Plastic Capital: Wilmington, Delaware and the Deregulation of Consumer Credit

Carolee Anne Klimchock

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Plastic Capital: Wilmington, Delaware and the Deregulation of Consumer Credit

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A Thesis presented to the Graduate Faculty
of the College of William and Mary in Candidacy for the Degree of
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APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of

Master of Arts

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Wilmington, Delaware is today the site of the majority of credit card company headquarters in the country. A Supreme Court case in 1978 enabled banks to "export" the interest rate of the state in which the bank was located to customers nationwide. Financial institutions in states with limits on the amount of interest that could be charged sought to move to states that were willing to eliminate their usury limits. During the same period, Delaware was experiencing a lagging economy, a high unemployment rate, and a declining population in its business center Wilmington. The state had a long history of business-friendly legislation and its governor from 1977-1984, Pierre du Pont, was a descendent of Delaware's wealthiest family who owned the DuPont Corporation, the state's largest employer. At the same time that financial institutions in New York were looking for a state with less financial regulation, Delaware was looking for a new revenue source.

The Delaware law which did both of these things was drafted by the lobbyist for two of the nation's largest banks, Chase Manhattan and JP Morgan, and negotiated by a handful of Delaware politicians under a shroud of secrecy. What resulted was the Financial Center Development Act (FCDA) of 1981, a law favoring corporate interests over consumer protections. The state of Delaware gained income and increased jobs, but often at the cost of low-income and African American residents. Wilmington's skyline sprouted new office towers over the next two decades. The city also became ensconced in a web of surveillance and questionable police practices arguably aimed at the same Delaware residents largely left out of the state's newfound prosperity following the FCDA.

Through audio recordings of the debates over the legislation, media coverage, and the parallel histories of the state and the consumer lending industry, a historic drama takes shape, which parallels worldwide neoliberal socio-economic turns. The implications of this story can also be seen in economic and political circumstances today including the subprime mortgage crisis of 2007-8.
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PLASTIC CAPITAL
INTRODUCTION

The tenor of the debate on February 3, 1981 on the Delaware Senate floor had run the gamut from impassioned and trenchant to dismissive, dissembling, and at times downright absurd. Whittling the complexity of the contested banking bill into a seminal, philosophical question, Senator Roger A. Martin (D) offered, "What we're really trying to do here, is to get in step with the mood in the country these days....but really aren't we coming down to the basic question of if you believe in a controlled economy [or] one that's [a] so-called free marketplace?"\(^1\) His question hung in the air. At the end of the day the 131st Assembly recorded more Ayes than Nays, while Governor Pierre du Pont listened with aides in his office as the proceedings came through loudspeakers. House Bill 28 became law as the "Financial Center Development Act," which provided the structure for a new day in the consumer credit industry.\(^2\)

Although some thirty years had passed since the Diner's Club card was introduced in 1950 to enable businessmen to conglomerate expenses incurred while wining and dining clients, the era of mass-mailed pre-approved cards was yet to

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\(^1\) Hearing for House Bill 28, Delaware Senate, Legislative Archives, February 3, 1981, audio cd.
The Financial Center Development Act (FCDA) brought that golden era, which opened Delaware's doors for banks to enjoy an unprecedented lack of regulation and exceptionally low taxes.4

The banks that moved into the physical borders of the state conducted business under the laws of Delaware but with customers from across the nation. They exported the law of the state, or put another way, they imported virtual customers. The blurring of boundaries and the transposition of borders taking place in Delaware situated the state outside of itself. Delaware's law made other states' laws irrelevant. Even prior to the passage of the act, banks practicing in Delaware enjoyed unique freedom, as Senator Harry E. Derrickson (R) described it: "Unlike some other states...under Delaware law, unless the law specifically states that something is not permitted, it is considered permissible." Well before the FCDA, bank practices in the state developed, he summarized, "in this grey area, between the lines of the law so to speak."5

Much of the rhetoric leading up to the FCDA was inflected with a sense of exigency and grandeur. State official Nathan Hayward urged: "It is for us to seize this opportunity," while Senator Orlando J. George, Jr. (D) suggested that the seizing needed to be done quickly, because, "The train is leaving and the train has jobs on it." John Jay Corrigan, Executive Vice President of the Bank of Delaware called the legislation, "critical to the future of our state." The state faced a high unemployment

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3 Diners Club International website; Company history; http://www.dinersclubus.com/dce_content/aboutdinersclub/companyhistory (accessed May 14, 2008).
5 Delaware Senate, Legislative Archives, Hearing, February 3, 1981, audio cd.
rate and a deficit that had led Governor du Pont to utter the highly controversial statement upon entering office in 1977 that "The state is bankrupt." Business leader Irving Shapiro who had decried du Pont's bankruptcy charge as hostile to the business community, in 1981 sang a different tune, calling the new law "the single most important piece of legislation," in the state's history.

The FCDA helped du Pont balance the state's budget and redeem himself. And the banks didn't do so badly either. Consumers on the other hand were greeted with dozens of credit card offers containing contracts that required a law degree and a magnifying glass to comprehend, and by monthly statements with unprecedented interest increases and fees. The jobs train delivered for some Delawareans (largely white collar financial workers), but kept on moving past many who needed them.

In the most recent *Fortune 500* ranking, Citibank, Bank of America, and JP Morgan were all more profitable than Wal-mart, McDonald's, and Microsoft. Though in existence since the beginning of the twentieth century and in wide use since mid-century, credit cards once served primarily as a marketing tool, garnering marginal profits until the 1980s. Nationwide consumer debt increased by 700

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6 Untitled type-written speech, Governor's Papers, du Pont administration, Delaware State Archives, 1977.
7 Delaware House of Representatives, Legislative Archives, Hearing, January 22, 1981, audio cd.
8 Elizabeth Warren: "I teach contract law at Harvard Law School, and [also] commercial law and bankruptcy ... but if you put me under oath right now, I tell you, I don't know what the effective interest rate will be on my credit card next month, because I can't read it in my contract." Frontline, *Secret History of the Credit Card*. Videocassette (60 min.). (Boston: WGBH Educational Foundation, 2004).
10 Lloyd Klein, *It's in the Cards: Consumer Credit and the American Experience* (Westport: Praeger, 1997); Lendol Calder, *Financing the American Dream: A Cultural History of Consumer Credit*
percent over the next 15 years. The average household consumer debt in 1980 was $518, and in 2003 it was $7519.\textsuperscript{11}

The enactment of the FCDA was a significant factor in the turning tide in credit card industry profits. By examining the people, circumstances, and events of the FCDA, I aim to show that this turn was not inevitable and, most significant, not a natural outgrowth of the free market. The gargantuan nature of the credit industry is not simply due to expansion through free market capitalism.

The FCDA came about through secretive dealings between lawmakers and the heads of a handful of corporate banks (primarily Chase Manhattan and JP Morgan\textsuperscript{*}). The negotiations that enabled radically different terms for credit card consumers was drawn up purposefully out of sight of those consumers. Chase and JP Morgan's lobbyist wrote the FCDA bill and the credit card industry's army of lobbyists today contributes more campaign dollars to candidates on both sides of the aisle than even the oil or pharmaceutical industries.\textsuperscript{12}

Why does this matter? In The Great Risk Shift Jacob S. Hacker argues that increasing financial insecurity, rising health costs, and decreasing public services


\textsuperscript{*} Morgan Guaranty is the financial holding company of JP Morgan Bank. Although it is the holding company that moved into Delaware and not the bank per se, I will use the two terms interchangeably, as well as the shorthand "Morgan," in the same fashion that others who are quoted here do.

have diminished the safety net once in place for working Americans. Growing economic insecurity eludes scrutiny because "it is so starkly at odds with our nation's evident prosperity." Yet many Americans experience economic uncertainty and instability--an increased risk of layoffs, decreased retirement funds, and a lack of health insurance. Economic risk has shifted from government and corporations onto "the increasingly fragile balance sheets of workers and their families."13 This risk shift is an ideological change as well as a financial one. Gone is the American ideal that hard work can bring financial security, and when disaster strikes, a collective safety net kicks in.

Hacker articulates the message implicit in this ideological shift from "Someone is watching out for you...when things go bad," to "You are on your own."14 Heavy credit card use often enters the picture for working and middle class families when disaster strikes, such as the loss of a job, a major medical expense, or the loss of one of a household's income earners. High interest rates, unlimited fees, and a lack of consumer protections--all facilitated by the FCDA--can swiftly plunge people into overwhelming debts that can adversely effect their household for many years to come.

People use credit cards for an invariably wide range of reasons, of course. We live in a consumer culture where just about anything we think of and ten times more can be purchased online or off with the right array of digits printed on plastic.

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14 Ibid., x
Whether it is for entertainment or an emergency, emotional gratification or groceries, the consumer credit industry makes its money on those who carry a balance, miss payments or spend over their card's limit, and this by and large includes middle or lower income working people and college students. Credit card companies increase their annual profits by the billions in large part at the expense of those in the lowest tax brackets. The industry engages in ethically questionable practices with the help of lawmakers elected to work on behalf of the American people. As the middle class shrinks and the disparity between rich and poor grows, what Hacker calls "a defining feature of the contemporary U.S. economy," the need to reflect upon the role of public servants on recent economic changes becomes ever greater.

The policy changes that brought the credit card industry to Wilmington are emblematic of neoliberal ideology and political shifts that have taken place globally beginning in the latter half of the twentieth century, gaining traction during the 1970s and 80s.

At first glance, the FCDA and the bank revenue it brought to Delaware won almost universal praise as an overwhelming success for the state and for the city of Wilmington whose skyline was transformed by the addition of bank office towers. But upon further examination, not all voices have joined in that chorus. Some of the same individuals and families who have been left out of the mythological American prosperity over the last several decades found themselves no better off locally at the hands of big banks and the local politicians who welcomed them. The city of

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16 Hacker, ix.
Wilmington is no more than a destination for a credit card bill for many nationwide consumers. In opening up the city beyond the cellophane window of an envelope, however, a complicated and troubled history emerges. This is the story of the Plastic Capital.
CHAPTER I
THE SETUP

As far as the U.S. financial sector was concerned, the 1970s could not end fast enough. Rising oil costs, inflation, a weak real estate market among other issues, contributed to "stagflation," the buzzword of the decade that indicated inflation combined with stagnant business activity. The U.S. economy went through two periods of recession during or just prior to the decade. Stagflation and volatile interest rates incurred significant losses to some of the nation's largest banks.\(^{18}\) The banking industry, and the consumer credit arm specifically, clamored that government regulation was the problem, in part because as the cost of money fluctuated, regulating caps on interest rates prevented banks from adjusting their rates according to the market, or so the argument went. And with different interest rates for each state, banks had trouble launching nationwide marketing campaigns.\(^{19}\) Against this backdrop national banking law changed, enabling the passage of Delaware's precedent-setting Financial Center Development Act that brought Chase Manhattan and Morgan Guaranty to Wilmington.

But why Delaware? To begin with, the state has a long history of amicable business laws. It established its incorporation law in 1899 and attempted to attract

\(^{18}\) Evans and Schmalensee, 67.
\(^{19}\) Some barriers to profit-making were unrelated to fiscal policy and would be smoothed out with technological advances in the 1980s and 90s, such as difficulty in preventing credit card fraud and processing cumbersome records of transactions; Ibid., 73.
businesses away from the few other states that endowed corporate charters. The state's 215 year-old Court of Chancery exclusively handles business disputes and because of that cases can be decided more quickly than other states without such a specialized court. Because of these and other business-friendly practices, the majority of the Fortune 500 companies are incorporated in Delaware.

That is only part of the story however. Local financial and political circumstances coinciding with the downturns in the banking industry made the timing right for the merging of the two to form the FCDA. The powerful du Pont family had one of its own as the governor, the business-minded Pierre du Pont, IV, elected in 1976. Several of the state's primary industries, chemicals, plastics, manufacturing, and agriculture, fluctuated erratically or were in financial trouble. The health and environmental hazards stemming from some industries were beginning to draw public concern. And finally, the state's "corporate capital", Wilmington, home to the Court of Chancery, the DuPont headquarters, most of the state's lawyers, and several other sizable businesses, had suffered a severe population decline in the 1960s and 70s, resulting in concerns over the city's deteriorating infrastructure, economy, and safety.

One of the city's largest corporate entities, the chemical company Hercules, Inc., was

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22 See Rachel Carson's Silent Spring (New York: Fawcett Crest, 1962): The first major work of environmentalism, it detailed some of the health consequences of chemical pesticides such as DDT seeping into food sources. During WWII DuPont produced 11 million pounds of DDT; Gerard Colby Zilg, Du Pont: Behind the Nylon Curtain (Englewood Cliffs: Prentice-Hall, 1974), 357.
threatening to move its headquarters out of the city. These circumstances provided the impetus for the merger of public and private interests embodied in the Financial Center Development Act.

The Supreme Court case Marquette National Bank of Minneapolis v. First Omaha Service Corp (1978) altered the landscape, financially and eventually physically, of the consumer lending industry. Because it enabled national banks to "export" a state's interest rate to customers nationwide, banks began reaching out to states which allowed the highest interest rates and pressuring others to eliminate interest caps entirely in exchange for obtaining their business.23

In 1969 the First National Bank of Omaha issued its BankAmericard to customers living across the country carrying the maximum legal interest rate of Nebraska.24 The Marquette National Bank of Minneapolis, an enrollee in the BankAmericard plan, brought the suit against Omaha Bank and its subsidiary for applying the Nebraska interest rate to customers in Minnesota, which had a lower one.25 Marquette argued that the rate in Minnesota protected Minnesota residents.

The case referenced the National Bank Act of 1864, which had established a national system of banking in part to oversee funding of the Civil War. In the Marquette case the U.S. Supreme Court interpreted the Act with regard to consumer credit such that the usury laws of a bank's location superceded those of either the customer's or the

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24 Minnesota had a fixed permissible interest rate of 12%, while Nebraska law allowed an interest rate of 18% on balances up to $1000 and 12% on the balance above $1000.
purchase's location.26 One location became superimposed on another by the rule of law, while the customer entered the lawful domain of a "foreign" state.

In the opinion for a unanimous Court, Justice William J. Brennan cited the National Bank Act's "authorization 'to charge on any loan' interest at the rate allowed by the laws of the State 'where the bank is located.'" Unlike a conventional bank transaction in which the customer comes to the bank, here the bank could come to the customer without ever leaving its home. It could export not only its services, but its "location." The Court thus ruled that, "Omaha Bank cannot be deprived of its Nebraska location merely because under the BankAmericard program it extends credit to residents of another State."27

Donald Langevoort has characterized the ability of banks to service customers in any location as "de facto destruction of geographic barriers."28 He argues that the application and interpretation of banking statutes established in another era is problematic because the statutes "reflect the marketplace assumptions of their starting points in history." In the Marquette case, monetary assumptions from the Civil War era were reconstituted into a 1970s credit card operation.29 Since the two cultural moments have radically different economies and social structures, the application of the same monetary policy raises valid concerns about relevance. And yet the reinterpretation of a statute from over a hundred years prior instigated a rapid

27 Marquette Nat. Bank v. First of Omaha Corp.
29 Ibid.
geographical shift of numerous lending institutions as they moved to states without regulation.

The antecedent to the Marquette case, the National Bank Act of 1864 served the purpose of sustaining geographical boundaries and reclaimed the geography severed by secession by establishing a national banking system and providing oversight to state lenders who provided funding for the war. The Act spawned a "dual banking system" of conflicting national and state laws that has been the source of legal battles up to the present. What the National Bank Act may have in part attempted to provide in the way of stability—financial, national and geographic—also served the geographic and financial fluidity of late twentieth-century consumer lending.30

Any study of Delaware must begin with the du Pont family. Their legacy goes back nearly to the founding of the state and their influence in state politics, economics and culture is incomparable. A University of Delaware Political Science professor claimed that 1974 polls showed people there had more confidence in DuPont than in their church.31 Comparisons to other powerful families such as the Kennedys or the Rockefellers fall short when it comes to the du Pont family, largely because of the unique nature and culture of Delaware.

30 Another important case that followed Marquette and referenced the National Banking Act of 1864 is Smiley v. Citibank (S.D.), N. A. It decided that "interest" as mentioned in the Banking Act and Marquette, included fees. A California resident who was charged a late fee by Citibank in South Dakota challenged the legality of the fee because it violated California law. The previous Marquette decision that established the legality of exporting interest rates was determined in Smiley to implicitly include various fees under the umbrella of "interest." Smiley v. Citibank (S.D.), N. A. (95-860), 517 U.S. 735 (1996).

Residing in the second smallest state in the country enabled a large and powerful family to affect a wide swath of issues and localities. Largely, although not entirely, because of this, Delaware politics is known for what the News Journal termed its "cozy" and "inbred" brand of politics. In such a small state, with a close-knit government and community of political and business leaders, legislation and business deals can move much more swiftly than in more cumbersome bureaucracies. State leaders double as business and community leaders, and all live more or less within spitting distance of each other.33

The difference between Democrats and Republicans also carries less distinction than in many other arenas. Neither party has a historic stronghold, and there are too few of each party to accomplish much without members from the other side. In Only in Delaware, Cecelia Cohen quotes the Delaware National Republican Committee chairman (married to a du Pont) discussing his regular duck hunting expeditions with the Democratic Committee chairman. "Our political battles are so much more civilized than other states, and so are our legal battles, because you know you're going to meet your opponent next week." Another factor linking otherwise opposing forces is the high percentage of Delawareans associated with the du Pont family, by blood, marriage, family ties, or its company. What some call "consensus politics" Cohen describes as a requisite hobnobbing, one that voters have come to expect in the state.34

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32 Cohen, 2.
33 Ibid., 4.
34 Ibid., 5.
Delaware acquired the motto "The First State" because of its distinction as the first state to ratify the nation's Constitution, on December 7, 1787. Thirteen years later a family by the name of du Pont arrived from France and quickly rose to a place of financial and political prominence. Pierre Samuel du Pont Nemours (1739-1817), a businessman of French nobility and a friend of Thomas Jefferson, arrived in the United States with his family on January 1, 1800. The gunpowder factory he and his sons founded on the Brandywine River in Delaware flourished by supplying all of the U.S. military's explosives needs (facilitated in no small part by Jefferson). After the enormous boon to business that was the Civil War, the company gradually purchased other manufacturing firms and branched into the newly emerging field of chemical engineering.

The twentieth century brought two world wars that relied heavily on DuPont products, among them smokeless powder, explosives (TNT and others), dyes, lacquers, ammonia (for refrigeration), film and developing chemicals, cellophane, and adhesives. In the 1920s the du Pont family fortune surpassed that of the Rockefellers, the Mellons, and the Guggenheims. The decade also saw spending power increase--of course nowhere near that of the First Family of Delaware--for the middle class. A consumer boom took shape and along with it, the field of advertising blossomed.

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35 73 Del. Laws, c. 268, § 1.
37 In fact, DuPont played an integral role in the rise of chemical engineering as a profession. See Pap Ndiaye, Nylon and Bombs: DuPont and the March of Modern America (Baltimore: Johns Hopkins University Press, 2007), 5-62.
38 Mosley, 297.
cognizance of consumer rights began to take shape as well. Consumers' Research, a membership organization that aimed to keep consumers aware of product safety and efficacy was founded at the end of the decade. The DuPont Company however had bigger problems than a few outspoken customers.

Allegations of overcharging and war profiteering led to a Senate investigation in 1934 which gained DuPont the dreadful moniker "The Merchants of Death." In 1935 legendary advertising guru Bruce Barton refashioned the company as a team of gentle, thoughtful scientists with the ad campaign "Better Things for Better Living...Through Chemistry," and as homegrown patriots through the popular radio show The Cavalcade of America in which tales of humble, little-known American heroes were dramatized.

The Manhattan Project in the 1930s-40s (for which DuPont supplied plutonium), and the steep ascendancy of consumer and industrial plastics in the 1950s-60s continued to pad the pockets of the First State's First Family. It also did not hurt that civilian production took shape in federally funded war plants. With overhead costs subsidized by the government, the potential margin of profit was increased.

41 Ndiaye, 120.
43 In 1939 the U.S. manufactured 213 million pounds of plastics; in 1941, 428 million pounds; in 1945, 818 million pounds; and in 1951, 2.4 billion pounds; Meikle, 125.
Many DuPont innovations such as nylon and teflon found great success beyond the war effort. The post-war expansion of consumer goods and appliances included many of which were made with DuPont materials. Perhaps the most far-reaching success in terms of sales and innovation was nylon stockings, which had a significant cultural impact as well. Susan Smulyan argues that, "DuPont's domination of a single market, its positioning of women as middle-class consumers, and the mystification of women's use of nylon stand as important steps in the formation of mass culture." Post-war consumerism grew and with it the rise of general-use credit cards.

Throughout the century the du Pont family was not content with merely the success of its own company and acquired many others especially in Delaware, including newspapers, hospitals, and public utility companies. In 1971, consumer activist Ralph Nader wrote: "DuPont dominates Delaware as does no single company in any other state. Virtually every major aspect of Delaware life--industry, commerce, finance, government, politics, education, health, transportation, media, charitable institutions, environment, land, recreation, public works, community improvement groups, and taxation--is pervasively and decisively affected by the DuPont Company, the du Pont family, or their agents." The du Pont family has

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44 Susan Smulyan, *Popular Ideologies: Mass Culture at Mid-Century* (Philadelphia: University of Pennsylvania Press, 2007), 42; "In the 1950s, nylon symbolized a new way of life, the future, the spirit of America and its mythical modernity," Ndiaye, 2.
45 Ndiaye, 3.
always had close ties to politics including numerous family members holding public office.

Throughout its history the family has endowed cultural institutions and some family members have played active roles in the community through charity and philanthropic works. Their largesse has also sometimes proven to be a double edged sword, as it enabled a kind of dependency on charity for things that public and regulated funds would otherwise have been established over time. The family or the company's charity arm has at times been, "seen as the public government--as a prime source of public benefit." But charitable donations, unlike public resources, are not subject to public scrutiny or standards. DuPont funding was, "not necessarily based on community priorities... [C]ommunity groups cannot make rational long-range plans when dependent on DuPont's ad hoc donations."47 For several generations the du Ponts took care of Wilmington city responsibilities, "that in most cities fell under the aegis of city government..."48 But in the 1950s, the generation of du Ponts that had spear-headed such efforts had passed on, and the next generation was in its dotage. The younger generation focused on the company, preferring to "give their attention to such fields as horse rearing, flower growing, antique collecting, and real-estate development." The family paternalism had supplanted city services but when

47 Phelan and Pozen, 35.
the new guard no longer shared the family treasury with Wilmingtonians, the city was at a loss.\textsuperscript{49}

Wilmington began the twentieth century as an industrial city, producing railroad cars, leather goods, and ship parts.\textsuperscript{50} DuPont erected an office complex for its corporate headquarters in the city in 1908, which brought managerial and technical personnel into town.\textsuperscript{51} The company factory on the Brandywine River expanded production for the war and in 1914 over two thousand row houses, bungalows, and dormitories were quickly raised, some on top of farmland, to house the additional workforce.\textsuperscript{52}

Another influx of workers, primarily African Americans, moved to Wilmington during the next World War. With DuPont and the other chemical companies expanding their technical and managerial staff, middle- and upper-middle class suburban life took shape then as well. Between 1940 and 1950, 3000 African Americans moved into the city while 5000 whites moved out.\textsuperscript{53}

A controversial decision in 1959 to build Interstate Highway 95 through downtown Wilmington disproportionately affected African American residents. Neither city leadership nor the du Pont family's retreating power structure gave adequate attention to the heightening social and economic tensions, and "by 1960 Wilmington was a city in deep trouble."\textsuperscript{54} The assassination of Dr. Martin Luther

\textsuperscript{49} Hoffecker, 157.
\textsuperscript{50} Ibid., 12.
\textsuperscript{51} Ibid., 110.
\textsuperscript{52} Ibid., 67-8.
\textsuperscript{53} Ibid., 123.
\textsuperscript{54} Ibid., 9-10.
King, Jr. in 1968 brought anger and despair over racial and class inequities to the boiling point in Wilmington. An uprising was met with armed National Guardsmen who turned the city into a police state until 1969, making it "the longest occupation of an American city by state armed forces." When Delaware's population was increasing after 1970, Wilmington's continued to decrease. Residents were fleeing Wilmington to other counties: Fenwick Island had a 104% population increase and South Bethany a 379% increase.

In 1975, Wilmington's caustic and popular editorial writer Bill Frank addressed the city's woes in a column about the rumor that Mayor Thomas Maloney had hired a renowned public relations firm to clean up the city's image. He mused about who the campaign might attract to the city, "photographers who appreciate socially significant problems," such as some of the city's "residential districts where dwellings have that appearance Atlanta, Ga., must have had following the invasions by Sherman in the Civil War." Frank described the Christina River as "dirty and nondescript" while the Brandywine's shores were "marked by piles of junk." The city, he acknowledged, had an exciting history, "however, we chose to relegate it all to books while we permitted our landmarks to be desecrated, mutilated, razed and ignored. How can a city do that and get away with it? Wilmington did--and that's the story the nation might like to know." Through his macabre humor, the reality of the

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56 Munroe, 269.
city's bleak condition and the frustration it caused for residents such as Frank comes through.57

Many of the same national and world economic issues that adversely affected Wilmington also impacted the banking industry on Wall Street. Like Wilmington, New York City suffered physically and financially from unrest in the 1960s and 70s. Middle class whites and manufacturing jobs moved to the suburbs.58 And yet the city's operating budget tripled between 1965 and 1975, just as real estate and other tax income declined.59 For much of the twentieth century Chase managed the city's finances and underwrote its spending through bonds and city securities. As New York went through repeated crises Chase, and to a lesser degree other big New York City banks, was harmed by its close ties with and obligations to the city. The late 1970s fiscal emergency nearly landed the city in bankruptcy. That in addition to the state having some of the highest banking taxes in the nation led some Wall Street banks to consider defection. But the president of Chase during the 1970s, David Rockefeller, had family and business ties to New York City that stretched back to the days of Standard Oil. Abandoning the city was unlikely under Rockefeller's leadership.60

59 Wilson, 259.
60 In addition to being a native New Yorker and having a multi-generational family business in the city, David was influenced by his father's work in progressive reform movements in New York in the early
Meanwhile, Chase's Wall Street neighbor Citicorp' was busy machinating a new direction. Although their consumer lending arm, according the bank's historian, "was not doing much, except perhaps losing money" the bank's CEO Walter Wriston decided against his initial inclination to give up consumer credit altogether. Instead he committed to investing heavily in credit operations and initiated a marketing plan no other bank had done. Citibank sent tens of millions of credit card applications to customers worldwide, which caused an uproar in the banking world, as luring away other banks' loyal regional customers was impolitic. Known for his brash unconventionality, Wriston proclaimed, "We are engaged, in my opinion, in the greatest revolution in the financial service business."61 In 1978 on the heels of the Marquette decision, Citicorp speedily found a state willing to eliminate its usury laws and allow unlimited interest rates and fees that could be exported nationwide. Citicorp set up shop in Sioux Falls, South Dakota. Other banks took note.

Rockefeller retired from his post at the helm of Chase in 1980 and installed his onetime mentee and the bank's president Willard Butcher as the new CEO. Unlike Rockefeller, Butcher did not have multi-generational ties to New York. And as a "staunch advocate of free enterprise with minimum government intervention" he

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* What began in 1812 was the City Bank of New York, then changed to The National City Bank of New York in 1865, then in 1955 after a merger with another bank it became First National City Bank. In 1968 it became a one-bank holding company called First National City Corporation which was changed to Citicorp in 1974. The bank (not the holding company) became Citibank N.A. in 1976; Miller, 61. Colloquially the two names are often used interchangeably, which I will take the liberty of doing.

61 Miller, 118.
was more than willing to consider moving Chase's credit operations to a more hospitable location.\textsuperscript{62}
CHAPTER II

THE BANKS CLEAN UP

Why give away a good clean industry?
-Senator Thomas Sharpe63

You say everybody's entitled to a certain percentage of profit, did I understand you correctly? Well I wish we could get a law passed by the legislature that would grant farmers in the state of Delaware a certain percentage of profit.
-Senator Charles West64

Without personal connections between individuals in the public and private sectors, the FCDA might never have come about. The First State had a history of corporate legislation and of businesspeople doubling as public officials. From 1977 to 1985 Delaware's highest publicly-elected official was a former DuPont employee and a member of the family which had served as the state's de facto government through its philanthropic provisions. Governor Pierre Samuel "Pete" du Pont, IV, began his career working at the family company straight out of law school in 1963.65 Having hoped to become the first lawyer (all before him were scientists) to head the DuPont Corporation, he entered politics after being passed over for the company presidency, losing out to another lawyer, Irving Shapiro.66 After one term in Congress, du Pont handily won the Delaware governorship. "Brash, cocky, and

63 Delaware Senate Hearings, February 3, 1981, audio cd.
64 Delaware House Hearings, January 21, 1981, audio cd.
66 Mosley, 396.
sometimes caustic," according to state Senator Roger A. Martin, du Pont brought a "heretofore unseen" managerial attitude to the state. With this pro-business leader at its helm in 1981 when the bill was passed, Delaware perhaps was poised for a quintessential neoliberal enterprise, that is, the elaboration of public policy eliminating trade barriers in order to fuel private industry.

Credit card industry lobbyists today generate some of the largest campaign contributions to presidential and congressional elections. The FCDA which paved the way for financial companies to garner enormous profits was itself crafted by a lobbyist representing the banks. In fact, Delaware lawmakers struggled to comprehend all of the bill's abstruse financial legalese and arguably never fully mastered the details and implications of the law, which they did not "make" at all.

After more than a century of the DuPont Corporation's dominance in Delaware, it took the nineteenth-century entrepreneur Pierre du Pont de Nemours's scion, the governor Pierre du Pont IV, to wean the state off of its reliance on plastics. In 1977 Governor du Pont established a task force to study municipal issues in New Castle County, and they determined (as the governor expected) that among other concerns the state needed to diversify its economic base and to discontinue its heavy reliance on the chemical industry.

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67 Martin, 589-90.
68 Harvey, *A Brief History of Neoliberalism*, 3.
70 Nagengast, 106.
Many Wilmington bankers and lawyers had connections to Wall Street, and the idea of Delaware forging further connections with the financial industry had been abuzz for years when executives from Chase Manhattan approached the governor's office about lifting the state's usury and inviting the bank to the state (federal law stipulates that banks must have approval from a state to operate there) in exchange for the increased revenue and jobs that their credit card operation would bring.\(^1\) As the governor's cousin, Nathan Hayward III, the Director of Management, Budget and Planning, recounted it, "[Chase] came to us and said, you know, is this an idea that would possibly sell in Delaware?"\(^2\) The task force already in place became the core of the 1980 Bank Task Force for considering Chase's proposal. The chairman of DuPont, Irving Shapiro, served as its chair. His personal connections to top executives at several New York banks factored crucially in the project's germination.\(^3\)

The governor was facing re-election, but with an eighty percent approval rating, he had little to fear. However, Eleanor Craig, one of du Pont's top economic advisors explained that any "unexpected controversy" arising from state negotiations with the banks might hurt other Republicans up for election, including presidential

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\(^2\) Nagengast, 106.

\(^3\) During the hearings Shapiro said, "I have met with every banking group that came into Delaware to ask questions...I have had them over for dinner or lunch or had them in my office for business discussions... Chase and Morgan both have executives who are personal friends of mine...I gave them a confidence that they might otherwise not have had [about coming to Delaware]," House hearings ed; "From the Halls of J.P. Morgan to the Shores of Delaware," *The Economist*, February 7, 1981, 79.
candidate Ronald Reagan.\textsuperscript{74} The task force also went to great lengths to hush the
governor's Democratic opponent. O. Frances Biondi, a Democratic attorney who
within months would become the attorney and lobbyist for Chase and Morgan during
the negotiations and still another well-known Democrat, the Vice President of
DuPont, Chuck Welch, urged underdog candidate Bill Gordy not to leak the deals
being made with the credit card banks. Biondi and Welch argued that making the
bank deal a contentious campaign issue might jeopardize an agreement that would
transform Delaware's lagging economy.\textsuperscript{75} Despite the obvious relevance to the
public, plans for the deregulation of the state's consumer interest rate were shrouded
from its view.

Some of the task force operations did leak to the press. A \textit{New York Times}
article titled "New York Banks Invited to Delaware," describes a letter written by
Wilmington mayor William T. McLaughlin to several of the major New York banks.
The article affirms that several banks in the city were potentially looking to take their
business elsewhere. In the letter McLaughlin assured the banks that they would find
"the business and political climate here...warmly receptive to this kind of business."\textsuperscript{76}

Eleanor Craig remembered that du Pont's Secretary of State Glenn Kenton,
Secretary of Finance Weston "Pete" Nellius, Nathan Hayward, and she all
participated in face-to-face negotiations with Morgan and Chase. She went to New

\textsuperscript{74} Nagengast, 108.
\textsuperscript{75} Ibid., 109; Roger Martin, phone interview with the author, April 21, 2008.
\textsuperscript{76} "New York Banks Invited to Delaware," \textit{New York Times}, July 23, 1980, D5. Another similar article
York upwards of twenty times and claimed the others went to Wall Street about fifty times each. The banks would ask the Delaware officials about specific aspects of the labor force and economic landscape in Delaware, and then Craig and the others would research the issues and present their findings back at Wall Street. Employees on the state payroll were essentially conducting market research for private companies free of charge.

In the summer of 1980, Chase Manhattan executives including Chief Operating Officer Tom LaBreque, met with the governor and other state officials in Wilmington to seal the deal about moving its operations into the state. The Delawareans convinced the bankers that passing the bill within the month of June was unrealistic, and waiting until after the November elections would increase the chances of smooth passage. Following the meeting, officials from Citicorp, Morgan Guaranty, and Manufacturers Hanover also came to discuss their potential stake in Delaware.

It should be kept in mind that the banks involved in the discussions were also active competitors with each other. Kenton recalled that Chase wanted to find another state in which to relocate besides South Dakota. Although that state had already eliminated its ceiling on interest rates, Chase did not want to be seen as following Citicorp's lead. Citicorp had for decades been seen as a maverick in the


78 Nagengast, 110.

79 Ibid.
banking industry while Chase had a reputation for complacency and a "continued lateness in moving into new markets...always a follower rather than a leader..." For Chase to move halfway across the country to set up shop in South Dakota would have only drawn more attention to its reputation as an imitator of Citicorp's innovations.

Morgan Guaranty, which at the time did not have a credit operation, joined the negotiations in the summer of 1980 at the invitation of Kenton and others in the state after the initial meeting with Chase. With an eye towards luring as many major banking entities into the state as possible, Kenton, Singleton, Hayward and Biondi visited Morgan top brass in New York and, as Kenton recounted, "We said what do you want? And they said we're just getting the heck taxed out of us up here and we need to have a low-tax environment."81

Kenton marveled at their ability to keep the negotiations under wraps: "Nobody found out about it. It's just an amazing thing. Nobody had any clue what was going on other than people in the public sector."82 Neither Delaware lawmakers nor business people in their recollections, as far as I have been able to assess, entertained the idea that citizens might have had a right to know and be involved in the deal-making that irrevocably would affect the future of their state, let alone consumers across the nation. Public comment on the legislation was limited to the small window of about a week in January of the following year when the banks'

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81 Nagengast, 112.
82 Ibid., 111.
deadline for passage was rapidly approaching. Some viewed the negotiations, once they were known, as the Wall Street banks' ploy to pressure New York to eliminate its usury laws. The Economist wrote: "In many ways the banks are holding a gun at New York's head." Eight

Six months after the initial meeting between Delaware and bank leaders, a final draft of the bill was introduced to key legislators for the first time at a breakfast held by Governor du Pont on January 14, 1981. DuPont chief Irving Shapiro spoke to the legislators at the breakfast stressing the positive impact such a law could have on Delaware's economy. "Opportunity has knocked," Shapiro announced, "and the question is whether we are willing to seize it and build for the future with jobs, investments and new economic activity." Eighty-six The lawmakers were handed the bill full of legalese and told that the banks had established a deadline for seizing the opportunity: February 4. Eighty-seven

Despite press characterizations that the legislation was shuttled through the house with little debate, some legislators did question the possible downsides of the bill. Eighty-eight Almost all discussion over the bill's potential benefits focused on the state's economy, jobs, and citizens. In presentations and questions about possible

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83 Jeff Gerth, "Delaware Bank Bill Causes concern."
84 "From the Halls of J.P. Morgan to the Shores of Delaware." The New York legislature shuttled in a temporary abatement of bank interest rates the November before the FCDA was passed in a fruitless gesture of accommodation. Shortly after Delaware passed the FCDA and Chase and Morgan had already committed to relocating, New York permanently eliminated its usury ceilings (as did Pennsylvania, New Jersey and Maryland) and lowered its taxes on banks, but could not come close to Delaware's tax incentives.
86 Berry.
87 Nagengast; 111.
88 Berry; Gerth, "New York Banks Urged Delaware to Lure Bankers."
deleterious effects, legislators focused not only on Delaware, but on national considerations. The great majority of questions by legislators about the bill and the amendments, meanings, terms and potential impact, were directed at Frances Biondi, the bank lobbyist. As the principal author of the bill, he was a good candidate for explaining most of its provisions to the legislators, but less likely to discuss its downsides. The Delaware General Assembly at the time had no members who were attorneys by profession. Any legal expertise brought to the bill had to be provided by people outside the legislature.\textsuperscript{89} Senator Thomas B. Sharp (D) spoke during the hearings and expressed frustration at the complexity of the bill, "I spent considerable time reviewing and analyzing and trying to determine in my mind exactly what we were doing [in this bill]. .. I find in various sections of it that that is very difficult."\textsuperscript{90}

The bill specifically and explicitly aimed to attract Chase and Morgan's credit card divisions to the state in hopes of adding jobs and revenue. Representative Harry E. Derrickson (R) during the House hearings made clear that the legislation was initiated by the banks. "In offering ... and in agreeing to come to the state, it's my understanding that the commercial banks made in essence three stipulations," and then perhaps trying to soften his implication that the banks were running the show, he corrected himself by continuing, "or three requests, of the state of Delaware."\textsuperscript{91} The requests were that outside bank holding companies be allowed to establish residence

\textsuperscript{90} Senate hearings cd 1.
\textsuperscript{91} Hearings for House Bill 28, Delaware Senate, Legislative Archives, Hearing, February 3, 1981, audio cd.
in the state, elimination of the usury regulation on consumer credit, which included abolishing caps on fees, and a low tax rate.\footnote{Theresa Humphrey, "Delaware Legislature Passes Bank Lure Package," \textit{The Associated Press}, February 4, 1981, Business News; Gerth, "Law Freeing Banks Near in Delaware."} Derrickson, "I can see no harm coming to the citizens of the state of Delaware as a result of this legislation. I can see the potential for a great deal of good."\footnote{House hearings cd.} Since Chase and Morgan agreed to establish operations in Delaware if interest rates were eliminated, the introduction of a new business sector into the state held the promise of jobs and revenue that would benefit residents.

Several parts of the bill drafted by Biondi addressed industries other than credit cards, such as car loans and house mortgages. These provisions were questioned--some legislators even mentioned being unaware of them until the hearings--but ultimately they remained in the bill. Senator William M. Murphy, Jr. (D) expressed reservation that raising the legal limit for penalties on car financing was necessary to attract Chase and Morgan to the state.\footnote{Senate hearings cd.} An amendment was proposed to redact all mentions of loans and transactions unrelated to credit cards from the bill. The primary witness to answer questions about the amendment was Biondi. Senator Thomas B. Sharp (D) asked him, "If I were to vote for this un-amended, how would it affect my constituents? I think you know this legislation better than anyone since I think you were the prime drafter of this legislation. What am I doing to the people I represent? Am I helping them or hurting them?" Posing such questions to the author and lobbyist for the bill severely limited the potential for
a negative assessment. Biondi responded, "It is not going to cost your constituents anything that...wouldn't have happened anyway...It is a unique opportunity for an industry to come into this state....[for] many people who don't have jobs, an opportunity to create a service industry."\textsuperscript{95} Perhaps Biondi's worst argument was also his best: \textit{It is going to happen anyway, so we might as well do it.} This logic was equally applicable to both questions: \textit{Why should we do it?} and \textit{Why should we not do it?}

Senator Martin brought a philosophical bent to his line of questioning. He attempted to find out what the impact might be on the nation's consumers. "Is there any way to determine...within the next six months or a year, what the cost will be to the public as opposed to what the state of Delaware gains?" Biondi, who throughout the hearing provided quick and skillfully captious responses, answered, "...I think we can, I think that interest rates that are charged in this state are known....to consumers in this state, just like electric bills are known to consumers in this state."\textsuperscript{96} His answer did not address the senator's broader question of \textit{harm}, but rather played dumb, as if the question had been \textit{Will people know how much their credit card bill costs when they receive it in the mail?} The legislators essentially accepted his answer without question.

Senator Martin continued his inquiry. He began with the somewhat rhetorical question of how long Delaware has had a usury law, and before he crystallized his point, Biondi broke in, "Probably [since] biblical times...I suggest to you, sir that we

\textsuperscript{95} Senate hearings ed.
\textsuperscript{96} Ibid.
live in a credit economy today, where credit is essential...a material part of our economic existence. And interference with credit mechanisms interferes with the standard of living for many people." The Senator persevered in his line of questioning, "Do you ever wonder, Mr. Biondi, why in all these decades....[the usury law] was never taken off the books, even through the hardest of times?" Biondi responded, "Yeah I think about that ...when I think about why those people thought the world was flat for 500 years...." Senator Martin: "One thing for certain if we do this, is, at least for the moment, prices will go up as was [the case] with the deregulation this past week and the proposed ten percent hike in gasoline." Biondi took the untenable position that one cannot "analogize what happens in one sector of the economy with what happens in another sector."  

Senator Charles P. West (D) focused for several minutes on the potential hazards higher credit interest rates might have on consumers nationwide since the banks that moved to the state would be exporting the interest rate to card holders in other states. Apparently frustrated with Senator West's pursuit, Biondi said, "We're not talking about exporting a contagious disease," to which West replied, "Some people in these other states may think so." Biondi also remarked, "You've assumed that if rates are allowed to go higher, they will." Exasperated, Senator West exclaimed, "Well, it's not so they can go down!"

Ted Kellar of the Citizens Coalition For Tax Reform in Delaware testified at the public hearing for the law. He argued against the generous tax break that the

97 Senate hearings cd.
98 House hearings cd.
banks would be getting. The incoming banks would be paying much less taxes than
the local banks already in the state. "Why should a bank that makes $200 million
have a rate of 3.45 percent?" he asked, arguing that Delaware would become a tax
haven like the Bahamas. One Senator responded, "If we don't have any of that
[income] now, and we can attract that through favorable tax laws, and...reduce
personal income tax....why should we not do that?...Aren't we helping the people that
we're supposed to be serving?" Kellar responded, "It depends on your ethics. My
ethics says that those that can afford to pay society should pay society." He remarked
that banks were already paying fewer taxes in the state than any other corporation.
"Do we want to intensify injustice? That's what this does."99

Kellar argued that the elimination of the usury was already a sizable incentive
for the banks and, he reasoned, since the New York bank tax was upwards of 26
percent, requiring the incoming banks to be subject to the 8.7 percent tax rate
applicable to Delaware banks would be equitable and still provide incentive. The
rates in the bill at present, Kellar said, were "lower...than their wildest dreams."
Andrew G. Knox (R) pried Kellar for some clarification: "I'd like some comments on
that subjective statement that the rates are lower than their wildest dreams. What's the
basis for that statement?" Kellar: "I think that's probably wrong because the way it
looks to me...it sounds like Chase in particular has written this bank bill." Knox did
not give up: "But I don't think you're answering my question. How do you know that
that's beyond their wildest dreams? I mean I'm serious. That's a subjective

99 Senate hearings cd.
statement." Kellar maintained: "Well I would think that if they're paying 26 percent now I wouldn't think they would ever think that they could go somewhere with this rate." Knox: "So this is an opinion, and not based on any statements from them." Kellar continued with his argument that "we" will end up paying later if the bill is passed and Knox mumbled about never having been asked to conduct dream analysis before. Kellar: "It's only a word don't let it bother you." Senator Martin asked Kellar if he could understand how the rates were an inducement to bring a new revenue source to the state. Kellar responded, "It's going to impact across the whole nation," and he didn't want his state involved in "dirty money."100

Part of the enticement of bringing the financial industry to Delaware for lawmakers hinged on the "cleaness" of the industry as opposed to the polluting chemical and plastics manufacturers whose plants had periodic fatal explosions. The financial sector which deals with paper and abstract concepts such as time and rate variables stood in stark contrast with cancer-causing detritus seeping into Delaware's rivers and soil. Kellar draws a comparison, not necessarily intentionally, to the polluting industries by calling attention to the "dirty money" of big banks. The water supply of Delaware might not be sullied by the banks, but in Kellar's view the conscience of the state would not remain clean by reaping the rewards of unrestrained usury.

100 Senate hearings cd.
One senator expressed concern that the "reasonable" clause did not precede a
section under discussion. He asked Bill Moran, Executive Vice President of
Wilmington Trust, if a lender could "charge whatever he wants," giving the example
of 35 percent interest on a three-month loan. Moran confirmed: "If the borrower were
willing to pay it, yes." Senator: "If a small office-type operation which might spring
up overnight, or a mail-order business with high enticement tactics, could they use
that section of the law to go into an extremely high interest rate position?" Moran:
"The bill provides for a free-market interest rate and yes anyone could attempt to do
that." The senator offhandedly remarked, "So the only thing we haven't excluded is
the breaking of the legs to collect it I guess." The explicit comparison to mafia
loan-sharking made clear that at least one legislator saw the act as justifying what in
other circumstances might be considered criminal.

One of the dozen or so amendments proposed and struck down in the Senate
concerned the compounding of interest, which is when unpaid interest and fees are
added on to the principal, and interest accrues on the entire amount. The interest, in
other words, becomes principal. Senator Robert J. Berndt (R) asked consumer
attorney Douglas A. Schactman, "You mean to tell me that I can let that loan go and
go and go and go and not pay the interest on it and not have to compound that interest
on it? Am I understanding you right? There's no point in my ever paying a loan off
then if I'm not going to be penalized in some way." Although he apparently had a

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101 The senator's name is inaudible on the recording.
102 Senate hearings cd.
103 Ibid.
fundamental misunderstanding of the difference between interest and compounding interest, Schactman's reply did not appear to set the senator straight.104

After another legislator had a similar take on compounded interest as Mr. Berndt, Senator Connor brought some clarity to the subject, "This compounding of interest is interest on interest....I think there's a misunderstanding here. It doesn't say that there is no interest, that is extremely important." He said that current high unemployment rates and "the dire emergencies that we find ourselves in in the economy" underscore the need to provide "some assistance to the consumer." But his explanation of the concept was followed by another senator arguing that without the compounding of interest delinquent customers would be let off too easy. Besides, he argued, "if you pay on time, won't there not be any interest on interest?"105

Schactman had originally put forward that consumers might lose their job or have financial setbacks during which the compounding interest could make the ultimate debt overwhelming. Senator Berndt explained that he had had several constituents and family members who had lost jobs or had gotten into "tough spots" financially and as a result were temporarily unable to make their mortgage payments. The Senator said that he went to the banks, explained the person's situation, and received "compassion" on the part of the financial institution. "I've had splendid results," he said, "Have you ever tried that? ...You are making it appear as though...the industry is very ruthless."106

104 Senate hearings cd.
105 Ibid.
106 Ibid.
Schactman, dumbfounded, replied: "I don't know what to say to that." After a long pause, he found something to say: "I can tell you story after story of that not being true....I would respectfully state that you don't know Chase Manhattan, you don't know Morgan Guaranty, you don't know who else two years from now might want to come in and take advantage of the provisions under this law...you will have given them carte blanche to do whatever is provided in this act..." Senator Berndt: "Well, what the Lord giveth, the Lord can taketh away, and the General Assembly can do the same thing." John A. Campanelli, Jr. (D) interjected: "Mr. Berndt....I hope we don't consider ourselves on the same plateau as the Lord although sometimes we act that way...." Given that legislatures rarely repeal laws, Berndt's remark was more disingenuous than sacrilegious.

Many aspects of the bill presented the lawmakers with complex legal and financial descriptions of which they sought clarification from Biondi and others. One issue addressed striking interest rate limitations on retail installments. In a section about establishing the prepayment interest calculations for the installments, Senator Herman M. Holloway, Jr. (D) asked a question that repeatedly came up during the hearings on a number of topics, often without a direct answer from Biondi: "Will this have any substantial effect on consumers?" Uncharacteristically, Biondi expressed uncertainty: "You would have to ask someone in the business about that..." Holloway: "As far as the firm lending money, is it my assumption that the rate of

\[107\] Senate hearings cd.
lending [will] be uniform to all buyers?" Again, Biondi: "I'm not an expert in this area..." His uncertainty only indemnified the banks.

Senator West expressed his concern about the impact increased interest rates can have on people's lives and his skepticism of their necessity. "I've heard so much about how much this legislation will do for the state of Delaware, and...[how] everybody is gonna prosper. If you'll go back just a few years.... people decided... we should de-control energy. You see what happened there. The Federal Reserve said we're gonna cure inflation with the monetary system. You see what happened there... What makes America so great, [is] that the average American citizen could borrow to build a home, to buy an automobile ...Today they can't do that...because of the interest rate." He then sarcastically referred to the banks' claims of continued losses, "Yet nobody's making any profit." He urged the legislators to give the same consideration to the "average person" as they were giving to the financial institutions.109

The House voted for the bill with two minor amendments, 33 for and three against, with four abstentions and one absence. The Senate vote was scheduled for the day before the deadline. Had any of the Senate amendments passed, the bill would have to have returned to the House for another vote, risking the deadline. The Senate passed the bill with 14 in favor and seven against.

Despite voting for the bill, the Democratic Majority Whip of the Senate told a reporter that he felt the legislation was intentionally "mystifying" and was unfairly

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108 Senate hearings cd.
109 Ibid.
introduced with too little time to study it. The legislators who may have wanted to vote against the bill also knew that they would one day come up for re-election and the largest campaign contributors in the state, DuPont, Hercules, and most of the large businesses and wealthy individuals who ran those businesses favored the bill. Representative Campanelli, President of the Delaware AFL-CIO "took a walk" during the vote in order to avoid recording a vote against the bill.

At the public signing of the law on Feb 18, 1981, Governor du Pont said, "Today, Delaware steps forward as the nation's newest center of business and finance. We are doing so, first, because we want to enhance our State's economy and secure more and better jobs for our citizens, and second, because we can see that there are major changes occurring in the way the nation does its banking and its business."

Frances M. West, head of Delaware's Division of Consumer Affairs, felt that consumers had been blindsided by the bill. Her state-run department was not made aware of the bill while it was under construction. And yet, Governor du Pont told an audience at the Chicago Executive Club that the legislation was a "community wide effort for economic expansion" and that "all segments of our community worked together to enact this legislation."

The end result of the discussions and deal-makings that occurred across state lines, between public and private entities, and on both sides of the aisle was the

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10 Gerth, "New York Banks Urged Delaware to Lure Bankers."
11 Nagengast, 114.
12 Delaware Lawyer, Fall 1982, 33; Governor du Pont’s schedule for the week of February 15, 1981, Delaware Public Archives, Governor’s Papers, du Pont administration.
13 Gerth.
Financial Center Development Act which eliminated the regulating ceiling on both interest rates that lending institutions could charge on purchases and loans, as well as on fees (e.g. late fees, annual fees, cash advance fees).

The FCDA allowed large financial institutions opening offices in Delaware to conduct nationwide lending. It enabled banks to foreclose on homes in the case of a default and applied the new fee structure retroactively: customers who already had accounts with the institutions would be subject to the new fee structure on balances that accrued before the law was in place. Moreover it instituted a regressive tax structure to banks earning over $20 million--by charging as little as 2.7 percent in income tax, well below that of any other state.115

Many of the provisions in the FCDA included safeguards so that state banks would not be bought or forced out of business by the national banks. The FCDA stipulated that banks could only have one office open to the public "for the conduct of banking business" but that they must employ at least 100 people within the state.116 Banks had to open with a minimum of $10 million in holding and have $25 million within in the first year, thus targeting only high-income banks.117 The financial lives of millions of nationwide consumers were altered for the promise of a few hundred jobs.

Another safeguard to ensure that the incoming banks would not interfere with the in-state banks, whose support was essential to the law's passing, the FCDA banks

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116 H.B. 28, a.
117 H.B. 28, c.; "No bank now in Delaware earns more than $20 million a year, while Chase had profits of $365 million last year." Teresa Humphrey, Associated Press, Feb. 4, 1981.
were to be "operated in a manner and at a location that is not likely to attract customers from the general public in this State to the substantial detriment of existing banking institutions located in this State."\textsuperscript{118} The incoming banks, really bank-holding-companies, were barred or restricted from the practice of conventional banking functions. They were by law confined to an unobtrusive and even almost clandestine existence insofar as Delawareans were concerned. \textit{The Delaware Lawyer} in 1981 noted, "At least one FCDA bank says that its computers are programmed to avoid mail solicitations to persons with Delaware zip codes."\textsuperscript{119} Protecting Delaware residents from the high-volume credit card solicitations and virtually hiding the banks from view suggests that state lawmakers saw the new revenue-builders as potentially predatory. They protected the state's banks before consumers.

The press noted the bill's favoritism of the banks against consumers who were left unprotected and whose rights were abrogated. \textit{The Economist} called the law "a banker's paradise," noting that "there are all manner of rules designed to favour [sic] the banks at the expense of the consumer..." William Robbins of \textit{The New York Times} wrote: "Among the loneliest people in this diminutive coastal state are its consumer activists."\textsuperscript{120} James Boyle, director of government relations for the Washington-based Consumer Federation of America decried the bill as "outrageous"

\textsuperscript{118} H.B. 28, d.  
\textsuperscript{119} Del. law, 82, 63.  
and compared the banks to turn-of-the-century railroads who, "wrote the law to enrich themselves."\textsuperscript{121}

The month after the FCDA was passed the governor and his cousin Nathan Hayward went shopping for banks. They traveled to institutions in Los Angeles, San Francisco, Chicago, Phoenix and New Orleans to communicate personally the potential benefits of the FCDA and to enjoin banks to take up residence in the First State. They exported their message in hopes of importing more "clean industry" revenue builders. In total, 34 banks kindly accepted the invitation.\textsuperscript{122}

\textsuperscript{121} Berry.
\textsuperscript{122} Ibid., Gerth, "New York Banks Urged Delaware to Lure Bankers"; Governor's papers, Delaware state archives.
CHAPTER III

THE ARCHITECTURE OF DIVISION

By the end of the century...credit cards were bigger than chickens, bigger than chemicals. Credit cards had become the single most powerful force in the state's economy, a goose that laid golden egg after golden egg.

- from Pierre S. du Pont IV: Governor of Delaware, 1977-1985 by Larry Nagengast

The poor remain as distant as ever from the prosperity that in 1981 politicians promised was on the way.

- Daniel Atkins and Robert Hornstein, 1993

The racial and economic stratification that characterized much of Wilmington's history during the twentieth century did not subside with the advent of the FCDA and its promise of prosperity. In fact, according to several studies (discussed below), many citizens at the lowest rungs of the economic ladder fared worse. David Harvey has criticized neoliberal policy as having the "tendency to increase social inequality and...expose the least fortunate elements in any society...to the chill winds of austerity and the dull fate of increasing marginalization."125

123 Nagengast, 105.
125 Harvey, 118.
In contrast, the credit card industry flourished following the elimination of usury limits. Its profits swelled along with consumer indebtedness. As soon as a financial holding company moved into Delaware it could charge its credit card customers new fees and implement retroactive interest rates (by applying a new, higher interest rate on purchases consumers made prior to the passage of the law). The trend of greater bank profits and consumer debt has continued up to the present.126 During 1980, the year before the FCDA passed, the total amount charged to credit cards in the U.S. was $69 billion, today it is upwards of $2 trillion.127 Credit card debt grew 20 percent annually from 1982 to 1990.128 In 2003, consumers' average debt was 130 percent of their disposable income.129 Greater consumer debt correlates to greater industry profits. Likewise, the allocation of infrastructure and spatial arrangements maximize corporate capital while many less-advantaged individuals remain grossly underserved. According to Edward Soja, capitalism

128 Evans and Schmalensee, 77.
"intrinsically builds upon regional or spatial inequalities." Uneven geographical development sustains private industry growth.

Citibank was an innovator in the late 1970s for nationwide, mass-mailed credit card offers, but today eight billion pre-approved credit card applications sent from hundreds of different bank entities and retailers are sent out, adding up to an estimated 73 offers per home each year. Although banks initiated the FCDA to profit from an expanding nationwide consumer base, Delaware lawmakers passed the bill largely because of the promise of benefits for local residents. These two distinct interests came together: nationwide consumers and local "producers." During the hearings for House Bill 28, legislators and lobbyists spoke repeatedly about the positive impact the law would have on Delaware's citizens, while consumer advocates argued the law would harm local and national citizens, and still other legislators sought to determine how and if the bill could harm citizens of Delaware or other states.

The prevailing opinion about the FCDA is that it was a boon to Delaware's economy and a huge success. More banks and jobs appeared after its passage than the du Pont administration at first predicted. The governor said they were expecting 2000 bank jobs and 2200 spillover jobs with the two banks that had committed to coming. The banking industry grew to 10 percent of the state's workforce, adding

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3 Untitled type-written speech, Delaware State Archives, 1981, Governor's Papers, DuPont Administration, numbered p. 6.
somewhere between 40,000 finance sector jobs and 87,200 total jobs during the 1980s. Bank franchise taxes before the law were $2 million and a decade later were $100 million a year.\textsuperscript{133} Even Roger Martin, one of the most assertive questioners of the bill during the hearings and one of the seven senators who voted against the bill, now sees it as a positive influence on the state's economy, calling it "the right thing to do at the right time."\textsuperscript{134}

During the hearings Frank Biondi said that the elimination of interest rate caps was a concept whose time had come.\textsuperscript{135} In a speech shortly after the law was enacted, du Pont remarked, "Usury ceilings have never served a very useful purpose. If they are lower than market rates, they discourage lending and encourage borrowing, causing an excessive demand for available credit. If the ceilings are higher than market rates, they have no impact." The FCDA was, "a natural response to the changes occurring on the national level in the banking industry."\textsuperscript{136}

After stagnant economy and an annual population decrease, only months after the FCDA had passed, construction took off in the city. Before altering the state's budgets and employment rolls, the FCDA first impacted the construction industry, which reached record levels for the state during preparations for new office buildings and infrastructure.\textsuperscript{137} Between August 1981 and May 1982, four office buildings, two

\textsuperscript{133} Hornstein and Atkins, 299.
\textsuperscript{134} Phone interview with the author, April 10, 2008.
\textsuperscript{135} Senate hearings cd.
\textsuperscript{136} Untitled type-written speech, du Pont Administration, Delaware Archives, p. 7.
\textsuperscript{137} Maureen Milford, "Landing a big corporate tenant revives the hopes of a high-vacancy Delaware office development" New York Times, August 18, 1993, Real Estate, D16.
of them high-rises, began construction. Tens of millions of dollars were invested in building construction throughout the 1980s. The city saw new multi-level parking garages and multi-use buildings, with offices on top and merchants on the street level, were among the new edifices. The Amtrak station undertook a $2 million renovation to accommodate the increased commuter traffic. A 15-story, 230-room hotel with meeting facilities was erected in 1987. That year some of the new revenue paid for a new $7 million police building downtown. June and July of 1987 saw some of the greatest construction activity, including an office park with three 15-story buildings and a parking garage.

Democratic Mayor William T. McLaughlin secured $40 million worth of Urban Development Action Grants (UDAG), a program initiated by the Carter administration to offer low-interest loans for businesses in "struggling downtowns." Joe Biden, the senator from DE (then and now) had close ties with President Carter which allowed him some pull regarding the selection of UDAGs. Former mayor of Wilmington Tom Maloney, serving at the time as the regional director of HUD, also worked to direct funds to the city. The state formed a Chamber of Commerce because of the new business and funding activity.

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138 Building permits, Wilmington, Delaware State Archives, August 1981-May 1982, microfiche roll 78.
139 Building permits, Wilmington, Delaware State Archives, October 1984-December 1986, microfiche roll 82.
141 Cohen, 278.
142 Ibid., 281.
The historic levels of construction in Wilmington and its surrounds also put a drain on local resources. Historian Cecelia Cohen wrote that building spurs, "swallowed up land, congested the roads, strained the water supply during droughts and burdened the electric power system in extreme heat or cold." After nearly a decade of construction projects financed in large part by Delaware builders hoping to cash in on the stream of new bank tenants, the stream began to dry up by the late 1980s. The extraordinary building boom overextended its reach, and the city experienced one of the highest office-space vacancies nationwide. By 1992, average leasing activity dropped by 61 percent from the previous 5-years, according to a study conducted by a presumably disappointed commercial real estate firm in Wilmington.

The city's thirty-year population decline began to reverse once the banks moved in. By 1990 the city had gained 1300 residents from 1980, not a significant number, but a marked change from the previous four-decade steady decline. The state's high unemployment rate in the 1970s and (1980-81) had incurred a $44 million debt to the Federal Government for unemployment insurance which was repaid

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143 Milford, "Landing Big Corporate..."
144 Cohen, 281.
145 Milford, "The business district in Wilmington, Del., is reviving, with commitments from four companies" New York Times, February 2, 1994, Real Estate, D17.
147 In part this was also due to increasing limitations on suburban growth as New Castle County instated land use policies, at the insistence of community groups, setting aside land for parks and open land. Mayor James Sills, type-written talk to Kiwanis Club of Wilmington, Delaware State Archives Mayor's Papers, Aug 2, 1995, numbered p.4.
before the end of the 1980s.\textsuperscript{149} State debt was being paid off just as consumers nationwide were beginning to take on more of it.

The economic growth was hardly distributed evenly however. A study conducted by Robert Hornstein and Daniel Atkins in 1993 raised questions about the efficacy and equity of the FCDA and its so-called "economic renaissance." They profiled the "other" Delaware that did not reap the alleged collective benefits of the state's consumer banking industry.\textsuperscript{150} The authors found that the state's prosperity eluded those who needed it most: "To look at Delaware beyond its boardrooms today," they wrote in 1993, "is to witness the contradictions and consequences of an economy fueled by the promise that what would be good for the nation's banks and the wealthy would necessarily be good for all Delawareans -- and most notably Delaware's poor."\textsuperscript{151} Hornstein and Atkins found that poverty worsened in the mid-1980s. In 1985, 11.5 percent of the state's population were living in poverty, and by 1986, 20 percent were in poverty or hovering very near it.\textsuperscript{152} The number of families in 1985 in need of low-cost housing exceeded the available low-cost housing by 123.7 percent. Housing costs increased when new banks and businesses moved into the state, but low-income housing was not among the projects undertaken in the building boom.\textsuperscript{153} At the time of their study in 1993, Hornstein and Atkins found the

\textsuperscript{149} Martin, \textit{History of Delaware Through its Governors}, 582-3.
\textsuperscript{150} Atkins and Hornstein, 297-8.
\textsuperscript{151} Ibid., 302.
\textsuperscript{152} Ibid., 304.
\textsuperscript{153} Ibid., 303-305.
situation with low-income housing "virtually unchanged."

People working in the finance-related new service sector were priced out of new homes. The Delaware State Housing Authority in 1989 concluded that "wages were not keeping pace with rising housing costs."
The FCDA brought new jobs, but its building bonanza simultaneously raised living expenses higher than the low-paid service sector jobs available to working-class Delawareans. The boom benefited Delaware businesses more than its citizens.

Although there was steady economic growth in the state after the FCDA passed, it was concentrated in the insurance and financial services sector. Manufacturing jobs continued to decline after the FCDA. Hornstein and Atkins concluded that in the years following the FCDA, the poor in Delaware remained, "as they were in 1981...ill-housed, in need of more food and better nutrition, and paid less than what they need to adequately support their families." Trickle-down economics only trickled down to the middle class.

Nine years after Atkins and Hornstein's study, in a 2002 article the Delaware Lawyer reviewed some of the financial and racial iniquities in the state. Attorney Antoine Allen gave a bleak overview of racial economic stratification. Blacks earned 60 cents on the dollar that whites earned and Blacks and Hispanics were "under-represented in professional and upper-level management positions and over-
represented in the lowest paying and least desirable occupations."\textsuperscript{158} Even when controlling for income, African Americans had less home ownership than whites.\textsuperscript{159} Minority-owned businesses were well-represented in the service sector in 2002, but were "virtually absent" from financial services, reported Allen.\textsuperscript{160} The decade preceding the writing of Allen's article saw increased integration in some communities in Delaware, yet others had become more segregated during that period, "especially" lamented Allen, "within the City of Wilmington."\textsuperscript{161}

In her dissertation concerning neighborhood viability in Wilmington's East Side--the African-American neighborhood adjacent to the business district--Alicia Joyce Peterson found that between 1950 and 1990 urban development did little to help the impoverished area and often made economic conditions worse for its residents.\textsuperscript{162} Like Hornstein and Atkins, Peterson concluded that the increase in jobs and state revenue did not trickle down to many low-income, high need residents. She additionally determined that urban renewal projects, including investment in infrastructure that resulted from the FCDA like the UDAGs, splintered communities, leaving many low income African Americans with less cultural cohesion and more housing and employments problems. Peterson's study traced various federal, city, state, public and private investments in city infrastructure from 1950-1990 centering on changes in the Wilmington neighborhood of East Side. Her study did not

\textsuperscript{159} Ibid., 32.
\textsuperscript{160} Ibid., 32.
\textsuperscript{161} Ibid., 32.
specifically take into account the FCDA, but addressed some of the infrastructure changes in the 1980s and 90s that were directly or indirectly brought about by the new banks.

Peterson argued that assessments of impoverished areas rarely took into consideration the lived experience of its residents. Tearing down "decaying" low-income housing complexes and replacing them with new middle-income housing or businesses might create the appearance of an improvement, but without alternative affordable housing, the displaced residents had fewer housing options and were worse off. Wilmington's Central Business District was built on top of much of the previous East Side neighborhood. African Americans were moved out to make room for FCDA-generated business. Peterson shows that the East Side of the 1940s, which despite poverty, segregation and lack of sufficient housing and job opportunities, had a thriving community that included black-owned businesses, jazz clubs, and a sense of cultural cohesion. But through the decades of urban renewal, when problems that neighborhoods such as the East Side faced were addressed, policy makers saw viability as an issue of "high-end development" and business enterprise and missed important issues such as cultural cohesion, livability, and the viewpoint of residents.

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163 Peterson wrote: "In interviews East Side residents consistently indicated that their neighborhood was a good place to live in 1950. It was home to a cluster of professionals and recognized leaders. It had the Gold Coast along French Street where black business flourished. It was a mecca for African American entertainment and culture with a theatre and nightclubs. Howard High School was the only school available to black students in the State of Delaware. The East Side, a major part of the segregated Wilmington School District, provided opportunities to exercise leadership. Individuals and institutions contributed to a sense of pride and self-sufficiency that are important elements of community viability," 43.
(who were often supposed to be benefiting from government largesse). As a result, many East Side residents fared worse after urban renewal.164

The viability of an area targeted for urban renewal has been defined by policy-makers as one of commerce and the physical appearance of houses and buildings, but Peterson defined "a viable neighborhood" as "one where the quality of living provides for not only the essential needs of its residents but for their preferences as well...Viable neighborhoods provide stability through their diverse economic and physical infrastructures and exhibit a strong sense of community within their socio-cultural linkages."165 She contextualized her considerations of the East Side with urban policy studies, from which she drew three general conclusions: "1. public programs did not always meet the goals laid out in urban development legislation, 2. policies were subverted by business-led interest groups that influenced the implementation process and defined viability from a market perspective, and 3. policies did not take into consideration the livability of the renewal area from an indigenous perspective."166 From Peterson's study of 1950-1990, some of the changes that occurred following the passage of the FCDA come into focus.

Most of the discussion during the House and Senate hearings for House Bill 28 focused on bringing jobs and revenue to Delaware.167 Although Wilmington did not surface as the potential prime beneficiary of the bill, the city's mayor was the only one of the state's mayors invited in as a prime participant. Mayor McLaughlin wrote

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164 Peterson, 82-84.
165 Ibid., 2.
166 Ibid., 4.
167 House hearings cd.
the letters to the New York banks "inviting" them to his city.\textsuperscript{168} And as the state's corporate headquarters for the previous century, the beneficiary of the bill and the location of the potential new banks was always implicitly Wilmington. The legislators also knew very well that the city had a flagging economy and declining population counter to the rest of the state's growth.\textsuperscript{169} Peterson's dissertation addressed programs that were ostensibly directed at urban renewal but that failed to take into consideration neighborhood viability. But she did not consider that some urban renewal grants such as the UDAGs may have been sought and utilized by Delaware officials with the sole purpose of supporting the banks and without any intention of lifting up low-income residents. Peterson interviewed numerous residents and community workers to obtain an "indigenous perspective" of changes to the neighborhood over time. Her study addressed cultural issues of the East Side that were absent from all of the other Delaware and Wilmington histories I read, in that culturally rich aspects of the low-income areas were profiled rather than simply being a story of racial and economic victimization.

The city of Wilmington applied for and received UDAGs which were invested almost solely into business enterprise. The focus of the UDAG program in Peterson's assessment points to a common assumption "that the problem of poverty stems from the lack of physical and financial capital."\textsuperscript{170} Publicly funded infrastructure that resulted directly from the influx of bank and related businesses in Wilmington

\textsuperscript{169} Munroe, 130.
\textsuperscript{170} Peterson, 15.
provided street paving, new sidewalks, and street lights to the central business district "where the healthier sectors, banking, and government were."\textsuperscript{171} The city improvements for the most part stopped short of the East Side neighborhood area where low income and small local businesses stood. "In fact," according to Peterson, "many [indigenous residents] were forced to relocate from the improved areas to other deteriorating neighborhoods."\textsuperscript{172}

Improvements in the Central Business District rendered the East Side residential area, "a space to be contained and in many ways exploited to provide the needed space for downtown expansion."\textsuperscript{173} A conglomeration of city municipal buildings called the Civic Center that was built in 1963 cut off East Side residents from the commercial area. The structure included a cement wall that blocked access between the two areas, a physical barrier that reified the separation between East Side residents and economic access. When MBNA built its headquarters in Rodney Square in 1994, its six-building complex further extended the Civic Center's wall of separation between East Siders and downtown business.\textsuperscript{174} Jane Jacobs notes that borders in and of themselves exert influence on the areas they divide. Borders denote inclusion and exclusion.\textsuperscript{175} Jacobs also argues that money invested into a community "cannot buy inherent success." When it is used for projects that exclude indigenous communities for instance, it can make matters worse. Financial investment can "do

\textsuperscript{171} Peterson, 121.
\textsuperscript{172} Ibid., 122.
\textsuperscript{173} Ibid., 162.
\textsuperscript{174} Ibid., 82, 166.
ultimate harm where it destroys the conditions needed for inherent success...money is a powerful force both for city decline and for city regeneration.176 Peterson lamented that urban development programs altered the neighborhood's boundaries and provided programs that "had no relationship to indigenous viability factors." Indigenous institutions that contributed to a city's viability, she found, were given little consideration.177

Wilmington's decline throughout the twentieth century has revolved around issues of racial tension, segregation, and income gaps. When lawmakers sought to transform Wilmington to a corporate center, they failed to take into account how or why the city had declined in the first place. For instance when the DuPont company moved its headquarters into Wilmington in the early twentieth century, its middle- and upper-middle-class managerial workers did not infuse the city with new tax income, but instead took to the suburbs. When barracks-style housing was built for the primarily African American industrial workforce increase during the two world wars, they were not readily replaced with adequate affordable housing during peacetime. "Slum" housing was torn down without foresight for the low-income families who were left in the cold. The FCDA gave the city a face-lift and revenue shot in the arm, but the city faced increasing crime, housing vacancies and vandalism problems, conditions which worsened from lack of jobs and economic stratification, much like during the 1920s and 40s and 60s. In other words, lawmakers hoped the FCDA would help Wilmington by infusing the city with more of the things that had

176 Jacobs, 292.
177 Ibid., 113.
exacerbated many of its racial, social, and economic problems in the past. It was a band-aid on a problem created by decades of putting band-aids on problems.

I think part of the mythology of the FCDA's universal success for Delaware and Wilmington, is based on assumptions of proprietorship. When lawmakers and historians reflect on the enormous good the law and the bank migration had on the state, the question left out of the equation is whose state is it? If the FCDA benefited Delaware, whose Delaware is it?

Collective "ownership" of a state or entity's identity carries the illusion of a collective access to resources. "Our state" or "our business" suggests parity to the primary benefits of membership. Delaware's motto "It's good being first" carries the suggestion that there is a "we" who is first (the state's citizens) and that "we" find the privileges that come with being first (in statehood and presumably other tangible or intangible superlatives) empirically good or conferring some pride or benefit. The implied collective Delaware who gained jobs and income from the FCDA was a limited pool of people and institutions. Those who fared no better or worse after the FCDA surely were far from being "first" in order of state priorities. Atkins and Hornstein, Allen, and Peterson discuss which of Delaware's citizens have (repeatedly) come in dead last.

CHAPTER IV
JUSTIFIED PARANOIA: YOU ARE BEING WATCHED

The people who may have been left out of the benefits package the FCDA allegedly brought to Delaware were overshadowed, literally, by the buildings that symbolized the trophy of the legislation. Office buildings were hardly foreign to Wilmington, which had for a century participated in the legal construction of national corporations through its Court of Chancery. Wilmington's economic past figured into the radical architectural alterations in the 1980s. During the 1990s, DuPont's Wilmington headquarters was overshadowed by the office park built by MBNA while at the same time the family-owned chemical company was surpassed by the bank as the state's largest single employer. Flourishing enterprise enabled by a legislative framework defined neoliberal political theory on the rise during the 1980s.179

Since the implementation of the FCDA, credit cards have grown into a multi-tiered surveillance circuit that monitors customers' personal information. Information is then sold, rented or handed over to various other agencies including retailers, insurers, political parties, and potential employers. Just opening a credit card account subjects one to a vast array of surveillances. Making credit card purchases subjects one to third party access of buying habits. Perhaps it should come as no surprise then

that the capital city of consumer credit processing has an extensive surveillance system on the ground, at least partly prompted by the credit companies in residence. In the commercial district outdoor security cameras became connected to the security systems of many of the area's banks. The security organization which monitors downtown was initiated by MBNA and is funded by pooled resources of area businesses.

Identity also factors significantly both in the credit industry and Wilmington. For example "expressing" one's identity through purchases or the type of credit card itself takes place with the aid of consumer technology. One can be identified as a suspect by law enforcement through the aid of a video camera or as a potential wrongdoer because of geographic or demographic identification. And if someone breaks into your bank account or manages to use your credit card illegally, it is called—not just theft—but identity theft. Being robbed becomes akin to losing one's identity.

Michel Foucault has asserted that the monitoring and rationalization of people's bodies, identities, and behavior establishes the power structure in modernity. The order and categorization of people, "coincide[s] with the development of capitalism."\(^{180}\) Control and ownership are linked according to Foucault. The two are also crucial to the commercial district in Wilmington and the credit card industry. Monitoring bodies and personal information enables those in power to prevent threats and hindrances to commercial enterprise and to protect and seek out those who will

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participate in that enterprise. William G. Staples asserts that a distinguishing factor of postmodern social controls, rather than the rationalization Foucault traces through modernity, is the local nature of current surveillance techniques.\footnote{William G. Staples, \textit{The Culture of Surveillance: Discipline and Social Control in the United States} (New York: St. Martin's Press, 1997), 11.}

Lloyd Klein's \textit{It's in the Cards: Consumer Credit and the American Experience} examines the relationship between consumer credit, social control mechanisms, and the imposition of cultural values. "Social experience" argues Lloyd, "is transformed into a consumer product."\footnote{Lloyd Klein, \textit{It's in the Cards: Consumer Credit and the American Experience} (Westport, CT: Praeger, 1999), 2.} He asserts that the service sector and niche marketing introduce social controls in the form of rewards and punishments carried out by the credit system. The state of Delaware too was submitting to a system of controls when it passed the FCDA, because the jobs and revenue did not flow immediately upon passing the bill. Instead, banks pushed for additional tax breaks and real estate deals in Wilmington. The city was rewarded when additional banks besides the original two, Citicorp and Morgan Guaranty, moved into town. A private policing entity facilitated in part by the banks turned its scrutiny onto the city.

The FCDA was sold as a panacea for many of Delaware's ills: joblessness, budget deficits, unstable and high-polluting industries that dominated state economies. Much in the manner of the FCDA, both the state and city stepped in to encourage new business tenants with land-grants and corporate tax-abatement programs. The new arrival of financial institutions waned towards the end of the 1980s. One major construction project came to a halt midway through the demolition
and excavation stages, when the Beneficial Corporation decided to leave Wilmington altogether. The city became desperate to find a new tenant to take over the aborted construction project that left "an embarrassing hole" in the middle of downtown. After heavy lobbying by city officials, MBNA agreed to move into Wilmington from the nearby suburbs and turn the project into its headquarters.\textsuperscript{183} The city donated two-thirds of the land (a $6 million value at the time) for the building, which also included a five-year tax abatement on the real estate after which time a 50 percent tax relief for the following five years would ensue. The bank also received a five-year break on the "head tax" which charges employers a per-employee monthly tax ($6 a head in 1994).\textsuperscript{184} The office complex MBNA built dominated the downtown landscape. 

\textit{Architecture Magazine} characterized the physically imposing structure as a, "massive...headquarters [that] robs the area of urban activity...[and]...discourages pedestrian life."\textsuperscript{185} The city gave MBNA land on which the bank built a fortress symbolizing its social distance from civic life and institutions.

MBNA's agreement to move to Wilmington also included the express stipulation that the city institute a Business Improvement District (BID), which would require all downtown businesses to pay an assessment for private security and maintenance in the 70-square block area around Rodney Square.\textsuperscript{186} In 1994, the state passed a bill establishing a BID and the entity created to manage it was a non-profit

\textsuperscript{183} Milford, "Landing a big corporate tenant."

\textsuperscript{184} Milford, "The business district in Wilmington, Del., is reviving, with commitments from four companies," \textit{New York Times}, February 2, 1994, Real Estate, D17.

\textsuperscript{185} Michael Maynard, "Maxed Out" \textit{Architecture Magazine}, November 1997, 71.

\textsuperscript{186} Downtown Visions website: "Business Improvement Districts (BIDs) are geographically defined areas in which property owners agree to pay an assessment in addition to property taxes to fund privately-operated cleaning, security and marketing services."

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company called Downtown Visions (DV), which provides security, cleaning, and public relations for the businesses in its vicinity.\footnote{June 1994, House Bill 387, sponsored by State Representative Joe DiPinto, passed in the Delaware General Assembly which allowed the creation of business improvement districts. In September of that year, City Council passed an ordinance, sponsored by then-council President James M. Baker. This legislation created Wilmington's Downtown Business Improvement District (WDBID), a private, nonprofit organization," DV website, www.downtownvisions.org.} In April 2001 the company implemented a Video Safety Partnership and set up twenty-five cameras in downtown connected with 100 security cameras already in place by downtown businesses, all to be managed by DV. "Our program is the only one of its kind in the United States in that it is the only video system which covers an entire downtown district, in addition to being linked with other corporations' video systems. This network allows for the live feeding of events to law enforcement officials."\footnote{Downtown Visions Video Safety Partnership website, http://www.downtownvisions.org/videosafety.php (accessed May 14, 2008).}

Downtown Visions works directly with the police department, reporting suspicious or criminal behavior, as interpreted by the employees stationed in front of the screens twenty hours a day. According to a press release from the office of Wilmington's mayor James Baker in 2005, the company has, "evolved into additional 'eyes and ears' for the Wilmington Police Department."\footnote{"Wilmington Mayor James Baker Leads Celebration For Downtown Visions 10th Anniversary" Office of Mayor James M. Baker, press release, May 19, 2005.} The staff is made up largely of former police officers (and in a recently implemented program, those aspiring to join the police force.) According to DV, the company has assisted the police in 600 "incidents" since the video monitoring began.\footnote{Downtown Visions website.} The surveillance system was largely spawned and the funding organized by John Greer, a former FBI
agent who owned a business that sells high-end security devices. DV also became an arm of his business by selling its products and services, with endorsements by city officials, to other municipalities. Wilmington's security cameras thus are products of the neoliberal ethos enabling free enterprise through the structures of the state. The city's Business Improvement District, itself a public-private partnership, purchased the cameras from a private organization which has its origins in the federal government (the FBI).

Although cameras silently observe, they also have the ability to assert their presence in an attempt epistemologically to shift power dynamics. For instance official Downtown Visions literature asserted that the cameras were meant to, "correct the misperception that it's not safe downtown," suggesting that part of its objective was an alteration of Wilmington's image. The presence of the cameras and the live analysis of its images need not be seen, but must be known for the intended perceptual shift to occur. In order for individuals to perceive downtown as safe, they must be aware of the presence of the technology which allegedly makes it so. The Downtown Visions website claims that its goal is to assure people that "someone will always be looking out for their safety." The surveillance system is not meant to make everyone feel safe, however; for some people it is the reverse. It announces to them that they are being watched, although in fact everyone is being watched. Staples notes that the omnipresence of security cameras marks "a historical shift from the

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192 Downtown Visions website.
specific punishment of the individual deviant to the generalized surveillance of us all." Social control *precedes* rather than *proceeds* deviance.¹⁹³ In this way surveillance systems attempt to control time as well as space. To anticipate and visually "apprehend" criminals before they act is a way to tell the future and alter it before it happens.

In *Discipline and Punish* Michel Foucault applies the notion of the panopticon—the central, octagonal survey tower of medieval prisons—to the broader power infrastructure that utilizes surveillance, acquisition of knowledge, and categorization to level control and discipline on society as a whole. The omnipresent "faceless gaze" serves the goals of the political anatomy by disseminating its influence and power broadly with relatively little human interaction.¹⁹⁴ The Wilmington surveillance system similarly casts a disciplinary gaze; it was a precedent-setting downtown security system, the most comprehensive in the country when it was implemented.¹⁹⁵

Bart Simon asserts that the panopticon metaphor resonates today because it "seems to speak to the sense of helplessness individuals often feel in the face of the overwhelming force of institutions (prisons, hospitals, schools, workplaces, families) to determine life within their confines...the sense that there is nowhere to run and

¹⁹³ Staples, 6.
nowhere to hide."\(^{196}\) In "How Closed-Circuit Television Surveillance Organizes the Social," Kevin Walby argues that social policy is increasingly influenced by images in our televisual, surveillance-oriented culture. Walby finds a "presumptuous ambition of both state and non-state organizations to see and to know everything."

The project of modernity as described by Foucault is the implementation of power through rationalization. Walby argues that the rationalization is written on the body of the watched.\(^{197}\)

The people who pass through downtown Wilmington's Rodney Square, whatever their purpose, are subjects of the camera's eye. The person who does not fit, visually or behaviorally, within the established norm is identified and potentially confronted on the ground by a company employee or city service. Downtown Visions seeks to make those who are fitting nicely into the business district--workers and shoppers--feel safe, protected within the realm of commercial seclusion.\(^{198}\)

In "Of Other Spaces," Foucault discusses sites which are both real physical locations and exist on a plane outside of other spaces, marked off by their impossibility. They are "counter-sites in which all other sites are represented, contested, and inverted." These "heterotopias," Foucault argues, mirror possibilities which are not possible; they are "placeless places." The heterotopia creates a space

\(^{196}\) Simon, 5; See also, Vol. 1 No. 3 of Surveillance and Society (2003) themed "Foucault and Panopticism Revisited."


that is other. The image promoted through Downtown Visions publicity promotes a downtown that could never be.199

Since surveillance and GPS (global positioning) devices originated from the military to track enemy troops, their entry into the civilian and consumer realm inscribes its subjects as "militarized consumers," argues Caren Kaplan.200 Marketing strategies "target" consumers to participate in commerce. Both types of strategies utilize information about a person's identity in order to categorize them in relation to commercial enterprise: what type of products this person will want, what kind of threat that person may pose. The coordinated surveillance operations in Wilmington (between company and "non-profit" cameras, between private DV employees and city police) suggests an area under attack. If there is an enemy it is the impoverished that have struggled in Wilmington for decades. The utilization of military and cold-war era surveillance techniques in the project of consumption means that public and taxpayer-funded technologies are serving the interest of private industry.

Downtown Visions security and cleaning companies might imply that downtown Wilmington is too dangerous and too dirty to be serviced only by city police and sanitation services. The Wilmington heterotopia is "outside of all places," because it is pure and safe and yet so dirty and dangerous as to need a private military surrounding a 70-block area.201 The cleaning division of Downtown Visions removes trash, cleans sidewalks, and removes graffiti in order to, "improve the way downtown

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201 Foucault, "Of Other Spaces."
Wilmington looks." Clean serves as a metaphor for safe. A safe area is "clean" from any foreign elements, anything or anyone who detracts from Wilmington's improved look, anything or anyone who might deter productive consumption. "The imperative of capital accumulation," Walby writes, "induces a desire to exclude flawed consumers from territories of consumption." The cleaning services and cameras both serve to sterilize the commercial district for its optimum output. "Dirt" has a history of referring to an array of undesirable traits in various cultures. It has frequently stood as a signifier for racial or cultural "other." Downtown Wilmington's "mirror," the closed circuit television, is a signified for all possible signifiers, it indicates to some that they are free and to others that they are imprisoned. It advertises to some that downtown is clean and to others that they may be removed in order to keep the area free from "dirt."

The electric eye of the camera amplifies social difference, although the rationality of its omnipresence does not discriminate in that it watches everyone, regardless of race, class or gender. But the poor and people of color tend to be under watch, whereas people who can pay for "all that downtown Wilmington has to offer"-largely middle-class and/or white--are the ones being "watched out" for. Both categories of people are located like military targets, or as Kaplan eerily puts it, "something or somebody has to be identified, coordinates have to be determined with available technologies, and the target has to be clearly marked or recognized in time

204 Downtown Visions website.
and space." 205 Regardless if one is the target of protection or exclusion by the powers that be, everyone in downtown Wilmington is a walking target.

Shortly after MBNA recruited the head of the F.B.I.'s New York division in 2002 to serve as the senior executive of its "property management and support services," the Wilmington police instituted Operation Bold Eagle. This project authorized unmarked police vans to survey downtown areas and apprehend, search, and photograph people they deem likely to exhibit future criminal behavior.206 According to an article in Time Magazine, the police usually apprehend African American men, "at drug-infested street corners in search of guns, crack and heroin." The mayor's spokesman described the goal of the practice: "There is a simple message: We know who you are; you now know that we know who you are. Don't come back on this corner and deal drugs."207 His statement suggests that geography (or real estate) is at stake.

Operation Bold Eagle's "corner deployment units," referred to by residents as "jump-out squads," have sparked controversy with civil rights groups and residents. The executive director of the Delaware ACLU contested the legality of the geographical profiling, and told the New York Times, "It cannot be the case that I have fewer rights because of the neighborhood I'm standing in." In the same article, Mayor

205 Kaplan, "Precision Targets," 697.
James Baker's retort was, "Until a court says otherwise, if I say it's constitutional, it's constitutional."\(^{208}\)

The Wilmington police department also drew fire for building a database of these "potential suspects" which includes photos and information of individuals that are deemed likely by the police to break the law in the future regardless of what, if any, they may have broken in the past. Mayor Baker fumed that criticism over the police practice was, "asinine and intellectually bankrupt."\(^{209}\) Whether or not the creative tactics of the Wilmington police lower crime, they do make headlines. The New York Times ran a story around the same time as the jump-out squads controversy, reporting that police take down license plates of cars "prowling the city's worst drug-infested neighborhoods" and then send a letter to the car's registrant about their findings. The letters "are meant to alert unsuspecting parents and spouses that their loved ones may be buying drugs in Wilmington."\(^{210}\) The project attempted to enlist others in surveillance and bring the police gaze into the home.

Other cities have adopted the surveillance of Wilmington, using it as a model, and some cities and locations have rejected the practice. In 2003, the Washington D.C. city council approved the use of police-controlled public surveillance cameras. Council member (now mayor) Adrian Fenty explained how he was persuaded by some of his fellow members to vote against the measure. "At first, I thought


Washington, because it's prone to more terrorist attacks, would be a place where visitors would want cameras. But I agree now with my colleagues who say Washington should be a beacon of freedom.\textsuperscript{211}

Being under constant review of the camera's watchful eye carries with it a cost. The \textit{watchingness} of the camera, regardless of whether or not any action is taken as a result of its presence, takes a toll on the freedom of its subjects. Instead of confining disciplinary action to those who commit crimes, everyone is under watch. Instead of an area of "confinement" for offenders, there is "an inexhaustible supply of...disciplinary 'space.'" All space becomes tinged with a policing presence and thus too an air of criminality.

In 2003, Mayor Baker held a press conference announcing a joint initiative between Downtown Visions, the city police, and the city transit system, DART, for the purpose of reducing "nuisance crimes." All 150 county buses and the twelve bus stops in the downtown area would display posters encouraging citizens to immediately report instances of loitering, public intoxication, lewdness, and panhandling via a dedicated hotline. Citizens and visitors should be able to enjoy the city, according to the mayor, "without being bothered, insulted or feeling threatened" by those who exhibit "nuisance behavior." Through the "monitoring talents of the Wilmington Police and Downtown Visions," the mayor assured, "we are sending a clear message that violators will be arrested and law abiding citizens should be

afforded a pleasant experience while they are in our beautiful and historic City." This was another program enlisting citizens in policing other citizens.212

"Cleaning" Wilmington of those who might disturb or frighten downtown shoppers and tourists served the aim of further developing the retail and banking area, which had already benefited from precedent-setting deregulation, tax-abatement, and community improvement grants. Surveillance, jump-out squads, and a privately-funded security company attempted to discipline and displace those who break the law, participate in extralegal economy such as drugs, or who are deemed future criminals due to their appearance or what part of town they frequent. These "deviants" are among the population that has been systematically left out of economic prosperity in Wilmington, that is, African Americans and the working class. Dean A. Vietri, Director of Safety Operations for the downtown business improvement district said of the surveillance system efforts, "We're making arrests, and we're displacing crime. Our hope is to displace criminals right out of the city."213

A similar kind of surveillance has taken shape for consumers nationwide. Financial institutions and credit bureaus collect personal data from people and sell or rent to a wide variety of companies and individuals. When a person attempts to take out a mortgage, rent an apartment or buy a car, institutions can purchase a credit report. Most people are aware of this process and likely even find it a fairly

reasonable breach of privacy. But less well-known are the companies that buy and sell private information in vast quantities to third parties without a consumer's knowledge. One of the biggest such companies, Acxiom, has been in business since the 1970s and buys swaths of financial and personal information, collects it, sorts it, and re-sells it. The title of an article on the company from *Fortune Magazine* in 2004 summarizes it well: "Never Heard Of Acxiom? Chances Are It's Heard Of You."

Acxiom is a $175 million publicly traded company that allegedly has customer data of 96 percent of American households. They hold 5 acres of 6-foot data storage processors which together have the capacity to hold 50 times the material held in the Library of Congress. Acxiom has helped the government with terrorism indictments, but 99 percent of its business is commercial enterprise, including, "nine of the country's top ten credit-card issuers, as well as nearly all the major retail banks, insurers, and automakers."²¹⁴

Acxiom and other personal-data trafficking companies can produce lists containing, "highly specific demographic slices, including Hispanic families with children; Asian-American mail-order buyers; women who buy wigs; gamblers; male buyers of fashion underwear; and political-minded Christians."²¹⁵ Credit card companies sell information to personal data companies, but also in turn buy data lists from them containing information from a vast array of sources including utility


companies, institutional membership lists, mail-in warranty cards, and public records. The information is then used to target customers with credit card offers and affinity credit cards. MBNA* achieved much of its success in the 1990s through affinity marketing, a kind of mirroring back to customers a pastiche of "unique identity." Affinity cards are themed and targeted to particular groups and organizations, such as alumni of a particular institution. The cards carry a related image, such as the school mascot, and in many instances a certain percentage of the profits charged on those cards goes to the organization or charity. Some cards simply express an aspect of the cardholder's identity or hobbies, such as an American flag, a Celtic cross, or golf clubs, and do not have a donation associated with them. The lack of any distinguishing qualities between products, according to George Ritzer, is what fuels branding. In the case of credit cards, very little distinguishes one from the other and affinity cards "create the illusion of distinction."216

Affinity marketing in the credit industry has proven to be very successful. The steep ascendancy of MBNA's early success was its innovation in affinity cards and the faux-prestige of "elite" cards such as the MBNA Platinum, which had "few benefits...other than the color," yet in a year and a half attracted six million new customers.217 Marketing to people's identity--causes, organizations or status that one

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* MBNA has since been absorbed by Bank of America.


identifies with—has proven very effective.\textsuperscript{218} Through a detailed study of credit card contracts and agreements, Ronald J. Mann concludes that even contractual differences between cards are usually minimal, especially considering that none of the terms are ever binding and can be altered at any time by the issuer. He argues that customers tend to overestimate the value of rewards programs, and often borrow more than they otherwise would because of the perceived benefits.\textsuperscript{219} Regardless of the "unique" identifier on the face of the card, behind each one lies a boilerplate agreement that, Mann argues, "even the most sophisticated cardholder could not master."\textsuperscript{220}

Staples calls credit cards "the functional equivalent" of a "national identification card." Police use it as a paper trail to track people's whereabouts and habits and corporations "sort" people (much like goods).\textsuperscript{221} Personal information from commercial sources has at times been notoriously easy to access. In an exposé on the vulnerability of personal privacy written in 1992, Jeffrey Rothfeder described his relative ease in obtaining private information on well-known individuals through the aid of consumer data bureaus. He was able to purchase the social security number, unlisted addresses and phone number, credit report and bank information of the sitting Vice President, Dan Quayle, among numerous others. "[P]eople," Rothfeder concluded, "are at the whim of...large organizations--direct marketers, the credit bureaus, the government, and the entire information economy--that view

\textsuperscript{218} Ethnic identity has been integral to marketing at least since the 1970s; See Marilyn Halter, \textit{Shopping for Identity: The Marketing of Ethnicity} (New York: Schocken, 2000).
\textsuperscript{219} Mann, 167.
\textsuperscript{220} Ibid., 5.
\textsuperscript{221} Staples, 84-85.
individuals as nothing but lifeless data floating like microscopic entities in vast electronic chambers...to be captured, examined, collated, and sold... Safeguards to privacy and "identity protection" exist to some degree and are continually changing. One might not be able to buy Vice President Dick Cheney's credit report today, but vast quantities of individuals' private information continue to be tracked, collated, and exchanged in vast quantities.

Credit cards play a critical role in political elections, and not just as a means for online political contributions. Political data companies use "microtargeting" by collecting consumer information from potential voters, largely provided by credit card companies. That people who drink Dr. Pepper tend to vote Republican and Volvo owners tend to vote Democrat helps political parties implement targeted campaign messages. Voter Vault is the Republican Party's version of Axciom and the Democratic National Committee runs Datamart/Demzilla. The databases each essentially work the same. All of the nation's registered voters are in the database along with identifying information such as party affiliation, consumer data, voting characteristics of their precinct, and census information. The data is used to personalize campaign appeals according to a voter's identity or values. Some may argue, however, that the most effective vote is with dollars. As Hank Steuver opined

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in the *Washington Post Magazine* in 2002, "Consumer spending is the last way you can feel like an American with any sway in the national outcome."\(^{224}\)

Surveillance on the ground in Wilmington or through the technology of consumer credit is democratic in the sense that nearly everyone falls under its gaze indiscriminately. Yet the acquisition of knowledge itself can be an implementation of power and the one-sidedness of the watching eye renders everyone who is watched vulnerable and voiceless. This phenomena is hardly unique to Wilmington or the credit industry. We live in what Staples calls a "culture of surveillance" and a "state of permanent visibility."\(^{225}\) The surveillance efforts may seem to serve a variety of purposes from preventing crime to promoting a product, but Torin Monahan asserts that "surveillance and security are important components of emerging neoliberal sensibilities and structures."\(^{226}\) The surveillance culture may not encompass a single ideology, but it tends to work toward or through so-called "free" market enterprise. The "sensibility" Monahan references includes the consumerism model promoted by niche-marketing that utilizes purchase patterns through an individual's credit card. It also includes the promotion of the thriving business in downtown Wilmington. Monahan's notion of surveillance as a component of neoliberal "structure" includes the multi-tiered security system in Wilmington that emerged from public and private


\(^{225}\) Staples, 4, 10.

\(^{226}\) Monahan, 9.
partnerships. The security operation in Rodney Square is an example of "the vast profits that private companies stand to accrue at public expense."\(^{227}\)

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\(^{227}\) Monahan, 15.
CONCLUSION

The Delaware legislature's implementation of a largely unrestricted market for the banking industry typifies the neoliberalism experienced across the nation and globally in the 1980s. Neoliberalism is the belief that the state's primary purpose is to facilitate free enterprise. It is at the heart of Senator Martin's questions during the hearings: "Aren't we coming down to the basic question of if you believe in a controlled economy [or] one that's [a] so-called free marketplace?"228 The question asks whether you believe that the state should exert control over economic activity—laws such as limitations on how much a credit card company can charge its customers—or whether the state should enable business to set its own norms, in other words interest rates should be set according to what the market will bear. Neoliberals believe that, "human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade."229 State controls such as usury limits are believed to inhibit economic growth.230 When Governor du Pont said the FCDA was, "a natural response to the changes occurring on the national level in the banking industry," he was referring to the growing trend towards neoliberal

228 House Hearings cd.
229 David Harvey, A Brief History of Neoliberalism (Oxford: Oxford University Press, 2005), 2.
230 Ibid., 11.
theory in the marketplace. And yet the passage of the law did not happen through the "nature" or character of the market, but through the aid of the legislative body.

Critics of neoliberal enterprise have argued that an unconstrained market does not benefit the social good, but increases the disparity between rich and poor. David Harvey calls the wealth achieved in a neoliberal "free" marketplace "accumulation by dispossession." Those that benefit, such as the credit card companies, do so at the expense of others. Harvey argues that common results of enterprise under neoliberalism are environmental degradation, social inequality, and a reaffirmation of class power. The critics of the results of the FCDA, Hornstein, Atkins, Allen, and Peterson, would contend that these are precisely the costs paid by residents of Wilmington and Delaware.

Harvey has termed the banking and the financial services industry "primary players" in neoliberal policy implementation. The passage of the FCDA, a law written by the banks for the banks and supported by the Delaware legislature is a prime example of the financial industry implementing--literally writing into law--neoliberal policy. Far from being an isolated event, the passage of the FCDA was reflective of worldwide economic trends.

Harvey argues that although neoliberal enterprise espouses the belief in a lack of government regulation, it "cannot function without a strong state and strong market

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231 Untitled type-written speech, Governor's papers, du Pont Administration, Delaware State Archives, p. 7.
232 Harvey, 122.
and legal institutions." The risk shift occurred not because the government withdrew from the marketplace, but rather because lawmakers actively wrote legislation to favor corporate institutions over consumers. Corporate entities, in this case Chase Manhattan and Morgan Guaranty, lobbied for a deliberate substantiation of an institutional framework that would buoy their bottom line. The supplanting of corporate banking interests in Wilmington was enforced and reified in the structure, architecture, and surveillance that the institutions spawned.

As of this writing, the U.S. is struggling with a crisis in the real estate market that has contributed to an economic downturn that some argue is currently or may soon become a recession. Subprime home mortgages, loans with steep penalties and interest-rate increases that are given to what banks consider high-risk borrowers, have come under scrutiny after the collapse of several financial institutions that back them. Subprime mortgages often initiate a few years of low interest rates before making a substantial leap, which can render monthly payments unmanageable. Housing foreclosures reached a record high in the fourth quarter of last year. Steep fees and pre-payment penalties are other characteristics of subprime loans. Subprime lenders and mortgage brokers are considered "predatory" when they target vulnerable communities, mislead borrowers or saddle them with mortgages that they are unlikely

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233 Harvey, 117.
to be able to repay.\textsuperscript{236} The credit card industry uses many similar tactics on its customers.

Just as homeowners defaulted on their mortgage payments in increasing numbers, credit card companies sent more offers directly to those customers.\textsuperscript{237} The greatest profit in consumer credit arises from late fees and interest on large balances, and people in the midst of losing their homes are likely to oblige.\textsuperscript{238} As Hacker describes in \textit{The Great Risk Shift}, in the absence of economic safety nets people often turn to credit cards. Defaults on credit cards are at a four-year high at present, which suggests the possibility that the consumer credit industry could be headed the way of the subprime mortgage sector.\textsuperscript{239}

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Wilmington has become an icon for the credit card industry. I have sought to tell the origin story of the city's entry into that market. Consumer debt plays a significant and troubling role in many Americans' lives. But it is not just individuals who suffer from insurmountable debt, there is also a social cost. As the subprime crisis has demonstrated, the country's fiscal health suffers from widespread individual

\textsuperscript{236} Other tactics include fees for unnecessary or non-existent services and encouraging borrowers to lie about their income on forms to obtain higher loans. "Predatory Lending," and." Don't Be A Victim Of Loan Fraud," U.S. Department of Housing and Urban Development website, Homes and Communities page, http://www.hud.gov/offices/hsg/sfh/pred/predlend.cfm (accessed May 14, 2008).


economic collapse, which additionally has ramifications on the global economy. "Nearly everyone loses when consumers are mired in debt," Ronald Mann wrote in 2006. "Credit card borrowing," he continued, "as it exists in the globalized West imposes substantial external costs on the economy, not internalized by the networks, issuers, or cardholders."\(^{240}\)

Consumer credit can have a profound impact on people and communities and yet it is also an intangible, abstract entity. Debt is lack: money that one does not have. Credit allows people to buy time, to delay the payment for goods received. The location of the bank, the customer, and where the charge is made can be varied, fluid, and virtual. Credit issuing banks headquartered in Delaware solicit customers primarily out of state. Those out-of-state customers in turn conduct business under the laws of a state in which they cannot vote for the legislators who enact those laws. In concentrating on the local issues that led to the Delaware legislature's passage of the FCDA, my aim has been to concretize the very tangible elements and human interactions that enabled it. Wilmington, Delaware serves as a mere billing address for millions of credit card customers. Yet real buildings take up the space where time is sold. Real individuals live and work in and around that space. They are physical targets of the same surveillance sensibility that keeps constant watch over consumers' personal information and purchasing habits.

The city known for its introduction of DuPont plastics into our everyday lives supplanted that industry's dominance with corporations trafficking in a different kind

\(^{240}\) Mann, 4.
of plastic: credit cards. Wilmington will continue to change in ways that cannot be predicted. In this sense too it is plastic: capable of taking new shape. Perhaps with increased cognizance of corporate usurpation of financial regulation, consumers can instigate the replacement of such laws with policy that seeks to remedy income inequity and embodies the ideology that "Someone is watching out for you"—but not via surveillance camera.\textsuperscript{241}

\textsuperscript{241} Hacker, x.
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