (1980b). Fisse's proposals, however, are exceptions to the general trends in
The evaluation of the deterrent effects of criminal sanctions against corporations highlights the considerations of the certainty and severity of reaction (Ermann & Lundman, 1978a; Lauderdale et al., 1979), the ambiguity of the relationship between the use of criminal sanctions and public perceptions of the behavior (Ball & Friedman, 1978), the judicial discretion involved in the levying of sanctions (Elkins, 1976; Lauderdale et al., 1979), and the administrative discretion involved in levying of sanctions (Clinard & Yeager, 1980). Yoder emphasizes the importance of the clear definition of the goals of sanctioning and the examination of alternatives for their congruence with those goals. The use of criminal sanctions has been avoided whenever possible in the response to the illegitimate corporate use of power, in part because of the complex considerations in levying sanctions and the difficulty of determining their effectiveness. The effectiveness of the legal liability of corporations as a social control mechanism is inhibited by the controversies surrounding the influence of corporate actors on the substantive and procedural considerations in the law, the organizational context of the behaviors, and the appropriate justifications for sanctioning corporations. Legal liability is, however, just one of the remedies proposed for excessive or illegitimate corporate power. A second remedy, competition, is an important consideration in the functional and moral legitimacy of corporations.
Competition and Corporations

Green et al. (1979) deplore the collusion that exists in nearly every major industry, a situation they link to the profitability of practices restraining trade. Reasons and Goff (1980) reveal that, in Canada, monopolistic and oligopolistic market structures are increasingly being viewed as legitimate within the business community. Clinard and Yeager (1980) exemplify non-competitive practices in the automobile, oil, and pharmaceutical industries.

Competition as a Controlling Factor. Competition as a controlling factor in the environment of large corporations directly addresses the moral and functional legitimacy of their market and economic powers. Competition, whether it results from "unfettered individualism" or government policies is advocated by many as a natural regulator of business power (Dudden, 1957). In the model of unfettered individualism and competition, government programs and government assistance are viewed as an important source of monopoly and oligopoly (Adams, 1973; Gruchy, 1979). The workable competition model, on the other hand, does not eliminate governmental influence but calls for government policies that would support and encourage competitive practices.

According to this approach the social control of business is largely a matter of securing greater efficiency in the allocation of resources (Gruchy, 1979, p. 120).

Advocates of the workable competition model argue that competition, properly maintained, would reduce the level of market power and would
re-distribute this power from corporate actors to consumers.

The influence of competition on the moral and functional legitimacy of corporations has been questioned by Vaughn (1980) and Lauderdale et al. (1979). Competition may, according to these authors, lead to less responsible behavior by business. Green et al. (1979) report the widespread belief by business that competition leads to greater collusion, rather than less, because competition adds to the threats to corporate performance and, therefore, to the defensive stance of corporations against these threats. The support for competition as a controlling factor, nevertheless, has been enduring and enthusiastic, perhaps because it is the least threatening of the remedies proposed for excessive and abusive use of corporate power.

The Law and Competition. The economic regulations that have been instituted to ensure the maintenance of competition were ostensibly designed to protect the economy from the powers of large corporations (Green et al., 1979). The development of administrative bodies in the late 19th century, in response to the individualists and trust-busters who feared the growing concentration of economic power, was necessitated by legislation designed to curtail restrictive business practices. A second wave of economic regulation occurred in the 1930s, consistent with the programs of the New Deal and its philosophy of increased intervention of government into American life (Geis & Meier, 1977).

Legislation to increase competition in American industry, par-
particularly anti-trust legislation, has been of interest in the debate between theorists with pluralist and radical interpretations of law and society. Economic legislation that provides for government intervention into the business sphere has been cited as evidence supporting the appropriateness of the pluralist model of society and of the relationship between law and social organization. In this view, the emergence of laws controlling the interests of business accen­tuates the responsiveness of the legal and economic systems to the public interest.

A number of related factors must be considered, however, in the relationship between anti-trust legislation and competition:

(1) Economic legislation specifically recognizes the ideologi­cal legitimacy of private business by seeking to levy controls ex­ternal to the private sector. Economic legislation, rather than being a threat to economic actors, may serve to entrench their positions (McConnell, 1967; Young, 1974).

(2) Economic legislation expresses some values over others. As it espouses the value of private property rights, it also espouses the value of competition. The extent to which legislation is int­ended to reify particular values in order to perpetuate a particular view of the social order must be recognized (Chambliss, 1974; Reasons & Goff, 1980). Enforcement practices and impacts reveal the extent to which the law has pragmatic, instrumental results; examination of these results within the conflict, as well as the functionalist model of society is necessary (McCormick, 1977; Reasons & Goff, 1980).

There is wide-spread agreement that enforcement of anti-trust
laws in the U.S. has not been vigorous (Green et al., 1979; McCormick, 1977; Reasons & Goff, 1980). Snider came to similar conclusions about the Canadian system, both in terms of enactment and enforcement of economic legislation. The reasons, it is argued, stem from

...their [large corporations] direct and indirect control over the life chances of most Canadians through their near-monopolization of employment opportunities, and their dominance over the health of the economic system. Their indirect power is ideological. The views and interests of the corporate elite are predominant forces which shape, to varying degrees, the world view of everyone in the society...This does not mean that reforms are never instituted...However, such reforms will be resisted as long as possible by the corporate elite, and instituted only when they are necessary to stave off greater threats to the status-quo, of which they are the main beneficiaries (Snider, 1979, p. 118).

Reasons and Goff concur in their conclusions on anti-trust legislation.

Competition legislation largely reflects the general interests of capitalism rather than necessarily the specific interests of particular capitalists. It provides the appearance of widespread control while its substance does not greatly inhibit increasing concentration and monopolization (1980, p. 137).

Public Opinion and Corporations

Examination of the effects of public opinion on the activities of corporations directs attention to the interrelationships between the influence of public opinion, the effects of the mass media, the seriousness of the corporate abuse to be controlled, and the official responses to corporate abuses. A consideration inherent in this issue is the ability of corporate actors to influence public opinion and the mass media.

The relationship between public perceptions of corporate abuses
of power and mass media response to these abuses is subject to conflicting interpretations. The degree to which the mass media reflect public opinion regarding abuse of corporate powers versus the degree to which the mass media shape public opinion on this matter is the central issue in the debate. This debate is most clearly delineated in Evans and Lundman's (1980) replication of an earlier study of newspaper coverage and the electrical conspiracy case (Dershowitz, 1961b). Evans and Lundman examined the prominence of articles in the print media on collusion within the folding carton industry, finding, as did Dershowitz, that individual corporate executives involved in anti-trust activities were likely to be discussed in the print media more prominently and more negatively than the corporate actors involved. Furthermore, Evans and Lundman found that media attention to these illegal activities of corporations actually decreased between 1961 and 1976.

In general the newspapers surveyed failed to provide frequent, prominent, or criminally oriented coverage of this criminal conspiracy to fix and raise prices of folding cartons. Taking the 1961 data and the replica­tive data together, it would appear that newspapers function to protect corporate reputations, principally by their failure to frequently, prominently, and conclusively link corporations with crime (Evans & Lundman, 1980, p. 10).

Coleman (1974) argues that the policies of newspapers on coverage of abuses of corporate powers, in the form of corporate crime, reflects the interests and desires of the reading public. The protection of corporate reputations by the print media may, however, reflect the power of corporations to control the news about them. Molotch and Lester (1978) compared the local and national news
coverage of unfavorable corporate activities, concluding that the role of powerful actors in the production of the news results in the expression of their interests to the partial or complete exclusion of others. Flynn (1973) and Yoder (1978), in order to rectify what they view as a distortion in news coverage, advocate a legal requirement that corporations advertise their involvement in activities that are legally sanctioned. The views of the functionalist and conflict models of society are evident in the alternate views presented by these authors. The major point of disagreement, of course, is the representation of popular versus elite interests in the mass media.

The relationship between the seriousness of the corporate abuse and public reactions, including official reactions, is clouded by a number of factors. Schrager and Short (1980) found that public reactions are likely to be harsh when the negative impacts of the corporate activities may result in physical harm rather than economic consequences. Cullen et al. (1980) and Rossi et al. (1974) arrived at similar conclusions, raising doubts about the emphasis traditionally placed on the distinction between upper class and lower class crimes as a determining factor in public reactions to various types of crimes (Geis, 1978). The assessment of the seriousness of particular activities is seldom the result of a purely analytical process (Lindblom, 1980), allowing the input of a variety of political influences on the determination of the criteria. Schiller (1976) discusses the impact of political influences on the production of scientific information and Swartz (1978) applies this point of view to the generation of information important to corporate actors,
stressing the control of corporations over information processes related to the abuses of corporate power.

The impact of seriousness, media treatment, and public perceptions on the official responses to abuses of corporate power also merits attention. The controversy here surrounds the leniency of official sanctions against corporations that abuse their powers in a manner that violates legal regulations of their behaviors. Sutherland (1977) very early in his research cited the unorganized attitudes of the public in the leniency of official reactions to corporate offenses. Kadish (1977) arrives at the same conclusion but, unlike Sutherland, attributes the lack of public antipathy in this area to the moral neutrality of the activities of corporations. Ball and Friedman (1978), Geis (1978), Geis and Meier (1977), and Johnson (1968) argue against the Kadish premise that public attitudes precede and determine official response and that the benign character of corporate actions explains the leniency of reactions to corporate crime. Ball and Friedman (1978) attribute the public apathy to the recency of laws forbidding the corporate actions at issue. Geis (1978) calls for more negative official reactions to elicit more negative public reactions. The more recent findings by Schrager and Short (1980) that link public responses to seriousness and the earlier research by Newman (1953) that supports the proposition that the public favors stricter penalties for corporate abuses than are generally levied bring into question not only the direction but also the validity of the relationship between public opinions of and official reactions to corporate activities.
The controlling influence of public opinion on the activities of corporations is mitigated by corporate control over the information available to the public and the corporate manipulation of the public image of business and corporations. Clinard and Yeager (1978), however, cite a number of factors that contribute to an increased concern in the population with the powers of corporations, factors that include the consumer movements, prosecution of corporate violations, increased public concern with environmental issues, increased concern with human rights and crimes in the political arena, and increased concern with the power and influence of all large organizations in the society. The ambiguity of the findings presented here indicate that public opinion is unlikely to be an effective control over corporate organizations. Proposals for control that serve to buttress the implications of the law, competition, and public opinion by providing an organizational focus for their effects must also be considered.

**Organized Challenges to Corporations**

The control of corporations through direct intervention into corporate decision-making, through the formation and maintenance of countervailing groups in the society, and through democratization of the corporation are examples of organized mechanisms for the control of corporate actors. Implicit in such mechanisms is the recognition that the entity to be controlled has organizational features and that the control processes must occur within an organizational context. The concentration of power in the corporate sector, more-
over, forces the utilization of power in any mechanism that effectively challenges the power of corporations.

Advocates of intervention into corporate decision-making processes propose various means for increasing the responsibility of corporate actors. The means proposed include public directorships (Stone, 1975, 1978), nationalization (Hacker, 1973; Shepherd, 1973), federal incorporation (Nader, 1973), and the social audit (Corson & Steiner, 1977), all of which vary in terms of the structural changes proposed for corporate actors. Intervention into corporate functioning, by whatever mechanism, is based on a view of social control as pre-emptive as well as reactive responses and seeks to represent the public interest in the decision-making processes. Stone's proposals are particularly emphatic about the need for the social control apparatus to respond to the organizational features of the corporations in order that public concerns be addressed. Corson and Steiner's proposed audit forces recognition of, if not reaction to, public concern but relies on the basic morality of business enterprises. Both public directorships and social audits leave the present corporate form intact while "influencing institutional direction by laying down mandatory procedural and structural requirement" (Stone, 1978, p. 332). Nationalization and, to a lesser degree federal incorporation, involve more extensive alteration of the corporate structure. Of major importance in both nationalization and federal incorporation is explicit recognition of existing power differentials in the present representation of business and powerful interests. Nationalization and federal incorporation is meant to
bring about a shift in power relations. A concern in each of these proposals is the extent to which the public interest would be served if the proposals were implemented; none of the proposals necessarily assume, however, that populist politics automatically involve greater concern with public welfare. Hacker (1973), for example, questions the extent to which populist politics may be feasible or effective; he instead favors the development of competing power centers that would alleviate the dependence on corporate powers in U.S. society and that would be more responsive to popular, rather than elite, interests.

Proposals that support the maintenance of countervailing groups and democratization seek to operationalize populist politics and public concerns within the issue of corporate control. Within limited constituencies, authors of these proposals advocate populist politics and hope for a return of pluralism in social organization. Dahl (1973) and Flynn (1973) are leading advocates of democratization in the operations of corporations. The thrust of democratization is to increase internal controls on corporate functioning and thereby eliminate, or at least decrease, the need for external controls. The development and maintenance of countervailing groups underlie the proposals by Marcus (1977) for consumer pressure, Dershowitz (1961a) and Elkins (1976) for civil actions against corporations, and, to some extent, the social controls of competition and regulation. An assumption of both democratization and countervailing groups is the inherent advantage of diverse and numerous inputs into the operation of large corporations.
These proposals for organizational challenges to business have been criticized on a number of dimensions. Resistance centers on practical and philosophical obstacles to their implementation and is fueled by vastly different perceptions of social organization, the role of business in society, and the relationship between corporate ownership in the private sector and corporate responsiveness in the public sector. While Lamb et al. (1980), for example, call for greater cooperation between the business sector and the mass media in an effort to campaign for public acceptance of the business point of view, Henning summarizes the opposing point of view.

The fundamental issue is power...The management myth is that corporations are bound by the same moral constraints and social obligations as people...Today the myth flourishes in the care of business leaders who use it to legitimate their autonomy...The principle beneficiary of the current flood of corporate social concern has been the media (1973, pp. 152-154).

With the exception of nationalization, the organizational proposals presented here leave the myth of corporate responsibility essentially intact. A major argument against nationalization, however, is the dissatisfaction with big government akin to the dissatisfaction with big business. An alternative to nationalization, federal regulation, constitutes a final mechanism for control of large corporations.

**Regulation and Corporations**

Federal regulation, as a mechanism for social control of corporations, is consistent with the liberal response to corporations. The liberal response, in which the ownership of property remains in pri-
vate hands while the use of the property is regulated and controlled externally, may be contrasted with the socialist form, in which ownership of property is removed from private hands and brought under the domain of the state (Best & Connolly, 1976). In the socialist form, the state is responsible for conducting the business of the organizations it nationalizes, while in the liberal form, the owner(s) of the property conduct business within the limits and guidelines established by the state.

Yankelovich (1977) reports strong public support for the liberal response to corporate power. Ideally, in the liberal form less animosity is aroused in the business community because ownership remains in the private sector. Furthermore, the size of the bureaucracy needed to regulate organizations in the private sector is less than that necessary to nationalize those organizations. In addition, the power of the state is not enhanced in the liberal form since ownership remains in the private sector. Enthusiasm for the liberal form, however, must be tempered by the examination of issues pertinent to the functioning of regulation. The history and the goals of regulation, the role of the state in the implementation and administration of regulatory proceedings, and the effectiveness of regulation in controlling the powers of corporations are important considerations raised in the literature on regulation.

A Brief Introduction to Regulation. The beginnings of public administration date back to 1789 when the First Congress of the United States authorized administrative officers for specific duties (Freed-
man, 1978). This was followed by the establishment of several administrative agencies, including the first regulatory commission, the Interstate Commerce Commission, in 1887 until by 1900 one-third of the present administrative agencies had been created (Freedman, 1978). That these administrative agencies included regulatory functions is supported by Krislov and Musolf. "...from the beginning, overlap between ordinary executive functions and regulatory aspects has been evident" (1964, p. 1). Freedman (1978) cites another period of rapid administrative growth between 1900 and 1930 and the reinforcement of the administrative process in President Roosevelt's administration and the New Deal.

Krislov and Musolf discuss a number of factors that account for the rise of administrative agencies: (1) the desire to protect citizens through administrative as well as executive personnel, (2) the need for flexibility, (3) the limitations on the courts and congress, including constitutional considerations, time limitations, and the need for specialized information in dealing with complex problems, (4) the consistency and continuity of attention and activity in an administrative setting where responsibility is clearly allocated, and (5) the ability of administrative agencies to deal with the extremely heavy demands placed on government (1964, pp. 2-3). Regulation is not the domain solely of independent regulatory agencies or commissions. Sellers (1964) asserts that the President, heads of executive departments, divisions within government departments, independent regulatory commissions, independent regulatory agencies, and Federal legislative courts, for example, U.S. Customs Court, may all
regulate private interests. The specific processes of regulation have waxed and waned in American history (Freedman, 1978; Noll, 1971). The development of government bodies, in response to the trust-busters of the late 19th century, constituted the first wave of regulation. The formation of monopolistic organizations in this period is one of the factors cited by Reasons and Goff for increased intervention by the state into the economy. Concomitant factors included the transformation of the previously agriculturally based economy to one based on commercial and industrial interests, increasing inequality in the distribution of property, the increasing problems in the transfer of property, and the transformation of property from tangible to intangible forms (1980, p. 128). The muck-rakers active in the 1920s and the weakened economy of the late twenties and early thirties brought on the legislation of new economic regulations and the construction of regulatory bodies to administer them. World War II and the Cold War years following it may be characterized by the close relationships existing between the federal government and economic organizations (McConnell, 1967). In the 1960s, however, with the prosecution of several large corporations for law violation, the civil rights and prison reform movements which emphasized the exploitation within the economic system of the rights of individuals, and increasing criticism of the military-industrial complex, regulation again became an issue. This period of regulation, however, differed from those of the turn of the century and the 1930s. While previous regulation was designed to protect the economy, ensuring the perpetuation of the values and ideologies necessary for the continu-
ance of private control of productive processes (Kolko, 1965), and/or individual actors within the system from more powerful organizational ones (Ermann & Lundman, 1978a), regulation in the 1960s and early 1970s focused on the protection of the health and safety of consumers, workers, and the general public.

The State and Regulation. The neutrality of the state is a major issue in regulation of the business sector. The relationship of the state to corporations, when viewed through the assumptions of the functionalist model of society and through the conflict model of society takes on different connotations. A basic issue in the debate between the alternative views of society is the extent to which regulation serves elite interests or public interests (Carson, 1974; Geis & Meier, 1977; Schrager & Short, 1980; Shover, 1980). The pluralists view regulation as an indication that government is a product of competing interest groups who all affect the enactment and enforcement of public policy regarding control of corporate powers (Aubert, 1952; Carson, 1980; Dunlop, 1977; Leavitt et al., 1978; Lindblom, 1980). The elitists examine the structure of influences on regulation to establish that regulation actually serves the dominant elite (Domhoff, 1967; Useem, 1979). Freitag (1978) chastises the elitists for focusing the debate on the structure of influences rather than on the processes of conflict between the capitalist and working classes that results in regulation that is less than responsive to public needs and goals. According to Freitag, since neither the working class nor the capitalist class is monolithic, the con-
flict results in regulations that reflect to some degree the interests of both sides of the conflict. Miliband (1969), while not denying the intra-class conflicts posited by Freitag (1978) and Chambliss (1974), stresses an historical, comparative view of policy formation and the superior effects of the dominant interests on this process. Regulation may serve to legitimize the powers of corporations ideologically, functionally or morally; regulation that appears to be inimical to the dominant interests may in fact be serving these purposes. Best and Connolly (1976) call for the introduction of "public control and accountability into production relations themselves" (p. 180). Such a response by the regulatory machinery, however, is unlikely for it involves the socialist alternative. Regulation is the liberal response of the state to the working classes in the conflict between the working and capitalist classes. Best and Connolly (1976) point out that, although the state is an actor separate from the corporate interests in the society, its options are continually reduced as the corporate system advances and are dependent to a large extent on the ups and downs of the business cycle.

The Effectiveness of the Liberal Response. The effectiveness of regulation in the control of corporations is determined by a variety of factors. Among these are the political nature and context of regulatory decision-making, the clarity of policy formation and goal specification in regulatory reactions to the corporate sector, the degree of coordination between regulatory bodies, and the adequacy of the information and resources available to regulatory
organizations.

The political nature of the regulatory process is seen most clearly in the rule-making powers of regulatory bodies. While theories of administration generally deal with the implementation of laws created by legislation, regulatory bodies have been delegated rule-making powers by the Congress. Shover (1980) reports that the legislature leaves some of its most complex problems of law-creation to the administrators. This problem takes on added significance when the susceptibility of regulatory bodies to special interests is considered. Burnham (1976), Freitag (1975), and Leavitt et al. (1978) view regulatory bodies as more susceptible to business influences than Congress. The inputs into policy at the administrative level are not officially recognized and not subject to review. The regulatory bodies, although they are not subject to the mechanisms devised to enhance public participation and limit elite influence in governmental policy, such as election procedures and lobbying controls, do generate public policy.

Since the regulatory bodies are involved in policy-making as well as administration of legislative programs, the regulatory bodies may depend to a large extent on technical evaluation and emphasize the technical aspects of their personnel. Without a framework for this expertise, however, the process may or may not be beneficial for society.

In the development of policy, the expert is needed to suggest alternatives, to analyze them, and to predict their consequences. However, the policy-maker must take account of the practicability and acceptability of the alternatives (Massel, 1961, pp. 196-197).
Such alternatives, analyses, and prediction may be provided by pressure groups which surround the organizations. Since pressure groups are generally special interest groups, they are unlikely to reflect the integrative positions necessary for beneficial public policy-making. Although these same problems exist in the legislative branch, the more narrow scope of activity in the regulatory bodies makes them especially amenable to pressure group tactics.

Much pressure and influence is likely to come from the industries the regulatory bodies are attempting to regulate. Freitag (1975) and Jensen (1972) have supported empirically the interlocks between government and business. Massel (1961) supports the thesis that these interlocks are also present on the lower levels of administration. While some would argue for greater accommodation between regulators and regulated industries (Dunlop (1977), for example), there is agreement in the literature that interlocks between governmental bodies and the business sector increase the politicization of regulatory bodies and exacerbate the problems of controlling large economic organizations through regulation. Schwartz emphasizes the advantages of the regulatory processes for the regulated when he says, "In the field of rail and motor transportation, the Interstate Commerce Commission was intended to hold the competitive balance between the railroads and the truckers. Instead the I.C.C. has been well-termed the best friends the railroads have ever had" (1964, p. 22). Kolko (1965) supports this position and highlights the close ties between the political and economic spheres in his examination of railroad regulation.
The lack of clear objectives for regulation also present a problem for its effectiveness.

Regulatory agencies have developed primarily as a series of ad hoc responses to specific public policy problems. They are not the result of a clearly delineated theory of the role of government in business decision, nor of a coherent plan for extending government influence into private economic decisions (Noll, 1971, p. 8).

Henning (1973) is especially adamant about the need for national planning in the regulatory system. Without a clear policy of intervention, the power of corporations to influence their regulation increases.

The lack of coordination between government agencies is characterized by a lack of communication (Clinard & Yeager, 1980; Conklin, 1977), corruption in bureaucratic structures (Burnham, 1976), and competition for scarce resources (Freedman, 1978). Regulatory organizations specialize in particular tasks (Krislov & Musolf, 1964). In so doing, they may not keep open channels of communication with agencies performing different but related tasks. The complex nature of the duties of regulatory bodies also affects the relationship between these organizations and inhibits communication. Rulings within and between agencies may be contradictory as a result of the problems of coordination (Weidenbaum, 1977).

Problems of information are also characteristic of the relationship between government and industry (Clinard & Yeager, 1980; Leavitt et al., 1978). Lack of information on corporate activities stems from the inability to open corporate decision-making processes to public view, despite the public nature of the consequences of
private corporate decisions (Galbraith, 1973). This leaves the regulatory bodies dependent on the regulatees for data (Mueller, 1973; Stone, 1975). The inadequacy of the resources available for regulation exacerbate the problems of data availability and agency coordination, especially given the magnitude of the responsibilities of regulatory bodies (Clinard & Yeager, 1980).

The study of corporate power and its control by the mechanisms examined here requires attention to the theoretical issues in the control of corporations. In Chapter II, the organizational context of control processes, the political/economic context of decision-making by controllers, and the reciprocity between control and power are considered. In each of these areas, questions which isolate the major foci for research are presented.
CHAPTER II

THEORETICAL CONSIDERATIONS

The power of corporations to affect the economy, other societal institutions, and the quality of life necessitates attention to the control of corporate actors. A major focus of attention in the literature has been the moral legitimacy of corporations and the issues surrounding the crimes and deviance of corporations. Ideological, moral and functional legitimacy are important to controlling powers as well as to corporate powers. Attention, however, is focused on the effective functioning of the controlling powers.

Traditional theories of control, whether congruent with the functionalist or conflict model of the relationship between law and society, focus on the control of traditional, individual forms of crime and deviance. The underlying distinction between these competing models of society on the issue of control is the degree of emphasis placed on the systems of control that have emerged. The control of corporate powers can best be analyzed within a framework that allows explicit attention to the systems and mechanisms designed to curtail or legitimize those powers. Spitzer (1980) advocates examination of the control systems in the theoretical constructions of individual deviance. "The theory must explain why a system of control emerges under specific conditions and account for its size, focus, and working assumptions" (p. 178). The need for similar objectives in the study of the control of corporate
powers is evidenced by the (1) relative ineffectiveness of control mechanisms in the arena of corporate powers, (2) the ambiguous relationship between the state and corporations, and (3) the unexplained relations among structures for the control of corporations and the capitalist economic system that fostered their growth.

The problems of corporate power and its control involve explicit attention to the functioning of controllers. Theorists of the control of corporations must be cognizant of the organizational context of control, the political/economic context of decision-making by controllers, and the reciprocal relations between corporate power and control. The social, political, and economic powers of corporations to influence the processes of control must be recognized throughout.

The Organizational Context of Control

Corporations, as complex organizations, present specific and unique problems for the systems of control that have emerged; these problems, having their roots in the organizational characteristics of the social actors to be controlled, have helped to shape the emerging control system in two ways: (1) the agents of social control must also be organizations and (2) a necessary source of power for agents of social control is the state. Stone (1975) calls for attempts to control corporations which are directed to the organizational entity above and beyond the constituent human beings of the organization. Ermann and Lundman (1978a, 1978b) urge the examination of controlling organizations in the process of control. The organizational nature of both corporations and controllers and the attending distributions
of power present a series of impediments to the control of corporations.

These impediments may be structural, that is based in the structure of economic and political arrangements of the society (Best & Connolly, 1976) or bureaucratic and, therefore, characteristic of the controlling organizations (Ermann & Lundman, 1978b). If the impediments are structural, the ideological legitimacy of the power of controlling organizations is threatened. If the impediments are bureaucratic, the moral and functional legitimacy of controlling powers may be questioned. Structural impediments involve those characteristics of the political/economic relations that mitigate against effective control of corporate powers by controlling organizations. Best and Connolly (1976) cite the increasing inability of the capitalist system to meet the needs of the less powerful individual and organizational actors in the society because of the commitment of state intervention into the economy to the process of capital accumulation in the private sector. This situation may serve as a structural impediment to effective control of corporations, since corporations are the major beneficiaries of the state's commitment. Bureaucratic impediments, discussed in Chapter I, are most clearly associated with regulation by administrative bodies. They are, however, also evident in the judicial responses to corporate power. The politicization of control processes, the ambiguity of policy formation, and the lack of coordination in policy implementation are characteristic of the relationships between administrative and corporate bodies that undermine the effectiveness of administrative
controlling organizations. The individual focus of legal mechanisms and practical implications of the application of the law to corporate actors decreases the efficiency of the powers of judicial controlling organizations.

Ermann and Lundman (1978b) isolate a variety of dimensions by which to examine the relationships between controller organizations and corporations and which further support the organizational context of their interactions. According to Ermann and Lundman's (1978) typology, organizations have primary and secondary beneficiaries. The primary beneficiaries of corporations are the owners of the corporation. Corporations, as economic organizations, may be contrasted with mutual benefit organizations, the primary beneficiaries of which are the members, service organizations, the primary beneficiaries of which are the clients, and commonwealth organizations, the primary beneficiaries of which are the public. In addition, each of these organizations has secondary beneficiaries. Controlling organizations exist to oversee the flow of benefits from organizations to their primary and secondary beneficiaries. While some controlling organizations for business corporations may ensure that profit-making continues for primary beneficiaries, other controlling organizations ensure that secondary beneficiaries, for example, the public-at-large, are not harmed in the process. The goals of the controlling organizations for the primary beneficiaries are sometimes in conflict with the goals of the controlling organizations for secondary beneficiaries. Ermann and Lundman (1978) hypothesize that when such a situation exists, the controlling organizations that protect the
flow of benefits to secondary beneficiaries are limited so as not to interfere with the interests of primary beneficiaries. Controlling organizations are mandated to protect the flow of benefits; the effectiveness of controlling organizations is enhanced by aggressiveness on the part of controlling organizations, delegation of power in accommodative relationships, the celerity, certainty, and severity of sanctions, the clarity of responsibilities, and the resources of the controlling organizations.

The dimensions defined by Ermann and Lundman are important in the effective functioning of controlling organizations. An additional dimension is the moral legitimacy of the powers of controlling organizations which reflects the extent to which they promulgate behavior consistent with basic precepts within the society. The criteria for moral legitimacy is as problematic for controlling organizations as it is for corporations. A response by federal controlling organizations to this ambiguity is the attempted institutionalization of cost/benefit analyses to determine the acceptability of the activities controller organizations encourage (Tirman, 1978). The structural and bureaucratic impediments to effective control of corporations by controlling organizations and the characteristics of the relationships between organizations are reflected in the following questions for research:

1. Are corporations "so completely self-governing and self-perpetuating that they must be regarded as a revolutionary species of social organization" (McConnell, 1967, p. 249) that is beyond the control of other organizations in society?
2. Do the organizational features of controlling organizations that are important to their functional and moral legitimacy affect the power relations between controlling organizations and corporations?

The Political/Economic Context of Control

The control of economic organizations is a function of the political/economic system and the social change that is generated by the structural conflicts within that system. Chambliss (1974), in constructing a theory of social control of traditional crimes and deviance, points out the structural biases in the legal system that stem from the economic stratification in the society. Best and Connolly (1976) highlight the shortcomings of the political system in their analysis of the state.

The institution [the state] that is legally accountable to the public cannot meet public needs effectively while the private institutions that are not so accountable consistently pursue policies at odds with public needs (p. xi).

The positions of Chambliss and Best and Connolly reflect the integration of the political and economic systems, an integration that is reflected in state policies and 'non-policies' toward corporate actors (Chambliss, 1974; Freitag, 1978). The relationship between corporate powers and political powers can be seen "...by analyzing the formation, execution, and consequences of policy as well as those 'non-policies' which fail to emerge as public issues" (Freitag, 1978, p. 14).

Constraints on the decision-making of controlling organizations

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stem from the economic organization of societal resources (Chambliss, 1974), the structurally induced conflicts between the owners of capital and the workers (Chambliss, 1974; Freitag, 1978), the mobilization of bias in the political structures that support the construction of policies favorable to the capitalist class (Chambliss, 1974), the traditional image of the market as being beyond public control (Gruchy, 1979), the ability of corporations to manipulate the economic resources and production processes of the society (Gorz, 1967), and the commitment of the dominant class to the preservation of the present economic system (Freitag, 1978). The issues raised by the conception of control implicit in the positions of these authors include alternative views of the state, the autonomy of elites in policy formation, and the impact of non-elites on the processes of policy formation.

The view of the state as an instrument of the dominant members of the society is central in the works of Domhoff (1967), Miliband (1969), Parenti (1977) and Useem (1979a). The existence of a power structure is demonstrated by the political role played by the economic elite. Refinement of this position focuses attention on the structure of conflicts that result in policy formation. Freitag (1978) explicitly recognizes the conflicts that arise in the relations of production as the source of laws that favor or are inimical to the owners of productive means. In his formulation, the political system reflects the struggle between the forces of production in the economic sector; policy formation in the political system is the result of social change induced by the struggle between economic classes. The
state, in Freitag's formulation, is a fluid construct that in the capitalist economic system tends to support the policies of the capitalist class. According to Freitag, policies of the state that do not reflect the interests of the dominant class are a result not of the influence of economic elites on policy-formation but of the social change that results from the struggle between capitalist and worker interests. In contrast, Best and Connolly (1976) and Chambliss (1974) view the state as a class-structured entity; neither, however, views the state policies inimical to capitalist interests as the overt result of the struggle between classes in the economic sector. Best and Connolly dispute the overriding importance of class conflict in the U.S., a view expressed by Freitag (1978) and Gorz (1967). According to Best and Connolly, the intra-class conflicts in both the capitalist and worker classes have mediated against sharp inter-class conflicts and, therefore, the more acute implications of class struggle for policy formation found in some European nations. The alternative view of the state presented by Best and Connolly and Chambliss is one in which the state is a more active participant in the political/economic structure but within constraints imposed by the capitalist economic relations.

...it may be that the cumulative effect of necessary state expansion into inflation and employment regulation, public education, public employment regulation, corporate research subsidies, military expenditures, public welfare, and highway programs itself contributes to a crisis of state performance and legitimacy...It is perhaps more realistic to see it as sometimes representing the public's best efforts within the prevailing order to cope with dislocations created by capital (Best & Connolly, 1976, pp. 27-28).
The attempts by an active state to respond to structural deficiencies in the American economic system are essential to the maintenance of the state's ideological legitimacy; inconsistencies between the ideology of the capitalist state and the ability of the state to meet the needs of the population in light of state policies that protect capital accumulation force this issue (Sutton & Wild, 1980). The political system is not wholly determined by the economic system; rather, the structural conflicts in the economic system put positive and negative constraints on the activities of the state. In this formulation, the state supports the interests, and in conflicts preserves the position, of the dominant class but as the ideological legitimacy of the powers of economic actors is threatened, the state, in order to perpetuate the capitalist economic relations of production, responds, to the extent necessary, to non-dominant class interests.

The intra-class conflicts emphasized by Best and Connolly and Chambliss occur in the dominant and non-dominant classes. Competition among those who own the means of production is seen in the examination of policy formation by Graham (1980), Kolko (1965), and Shover (1980). Conflicts in the dominant class result in the utilization of state policy to increase the hegemony and capital accumulation of the most powerful actors in the economic sector. The non-dominant classes are also the setting for conflict and competition.

The United States has an underclass of marginally employed blacks, Puerto Ricans, and Mexicans whose struggle for secure employment brings them into con-
conflict with workers in the corporate sector who seek to protect themselves from a similar plight. This intra-class conflict...introduces a defensive conservative potential into the American working class (Best & Connolly, 1976, p. 27).

The impact of non-elites on the content of policy is seen in the political nature of the administrative functioning. Chambliss (1974), in his analysis of bureaucratic influences on traditional criminal law, emphasizes the role of law enforcement bureaucratic organizations in policy formation.

...bureaucracies that carry out the work of the state... may, in the last analysis be controlled by those who influence the society's economic resources...but they also have a life and force of their own which increasingly influence what is defined as criminal or delinquent. [This situation]....leads to the emergence of laws which contribute to the smooth functioning of the law-enforce­ment bureaucracy irrespective of whether or not the laws are in the interest of society at large (pp. 27-28).

The influence of state bureaucracies on the content of the law is based, according to Chambliss, on the assumption that they possess a particular expertise and their abilities to perpetuate this assumption by controlling information processes in their domain. The influence of bureaucratic actors is tied closely to the ideological legitimacy of the state, contributing to the general conservatism of bureaucratic inputs into law formation (Miller, 1973). Policy formation in state bureaucracies supports the conception of the state by Best and Connolly as an acting entity, rather than simply a reflection of economic forces.

The execution of policy may serve to negate some of the influences on policy formation. The procedures by which the laws are implemented neutralize the inputs of non-dominant members of the
Chambliss (1974) cites the adversary procedures of the criminal justice system as an example of means by which to perpetuate the effects of inequality in the economic system. In the case of laws and policy to control the economic actors in the society, the enforcement policies may neutralize the effects of the law in controlling behavior (Reasons & Goff, 1980). Laws may be passed to reduce the conflicts between groups in the society (Chambliss, 1974) or as a result of bureaucratic interests. The implementation of the policies for the control of corporations, however, may be best understood within the context of factors that affect the likelihood that particular actors or groups of actors will be the objects of control processes (Spitzer, 1980). Among the factors delineated by Spitzer are three that are particularly germane to the state control of corporate structures: the level of organization of the actors, the availability of non-official control structures, and the utility of the actors within the society. The level of intra- and inter-organizational development of corporations decreases the likelihood that control structures will be utilized. The traditional view of the market and competition as effective structures for the control of corporations also mitigates against state intervention into corporate activities. The economic, political, and social powers of corporations allow corporations to control the range of alternatives available in political organization, production goals and processes, and services available, thereby increasing the dependence of the population on corporate actors. Even if control mechanisms are utilized, the availability of less stringent me-
chanisms for corporations decreases the severity of the official responses to corporate actors.

The powers of corporations within the political/economic context of decision-making by controllers raise a number of questions for research.

1. Do corporations control the reactions of the controllers?
2. Do corporations exercise control directly over the acts of the state?
3. What are the influences of non-elites on the substance of the law?
4. Do the ideological, functional, and moral legitimacy of controllers ebb and flow with the business cycle?

The Reciprocal Relations Between Control and Power

Examination of railroad regulation by Kolko (1965) reveals that control processes have had benefits for the very groups the regulation was purportedly designed to control. Chambliss (1974) cites the input of industry personnel into the formulation of laws dealing with business practices. Corporations often support federal regulation of their practices to alleviate their responsibilities to state regulations and increase the predictability of controls within the corporate environment. Government regulation may actually serve certification needs within particular industries (Chambliss, 1974; Kolko, 1962) and decrease the effects of other control mechanisms, for example, competition, on the powers of corporations. As already noted, control processes of the state support the capitalist economic
system in conflicts between groups in the society (Freitag, 1978).
Lauderdale et al. (1979) propose that when corporations attempt to
avoid negative consequences of controls the problems to be controlled
may actually be exacerbated. Spitzer's theory of deviance includes
attention to the generation of deviance by control processes. In the
area of the control of corporate processes there may be a similar ef-
fact. Efforts at control may actually increase the power of corpo-
rations rather than diminish them.

Control policies may also involve non-decision-making (Chambliss,
1974; Freitag, 1978). The inhibitors to the construction and implemen-
tation of controls discussed in Chapter I may result in non-response
by organizations of control. Non-decision-making processes, like
decision-making processes, may contribute to the societal perception
of increased moral and functional legitimacy of corporate powers
without any actual change in practices or consequences of corporate
involvement in the social, political, and economic institutions of
society. Control mechanisms may result in overt benefits for the ob-
jects of the control processes, as did the railroad industry as do-
cumented in Kolko's study. The official recognition that accompanies
control processes may serve to justify the role of corporate actors
in the society and thereby contribute to legitimation of their ex-
traordinary powers. The reciprocal relations between control and
corporate powers is crucial to the problem of corporate powers, given
the differential responsiveness of the state to the needs and con-
cerns of the capitalist and non-capitalist classes within the nar-
rowing range of options available to the state.
The focus of research is defined by the following questions:

1. Does control actually increase corporate power?

2. Have the efforts of large corporations been aided by the decisions and non-decisions of controllers?

Justice in the Control of Corporations

Quinney (1980) views justice as "inevitably shaped by social reality: it is an integral part of the social, economic, and political structure of the society" (p. 6). In a society based on capitalist economic relations, justice is limited to the minimization of discrimination and inequality in the application of the law. According to Quinney (1980),

This leaves wide open such questions as the concrete meaning of equality, the social reality of equality and inequality, the existence of class conflict and state power, and the struggle for a better society beyond a narrow sense of justice (p. 7).

To the extent that the law protects the existing economic relations and promotes the interests of the dominant class, the concerns expressed by Quinney are unlikely to be addressed in the legal and political systems. In the view of the state put forth by Best and Connolly (1976), the state is, to some extent, independent of the economic system but the options of the state in promoting justice are limited by the increasingly scarce resources of the state in the face of rising demands for state services.

The inadequacy of capitalist formulations of justice is acute when the problem of control of corporations is considered. The reliance of corporations on the formal rationality of the law for def-
initions of corporate responsibilities (Sutton & Wild, 1980) is an indication of the narrow conception of justice utilized in the relations between state control organizations and economic corporations. Parenti (1977) identifies several characteristics of the American economy which contribute to corporate irresponsibility and the inadequacy of the extent to which justice is a consideration in the control of corporations. The concentration of economic power among a relatively small number of societal actors, the dominance over political power, especially in terms of control over major institutions, of the major corporations, and the promulgation of an individualistic ideology that results in the privatization of public wealth, an emphasis on consumption rather than need fulfillment, and denial of responsibility for others in society are among them.

Stone (1975), in analyzing the growth of corporate influence, attests to the autonomy of the corporation from the general society and societal demands. "Increasingly, the corporation could operate where it wanted to, grow to whatever size it wanted, manufacture any products, and provide any services it chose" (p. 22). The ineffectiveness of the government against corporate power is reflected in Marcus' (1977) conclusion that "...corporate power remains essentially unchecked, and is likely to remain so in the foreseeable future" (pp. 100-101). The autonomy of the large corporations means that it need not be responsive to the public interest, either in terms of social costs or social needs, and that corporations are relatively immune to outside control. The definition of corporate responsibilities may refer to the alleviation of social costs direct-
ly related to the corporation's activities or may refer to the alleviation of social needs in general. That corporations should at least not add to the general needs of the society is a basic assumption underlying the former position. The latter position is reflected in corporate activity to promote satisfaction of public needs, whether or not the corporation is directly associated with the need.

The accountability of the large hierarchically-ordered corporations to the public interest, whether responsibility is defined in the more narrow or more inclusive view, has been largely usurped by the organizational rules and goals that concentrate on production and growth. The nebulous nature of societal goals for the U.S. economic system makes them particularly susceptible to the influence of corporate goals, given their greater clarity and consistency. State control processes address the legal responsibilities of corporations within the capitalist formulations of justice. Control processes are unlikely to promote the social responsibilities of corporations, given the economic and political inequality of societal actors and the inability of the capitalist structure of relations to meet the needs of all members of the society.

The dependence of corporations on the formal rationality of the law is an indication of the extent to which definitions of social responsibility have been narrowed to the legal responsibilities of corporations. An appropriate focus of research, then, is the examination of corporate positions on the issue of corporate responsibility in legal and social contexts.
Summary

The foci for research delineated in this chapter are summarized:

1. Are corporations beyond the control of other institutions and organizations in the society?

2. Do the organizational features of controlling organizations that are important to their functional and moral legitimacy affect the power relations between controlling organizations and corporations?

3. Do corporations control the reactions of their controllers?

4. Do corporations exercise control directly over the policies of the state?

5. Do the ideological, functional, and moral legitimacy of controllers ebb and flow with the business cycle?

6. What are the influences of non-elites on the substance of the law?

7. How do controls actually increase the powers of corporations?

8. How have the efforts of large corporations been aided by the decisions and non-decisions of controllers?

9. In what ways do corporations depend on legal mechanisms for delineation of their social responsibilities?

Methodological considerations are presented in the following chapter. Examination of the problems presented here is conducted within the particular relations between the Ford Motor Company and the National Highway Traffic Safety Administration, a controlling organization for the American automobile industry. The manufacture of the Ford Pinto and Mercury Bobcat automobiles eventually resulted in the invocation of control processes by the NHTSA, providing an opportunity...
to study structural and organizational impediments to the effective control of corporations, the relations between the state as a major actor in the political system and corporations as major actors in the economic system, the distribution of powers across these two actors, and the extent to which justice in the control of corporations is a function of a clear delineation of the legal and social responsibilities of corporations.
CHAPTER III

METHODOLOGICAL CONSIDERATIONS

The models of social organization delineated in Chapters I and II are specified within the functionalist and radical paradigms in Sociology. The sets of organizing principles that constitute these paradigms present particular models of social organization and the appropriate focus and method of study. According to Michalowski (1977) paradigms define the content of research, indicate appropriate problems for research, suggest appropriate methods for studying the problems so defined, and represent distinct ways of interpreting events. The research setting and the methods utilized for examination of the theoretical questions isolated in Chapter II are presented within the framework established for critical examination of the control of corporate powers.

The Research Setting

On August 10, 1978, Judy Ulrich, her sister Lynn, and their cousin Donna Ulrich were driving on U.S. Highway 33 in Indiana when their 1973 Ford Pinto sedan was hit from the rear. The Pinto exploded into flames, and Lynn and Donna died within minutes. Judy, who was thrown out of the car after being burned over 95% of her body, died some eight hours later at a burn center. Pathologists' reports indicate that had it not been for the burns, none of the girls would have suffered serious injury. Even the Ford Motor
Company later acknowledged that burning was the cause of death.

Indiana law had recently been rewritten so that a corporation's failure to act on a known defect in its product or products was a criminal offense. Cosentino, the Elkhart County prosecutor, took the case to the Grand Jury and on September 13, 1978, the Grand Jury indicted the Ford Motor Company on three charges of reckless homicide. The case was later venued out to Pulaski County, Indiana, and the county seat of Winamac was approved as the trial's venue. The trial commenced on January 7, 1980.

The use of the criminal law against the Ford Motor Company in the manufacture of the allegedly defective Pinto and Bobcat automobiles was augmented by the efforts of the federal regulatory body for the automobile industry, the National Highway Traffic Safety Administration. In May, 1978, this controlling organization made an initial finding of defect in the Ford Pinto. This decision set in motion the processes by which the danger presented by the Pinto automobile, as determined by the National Highway Traffic Safety Administration, could be removed from the American public and was the culmination of a variety of events and forces germane to the study of the control of corporate power. The Pinto case provides the setting for exploration of criminal and regulatory law in the control of corporations, the procedures for control utilized by the National Highway Traffic Safety Administration, and the organizational, political, social, and economic powers of the Ford Motor Company to resist control processes.
The Research Purpose

Collection of data pertinent to institutional factors in the development of control processes for the automobile industry, the structure of relations that currently exist between the automobile industry and the National Highway Traffic Safety Administration, and the social, legal, and economic contexts within which these relationships have developed is necessary.

The research design, a case study, does not allow generalization to a larger population. This study is, however, conducive to evaluation of the appropriateness of the research foci isolated in the existing literature. The detailed description permitted within this case study is an important basis for developing scientific inquiry into controls on corporations. While analysis of theoretical propositions is not possible, existing information about corporations and their controllers are subjected to scrutiny. The rarity of criminal prosecutions of corporate actors accentuates the value of the data for the evaluation of existing constructions of corporate and controller activities and for the generation of additional specification of the issues requiring research attention.

Data Collection Procedures

The sources of data for this research are both primary and secondary. Secondary sources present information mediated by the author of the source and include published and unpublished materials concerning the automobile industry, the National Highway Traffic

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Safety Administration, and the Pinto trial. Primary materials are original accounts that have not been described or interpreted by another author or social scientist. The primary materials utilized in this research have four sources: the observations of the researcher, specifically those of the trial processes that occurred in the prosecution of the Ford Motor Company, documents distributed within and between the Ford Motor Company and the National Highway Traffic Safety Administration, published records of the laws and procedures guiding the control of the American automobile industry, and interviews with individuals within the organizations involved. A comprehensive understanding of the state control mechanisms utilized in this case is enhanced by the qualitative nature of this research. The use of qualitative methods, rather than those emphasizing quantification and statistical analysis, allows the input of a wide range of factors into the conclusions of the researcher. Assessment of the validity of the information and the reliability of the techniques used in data collection, however, present challenges unique to qualitative methods.

Threats to reliability and validity vary with the particular technique utilized. For this reason, Webb, Campbell, Schwartz, and Sechrest (1966) advocate the utilization of multiple methods. In this research, the utilization of observations, interviews, and document analysis helps to offset the variety of threats to the validity of the data inherent in any one of these techniques. The problems of interview effects and reactive effects on the part of the respondent which threaten the reliability of the interview data,
the problems of selective observation and interpretation and contamination of the research setting that threaten the validity and reliability of the court observation data, and the problems of selective deposit and selective survival which threaten the validity of the documentary data may be overcome, at least in part, according to Webb et al. by triangulation of the measurement processes. Consensus in the data gathered from multiple procedures increases the confidence of the researcher that the conclusions generated in the research are not systematically biased. Triangulation contributes to the establishment of pragmatic validity (Phillips, 1971) and equivalency reliability (Walizer & Wienir, 1978), both of which are dependent on consistency of the results achieved by different measures.

Qualitative research does require special attention to the values of the authors of data sources. Explicit recognition of value positions allows the researcher to utilize the philosophical positions of the authors as additional data for the research. The non-reactivity of the documentary data, while eliminating a possible threat to the reliability and validity of the data, means that the information is not necessarily focused on the research problem, especially since the documents have been produced for some purpose other than the research. The high dross rate that results, however, is mitigated by the concomitant advantage of independence of the data source. Although there are sources of bias in every data collection method, the existence of overlapping data and the resulting availability of cross-checks allows greater confidence in the conclusions generated by the data. Since the availability of data on the con-
trol of corporations is restricted, replication of studies in this area is difficult. Only with the accumulation of information, however, can the reliability and validity of the research processes be accurately assessed.

Explication of the Primary Data Sources

The primary data sources for this research are trial observations, documents pertaining to the Pinto case, records of the legal procedures within which controlling organizations operate, and interviews. The data from these sources, supplemented by data from secondary sources, are used to examine the research questions delineated in Chapter II. Such an examination is, of course, limited by the scope of the data available. The obstacles to effective research on corporations have been overcome, to some extent, by the increased accessibility to corporate information afforded by the criminal prosecution of Ford.

The trial of the Ford Motor Company on charges of reckless homicide lasted thirteen weeks. The successful defense of the corporation revealed information about corporate operations, and more importantly for this study, the interactions between the Ford Motor Company and the National Highway Traffic Safety Administration. The testimony of Ford executives and employees produced information on the corporate structure, the corporate reactions to the criminal and regulatory charges, and the corporate view of its social, legal, and economic responsibilities. Of particular interest is the ability of the corporation to neutralize information procedures within the
prosecution.

Documentary data include in-house memos between Ford employees, correspondence between the Ford Motor Company and the National Highway Traffic Safety Administration, trial briefs and transcripts from civil cases involving the Ford Motor Company and the integrity of the Pinto fuel tank, and written interactions between consumers, consumer groups, and the National Highway Traffic Safety Administration. Although many of the documents became available to the public as a result of the prosecution of Ford, they were produced independently of the trial process. It is not possible to know whether additional documents that pertain to corporate and controlling activities in this case exist. The researcher is dependent on the skills and enthusiasm with which the prosecutor, various product liability lawyers, and officials of the National Highway Traffic Safety Administration carried out the responsibilities of their positions.

The regulatory laws pertinent to this study are the procedures instituted by Congress within which actions by the National Highway Traffic Safety Administration must take place and the standards instituted by this controlling agency for fuel tank integrity. Of particular importance is the input of bureaucratic elements into the law-making process and the pragmatic application of the law to the automobile industry. These laws and procedures represent institutionalized reactions of the controlling organization to other actors in the environment, including giant corporations within the industry it is mandated to control.

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Interviews with Joan Claybrook, recent administrator of the National Highway Traffic Safety Administration and Michael A. Cosentino, prosecutor of Elkhart County and of the Pinto case, are particularly germane to this study. In both of these interviews, the philosophical issues underlying the respective control processes were addressed. The more focused approach of the interviews produced more direct attention to the issues of control than is provided by the documents. Additionally, the interviews are especially valuable as cross-checks on other sources of information.

The Data

Qualitative methods are used to study the research problem delineated in Chapter I. The data and their implications are presented in Chapter IV.
CHAPTER IV

CONSIDERATION OF THE DATA

The research questions delineated in Chapter II address the organizational framework within which corporate powers and controlling powers are utilized, the impact of the political economy on the exercise of these powers, and the reciprocal relationships between corporate power and controls. The information gathered in this study illuminates major issues in the control of corporate actors and allows further examination of the conclusions drawn from the existing literature, especially in terms of the ramifications of these conclusions for state and social control of corporate power. The research design does not allow quantitative analysis of the interactions between corporate and controlling powers. This research does, however, constitute a preliminary step in the delineation of the interactive effects of corporate and controlling organizations.

The Organizational Context of Corporate and Controlling Powers

Because of the organizational characteristics of corporations, they enjoy some advantages over other actors in the society. Central to these advantages is the ability of the corporation to translate its economic powers into political and social powers. The extent to which the large corporations are vulnerable to the controlling powers of other societal organizations is contingent upon the organizational characteristics of corporations, especially in terms of
of the powers derived from these characteristics. The ability of the corporation to influence other powerful actors in the society is a central consideration in the research questions addressing the organizational context of corporations and controllers.

Are corporations, by virtue of their organizational power, beyond the control of other institutions and organizations in the society?

Do the organizational features of controlling organizations affect the power relations between controlling organizations and corporations?

The organizational powers of the Ford Motor Company may be unique to that company or may be tied to characteristics of the automobile industry as a whole. The susceptibility of Ford to controlling influences may, in fact, be a function of this particular company in the structure of automobile sales and production. A related issue is the economic position of Ford as it directly affects its political and social powers.

The Powers of the Ford Motor Company

The bureaucratic features that characterize large economic organizations and that result in a division of labor consistent with greater efficiency in the accomplishment of corporate objectives have important implications for the Ford Motor Company. The dominance of the Ford organization by members of the Ford family since the origin of the company has tempered, to some extent, the advantages of a more bureaucratic arrangement. Callahan (1979), for example, cites the lack of independent thinking, the competitive environment within the company, and the emphasis placed on financial
experts over other decision-makers within the Ford organization. Callahan refers to:

...Ford's deity-like role in the company which stifles independent thinking and causes a stampede toward any position the chairman is even suspected of holding [and] ...Ford's management philosophy of putting people and groups in competition with one another (p. 9).

The implication of Callahan's position is that Ford's internal structure is not used as effectively as it might be for the accumulation of resources and, more importantly, for the internal control of corporate activities. That the management structure of Ford is an important consideration in both of these processes is supported historically by Rae (1965) and White (1971). "The company [Ford during the depression] was run by an aged despot, who despised systematic organization and who believed in keeping his executives, including his own son, constantly in conflict with each other" (Rae, 1965, p. 115). In the views of these analysts, the organizational powers of Ford may have been lessened by the tendency of the company to reject management principles that have contributed to the powers of giant corporations. White, especially, emphasizes this point in his comparisons between Ford and General Motors.

Ford does, however, enjoy advantages over other actors in the society, advantages that may implicitly or explicitly decrease the vulnerability of the company to external controlling processes. The size of the corporation itself has been proposed as a factor in its ability to withstand external forces (Davids, 1967) and even internal mechanisms at odds with efficient corporate functioning (Rae, 1965). In 1976 the net profit of Ford exceeded 983 mil-
lion dollars with total revenues of nearly $29 billion (Counter Information Services, p. 12). In 1978 the total revenues of the company reached $42 billion (Callahan, 1979, p. 9). Ford employes nearly a half-million people world wide and produces an average of 12.2 cars per employee annually (Counter Information Services, p. 12).

Vertical integration within the automobile industry is perhaps best illustrated by Ford. The production of steel and glass by the company represents attempts to be independent, to the extent possible, of suppliers. Vertical integration increases the control over production processes, decreases the likelihood of exploitation by a supplier, and brings additional profits to the auto manufacturers from the supply of replacement parts (White, 1971, p. 80). Complete vertical integration in the auto industry is neither possible nor desirable, according to White, given the expertise necessary and the increased risks of internal supply. Integration in the automobile industry is characterized by White as tapered integration, allowing the auto companies to reap the benefits of integration without suffering some of its negative consequences. This may be seen in the development of new components and the utilization of technology in problem solving.

On some components, there has been a tendency to let suppliers develop a product, purchase it for a while, and then either purchase the plant or build one for in-house production. This, of course, shifts the risks of development on to the suppliers...General Motors has had a greater tendency to initiate such projects in-house. This seems to be due primarily to a greater willingness on General Motors’ part to absorb risk in these areas...(White, 1971, p. 85).
Ford has also found advantage in its transnational operations. CIS discusses this advantage in terms of the productivity of Ford employees.

In order to extract greater productivity (more work for the same pay) from its employees, Ford play workforces off against one another...The increased globalization which is the hallmark of current Ford strategy has now added a new dimension to the company's offensive...Completion— the assembly of a single product or model from components made in different countries or plants— has been developed further by Ford than by any other company...In the battle between workers and company the workers remain fragmented organizationally by geography and nationality. Ford, on the other hand, benefits from its centralized control of management strategy (Counter Information Services, p. 1).

The critical stance of the CIS is clear in its discussion of Ford overseas operations. That Ford enjoys advantages from its transnational organization and vertical integration is a conclusion supported by many analysts. Ford's international structure allows it to weather economic lows in any particular national economy.

Ford's biggest problem is its North American Automotive Operations. Traditionally the profit core of the company, the division has been in a tailspin...Ford lost $735 million in the U.S. in the second quarter, primarily because of poor car and truck sales...But Ford has a lot of cushion during hard times. Its overseas automotive operations, though suffering from Japanese competition and Europe's recession, are still considered strong...David Eisenberg, automotive analyst for Sanford C. Bernstein & Co., says the strength of Ford's foreign and non-automotive subsidiaries will bring earnings 'well in excess' of $2.4 billion by 1983-84—which will be record profits..." (Lenhoff, 1980, p. 1C).

Conglomeration, a process cited by Clinard and Yeager (1980) as contributing to the overall powers of giant corporations is of less importance in the case of Ford than many other multinational corporations. White (1971) estimates that Ford automotive sales, in-
cluding passenger cars, trucks, and tractors, constitutes over 90% of Ford sales (p. 90). Ford, through its Philco line, sells home appliances, computers, and electronic systems. Ford is currently the largest producer of satellite systems (Counter Information Services). In 1965, according to White, these items contributed 5% of Ford's total sales. Ford sales to the Department of Defense also constitute a relatively small percent of the Ford earnings (less than 5%), but, according to Congressman Lee Aspin, whose study of defense contractors was conducted in 1973, Ford ranks 28th among Department of Defense contractors (Aspin, 1973). Ford's position within the auto industry is a solid second and has been since the early 1950s. In 1975, according to the Automobile Manufacturers Association, Ford produced about 26% of the cars manufactured by American automobile companies. This compares to approximately 54% for General Motors and 17% for Chrysler. The position of the company within the industry is protected by practices of the automobile industry as a whole. The delay of introduction of new technology by any one manufacturer may protect the market and other companies within the oligopolistic industry.

Suppose that an oligopolist sees a profitable market niche for a product. The development of the product and tooling up for production require a large investment, and a significant scale of production relative to the size of the market is required to recoup this investment. Under these circumstances, a single oligopolist might well refrain from developing this product until he was sure that enough room existed for himself and his rivals to produce it at a reasonable profit (White, 1971, p. 175, emphasis in original).

The automobile industry is, therefore, characterized by lack of pro-
duct competition as well as lack of price competition. Planned obsolescence of the automotive product, frequent model and styling changes, and influence over consumer demands serve to protect the automotive industry as a whole. The vulnerability of the American automobile industry, however, to competition from smaller foreign models, however, must also be considered. Between 1965 and 1977 the percentage of total passenger car retail sales represented by imports more than doubled. The reluctance of American manufacturers to enter the small car market can be seen in White's (1971) presentation of the historical trends in this area.

The companies, in fact, chose to continue development on a leisurely basis...They were concerned that their own small cars might simply divert customers from their more expensive, more profitable models. The investment in the new cars would be substantial, and the companies wanted to assure themselves that the market was large enough for all three firms. Edward N. Cole, then head of the Chevrolet Division, stated that the small car market would have to reach a size of 500,000 units before General Motors would be interested in entering. Since General Motors fully expected its rivals to enter also, Cole was implicitly stating a 'room-for-all' proposition (White, 1971, pp. 183-184).

White cites the quality of the Volkswagen automobile and its service division for its success in the small car market (1971, p. 185) refuting American industry claims of the diminishing quality of cars as the costs are reduced. When, in 1967, the American manufacturers made plans to enter the small car market, market competition, rather than technological competition, dominated the process.

At least as early as 1967, the evidence on import sales indicated that the market for a new generation of small cars was large enough to support all the domestic producers. Ford, making the first expensive commitment on tooling for the Maverick in mid-1967,
was the first to recognize this. This was consistent with its role as an ambitious seeker of new market niches that it could exploit profitably before its rivals caught up (White, 1971, p. 188).

Competition for market share provides a basis for activities by Ford that resulted in the eventual application of control mechanisms.

The powers of the Ford Motor Company, as an autonomous corporation and as a member of the automobile industry, are important factors to consider in the examination of attempts by other organizations to control its activities in the society. The characteristics of large corporations and the powers that are associated with these characteristics are evidence of and factors in the ability of the corporation to control information about its functioning. The trial of the Ford Motor Company provides an example of the ability of large corporations to protect the flow of information about their internal environments during control processes. The interactions between Ford and the National Highway Traffic Safety Administration provide a focus for further examination of corporate attempts to increase its immunity to control processes.

Controlling Organizations and Their Powers

Attempts to control the activities of the Ford Motor Company through criminal prosecution and regulation provide an opportunity to examine the susceptibility of controlling powers to the influence of corporate powers. Although the court has historically been important in the control of corporate actors (Elkins, 1976), structures and processes characteristic of the criminal court decrease
the effectiveness of its control over corporate organizations. The legal limitations on the scope of judicial activities in this area may be illustrated in the Pinto trial.

The corporate defendant, like the individual defendant, is entitled to safeguards of due process and evidentiary right, for example, protection against the introduction of hearsay evidence and protection against the introduction of evidence not directly related to the particular incident that resulted in the charges of reckless homicide. These safeguards enabled the corporation to effectively shield its internal decision-making processes from public view. Two court rulings are examples of the protection afforded the organization in this case.

1. Former Ford employees were not allowed, within the safeguards afforded the defendant, to testify about the topics or results of meetings between Ford executives on the production of the Ford Pinto unless that employee actually attended the meeting in question. If the employee's knowledge resulted from memoranda not introduced into evidence at the trial or from personal accounts of other employees at the meeting, the information was not allowable, under the hearsay rule. In order to demonstrate culpability of Ford, the processes by which the allegedly defective Ford Pinto was manufactured needed to be exposed. The organizational characteristics of the defendant served to diminish exposure of the timing and nature of the decisions that resulted in the manufacture of the Pinto.

While the Pinto trial provided some insights into the workings of the Ford organization, the ability of the corporation to maintain
secrecy about its operations remained largely intact. The legitimacy of judicial powers requires that the court establish and follow rules of evidence. The strict structure in which this occurs is evidenced by Ford defense attorney James Neal's statement in objection to the presentation of evidence by the prosecution about the capability of Ford to manufacture a safer car. "What concerns me is that this case might turn into a broad general examination of the auto industry, which is outside the scope of a criminal case" (State of Indiana vs. Ford, 1980).

2. The court ruled that the internal Ford documents in possession of the prosecutor had to be authenticated by the source of the document in order for the document to be admissible. When the prosecution argued that production of the documents by Ford (in response to subpoenas) amounts to authentication, attorneys responded that since the corporation does not admit authenticity, it remains at issue. Malcolm Wheeler, an attorney for the Ford Motor Company, argued that unless the state establishes (1) the validity of the signature on the document and (2) that the purported recipient of the document actually received it, the foundation for authenticity has not been laid (State of Indiana vs. Ford, 1980). The court accepted this argument even though the documents were produced from Ford files. Justification for the court's ruling came from Wheeler when he argued that anyone (for example, a janitor) could have put the documents into the Ford files. The court's decision is based on the rules established for burden of proof, which for this particular issue fell on the prosecutor.
As a result of the Pinto prosecution, a number of internal documents were available to the public and negotiations between the Ford Motor Company and the National Highway Traffic Safety Administration were publicized. The importance of the event and the data it provided, however, is highlighted by its uniqueness. The strict structure of presentation of evidence necessitated by the requirements of judicial legitimacy is an important aspect of the powers of controllers to control the activities of corporate actors.

The characteristics of regulatory bodies that influence the effect of controllers on corporate policies may also be examined within the context of safety regulations promulgated by the National Highway Traffic Safety Administration. The NHTSA (originally the National Highway Safety Bureau) was established by the National Traffic and Motor Vehicle Safety Act of 1966. This act is "to provide for a coordinated national safety program and establishment of safety standards for motor vehicles in interstate commerce to reduce accidents involving motor vehicles and to reduce the deaths and injuries occurring in such accidents" ("National Traffic and Motor," 1974). The importance of the statutory basis of the NHTSA is highlighted in a November, 1977, letter from Ralph Nader to Joan Claybrook, then the agency's administrator.

...the role established for NHTSA in the 1966 statute was not that of supportive staff for the Secretary [of the Department of Transportation]. Congressman James MacKay, with whom you worked in 1966, successfully obtained Congressional approval of NHTSA as a statutory agency. That meant NHTSA was established by statute, not by administrative decree, for the purpose of giving the agency a degree of independence...that befits its regulatory mission. Although the statute's authority
is delegated to NHTSA by the Secretary, the Administrative Procedures Act and the auto safety law call for a reasonable insulation...between NHTSA and the Secretary" (Nader, 1977, p. 2).

The independence of controlling organizations from politically based organizations is an important consideration. The NHTSA does operate within the Department of Transportation and so does not enjoy the autonomy from executive control afforded the independent regulatory agencies and commissions. The impact of the NHTSA position is underscored by the decision of Neil Goldschmidt, then Secretary of the Department of Transportation, on the recall of Ford Motor Company cars with transmissions that allegedly slip out of park. In an interview on the MacNeil-Lehrer Report, Secretary Goldschmidt was asked if he had overruled a recommendation for a recall of the affected cars. His reply, "NHTSA originally recommended on part of that total recall, and my guess is they would have been happier that it came out that way. I didn't agree with their judgment" (Goldschmidt Interview, 1981), reveals the restraints on the activities of NHTSA by the Department of Transportation. Secretary Goldschmidt's decision on this issue was made despite the fact that a safety defect was found. During the same interview he stated, "And we found a safety defect [in the automatic transmissions of some 16 million Fords]. We never took that finding back: it is still sitting there in the record" (Goldschmidt Interview, 1981).

The position of NHTSA in the Department of Transportation is one reason for NHTSA inactivity in the safety program and recommendations by congressional committees for a restructuring of safety agencies.
The politicization of highway safety decisions is widely acknowledged by consumer groups, Congressional committees, and media personnel. The Insurance Institute for Highway Safety reports the findings of the Oversight and Investigations Subcommittee of the House Commerce Committee.

Sharply criticizing the 'virtual halt' of the federal motor vehicle safety program 'over the past two years,' [the Oversight and Investigations Subcommittee] has recommended that the program be revitalized by removing it from the Department of Transportation and placing it, along with the Food and Drug Administration and the Consumer Product Safety Commission, in a new, independent regulatory agency ("Virtual Halt," 1976, p. 1).

This same subcommittee, however, cites a variety of other factors in the decreasing rate of NHTSA rule-making actions.

1. The increasing complexity of the development and promulgation of safety standards.

John Snow, administrator of the NHTSA in 1976, agreed with the observation that standards issued in the early years of the NHTSA's existence were dependent on already existing technology. Newer standards, according to Snow, "require more intense analysis, and research, and stimulate more resistance on the part of industry. In that context, new standards do take longer to move from the proposed stage to the final rule" ("Virtual Halt," 1976). The report of an ad hoc committee to study the Cumulative Regulatory Effects on the Cost of Automotive Transportation (RECAT) utilizes the complexity of the regulatory situation as an argument for (rather than a justification of) less regulation.

Early safety standards reflected the state of the art of motor vehicle design; hence they were cheaply and easily met and cost effective. However, the reservoir
of cheap and easy beneficial changes appears to be running dry. Some recent standards require motor vehicle performance whose attainment is conjectural, whose costs may not be predictable, and whose achievement may involve substantial research and development efforts (Ad Hoc Committee, 1972, p. xii).

2. Lack of public support for particular rule-making actions.

Public support for safety, however, is reflected in a survey conducted by Hart Research Associates, Inc. for the Department of Transportation. According to this survey, "safety is one of the most important concerns the public has in buying a new car" ("Surveys Show Consumers," 1978, p. 1). This factor may be directly related to particular practices within regulatory bodies. Public support for specific regulation may be related to the perceived effectiveness of the agency or regulation in representing the public interest. When, for example, the Environmental Protection Agency considered procedures for exclusion of information from public review, a variety of manufacturers were represented. The conflict between the need for protection of corporate competitive information and the public's right to know resulted in a ruling by the agency that two bases for exclusion of information from public files existed: (1) extreme sensitivity for industrial competition and (2) that the information was not essential to the public interest (decided, apparently, by negotiation between the E.P.A. and the petitioning manufacturer). Representation of the public interest is undermined since E.P.A. regulations do not require separation of arguments based on competitive factors and those considering the necessity of public access. The result is that the public cannot challenge the decisions of re-
quired confidentiality on the basis of necessity of public access (Wilson, 1972). That the NHTSA may also be overzealous in the protection of corporate information is indicated by the finding of the Center for Auto Safety that some documents kept out of the public file on the "trade secret" basis have already been made public via court proceedings, media exposure, etc. (Ditlow & Meyer, 1978).

3. The political interference of other governmental bodies in the NHTSA rule-making process.

The Office of Management and Budget, for example, in 1971 required notification of action by regulatory bodies and a summary description of:

- the principle objectives of the regulations, standards, guidelines, etc.;

- alternatives to the proposed actions that have been considered;

- a comparison of the expected benefits or accomplishments and the costs (Federal and non-Federal) associated with the alternatives considered; and

- the reasons for selecting the alternative that is proposed (Heffelfinger, 1971, p. 2).

While such requirements may increase interagency coordination, although they do not in and of themselves assure it, they also increase the burdens on regulatory rule-making actions. Interference by other governmental bodies in the regulatory functions of agencies may encourage as well as impede the regulatory process. A brief history of Federal Motor Vehicle Safety Standard 301 illustrates:

...in 1967, the National Highway Traffic Safety Bureau... issued an advanced notice of proposed rule-making announcing its plans to amend the standard to require lateral and rear-end collision tests, prevention of fuel spillage due to rollover, puncture resistant fuel tanks, and protection of fuel lines and fittings.
Over a year later, a notice of proposed rule-making was issued proposing lateral and rear barrier impact tests of 20 mph with a January 1, 1970 effective date. Unfortunately, this proposal was never adopted.

Over a year and a half later, on August 24, 1970, the NHTSA issued another notice of proposed rulemaking that would tighten the requirements of the earlier proposal and add a 30 mph rear barrier impact. However, it would delay the effective date of most of the requirements to January 1, 1972, except the 30 mph rear barrier impact whose effective date was to be January 1, 1973.

After two years of NHTSA inaction, the Center for Auto Safety petitioned HNTSA on July 3, 1972, to issue an upgraded standard. While the petition was not rejected, no action was forthcoming. On May 29, 1973, the Insurance Institute for Highway Safety's film "Cars that Crash and Burn" was shown to the House Subcommittee on Interstate and Foreign Commerce.

As a result of the showing, bills were introduced to upgrade the fuel system requirements. The NHTSA responded by issuing another notice of proposed rulemaking which substantially reiterated its 1970 notice and asked for comment.

Nearly a year later in the face of continued Congressional scrutiny and strong pressure from consumer and industry groups, the NHTSA again issued a notice of proposed rulemaking remarkably similar to the 1973 notice. On October 27, 1974, the Motor Vehicle and Schoolbus Safety Amendments of 1974 were signed into law incorporating FMVSS 301 as it was published in the March 21, 1974 notice fixing the effective dates, and prohibiting future amendments that would degrade the standard. This ended seven years of bureaucratic delay ("Fuel-Fed," 1978, pp. 33-34).

A report on the effects of regulation on the automobile industry (RECAT), prepared for the Office of Science and Technology, argues against the imposition of many regulatory standards for auto safety (in particular, the air bag) (Ad Hoc Committee, 1972). Since the preparers of the report were all appointed by President Nixon, a mem-
ber of Senator Muskie's staff explicitly recognized the collusion between the White House and the automobile suspected by others. "The report recognizes not the needs of the public but the limited talents of the automobile industry" ("A Backlash Against," 1972).

The timing of the report is especially revealing.

Ralph Nader's Center for Auto Safety questions the curious sequence of events that occurred about the time the study began. Last April 27 [1971], accompanied by Ford Motor Co. President Lee Iococca, Henry Ford II met with President Nixon to discuss 'matters relating to the auto industry.' Ford denies suggesting RECAT, but two days later a White House memorandum circulated throughout various federal departments proposing a cost study. Now shortly before oral arguments on the airbag regulation are scheduled to begin in the Cincinnati Federal Appeals Court, RECAT pops up. This week Iococca said 'the report comes none too soon' to show the dangers of boosting consumer costs without carefully considering the nation's economy ("A Backlash Against," 1972).

NHTSA enforcement actions, too, must be considered within the bureaucratic characteristics of the agency. While the agency has subpoena power (Karr & Apcar, 1978; Nader, 1977) and recourse to civil penalties and injunctions (Bradford, 1978), resistance to the application of its standards may be stiff. The long process involved in recall decisions is illustrated by Karr and Apcar (1978) in an article in the Wall Street Journal.

Auto-recall decisions, often costly and controversial, don't just happen overnight. Many months of backstage maneuvering may precede the final move. When a serious safety issue is involved, the process may start with news stories or car-owner complaints; then may come lengthy government investigation and testing, consumer group pressure for government action, resistance by the car's manufacturer, an official finding of a safety defect, and a conflict between the company and Washington over planned repairs" (Karr & Apcar, 1978).
The voluntary recall by Ford of the Ford Pintos and Mercury Bobcats followed an investigation by the NHTSA that began September 13, 1977, and culminated in an initial finding of defect in the Ford Pinto (1970-1976) and Mercury Bobcat (1975-76) on May 8, 1978. The publication of an article by Mark Dowie in Mother Jones entitled "Pinto Madness" was a major force in the initiation of the investigation; the NHTSA investigation of the Pinto specifically addressed the charges levied by Dowie against the Ford Motor Company ("Alleged Fuel Tank," 1978). In the process of investigation, the NHTSA considered consumer inputs, information from Ford, and information from the Canadian Ministry of Transport on parallel cases in Canada. As the basis for its ultimate determination in the Pinto case NHTSA collected technical information on the engineering and production of the Pinto, tabulated accident statistics on the involvement of the Pinto in relevant accidents and comparison data for other cars, and with crash tests generated information on the performance of the Pinto in terms of fuel system integrity. Public interest in the case is indicated by the 900 plus public inquiries and comments received by NHTSA in the course of the investigation ("Alleged Fuel Tank," 1978). The procedural and pragmatic constraints within which NHTSA operates also includes its responsibility for performance rather than design criteria in the implementation of standards, the control of pertinent information by the organizations it is attempting to control, and the difficulty in determining the adequacy of lead time necessary for the implementation of the standards.

That compliance with standard 301 is evaluated according to per-
formance rather than design is attested to by Ralph Hitchcock, then acting director of the Office of Crashworthiness Motor vehicle program, when he writes, "Use of [particular] devices...in which fuel tanks, however, is completely up to the manufacturer of the vehicle...This standard is performance, rather than design, oriented. In other words the manufacturer may use whatever design he chooses as long as the performance requirements are achieved" (Hitchcock, 1977). While this does not necessarily impede the effectiveness of the NHTSA, it can have several implications for the control of corporations. Performance criteria require the crash-testing of automobiles for their evaluation. Performance criteria maintain industry control over the technological developments in safety. Performance criteria severely limit the effect other individuals and organizations could have on the solution to problems of automotive safety. Frustration with this situation is expressed by J. R. Doughty, director of the Canadian Bureau of Traffic Engineering when he says, 

We further understand that the FMVSS [Federal Motor Vehical Safety Standards] are performance rather than design oriented and that the use of specific designs cannot be specified. Therefore, it appears that these manufacturers, on their own volition, chose an unsatisfactory solution which is now being rectified by requiring the motoring public to further risk their lives...(Doughty, 1974).

The dependence of NHTSA on the industry it is mandated to control for information about its compliance with federal standards may also put the agency at a disadvantage. This information is important in determination of the range of data available to auto companies and, therefore, their abilities to meet federal safety standards as well
as in the determination of industry efforts to comply with the standards. While the NHTSA investigation of the Pinto case reveals that a variety of sources of information may be utilized, some of the most important data come from the auto companies themselves. The importance of the timing of standards is indicated by the emphasis in the RECAT report on timing the effective dates of standards so that standard implementation is compatible with the cycles of automotive production. It is also indicated by the negative consequences of delayed standard implementation. That such negative consequences are recognized by the federal government is indicated by the 1978 decision of the General Services Administration to remove Pintos from service until modifications could be made ("Surveys Show Consumers," 1978). The process of standard implementation is described in a letter from American Motors to Dr. James Gregory, NHTSA administrator, in 1975. The framework for participation described in this letter is likely to delay the final effective date of standards set by the federal government and increase the uncertainty within which the agency and the industry operate. While public and industry input into the standards are essential for legitimation of NHTSA's actions, there are costs associated with this process.

Within this regulation is contained the framework for active participation in the rulemaking process. Accordingly, the Administrator is to solicit and review comments pertaining to any proposed rule before proceeding with further rulemaking. He may then, at his prerogative, decide to conduct further research, issue a new and related notice of proposed rulemaking, finalize the rule as proposed, terminate all action. Even when rulemaking is finalized, the Regulation provides for interested parties to petition the Administrator to reconsider, amend, or revoke any standard or
part thereof. This entire procedure is designed to allow the exchange of ideas and suggestions throughout the development of a new standard so that the intent of the Safety Act, i.e., to provide standards that are practicable, objective, and meet the needs of motor vehicle safety, is realized. Until joint participation in the rulemaking process is completed and a final rule is published, the performance criteria, test procedures, required lead time, etc., are subject to change. Thus, it is only upon finalization of the rule that the Administration can:

1. Determine a reasonable and practicable effective date, and
2. Expect the automotive industry to initiate necessary production engineering programs.

Upon review by American Motors, we found that approximately 250 different dockets have been opened with proposed rulemaking since the adoption of the National Traffic and Motor Vehicle Safety Act of 1966. From this group, 58 standards and regulations have been adopted. Twenty-five dockets have been officially withdrawn. Others remain active pending NHTSA action (Stewart, 1975).

Bureaucratic and organizational implications for the control of corporations are seen in the interactions between the Ford Motor Company and the National Highway Traffic Safety Administration. The position of Ford within the auto industry and the resources it commands by virtue of its size and organization serve to shield it from outside interference. The susceptibility of Ford to outside control by judicial and regulatory organizations is further decreased by constraints on the organizational behavior that are designed to ensure the maintenance of their legitimacy as controlling organizations. While the eventual recall of the Pinto, in direct response to the NHTSA investigation, indicates that Ford is not beyond the control of other organizations in the society, the manufacture of nearly 2 million defective cars over a period of six years indicates...
that the impacts of controls are mitigated, to various degrees, by the characteristics discussed here. Furthermore, these factors provide the framework for corporate influence over controllers, the focus of research question 3, and corporate influence on policies of control, the focus of research questions 4.

Do corporations control the reactions of their controllers?

Do corporations exercise control over state policies?

The Political/Economic Context of Control

The relations between corporations and controllers within the political and economic structures in which they operate are exemplified by the interactions between Ford and the NHTSA. The impact of Ford on state structures and processes is emphasized in this section. The contributions of non-corporate actors to the process of control and to inhibition of control efforts are also taken into account.

Corporations and Controllers

Mechanisms for corporate influence over the reactions of controlling organizations to corporate activities include efforts to delay the implementation of standards, efforts to alleviate negative consequences of the application of standards, and efforts to influence other organizations in the environments of controlling organizations. Examples of the utilization of these mechanisms by Ford are presented here. The stakes in the Pinto case were high for both the controlling organizations and the corporations, especially given the public
attention focused on the case. These examples, therefore, serve to illustrate the importance of legitimacy to corporations and controlling organizations.

**Delay in Standard Implementation**

Counter Information Services cites corporate techniques designed to delay the implementation of standards and asserts that such techniques were utilized by Ford in the delay of standard 301.

There are several main techniques in the art of combating a government safety standard: a) make your arguments in succession so the feds can be working on disproving only one at a time; b) claim that the real problem is not X but Y [for example, the problems of auto-safety stem not from automobile design but from drivers]...; c) no matter how ridiculous each argument is, accompany it with thousands of pages of highly technical assertions it will take the government months or, preferably, years to test. Ford's large and active Washington office brought these techniques to new heights and became the envy of the lobbyists' trade (Counter Information Services, 1978, p. 13).

The delaying tactics of Ford involved arguments concerning the inaccessibility of data required by NHTSA, the inappropriateness of testing procedures established for the standard, and the costs of compliance with these standards. In addition, Ford presented arguments concerning the public accessibility of information relating to the case and its right to protection of confidentiality. According to Mark Dowie, author of the article Pinto Madness, "Ford admits opposing certain testing procedures in the rulemaking process which they now claim were excessive. The record shows, however, that they were only excessive for the Pinto and the Mercury Bobcat and that Ford produced models of similar size and weight in factories around
the world that would meet the standards. We can only conclude, therefore, that their opposition to rear end standards was simply designed to forestall the day when they would have to make 'excessive' alterations on the rear end of the Pinto (Dowie, 1978).

The efforts expended by Ford in delaying tactics, it would seem, might have been spent in complying with the standards in the first place. Mark Dowie presents the corporate logic against this position as well.

When faced with the Pinto question Ford's official response remains that the car did meet all existing federal standards at the time it was introduced. True, but it did not meet standards for rear end collisions because there weren't any in 1970 when the Pinto was introduced. There were proposed standards which Ford had been busy lobbying against. Instead of re-tooling the car to meet the proposed standard which they proved in their own tests they could do with the Capri, Ford decided at the highest levels of the company to continue fighting the standard which they did effectively for six more years while hundreds burned. Financially, it turned out to be a good decision has paid out many less millions of dollars in product liability costs and settlements than they would have re-tooling their factories (Dowie, 1978).

The interactions between Ford and the NHTSA regarding the implementation of standards and the testing procedures specified by the proposed standard are not unique to Ford. The procedures required for implementation of standards requires that response by the industry and the general public be invited. Other automobile manufacturers also have argued against the standards testing procedures. The Insurance Institute for Highway Safety reports that most of the comments come from the auto industry ("Virtual Halt," 1976). The fervor with which Ford engaged in negotiations with NHTSA over the

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provision of data and the procedures for implementing standard 301 may be related to the corporate organizational structure and the tendency for corporate policies to be congruent with the opinions of Henry Ford II. According to Colman McCarthy, Ford has been adamantly opposed to safety (and environmental protection) standards.

For three decades, he had a record of resistance and contempt for safety and environmental proposals...Ford sneered about 'self-appointed consumer advocates,' as if it were unfair that the public should be told about the fiery Pintos or that federal regulators should dare order him to clean up his fumey cars...Asked by Look Magazine in 1968 for the biggest problem of the Ford Motor Co., he said, 'that's easy, making more money' (McCarthy, 1979).

Alleviation of Negative Consequences of Control Processes

The advantages of Ford in defending itself against the application of criminal liability in the judicial system are indications of the importance of Ford's organizational structure in attempts to avoid potentially damaging control processes. The advantage of the corporate organization take a number of forms.

1. Corporations have a unique advantage as defendants in that they are able to control the image they present as principals in the trial process. Ford, for example, presented as representatives of the corporation witnesses who appeared sincere and respectable. Harold MacDonald, who served as a witness for the defense, who this year is president of the Society of American Engineers, and whose major interests center on home, church, and jogging, is an excellent example of this kind of image manipulation. Because there is a choice concerning which officials may represent the corporation in
court, the corporation may put its best symbolic foot forward.

2. The influence of corporations over the mass media also serves to inhibit the application of negative consequences of the control process. Soon after the trial commenced, favorable stories concerning the Pinto surfaced in the press. One such incident included a picture of a severely damaged Pinto that had been driven off a bridge. The accompanying story, in effect, asked if Pintos should be expected to take that kind of abuse. Some three weeks into the trial, a popular television series showed a Ford Pinto being impacted from the rear without the consequences being examined in the trial. The reactions of the media to the Pinto case are examined later for their influences on official actions. These incidences are indications of the abilities of the giant corporations to use the media to forestall or diminish reaction. While admonitions to the jury, at least ideally, serve to keep the influence of such tactics from the judicial process, the attempts to influence public opinion seem clear.

3. The social standing of the corporate defendant also serves its interests. The social standing of the judge and representatives of the defendant are likely to be similar. Judges are often deferential to business defendants and may be antagonistic to those who prosecute business crime. In fact, Mark Green et al. (1979) report, "...it is best to find the judge's friend or law partner to defend an anti-trust client" (p. 543). The Pinto case was no exception to this practice of corporate defendants. A former associate of the judge was hired as part of the Ford defense team.
4. The resources of the corporate defendant are likely to shield it from the full effects of the criminal law. The ability to hire the best lawyers, to present professional exhibits, to utilize a national team in its defense is particularly indicative of the power of corporations to effectively neutralize the powers of controlling organizations. Perhaps most indicative of Ford's control over the trial processes was its access to trial transcripts on an hourly basis. The advantages this provided for Ford in the argument of motions and the examination of witnesses is an instance of the translation of economic power over corporations into political power. The financial resources of the corporation allowed differential influence over the processes of control utilized in the case.

5. The difficulty of setting standards of conduct for large corporations decreases the effectiveness of control of corporate power through the application of criminal liability. The judge in the Pinto case ruled that the jury could set its own standards for the Ford Motor Company. Nevertheless, Ford argued throughout the trial that at the time the Pinto was manufactured it met all federal standards for fuel tank integrity. The technical problems involved in standard setting, the necessity of relying on information from the industry for the setting of standards, and the distinction between standards for product performance versus those of industry performance in response to discovery of a defect work to compound the problems of standard setting.
The Influence of Other State Organizations

The influence of other state organizations on the functioning of the NHTSA may or may not be protective of the auto industry's interests. As discussed earlier, the RECAT report seems to have been designed to lessen federal commitment to regulatory objectives. Similarly, the decision by Secretary Goldschmidt not to recall automobiles with transmissions determined by the NHTSA to have a safety defect is clearly in the interest of automobile manufacturers. Congressional subcommittee actions to force the imposition are not. Congressional actions may, however, be an indication of the effectiveness of industry lobbying on the rule-making activities of the regulatory organization.

That the industry had some effect on the production of the RECAT report through its influence with the White House is supported by a number of factors. As previously discussed, the temporal proximity of the visit by Ford executives to the Nixon White House, the production of the RECAT report and the court procedures on the airbag support this contention. A second indication is a 1971 memo concerning the origins of the RECAT report which references one document which "sets out the statement of White House concern for the air bag and other regulatory burdens on the auto industry (Lowell, 1971, p. 1), and another which "lists the members of the RECAT committee. These members have all been phoned by our contact [anonymous], and even though two of them were known to the contact and had been helpful to him on previous occasions, they 'froze' when asked about RECAT,
as did the others phoned" (Lovell, 1971, p. 1). A third indication is the $133,441 contributed by the Ford Motor Company to the 1972 Nixon presidential campaign. This is particularly noteworthy since Henry Ford II donated nearly $50,000 of that fund himself despite his history of supporting democratic candidates. The tendency of Henry Ford II to support democratic candidates is confirmed by Gerald Ford in comments reported in the Detroit Free Press (Ford, 1979).

White House influence on auto regulation is not limited to the RECATE report. Evidence of White House influence on NHTSA regulations and Ford influence on the White House is provided in a 1974 memo to John Moss, Chair of the Subcommittee on Commerce and Finance.

I [Special counsel Michael Lemov] spoke with a high-ranking official of the Department of Transportation on May 22, 1974, to determine the basis for inclusion of the ignition interlock requirement in DOT regulations.

I was advised by this official that he had personal knowledge that the White House had ordered the Department of Transportation to require the ignition interlock in 1974 automobiles. This White House order, I was told, followed a conference by Henry Ford, II, on behalf of Ford Motor Company and White House officials. Ford urged that the requirement be included in the standard...

Toms [Douglas Toms, former administrator of NHTSA] said the interlock arose out of a dispute between General Motors and Ford over safety standards. GM favored the air bag. Edward Cole, President of General Motors, spoke with Toms and Volpe (Secretary of DOT) about it during a trip to Detroit sometime in 1970 or 1971. Volpe was impressed with GM's progress. Toms said this 'angered' Henry Ford because Ford had rejected the air bag idea. Toms said it is speculative, but he was told by people in Detroit that Henry Ford went to Gerstenberg of GM to complain about Cole's endorsement of the air bag to Volpe. Toms then said
that Henry Ford and Lynn Townsend of Chrysler went
directly to the President about the air bag and perhaps
alternatives. Subsequently (probably 1971), there was
a meeting at the Department of Transportation with
White House 'super heavy weights' present...Toms said
after the meeting Volpe retired with the White House
staff and later told Toms, 'We are in trouble on the air
bag.'

Toms said this was just before the 1972 campaign and
there was talk of Henry Ford switching from the Demo-
crats and that he might play a role on behalf of
Nixon's election. Toms said out of that meeting and ef-
fort came the interlock as an alternative to the air bag.
It was at this time that Ford began a national adver-
tising and television campaign suggesting the interlock
as an alternative to the air bag. Shortly thereafter,
Standard 208 was amended to include the interlock
as an interim step to the air bag (Lemov, 1974, p. 1).

Corporations and the Economy

Research question 5 addresses the relationship between economic
factors and promulgation of regulation.

Does the legitimacy of controllers ebb and flow with the
business cycle?

Examination of the relationship between regulation and the
strength of the economy permits attention to the effect of limited
resources on state regulatory policies. Ray Pagan, Vice-President
for Castle and Cooke, Inc., a multi-national agri-business corpora-
tion with 40,000 employees, on a recent edition of the MacNeil-Lehrer
Report was asked his reaction to proposed legislation to curb corpo-
rate powers.

I think it's a redundant anachronism, and I will explain
why. I feel there is enough regulation already. The
 corporation is really hampered. There are many institu-
tions within our system of government to make the corpo-
ration accountable, and this bill misses the two key
issues of the '80s, national defense and productivity.
At a time when the nation needs a shot in the arm, the economy of the nation, a proposal of this nature is really counterproductive ("Corporate Responsibility," 1980).

On a later edition of the MacNeil-Lehrer Report Secretary Goldschmidt expressed similar considerations, but tempored by safety considerations.

MacNeil: Mr. Secretary, you say it's necessary in this country for government and the auto industry and unions to rework their working relationships. In that context, why did the government and your department recently not order a recall on more than 20 million Ford cars with transmissions that could slip out of gear, and had been implicated in, I understand, a number of accidents, including more than 90 that had fatal results?

Sec. Goldschmidt: Well, I'm not sure that I understand the question in the context of the preface, that is —

MacNeil: Is that one way of implementing a new relationship between government and the auto industry?

Sec. Goldschmidt: Oh, I see. I'm sorry. No. I think not. I think only in the manner in which we conduct our business can we help the relationship there. Our department has the responsibility to carry out the law; that is, if we believe that a physical recall of the cars is necessary, we have to demand it. If we believe some other solution is acceptable—the Pinto case, other cases have been up before—we can do that. The cases involve five transmissions, if my memory is correct, and the circumstances split them into two categories, but the practical consequences of it are: it's a choice between bringing 16 million automobiles back, and finding some other way to handle the problem that meets the public objective which is, we should not have the consumer unaware of dangers that are threatening them, and we should make it clear that there are solutions to the problem that can be used, and we tried to do that.

MacNeil: But in the new economic climate, did Ford's position weigh more heavily in the sort of moral scales than it would have a few years ago?

Sec. Goldschmidt: Well, I wish I could tell you for sure I know the answer to that. I agonized over that case for quite a while. I think the way I would answer
is this: I tried to discount their financial condition and just look at the impact of what we were trying to do vis-a-vis other recalls, and to look at whether or not the alternatives which we had in front of us were acceptable.

MacNeil: Well, as a matter of policy, is the financial condition of the automobile companies—given all the circumstances you just got through reciting [the financial problems of Chrysler and the auto industry as a whole]—now given priority over public safety?

Sec. Goldschmidt: No. I think that's not a good idea. First, Congress has written that law independent of any of the considerations that I have...We have from the company essentially an agreement to do certain things that we think are in the public's interest, and I would leave it there. I think you can make a case for a recall—it was made: that is, to bring 16 million vehicles, or whatever that number was, back into shops and to change transmissions and so on. My judgment was that wasn't prudent.

Lehrer: Not prudent or too expensive?

Sec. Goldschmidt: Well, I think it's not prudent for the government to order it done. I think that the cost of the solution in relation to the statute is a factor that we have a right to take a look at, and did ("Goldschmidt Interview," 1981).

The practical effects of economic considerations on automobile regulation are felt most strongly in the advocacy of the federal government of cost/benefit analysis as a decision-making tool. The requirements of the Office of Management and Budget for proposed rule-making explicitly include:

- a comparison of the expected benefits or accomplishments and the costs (Federal and non-Federal) associated with the alternatives considered (Heffelfinger, 1971).

The NHTSA is less than enthusiastic about indiscriminate use of cost/benefit analysis, a position supported by the Oversight Subcommittee.

But this [federal advocacy of cost/benefit analysis of regulations] contradicts the Congressional intent, the
subcommittee said, that the Secretary of Transportation, in issuing motor vehicle safety standards through NHTSA, be 'left to exercise his judgment in the application of a broad calculus of safety benefits, with a built-in bias toward standards which meet the need for motor vehicle safety.' Moreover, it said, benefit-cost analysis is 'least defensible as a prerequisite to health and safety rulemaking, where benefits are difficult to quantify. Its advocacy by executive bureaus is improper when Congress, explicitly or implicitly, has stated that benefit-cost analysis should not be required before issuing a regulation.'

The subcommittee proposed 'guidelines for NHTSA in applying the benefit-cost device,' including:

'Until benefit-cost studies can be based on acceptable data, NHTSA should accord little or no weight to them in agency rulemaking. At the same time, NHTSA should press—with even more intensity than in the past—its efforts to develop a data base which will make reasonable, adequate benefit-cost studies possible. Before this is accomplished, the Department of Transportation, the Council on Wage and Price Stability, and others should be held to the limits of statutory law and prevented from imposing unreasonable requirements on NHTSA" ("Virtual Halt," 1976).

The utilization of cost/benefit analysis by auto companies and agencies of the federal government continues, but not necessarily with the sensitivity expressed by the comments of the subcommittee. While cost/benefit analysis may promote some degree of objectivity in decision-making, the problems of quantifying costs and benefits, especially in the area of safety, lessens its utility. The emphasis on cost/benefit analysis within the federal government indicates explicit recognition of the costs of regulation and the relation between economic resources and state responses to societal problems. In research question 6, the impact of the public on regulatory decision-making is addressed.
What are the influences of non-elites on the substance and application of the law?

Non-Corporate Actors and Controls

Prominent groups having an interest in the rule-making and rule enforcing activities of NHTSA include the Center for Auto Safety, the Insurance Institute for Highway Safety, Physicians for Automobile Safety, the National Safety Council, and the Automotive Safety Foundation. These groups represent various points of view on automobile regulation. Opposing orientations may be represented by the Center for Auto Safety and the Automotive Safety Foundation. The CAS "works to help consumers broadly rather than on an individual basis. For example, the Center works for recalls and extended warranties that include a large class of vehicle owners, to establish new consumer law in landmark cases, and to publish books and manuals that enable consumers to help themselves" ("History of Accomplishments," 1979). The Automotive Safety Foundation represents a variety of industry groups. "In the areas of traffic management and engineering and in the adoption of state standards, the ASF may play an important but informal role in decision-making by providing counsel and information to key people at key times" (Havelock, 1971, p. 143). In a study of researchers and decision-makers in the area of automotive safety, Havelock found "General agreement...that two groups held the most power: the federal government and the auto industry. Exception of respondents from the auto industry, itself, most also thought that the industry still had too much power while the government had
too little...In contrast to these two giants, the safety establish-
ment groups, the professions, the universities and the local go-
verments were far down the list in judged influence" (1971, p. 155).
The data collected in this study do not allow a more recent evalua-
tion of the collective or individual effects of public or special
interest groups on safety standards.

The activities of the National Highway Traffic Safety Adminis-
tration themselves represent a major force in the promulgation of
rule-making and rule enforcement. While the criticisms levied
against the NHTSA cast doubt on the effectiveness of NHTSA in re-
presenting the public interest, NHTSA is the source of over 50
The procedures established for NHTSA's operations allow for the in-
put of information from interested parties. In addition, NHTSA col-
lects and generates technical information appropriate for the con-
duct of its duties. Crash tests and accident statistics are major
examples. In the Pinto case, the initial finding of a defect in May,
1978, was a major factor in the Ford Motor Company recall of the
Pinto and Bobcat automobiles.

Juries in civil cases have also constituted an effective force
in the application of safety standards. The award of $128.5 million
to Richard Grimshaw by the jury in his civil case against the Ford
Motor Company is an example of the desire of the jury to be an ef-
fective force in the control of corporations.

'We came up with this high amount so that Ford wouldn't
design cars this way again,' says foreman Quinn, who
describes the Pinto as 'a lousy and unsafe product.'
The jury, he says, wanted a punishment severe enough to sting the big auto maker...Plaintiff's attorneys had asked for a punitive award of $100 million, the amount they estimated Ford saved by retaining the allegedly defective design on Pintos and other small-car models from the time they were introduced until the federally mandated standards took effect on 1977 cars...

Mr. Greene [a juror]...recalls bringing up the $125 million figure himself. He reasoned that if Ford saved $100 million by not installing safe tanks, an award matching that wouldn't really be punitive. So he added "25 million...Some of the jurors themselves concede that their verdict is likely to be pruned back, but they still feel that it was the proper one and that it was dictated by the evidence. 'We wanted Ford to take notice,' foreman Quinn says. 'I think they've noticed' (Harris, 1977, p. 12).

The standard setting powers of the jury in the Ford Pinto criminal trial in Indiana were affirmed in the judge's ruling on a motion by the defense to exclude from admission evidence proffered by the state that the acceptable standard may be higher than the 30 mph standard set by the NHTSA. James Neal defended this motion, offering the following arguments.

1. If federal standards, once set, can be changed by the jury, the prosecutions of manufacturers is likely to result in the total destruction of the auto industry. Individual prosecutors could harass industry to the point where it cannot function.

2. Federal standards are established criteria for practicability, are based on objective criteria, and meet the needs of auto safety.

3. Detailed procedures for testing are established by NHTSA.

4. Engineers cannot design for vague standards [for example, those set by jurors] (State of Indiana vs. Ford, 1980).

Media treatment of the Ford Motor Company manufacturer of the
defective Pinto was especially vitriolic. Although many papers relied on the major newswires for summaries of information, the various civil actions prompted others (most notably, perhaps, the Detroit Free Press) to provide detailed accounts and background information of the case. According to an article in the Columbia Journalism Review, network news programs also varied in their coverage, with ABC providing the most extensive analysis ("The Pinto Story," 1978). The Pinto trial received extensive coverage and generated unfavorable publicity for Ford. Correspondents from the major networks, the Detroit newspapers, and the major wire services were in continuous attendance at the Pinto trial proceedings. The impact of the 1977 article in Mother Jones on governmental actions has already been cited. The general influence of the media of the implementation and application of standards is unclear. The market competition of the auto industry makes it particularly susceptible to unfavorable publicity and the public nature of NHTSA activities makes it vulnerable to attacks in the media. It is impossible to determine, however, the specific effects of media treatment on either industry or regulatory actions. The impact of interested citizens on standard setting and application is equally difficult to determine. The perception that individual inputs are likely to be ineffective is expressed by Edwin E. Lawrence, who corresponded with NHTSA about the fuel system in Ford Torinos.

Your attention is directed to the enclosure from the SAE Journal of July, 1969, relating to the hideous deaths of my friends Bill and Beryl Robinson. It took five minutes for them to die from the effects of being burned to death as a result of the defective design of Ford
Motor Company. Their screams for help went unanswered because of heat from the flaming 1968 Torino kept rescuers from them.

Should your office and the other responsible authorities in the Federal government fail to take action by January 1, 1971 to see that this defective design is corrected, and the approximately ten million vehicles involved modified to protect the public, I am going to file appropriate suits to force the issue. In addition, I will transport the burned out hulk of the Robinson 1968 Torino to Washington, along with the ash remains of Bill and Beryl Robinson, and hold my own little demonstration in front of your office.

I hope that this will not be necessary. I don't have the resources of Ford Motor Company to influence governmental action—but, I do have the ability to focus public attention upon these tragic deaths in the hope of helping to stop the almost daily toll of motorists being cremated on the roads of our country by FORD Motor Company's defective gas tanks (Lawrence, 1970).

Reciprocal Relations

Research questions 7 and 8 address the benefits to automobile companies of regulation of their industry.

Do controls increase the powers of corporations?

Have the efforts of large corporations been aided by the decisions and non-decisions of controllers?

In the discussion of research question 6, the arguments presented against standard setting by juries provide evidence of the predictability desired by large corporations in their environments. Federal controls provide that predictability. The differential impact of federal regulations on small and large firms and procedures for testing are not completely mitigated by the statutory provision for exemption from application of standards "where fewer than 10,000 vehicles per year are produced and compliance would subject him [the
small manufacturer] to substantial financial hardships" ("Federal Motor," 1974). Furthermore, American Motors argues that the ambiguity with which standards are implemented (in large part a result of delaying tactics of the larger companies) constitutes a special hardship for small manufacturers.

American Motors believes this NHTSA philosophy regarding lead time is unreasonable and impracticable. In addition to violating the intent of the Administrative rulemaking process, it suggests that the Administration expects the automobile industry to initiate active production engineering programs each time a notice of proposed rulemaking is issued. The original proposed amendments [of 301] were also issued in 1970. Three years elapsed between the initial proposal and the issuance of an initial amendment. More than one additional year expired before all amendments and responses to petitions had been published. These final amendments made in response to petitions for reconsideration were promulgated only ten months prior to their effective date.

The history of the proposed amendments to FMVSS 201, 203, 204, and the amendments to FMVSS 301 illustrates the cloud of uncertainty which surrounds every new proposal at its issuance. This uncertainty makes it impossible for one to forecast from a proposal the specifics of any final ruling which may be issued. Recognition of this impossibility is also recognition of the impracticability of reacting to all NHTSA proposals with production engineering programs (Stewart, 1975).

The competitive advantage of large firms as a result of NHTSA proposals and procedures which place extraordinary burdens on small manufacturers by virtue of their lesser resources is clear from the American Motor presentation. Although regulation results in some costs to all members of the industry, the greater costs, as percentage of total resources, to smaller firms must be recognized.

Arguments for exemptions based on discriminatory effects have occasionally indicated the creativity that federal regulation may
elicit from members of the industry. In 1975, "Triumph Motors ob-
ject to the use of a 4,000 pound barrier during the moving bar-
rier impacts, asserting that such large barriers discriminate against
small vehicles...The NHTSA has concluded that no justification exists
for this change...since vehicles in use are often over 4,000 pounds
in weight and a small vehicle is as likely to collide with a vehicle
that size as one smaller" ("Federal Motor," 1974).

An example of the reciprocal relations between NHTSA and the
Ford Motor Company is demonstrated by the negotiations between the
two organizations. As reported in the Wall Street Journal,

On the basis of the two meetings [between Ford and
NHTSA], the safety officials deduced that Ford was
willing to recall the Pintos and that it wanted to do
so before a public hearing could generate additional
damaging publicity.

Also, Ford clearly sought the agency's backing for
remedies it proposed: installation of a plastic
shield to protect the gas tank and of a longer filler
pipe. The company, which had made fuel-tank improve-
ments in its 1977 Pintos, also wanted assurance that
it wouldn't have to make every one of those improve-
ments in its earlier models (Karr & Apcar, 1978).

That Ford did not have to make all of those improvements is substan-
tiated in the recall letter to owners of Ford Pintos and Mercury
Bobcats. "Although the modifications will not make the earlier-model
cars equal to the 1977 and later models in meeting the Federal stand-
ard..." (Geoffrey, 1978). The NHTSA was adamant, however, that the
modifications of the fuel system meet performance criteria in crash
tests. During the trial Ford presented evidence of its cooperation
with the NHTSA during the development of the modifications (to rebut
prosecution charges of its recklessness). Interviews with the ad-
ministrator of NHTSA and correspondence between Ford and NHTSA during this time cast some doubt on the extent to which cooperation actually existed.

Corporations and Their Responsibilities

The dependence of Ford on criteria established by the legal system for definition of its social responsibilities is indicated by a number of factors and statements in Ford's defense of the Pinto. That laxity in this area is generic to the entire industry underlies the position of a Detroit News article.

But this is a cost-conscious industry and it rarely moves on safety matters until pushed firmly by government, public opinion or disaster ("Both U.S., Ford," 1978).

This laxity is perhaps best illustrated by Ford's reticence to utilize the safest fuel system available (despite its leadership in their development), regardless of the applicability of federal safety standards and the years they became effective.

While automobiles that meet the requirements of the revised version of FMVSS 301 offer substantially more protection in collisions than those sold before the standard came into effect, the fuel systems still do not meet the state of the art.

Automobile researchers have demonstrated that fuel systems can be much better designed without any great increase in cost. However, few of their suggestions have been implemented by the automobile manufacturers ("Fuel-Fed," 1978).

This position is specifically applied to the Ford Pinto by Mark Dowie when he says, "Ford admits that the plastic baffle in question could have been placed on the car in 1974. Well, why wasn't it?"
Because the baffle was designed to meet a standard, not to save lives, and there wasn't a standard in 1974. It didn't become effective until the 1977 model year and that's when the device was placed on the car" ("Pintos, Bobcats," 1978).

The Center for Auto Safety concurs with Dowie's presentation of the situation.

In 1974, Ford began testing a high density plastic shield on the front of the gas tank. In their crash tests, they found this shield to be effective in the majority of cases...This plastic shield which costs about a dollar was not installed on Pintos until the 1977 model year when passenger automobiles were required to pass a rear end impact test (Ditlow & Hubbard, 1977).

That Ford not only depends on the law for definition of its corporate responsibilities but is prone to utilize a narrow interpretation of the intent of the law is indicated by statements made by Herbert Misch, Vice-President for Environmental and Safety Engineering for the Ford Motor Company.

Ford recommended on March 18, 1968, early adoption of a Federal fuel-integrity standard incorporating rear-moving barrier impact requirements at 20 miles per hour, and reiterated to the government its support for such a stand on two other occasions during the next two and a half years (Misch, 1977).

What this statement does not reveal is that Ford's support of this standard was motivated, in part, by the desirability of this standard over more stringent ones. A similar instance of Ford support of less stringent standards to avoid more effective ones is Ford's advocacy of the ignition interlock system to ward off the imposition of air bag standards on the industry. There is evidence that the Ford Motor Company interprets its responsibilities more broadly...
than is suggested by these comments. In September, 1978, Henry Ford II commented, "The lawyers would shoot me for saying this, but I think there's some cause for concern about the car [Pinto]. I don't even listen to the cost figures—we've got to fix it" ("Henry Ford Admits," 1978). A major defense utilized by Ford in the criminal case, however, was that Pintos are as safe as other small cars manufactured by the industry, thus abdicating responsibility for negative consequences of use of their product.

Theoretical Implications of the Data

The data collected in this study provide no basis for testing of the theoretical relationships proposed in Chapter II. These data do, however, permit the researcher to address the issues raised within the case study presented by the attempts to control the Ford Motor Company by the National Highway Traffic Safety Administration and processes of criminal prosecution. The information presented in this study may be applicable to other corporate and controlling organizations, but the research design prohibits such generalizations. Whether the information generated by this case accurately represents the activities and value positions of the NHTSA and Ford generally is also open to question. As previously stated, the highly public nature of the Pinto case resulted in special pressure on the acting organizations to maintain the bases for their legitimacy. In the case of Ford, the corporate organization put special emphasis on objective criteria by which its moral legitimacy could be established. The resulting dependence on the formal rationality of the law, while
contributing to the narrow conception of justice criticized by Quinney, can be more easily understood in light of the threat to the corporation's legitimacy. In the case of NHTSA, the effectiveness of the controlling organization and, hence, its functional legitimacy was particularly subject to scrutiny. Had this case not achieved such notoriety, the activities of NHTSA and its interactions with Ford might have been qualitatively different. A final caution in the interpretation of the data presented here stems from the related problems of selective deposit and selective survival of the documents utilized in the study. A major threat to the validity of the conclusions generated by the data is the protection of information by controlling organizations. As discussed previously, data may be kept out of the public domain if it threatens the corporate actor's competitive position or is deemed non-essential to the public's right to know. The data, as well as the extent to which the research questions may be addressed, are necessarily limited by these factors. There are, however, a number of conclusions within the present study that may be highlighted.

The Ambiguous Relationship Between the State and Corporations

While the corporation is not beyond the control of the state, as evidenced by the efforts expended by Ford to meet or subvert the expectations of NHTSA, the form of the mutual influence of Ford and NHTSA is a promising area of study. Structural and bureaucratic characteristics of the relationship between Ford and NHTSA and the respective actors are addressed in this study. The forces having an
impact on the functioning of the NHTSA and the corporate attempts
to influence those forces are also included in the delineation of
the form of mutual influence between the corporate organization and
the controlling organization. A contributing factor to the ambiguity
of the relationship between the state and corporations is the alleg­
iance of the controlling organization to the public interest versus
its allegiance to the industry it is mandated to control. This
problem is compounded by the conflicting allegiances of other or­
ganizations in the state machinery.

Structural and Bureaucratic Characteristics

Characteristic of the process of interaction between controlling
and corporate organizations is the sensitivity of the control pro­
cesses to the economic situation of the actor to be controlled.
Secretary Goldschmidt revealed the specific awareness of governmental
actors of the need to consider the finite financial resources within
the society. This awareness is particularly reflected in corporate
arguments based on the costs of meeting governmental regulations.
The limitations on the investments of corporations to meet the
responsibilities imposed by governmental regulations and, more broad­
ly, the requirements of social responsibility are structural impedi­
ments to the process of social control.

Bureaucratic characteristics of corporate and controlling orga­
nizations that impede the process of corporate control also contribute
to the ambiguous relationship between the state and the corporation.
The more clearly specified goals of the corporation, the greater
concentration of resources within the corporate form, and the contributing responsibilities of the state to the ideological legitimacy of the corporate form are important in the advantages of the corporation in its interactions with the government. Conversely, the variety of the demands on the controlling actor and its resources result in often conflicting influences on the process of social control. That the corporation, with its extraordinary powers, is able to dominate among these conflicting influences is supported in this research. That the process of corporate domination over social control processes stems as much from constrictions on the performance of control structures as from the inordinate powers of corporations is also evidenced by the data in this study. This may be especially true of controlling organizations for the automobile industry since supportive controlling forces (for example, labor unions and competition) are not particularly effective or are likely to be effective only on a sporadic basis.

**Politicization of Controlling Organizations**

The policy-making functions of the NHTSA makes it an inherently political organization. While the analytic influences on NHTSA decision-making are evidenced by attempts to establish objective criteria, to devise appropriate testing procedures for measurement of corporate abilities to meet the criteria established, and to construct a data base on automotive and traffic safety, the political inputs into the decision-making processes are evidenced by intervention of the President into the air bag controversy as well as by the
letter to NHTSA from Edwin Lawrence. The analytic basis for rule-making is dependent upon the particular area of expertise commanded by NHTSA, thus accounting for the bureaucratic influences on the content of the law. The political basis is more obscure. A major criticism of the regulatory process in the literature is the delegation of legislative authority to the administrative bodies. The overt recognition and acceptance of NHTSA rule-making powers in the data gathered in this study would seem to neutralize this objection in the literature, except that the executive influences, through the Department of Transportation and through general policies for administrative bodies on NHTSA decision-making far exceed those of the legislative branch. This situation is especially disconcerting in light of the fact that, at least in the information available for this study, the executive actors tended to impede regulatory efforts while legislative actors sought to encourage it.

The Allegiances of Controlling Organizations

The beneficiaries of NHTSA compete for its allegiance. The public, the primary beneficiary of the NHTSA, is at a disadvantage given the accommodative relationships that exist between the controlling and corporate organizations. The more organized attempts to focus the decision-making processes of the NHTSA on the public interest are epitomized by the Center for Auto Safety. Its effectiveness is, however, mitigated by the greater resources and more directed efforts of the automobile companies. In an interview with Joan Claybrook, former administrator of NHTSA, it was learned that
Ford lobbyists are in almost constant contact with NHTSA personnel. In this particular case, the strengths and resources of the lobbying efforts appear to supersede the structure of beneficiaries proposed by Ermann and Lundman. This conclusion is somewhat compromised by the conflict among automotive companies in their regulatory interests.

Conflict Within the Dominant and Non-Dominant Classes

Conflict within the dominant and non-dominant classes supports the conception of the state as an actor independent, to some extent, of the economic actors in the society. Although there is much evidence of the influence of economic elites on NHTSA's policy-making procedures, conflict between the large and small corporations indicates some measure of independence for the state. The provision within the procedures of NHTSA for exemptions to its requirements for small companies supports the conflict between the large and small manufacturers and, at least ideally, the competitive forces in the automobile industry. That NHTSA's provisions are relatively ineffective for these purposes is evidenced by the fact that exemptions are ruled upon individually by NHTSA, requiring disclosure of financial information, by the letter from American Motors which argues that the practical schedule for rule-making puts smaller companies at a disadvantage in that they do not have the resources to prepare for all contingencies, and by the requirement that the production of the companies eligible for the exemptions be less than 10,000 units annually. The issue of conflict in the non-dominant class was not specifically addressed in the data collection efforts of this study.
The conflicting positions of regulatory bodies on the feasibility of cost/benefit analysis is an example provided by this study that is supportive of this issue.

The Enforcement of Policy

The promulgation and enforcement of the National Traffic and Motor Vehicle Safety Act of 1966 are two separate, but related, issues. Criminal penalties for non-compliance are not provided by this act, an important pragmatic consideration in the achievement of the standard. The level of organization of the actors to be controlled is one factor proposed by Spitzer in the immunity of some societal actors to social control efforts. The organizational effectiveness of automobile companies is indicated by the activities of the Motor Vehicle Manufacturers Association and the promotion of standards and standard enforcement by the Society of Automotive Engineers on behalf of the automobile companies.

A second factor proposed by Spitzer is the availability of non-official control structures. The organization of labor unions provides a non-official control structure for the automobile industry. Official structures also vary in the severity of their responses. The NHTSA, as revealed by the information presented in this chapter, represents a less severe response than criminal penalties, democratization, or nationalization and a more severe response than self regulation. Because the NHTSA has been established as a response to corporate power, more severe control structures are unlikely to be utilized. The essential position of corporations in the economic
institution of society is reflected in the comment by Ray Pagan on the importance of productivity in the 1980s. The perceived utility of the corporation is reflected by the concern with the costs of regulation to corporations. The action by the jury in the Grimshaw case argues against the proposed effects of this factor. Despite the major role played by the Ford Motor Company in the economy and the attempts to protect the company's image, the jury levied a punitive sanction against the corporation. Comments by two members of the jury, cited in this chapter, indicate that the absence of more severe criminal sanctions for corporate organizations may have been a consideration. If indeed this is the case, the automobile corporations may have protected their own interests from official action to a degree that invites more severe unofficial action.

Conclusion

Research into the effective control of corporate powers is enhanced by the descriptive data afforded by the Pinto case. The relative ineffectiveness of control mechanisms within the present system of relations between corporations and the state is demonstrated by the data gathered in this study. This research reveals the utility of the organizational conception of the corporation, the importance of organizational features in control processes, and that the role of the state is more complex than is conveyed in much of the literature on the control of corporations. Further research, both qualitative and quantitative, is necessary for a more generalized under-
standing of the control of corporations and more effective implementation of control mechanisms.
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