“Invidious Distinctions: Credit Discrimination Against Women, 1960s-Present”

Dissertation

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Abstract

In the United States during the 20th century, women encountered "invidious distinction," irrational, non-economically based discrimination, when they attempted to secure credit. Creditors forced them to find a male cosigner, discounted their income and made them navigate extra obstacles when they tried to secure a loan. This dissertation investigates the form of that discrimination, and how it was due to the 20th century credit market.

Women's advocates ended credit discrimination because of a three-pronged approach that included organizational measures to advertise their problems, legislative attempts to outlaw that discrimination, and institutional responses to work around their credit problems. They were able to largely beat discrimination by raising consciousness, introducing new regulations, and showing the mainstream credit market that women were fair credit risks. At the same time, changes in the economy and consumer credit made invidious distinctions against women more costly for creditors as they searched to expand their market for consumer credit. This dissertation will bring together this part of the women's movement with the economic and consumer history of the 1970s as a way to enlighten and strengthen both of them.

This dissertation also describes how women responded to that discrimination. A number of women from a variety of political and social backgrounds came together to

fight against this invidious distinction. First, female bank customers who had issues with credit access spoke out about their problems. Next, working women who could not get any credit on their own terms alerted policymakers as well as women's and consumer organizations about their dilemma.

Next, women's groups and credit activists attempted to secure federal legislation to outlaw credit discrimination, which culminated in the passage of the Equal Credit Opportunity Act (ECOA) in 1976. By building on state laws, commission meetings, and testimonies given in legislative committee hearings, legislators in the Senate, namely Bill Brock (R-TN) and the House Committee on Banking and Currency created a bill designed to outlaw credit discrimination and inform potential credit customers of their rights. While everyone on the committee was on board with that task, arguments from the credit industry both in the committee hearings and in the regulatory process at the Federal Reserve weakened the bill substantially. However, the few studies that measured the Act's effectiveness found less evidence for gender-based discrimination after 1977 than before.

Last, female bank leaders opened a number of women's banks, banks owned by and especially marketed towards women, across the country as a way to offer women another route to capital and convince other banks that women were good credit risks. Some of these banks languished because they were never able to balance their goals of helping all women secure capital and behaving like a profit-seeking bank. Others succeeded because they had consistent leadership and found a better place for themselves in the market.

Dedication

To my mother, Joanne Marie (Perry) Bowdish, who endured her own credit discrimination, but did not live to see me write about it.

Acknowledgements

Unlike many of the women in this story, I have had the opportunity to accrue significant debts to lots of people.

Professionally, the list of people who contributed something to my work is egregiously long. First, my advisor Paula Baker has always supported my work, has given invaluable advice and a large share of her time to my development. Steve Conn took an early interest in my work and is a stalwart supporter. Judy Wu has also been involved with my work and has given significantly of her time to help my research grow in ways that would have been impossible without her. Nicholas Breyfogle has been a gracious editor, and his laudations of me border on the embarrassing. I also need to thank Susan Hartmann and members of numerous colloquia, including those who had the (mis)fortune of working with my material closely, including Jessica Pliley, Meredith Clark Wiltz, Gisell Jeter, Mindy Farmer, and Angela Ryan.

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Going yet farther back, a number of childhood friends remain important influences in my life. Allen Walker, Pope Thrower, Finlay Mungall, Chrissy Spence and all the members of the Lakehouse have all helped me develop into the person I have become.

Of course, family remains. My father and brother, Ralph and Christopher Bowdish are the most important guideposts in my life, reminding me where I am from and where I am going. My godmother, Michi Brown, remains one of my staunchest advocates. I dedicate this dissertation to my mother, who died in 2006, just as I began this work.

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Introduction

My mother, Joanne Perry, was born in 1948, and grew up in a duplex home in Marlowe Heights, MD, a suburb of Washington D.C. She was the oldest of four siblings whose father, Gerald, made enough money to keep the family of six in the middle class.

That changed about the time Joanne graduated from La Reine Catholic High School in 1965.[1] Her father died of cancer, and left a young family without a male breadwinner. Following her father's death, Joanne's mother Marie secured a job as a phone operator at the U.S. Treasury. It was impossible to maintain a five-person family on just her pink-collar income, so my mother decided to put off furthering her education at art school and got a job at a bank to help support her mother and three siblings. By 1966, my mother was one of two female breadwinners for her family.

Although she denied herself a college education and took on significant family responsibilities, Joanne in her spare time enjoyed cars, specifically the 1967 Pontiac GTO. After saving some money from her job, she asked the bank that employed her to finance the rest. Her bank turned her down. Without a male cosigner, they were unwilling to lend her the money, even though they knew exactly what her work history and income potential were, and both fell well within reasonable levels to secure the

[1] La Reine High School has since been absorbed by Bishop McNamara High School.

financing. Instead, her brother, who was still in high school working part time, had to sign the loan agreement to help secure the financing.[2]

Instances like this occurred millions of times in the postwar era in the United States. While women entered the workforce in larger numbers and became more visible in the public sphere after World War II, they continued to encounter numerous obstacles when they attempted to secure credit. Creditors rarely considered a woman's income or economic status equal to those of a man. They discounted, both literally and figuratively, a woman's income and her dedication to repaying her debts. They would often require women to find a man to cosign a loan. Most often, this man would be her husband, but in the case of an unmarried woman, it would have to be another male family member, even when such a requirement did not make any sense economically. To avoid all of those complications and considerations, banks would often simply refuse to give women credit in their own names.

Those credit market obstacles kept women from fully entering the consumer economy that arose in the United States after World War II. Without being able to secure credit to use their future income as easily as men could, women suffered a type of economic discrimination that considerably reduced their purchasing power and agency within the new consumer's republic in the United States.[3]

Economic discrimination, especially in the lending market, can come in two different ways. First, a lender can discriminate against a potential borrower if his or her

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[2] My mother must have thought this complete story was uninteresting or unimportant. She had mentioned her brother cosigning on the GTO loan, it was not until I described my research to my uncle at my mother's funeral that he told me the complete story.

[3] Lizabeth Cohen, *A Consumer's Republic: The Politics of Mass Consumption in Postwar America* (New York: Vintage, 2003).

income or other economic characteristics are not sufficient to secure credit; sometimes called "rational discrimination" by economists. For instance, a creditor might view someone who is unemployed, or who has never received a significant loan before, as not creditworthy because his or her ability to repay is suspect. Even with the growing prominence of automated, national credit scoring and increasingly "easy credit" in the 1990s and 2000s, this type of discrimination remained an economic virtue for most respectable lenders.[4]

The second type of credit discrimination includes a number of "invidious distinctions," where a borrower is discriminated against because of reasons that have no direct bearing on his or her ability to repay.[5] Many people are aware of invidious distinctions against African-Americans and other racial minorities through credit problems like redlining, but few realize the invidious distinctions against women during the postwar era. By requiring wives, but not husbands, to cosign on loans, or discounting a woman's income, or by requiring baby letters, an affidavit that a woman would not a child over the course of a loan, many creditors in the United States practiced invidious distinctions against women.

These obstacles prove that women encountered discrimination in the credit market because of their gender and/or marital status. They are manifestations of a system

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[4] For a discussion on the differences between rational and irrational discrimination, see Charles W. Calomiris, Charles M. Kahn, and Stanley D. Longhofer, "Housing-Finance Intervention and Private Incentives: Helping Minorities and the Poor," *Journal of Money, Credit and Banking* 26 3, Part 2: *Federal Credit Allocation: Theory, Evidence, and History* (August 1994), 652-656.

[5] "Invidious Distinction" was terminology developed during the civil rights era to describe the types of discrimination that legislation could prevent. This is not directly related to the "invidious distinction" outlined in Thorstein Veblen's *The Theory of the Leisure Class*, where he uses the term to describe how consumption patterns play a role in distinguishing the working class from the leisure class.

designed to keep women economically subservient to men. To combat this discriminatory system, women's activists—leaders in both established state and national women's groups and people who supported equality—used the momentum of the women's rights, the regulatory, and the market-based political movements in the 1970s. They developed grass roots initiatives, legislation, and a separate banking system to prove that credit discrimination against them was not only socially unacceptable, but also economically infeasible. These efforts had mixed results, but did play a role in ending credit discrimination, along with political actions and long-term structural changes in the credit-based economy that behooved banks and other creditors to grant loans to creditworthy women to secure a larger and more stable lender base.

By systematically discriminating against women, banks and other creditors, such as credit card companies, department stores, gas companies, utility companies and mortgage companies, perpetuated a patriarchal order that attempted to limit the agency of women. For centuries, economic systems limited the agency of women by concentrating on control through the family, requiring some form of coverture when women entered the economic realm. After the turn of the twentieth century, the new credit market perpetuated these economic patriarchal assumptions that women needed male coverage.

There were considerable potential dangers of allowing creditors to treat women applicants unfairly. If bank practices were not changed, women would never be able to secure credit without a husband or father's permission. Their incomes would always be discounted, so they would never be able to secure as much credit as men with similar incomes. While these general economic problems were significant on their own, keeping

women from securing credit would keep women from economic equality in a growing consumer economy, even if issues of equal pay and property rights were solved.

This dissertation will show the historic importance of credit access in an economy based on consumerism. Instead of accomplishing this by using economic analyses and hypotheses of long-term income usage, I will use the social and political consequences of credit discrimination to show why it became so important to women across the social and political spectra in the 1970s. It was a women's rights issue that encouraged a number of reactions and brought together self-identified second wave feminists and women who never considered themselves politically active in that way. Those women showed that they understood the importance of being able to get a credit card in their own name or have their entire income counted on a mortgage application by fighting against it concurrently with other equally crucial economic battles.

First, I will outline appropriate American, women's, and credit historiography and histories that brought American society and economy to the early 1970s and the fight for equal credit access. Then, I tell the story of the struggle against credit discrimination in three distinct parts using different responses to frame the entire struggle.

Chapter 1 will establish the background for efforts against credit discrimination in the 1960s. First, it will offer a brief explanation of the appropriate women's labor history and historiography to show how women entered the American economy in the twentieth century and therefore discovered a growing need and desire for consumer credit. Then, it will incorporate that story into the larger struggle for women's rights that emerged in the twentieth century.

Chapter 2 will describe how the experiences of women who encountered credit discrimination coalesced into a movement, what I call the organizational response. At first, women had to organize their stories of credit victimization and find organizations, both within and outside of government, to support them. By following the stories of women from the late 1960s to the early 1970s, I will show how those women told those stories to allies in women's rights groups, and state and federal legislators. By combining their stories into a formidable collection of qualitative evidence and joining into a single force for combating discrimination, they helped accelerate actions for change, culminating in a number of state laws against credit discrimination.

Chapter 3 will pick up that story as it moves into the realm of federal legislation and policymaking, when the credit activists pursued what I call the "legislative response." In many ways, the federal Equal Credit Opportunity Act (ECOA) in 1974 was the culmination of the efforts described in chapter 2. The move from local efforts to a national effort was not necessarily an easy one, even though all of the votes for the ECOA were overwhelmingly in its favor. Once all of the important actors (women's rights leaders and legislators) were convinced that credit discrimination was a problem, the battle moved from newspapers and other public forums to the interior rooms of the U.S. Congress and the Federal Reserve. It was in those places that the credit industry pushed back against legislation and increased regulation. By the late 1970s/early 1980s, the efficacy and the efficiency of the ECOA came under question. Chapter 3 will close by addressing these concerns, and showing how the ECOA helped in securing better access to credit for women.

Chapter 4 picks up the story of women who did not join their voices to the women in chapters 2 and 3 who pushed for more laws and regulations against creditors. Instead, it follows women who were more politically conservative and trusted the market to show that women were equal to men in the credit market. To encourage that consequence, they opened a number of women's banks in the mid 1970s. These women's banks hoped to prove to mainstream banking that those female customers should not suffer discrimination in the credit market by making an example of successful women borrowers. The experiences of women's banks in the 1970s and 1980s were very mixed, and I will use the successful example of Women's Bank of Denver (WBD) and the unsuccessful example of First Women's Bank of New York (FWB-NY).

The Importance of Consumer Credit

As the women's movement gained prominence in the 1970s, concerns over economic controls prompted efforts to secure equal labor rights and pay equity. Even though credit discrimination did not receive the publicity of other women's rights issues, by the early 1970s, stories like my mother's began to fill state and federal legislative offices, women's organization files, and the pages of the popular press. The increasing number of very similar stories from across the country began to convince women's rights leaders, policy makers, and some banking industry leaders that credit discrimination against women needed to end.

While those women's activists argued that women should not suffer undue discrimination in the credit market, questions remained over the nature of that credit discrimination, whether it was invidious, or in some cases if it existed at all. Most banking leaders balked at being called discriminatory for following tried, true, and

seemingly objective lending strategies. These sentiments were particularly strong in the wake of the 1960s civil rights movement. Creditors argued that when credit discrimination did occur, it was the action of a rogue loan officer, or sometimes blamed state law for requiring male signatories—a false claim based on an incomplete or obsolete understanding of community law. In addition, the banking industry claimed that the efficiency of the credit market would encourage lenders to make good lending decisions irrespective of the borrower's gender, meaning that unfounded discrimination based on sex was *ipso facto* a bad economic decision. Most importantly, they argued, statistically correctly, that a collection of anecdotal evidence was not enough to prove that discrimination against women occurred, or that it was prominent enough to warrant new regulations. The occasional complaint from an aggrieved woman was not sufficient to require a complete rethinking of how the credit industry made consumer loans.

The large number of women who encountered discrimination because creditors forced them to secure male coverage is compelling evidence that the credit market discriminated against women in the postwar era. However, determining whether loan officers systematically discriminated against women in the 1960s and 1970s by comparing loan refusal or default rates is unfortunately outside of the scale or scope of this, or any, academic project. The information required to do a precise analysis of nationwide trends of women who received loans and those who did not is not, and was never, available. Even if some talented and patient researcher collected thousands of surveys from women who succeeded or failed at securing credit during the period, she would not have the information necessary from the banking institutions to know precisely why they granted or denied those women's claims. Banks and other creditors did not

have to divulge that information before the mid 1970s. Even when laws require them to inform a person why they did not receive a loan, those reasons are usually too vague to include in any real statistical survey.[6]

The problems of transforming a collection of individual problems into a cohesive, systematic attack on the credit system are not new. In his 2007 study of the credit industry, *Maxed Out*, documentary filmmaker James Scurlock wrote

> A few weeks later, I received a phone call from a reporter at one of the country's premier financial news organizations. The other credit card companies were not going to fall in line with Citibank and Chase [by investigating some of the credit card problems that Scurlock helped bring to light]. And the industry's official take on *Maxed Out* was that it was just a bunch of anecdotes—i.e., not statistically meaningful—that sure mistakes had been made, [but] there was no systematic screwing of the American people.[7]

Getting any information, besides the anecdotal evidence of the type that Scurlock and I use, is next to impossible because of the structure of the loan and banking markets in the United States. Lending, as an industry, exists in an unusual space between private enterprise and public service. Banking products and services are so important to the American citizenry that the federal government has a long history of stepping in to ensure equality in the market.

However, banks are private enterprises, operated for profit by a board of directors. They have a responsibility to their shareholders to remain profitable—an issue that this

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[6] This issue became even worse when nationwide credit scoring took a large role in determining creditworthiness during the same period. Today, a "bad" credit score is usually a sufficient answer for denying someone credit, but the factors and variables that go into the credit scoring formula are some of the best held secrets in any industry, even if nearly 80% of all credit scores have a mistake in them. See James D. Scurlock, *Maxed Out: Hard Times in the Age of Easy Credit*, (New York: Scribner 2007). In addition, since banks do not explain to successful credit seekers why they received credit, and no one asks, doing a statistical analysis becomes even more difficult.

[7] Scurlock, *Maxed Out: Hard Times in the Age of Easy Credit*.

dissertation will investigate at length with the new women's banks in the 1970s. The only proprietary thing that banks own is information. Their ability to keep that information secret is paramount. Attempts by public regulators to control how banks garner that information or to force them to publicize how they secure it would threaten the bank's profitability. While banks often responded sympathetically in the mid 1970s to the plight of women, they remained adamant that credit discrimination against women was not widespread and did not require more banking regulation.

It was, and is, important to banks to maintain and develop their information assets. Banks operate under the assumption that more information is always better, because they want to know everything about the people to whom they lend money. Women's rights activists in the 1970s who concentrated on credit discrimination generally agreed with this business model. Instead, they argued that knowing such aspects as marital status or gender was not germane to making a loan decision. Further, they argued that non-economically based discrimination could keep women from securing loans that they were qualified for, losing money for everyone involved.

Proponents of equal access understood the importance of equal access to credit in this new economy. If creditors could discriminate against women in that changing 1970s American economy, it would establish a precedent that would be increasingly difficult to break as credit scoring companies, finance companies, credit card companies and banks entrenched their practices.

At the same time, a majority of creditors defended their potentially discriminatory practices by resorting to the argument that access to credit was a "privilege," and not a "right." This debate over privilege and right is at the heart of the public/private

distinction of banks. If banks are public institutions with public missions, then access is certainly a right. However, if banks are private institutions, beholden only to stockholders, then credit access is indeed a privilege. However, the move in the twentieth century to greater regulation, and a greater appreciation for the legal protection of equal economic access, certainly put banks more squarely in that public role. By the mid 1970s, arguments that credit was a privilege would ring hollow.[8]

Therefore, my mother's experience, and the experiences of thousands of American women, shows the importance of studying the practice of credit discrimination, the public perception of it, and the battle women's advocates fought against it. Joanne was a politically uninvolved young woman in the 1960s who found herself at the very heart of a patriarchal system that treated her differently just because she was a woman. While she was able to find a way around the bank's policy, many women were unable, or unwilling, to do so. Credit discrimination turned tens of thousands of women without any other reason to fight against a patriarchal economic order into advocates for economic equality. Any woman regardless of her income, economic status, political leaning, age, martial status, race, religion, or location was subject to a lending system that denied them credit because of an outdated tradition that did not value a woman's work or her economic experiences. At the same time, just because these women might have an issue with credit discrimination, that did not necessarily mean that they would become interested in broader issues of the 1970s women's movement.

[8] I will outline this debate more completely in Chapter 3, where I illustrate how individual credit representatives defended themselves in hearings.

Credit discrimination became more prominent in the late 1960s/early 1970s, just as the women's rights movement reached its apex of power, so the intersection of the two provides a key example of how the mid 20th century women's movement addressed economic issues for women. Unlike some issues in the women's movement, the push for credit discrimination largely attracted women from the middle class who were on the verge of economic independence and who needed greater access to credit, women like my mother. These women may have felt left behind by the broader women's movement, but found a voice through their consumer needs and their economic roles.

Historiographical Context

Historians have not placed credit into the broader history of women in the United States. For a number of reasons, including distaste for numbers and problems securing a standard evidentiary base, historians do not often analyze the basic consequences and mechanics of consumer credit.[9] Perhaps the main reason that historical studies have largely ignored credit discrimination against women is the reaction of women's studies scholars in the mid-1990s against the established second wave women's history narrative. Instead of concentrating on middle-class white women as leaders or victims in the women's movement, these scholars wanted to investigate a broader range of actors in the women's rights struggle and present a story that placed the efforts of women's rights activists reached across the class and racial lines. By the mid 1990s, most historical work about the second wave shifted away from telling the story of middle class white women to telling the story of other groups within the movement and women who operated largely

[9] For instance, two of the more major broad treatments of consumerism, Cohen's *Consumer's Republic* and David Steigerwald, "All Hail the Republic of Choice: Consumer History as Contemporary Thought" *Journal of American History*, 2006.

outside of it. These scholars believed that concentrating on the experiences of middle class women left out issues of personal and economic agency in the lives of working-class, poor, and even upper-class women in different ways.[10]

Coincidentally, in the late 1990s, scholars in the humanities became more interested in the effects of credit. In the post World War II era, credit received some attention in the social sciences, but only occasionally made its way into the work of historians who study civil and economic rights. In the 1960s, redlining and home financing encouraged some social scientists to consider credit, and there was another small flurry around the Equal Credit Opportunity Act in the mid 1970s, but credit otherwise rarely appeared in serious studies. By the late 1990s, historians and other scholars in the humanities began to bring issues of credit to the fore. They asked about the importance of credit access and its effects on citizenship, especially in light of an increasingly consumerist society after 1945.[11]

Almost by design, discriminatory limits to credit access affect the middle class. When creditors make their lending decisions, decisions at the top and bottom are much easier. Banks *usually* do not give expensive loans to poor people with few assets and a bleak future, because the established borrower criteria, such as income, job stability, and collateral are insufficient. On the other end, the upper class can get credit when and if

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[10] A sample of books in the past decade that deal with working women and their economic rights help illustrate this point, Catherine Ceniza Choy, *Empire of Care: Nursing and Migration in Filipino American History* (Durham: Duke University Press, 2003), Jennifer Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004), and Rhacel Salazar Parreñas, *Servants of Globalization: Women, Migration, and Domestic Work* (Stanford, CA: Stanford University Press, 2001).

[11] For a longer look at consumer credit, see Lendol Calder, *Financing the American Dream: A Cultural History of Consumer Credit*, (Princeton: Princeton University, 1999).

they need it, and often have other routes to secure capital than going to a random loan officer at a commercial bank or sending in an unsolicited credit card application.

Just as questions of credit discrimination became more important to academics in the humanities and those studying civil and economic rights, most people studying women's rights paid less attention to the people most affected by credit discrimination, the middle and working classes in the mid to late twentieth century. Although historians have not spent a lot of time dealing with the issues of credit discrimination against women, some newer histories have begun to incorporate a discussion of women's credit access into larger issues of consumerism or the nascent historiography on credit. Lizabeth Cohen spent roughly a page discussing the ECOA and credit discrimination in her *Consumer's Republic*, but newer works by Jan Logemann, Sean O'Connell, and Louis Hyman take longer looks at women's credit discrimination across the western world through women's roles as household managers and as independent workers.[12]

States have dealt with women as economic citizens in different fashions. Laws regarding property rights varied between states. In most states, women enjoyed protection of their personal property, but some southeastern states insured that married women had limited control over their own finances or property. A majority of states by World War I had developed a greater level of legal economic independence for women,

[12] These papers were presented at a conference on consumer lending. Louis Hyman, "Ending Discrimination, Legitimating Debt: The Political Economy of Race, Gender, and Credit Access in the 1960s and 1970s" (Paper presented at Cultures of Credit: Consumer Lending and Borrowing in Modern Economies, German Historical Institute, Washington D.C., February 2010). Sean O'Connell, "Culture and Credit: Sub-Prime Markets in the UK since 1880" *(*Paper presented at Cultures of Credit: Consumer Lending and Borrowing in Modern Economies, German Historical Institute, Washington D.C., February 2010). Jan Logemann, "Save It for a Rainy Day: Credit Access as an American Social Policy?" *(*Paper presented at Cultures of Credit: Consumer Lending and Borrowing in Modern Economies, German Historical Institute, Washington D.C., February 2010).

but that level was generally not equitable to men, and came from efforts generally led by men.[13]

After World War I, the economic struggle for women's rights activists moved from property ownership to income and employment opportunities. The new 1920s economy introduced numerous service type jobs that women were able to secure. These well-documented changes to women's work patterns, both during the World Wars and after introduced a new demand for institutional credit that had not existed before.

In the twentieth century, the idea of women as household spenders strengthened. While American society had long regarded women as the head of household budgeting, the new consumer society of the twentieth century made this role more pronounced as families purchased more household goods. Unfortunately for women, however, their increased role as household purchasers and budgeters did not mean they would enjoy increased access to credit.

Economic and social empowerment of women caused the government to take notice. A number of government bureaucratic women's groups formed between enfranchisement and the 1960s, such as the Women's Bureau, the National Women's Party, the Presidential Committee on the Status of Women, and women's caucuses within party apparatuses. These groups tried to work within administrations and government bureaucracy to make women's needs heard and understood. They met with mixed

[13] Suzanne D. Lebsock, "Radical Reconstruction and the Property Rights of Southern Women," *Journal of Southern History* 43 (May 1977): 197, 199.

success, due to both their inability to create a united front that was not beholden to larger political interests, and profound ideological conflicts within the movement.[14]

It was this partnership, though, that helped foster the growth of liberal feminism. Unlike radical feminists, who were much less likely to join forces with a government they viewed as patriarchal or create national level organizations, liberal feminists, in general, were more amenable to creating organizations and working within the state and federal political systems.[15] Radical feminists almost never appear in the story against credit discrimination, so I will largely leave them out of this story.

Also left out of this dissertation is how the women's fight for equal access related to the path that many racial minorities pursued for credit. It may be insufficient to allow a short conversation that discusses the absence of minority women in Chapter 2, and a brief discussion of minority banking institutions in Chapter 4, to stand for how the threads of minority credit access and women's credit access weave together. I can partially justify this omission by reiterating why these battles were different. For one, African-Americans and other racial minorities of both sexes have different economic problems than women of all races. In the 1960s and 1970s, many racial minorities lived in neighborhoods that were in bad economic shape—partially, at least, because of another credit problem, redlining. Women, as a group, were not any more likely than men to live in bad neighborhoods or poorer zip codes. Most importantly, like radical feminists, African-American women never explicitly appeared at hearings or sent in letters.

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[14] Cynthia Harrison, *On Account of Sex: The Politics of Women's Issues, 1945-1968* (Berkeley, University of California Press, 1988).

[15] For more on this divide, see Stephanie Gilmore, "Rethinking the Liberal/Radical Divide: The National Organization of Women in Memphis, Columbus, and San Francisco" (Ph.D. diss., Ohio State University 2005).

Pay differentials, educational attainment, and economic opportunities for women improved much faster in the postwar era than they did for most racial minorities. Policies that dictated limiting credit access were much stronger against minorities than they were against women. Most notably, Federal Housing Authority (FHA) policies about redlining were much more ominous than FHA policies about baby letters or discounting a woman's income. The real question that remains, then, concerns the attitudes of African-American women. Unfortunately, I cannot with any real certainty answer this question. Out of the hundreds of letters and testimonies I evaluated for this study, none of them ever mentioned a race. At the same time, national women's organizations did not have a large number of African-American members.

A Growing Consumer Economy and Economic Context

During the 1930s, a new type of economic theory was introduced in the 1930s United States, colloquially called "Keynesianism." Developed by John Maynard Keynes, it is a system that generally supports government intervention and spending in the economy to bolster consumption and private investment. Support of Keynesianism usurped classical economics because of Keynesianism's role—no matter how limited—in ending the Great Depression of the 1930s and giving economic justification for the federal social programs of the 1930s-1960s. In Keynesian economics, the control of inflation takes a back seat to controlling demand, by promoting full employment through greater government spending in the economy.

Keynesianism lost its luster in the 1970s. The economic problem of the mid to late 1970s was "stagflation," a situation where unemployment increased and inflation increased. The tools of economic policy, which argued that such an economic reality was

theoretically impossible, were unable to address these inflationary pressures, because of this new, "cost-push" inflation. Instead of the usual situation, where increasing demand drove up prices, increasing production costs, which were largely out of the control of either the firm or the federal government, drove up prices. The firms then passed these increased prices, with no corresponding increase in demand, to the public.[16]

Notoriously, a great part of these increased costs came in the form of more expensive foreign oil following the rate hikes of the OPEC throughout the decade, but increasing costs of labor and paying for expanded government social programming also played a part. Worker productivity waned in the 1970s, partially due to new entrants in the labor market including women.[17] The darker side of decades of labor empowerment became apparent in the 1970s as labor costs, particularly in the heavier industries, took an increasing proportion of each firm's cost. These two major increases in the costs for heavy industries were a nearly fatal blow. Some industries severely limited their production, while others moved where labor costs were cheaper, such as the American South, Latin America, or South and East Asia.

Since available fiscal and monetary tools were limited, presidential administrations of the 1970s had to choose which stagflation problem was more important, inflation or unemployment. The most powerful monetary solution to those problems in the second half of the twentieth century was interest rate control. Lower

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[16] For more on the 1970s American economy, see James T. Patterson, *Restless Giant: The United States from Watergate to* Bush v. Gore (New York: Oxford University Press, 2005); and Robert Collins, *Transforming America: Politics and Culture During the Reagan Years* (New York: Columbia University Press, 2009).

[17] For a more detailed discussion of the problems of the 1970s economy, see Collins, *Transforming America.*

interest rates mean that money flows more easily, investment and employment increases, but inflation may increase because of this increased supply of money. On the other hand, higher interest rates mean that money flows more slowly. Investment and employment decrease, but inflation diminishes because the demand for credit decreases.

At least in part, those increases in the demand for credit helped foster growth for consumer goods and a consumer economy in general. After oscillating around 62% of GDP, American consumption in the late 1970s and early 1980s began to climb relative to other economic factors—such as imports, government spending, and investment—to the nearly 70% level seen today.[18] By concentrating on marketing and consumer goods, the American economy recovered in the late 1980s and 1990s. However, this final shift towards the consumer economy of the first part of the twenty first century was possible only with the economic problems of the 1970s.

Conclusion

Unlike issues of discrimination in society and culture, which attracted women who often considered themselves liberal or radical; economic discrimination—especially credit discrimination—attracted women from across the political spectrum. Liberal feminists could latch onto these problems because the solutions fit into their ideas of securing federal legislation to solve their problems. Credit discrimination also attracted workingwomen who would not necessarily label themselves as liberals or feminists of any type. It is the weight of that large group of the working middle class across the

[18] Data from The Bureau of Economic Analysis, http://www.bea.gov/national/nipaweb/SelectTable.asp, accessed in November 2009.

political spectrum that makes credit discrimination particularly important to women's, consumer, and modern United States histories.

By coming together to fight against invidious distinctions in the credit market, women of all political and economic beliefs were able to end discriminatory practices by supporting new legislation and new banking systems designed to convince the mainstream banking system that women were a good credit risk. By playing to their strengths, using qualitative evidence to convince policymakers to change attitudes towards credit discrimination, advocates for equal credit access enjoyed some success. By evaluating those successes, and seeing where they failed, this dissertation will make an important addition to women's and credit historiography of the 1970s.

Chapter 1:

Women and the Problem of Credit in the Postwar United States

Even though my mother found herself at the heart of the problems of credit and economic discrimination, she was not interested in many aspects of the civil or women's rights movements. Her household was staunchly Irish-Catholic, so they were strong supporters of Kennedy in the early 1960s. However, in light of the particularly intense social upheavals in Washington DC in the early part of that decade, their support for more conservative Republican policies grew in the mid 1960s. For her part, my mother never became a part of the student movement, since she never attended college. Her second job, after the bank, was as a secretary for the U.S. Navy, which would have significantly tempered anti-war sentiment if her increasing grasp of Republicanism had not done so already. Lastly, while she was intimately familiar with the problems created by a society that favored a sole male breadwinner for each family, she did not immerse herself in the women's rights movement of the late 1960s and 1970s.

Therefore, most scholars would not expect to see someone like my mother filling the ranks of an organization like the National Organization of Women, or protesting in front of the Miss America pageant in 1968. Instead, my mother's middle/working class sensibilities put her into a position where creditors could discriminate against her. While my mother begrudgingly accepted this insult, many women both inside and outside of the standard women's movement would not.

Credit discrimination existed at the intersection of three main mid-20th century trends; the women's movement in the context of the civil rights movement, the changes in the post-war economy to an economy that was based on consumerism, and the increasing importance of credit to secure those changes. These trends set the background for how aggrieved women and creditors staged the debate over credit discrimination, or as the victims considered it, invidious distinctions.

This chapter will contextualize credit discrimination by offering a brief history of credit, how women entered the economic realm, and how they demanded equal access through the actions of the women's rights movements in the late 1960s and 1970s. Creditors believed that the economic rights of men would always outweigh women's rights, and that their working patterns were too erratic to repay loans. Before the 1960s, creditors who wished to discriminate against women as a class could have a significant and economically reasonable argument to do so. Often women's work patterns were irregular and they enjoyed less freedom in the public sphere. However, women's growing career and educational opportunities and greater flexibility at home made those arguments more dubious. After explaining the context for women's actions against credit discrimination, the rest of this dissertation will explore the specific issues of credit discrimination against women.

Women Enter the Workforce

Discrimination against women in the economic realm, and in credit particularly, began once women made considerable strides out of home-based work and into the broader industrial-era labor market in the nineteenth century. Women began to enter the paid labor force as the northern United States industrialized and the southern United

States solidified its dependence on a racialized slave labor system. Changes in work and labor patterns in the North were made possible by an influx of mostly male immigrants during the first part of that century. Women found work in light manufacturing, the new industries, and in retail service. Most women looking for wages, however, performed domestic services.[19]

The industrial economy of the first part of the twentieth century remained segregated by sex. In the years before World War I, employers hired younger unmarried women who were trying to save some money and/or exert some financial independence, while other women were career workers trying to keep afloat.[20] Mobilization during World War I stepped up demand for workers, giving more women the opportunity to enter the workforce. However, these women largely remained within the established boundaries of women's work and the burgeoning service industry.[21] Women in the clothing industry shifted production to uniforms and parachutes, while food industries staffed additional women. From time to time, women did enter the heavier industries during World War I, but that was not the general pattern.

An increasing number of women in the workforce meant an increasing number of economically independent women, including those who held jobs before marriage and the

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[19] For the economic impact of these demographic changes on the macro level, see Jeremy Atack and Peter Passell, *A New Economic View of American History* 2nd ed. (New York: Norton, 1994). For the impact on workers, especially women workers, see Susan Porter Benson, *Counter Cultures: Saleswomen, Managers, and Customers in American Department Stores* (Urbana, IL: University of Illinois Press, 1986), Roy Rosenzweig, *Eight Hours for What We Will: Workers and Leisure in an Industrial City* (New York: Cambridge, 1983).

[20] For the former, see Nan Enstad, *Ladies of Labor*, *Girls of Adventure* (New York: Columbia University Press, 1999), and Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia: Temple University Press, 1986). For the latter, see Maurine W. Greenwald, *Women, War, and Work: The Impact of World War I on Women Workers in the United States* (New York: Greenwood Press, 1980).

[21] Greenwald. *Women, War, and Work*.

small number who opted not to get married. These women, like all wage earners, sometimes required credit to cover short-term shortfalls or long-term larger purchases. While the formal credit market had not developed in the United States in the first few decades of the twentieth century, many of these women found other routes to credit, including book credit at stores and professional banks, and pawnbrokers. In any case, working women, even when they earned less than their male counterparts, began establishing their need for equal credit access in the early part of the twentieth century.

World War II changed the opportunities offered for women entering the workforce. First, the military effort required significantly more men and material than it did during World War I, leaving more opportunities for women to take over formerly male labor positions. Second, the earlier wartime experience showed employers that women were good workers. Women continued to be hired into traditionally "women's" jobs, but some forced nontraditional positions in manufacturing plants, airplane factories and shipyards. Lastly, the military itself hired more women, albeit in roles that they already filled in the civilian labor force, such as secretaries and nurses.

When the servicemen returned from World War II, there were concerns about how the labor market would reabsorb them. World War II developments brought labor strife and recession. Meanwhile, the workforce was staffed with non-traditional workers, including women. While many of these women did go back to their prewar lives in the home, others did not want to join them in their return to the home, since they experienced greater independence or their wages were too important to their family's well-being or

upward mobility.[22] Wartime measures had limited consumption for years and patriotic drives took much of people's savings in the 1940s. By the 1950s, however, marketers returned to advocate an economy based on consumption that they helped start near the turn of the century.

Those limitations in advancement and job availability fostered vast differences in the pay rates between men and women. Sometimes, differences in experience, education, or effectiveness on the job "justified" this wage differential. Sometimes, organized labor fought to keep men as the primary wage earners.[23] However, as more women joined the workforce and higher education in the first half of the twentieth century, they quickly eliminated many of those education and experience gaps. These efforts were strengthened in 1963 when the United States passed the Equal Pay Act (EPA), a measure designed to combat wage discrepancies between men and women. According to government groups at the time, the ratio of women's wages in relation to men then ranged from 50% to 65%.[24] Since then, the ratio of women's wages compared to men has generally grown over the following decades.

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[22] Meyerowitz, Joanne. *Not June Cleaver: Women and Gender in Postwar America, 1945-196* (Philadelphia: Temple University Press, 1994).

[23] Some unions based on trade organizations hesitated to accept women because of concerns over depressed wages that an increased labor pool would bring. Other unions extended their "brotherhoods" to bolster their numbers—and dues—but never allowed women any leadership positions. Some women workers, however, created their own (meta)unions, like the Coalition of Labor Union Women or found purchase in preexisting ones like the United Automobile Workers. See Dorothy Cobble, *The Other Women's Movement* (Princeton: Princeton University Press, 2004). For earlier union attempts, see Annelise Orleck, *Common Sense and a Little Fire: Women and Working-Class Politics in the United States, 1900-1965* (Chapel Hill, NC: University of North Carolina Press, 1995). Eventually, once unions got over their trepidations with changing protective labor laws in the late 1960s and early 1970s, most of them generally supported the labor rights of women.

[24] Bureau of Labor Statistics, U.S. Department of Labor, Report 985, Women in the Labor Force: A Databook (Washington, D.C.,: GPO, 2005).

While the struggle for labor rights was one of the earlier impulses of the women's movement, it was clearly not the entirety of it. Labor and economic rights took their place in a broader women's movement that rose to prominence on the heels of the civil rights movement. Some of those economic measures secured more rights for women and were a part of that broader movement.

Women's Rights

It is within these attempts for greater economic rights where a struggle for equal credit access fits into the women's rights movement. While my mother and most of her conservative, working-class peers stayed out of the women's rights movement, credit discrimination like the type my mother experienced in the 1960s required them to consider the role that gender discrimination was playing in limiting their lives. Instead of fighting for massive systematic changes in the role of women in American society, women like my mother were more interested in getting fair compensation for their work and equal access to credit based on their labor experiences.

In the late 1960s and early 1970s, the American feminist movement was engaged in what became known as the "second wave," which argued that most of the problems women encountered with different types of social, political, and economic discrimination were systematic and required regulations and policies to stop. This argument was particularly strong within credit discrimination. When a creditor makes a loan decision, he does so based on a thorough evaluation of one's personal characteristics. However, something lost on many loan officers is that a loan decision based on personal characteristics has immediate and compelling political ramifications. A denial might keep a woman from opening a business, financing her education, or exerting her

independence. This point was obviously not lost on the women who fought against the problems they encountered in the loan office.

Even though credit discrimination seems like a perfect battle for second wave feminists to engage in, credit discrimination never found its way to the top of any major national women's group agenda. The National Organization of Women (NOW), Women's Equity Action League (WEAL), and President's and Governor's Task Forces across the country addressed credit discrimination, but these efforts often took place at side meetings in national conferences.[25] In some ways, this is understandable. For most women's rights groups, the last third of the twentieth century included major concerns over the issues of privacy, the body, and reproductive rights; issues where credit access did not easily fit. Other times, women's economic rights initiatives centered on women in the workplace, where a discussion on equal pay and other workplace rights did not usually lead to a discussion of consumer credit.

Credit History

Credit has been an important part of American society since its inception. Contrary to present-day Pollyanna complaints about credit in the United States, earlier generations of Americans carried proportionally similar burdens of debt as their descendents, but in different forms. Before World War II, most individuals went into debt with their family, friends, and people in their broader social network. In the post-war period, Americans began to remit their debts to distant creditors whom they never met. Gone were the accounts that consumers intimately fostered with their creditors,

[25] NOW still maintains a standing committee on Credit.

such as the neighborhood grocer, the deliveryman, and the itinerate salesperson.[26] Large corporations institutionalized the credit process, while other information bureaus specialized in absorbing the risk associated with payment collection in return for a nominal fee to both the creditor and the debtor.

However, one type of debt in the second half of the twentieth century would have been somewhat familiar to previous generations of Americans—the money owed to banks. While the number of people in debt to established banks skyrocketed in the twentieth century, the banking system has remained the most important vehicle for distributing credit—initially industrial and commercial credit, but increasingly consumer credit—for over two centuries.[27] The general mechanics of bank lending in the United States has not changed either, even considering massive changes in the banking environment including the removal of specie, a wider geographical coverage to include new territories in the West and South, and the establishment of federal insurance and regulation.

Before the Civil War, interest rates were not geographically uniform. Rates were higher in the South and West. At the same time, investors in those frontier areas established banks to serve some particular private interest, usually some group of landowners or ranchers, but the number of banks in the South and West were never sufficient to meet demand.[28] The free market was unable to allocate credit efficiently through demand or interest rates, because there was a low supply of capital in those areas.

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[26] Calder, *Financing the American Dream*.
[27] Robert E. Wright, *The Wealth of Nations Rediscovered: Integration and Expansion in American Financial Markets, 1780-1850* (New York: Cambridge University Press, 2002).
[28] Kenneth A. Snowden, "Mortgage Lending and American Urbanization, 1880-1890." *Journal of Economic History* 48 (June 1988): 275, 276, 285.

Not only were there not enough banks to fund the consumer or business investment in the South and West, the bank's directors usually only granted credit to already established and well-known risks, considerably stunting the economic opportunities of "outsiders" in the frontier. These conditions and lending practices promoted discrimination in the credit market because the cost to secure information on unknown borrowers was prohibitively high. Even after the costs associated with securing that information decreased over the nineteenth and early twentieth centuries, behaviors related to discriminatory and "insider" lending patterns continued to affect ethnic minorities and women negatively a century later.

By the turn of the twentieth century, a number of changes took place that spread the market more efficiently, but not necessarily equitably, across the United States. Financial intermediaries that specialized in mortgage credit began this trend. By the 1910s, they had made considerable strides in improving the efficiency of the mortgage market, which due to its primary involvement in making large loans to homeowners, was a leading cause for the spread of consumer credit.[29] This new and generally successful movement allowed for the initial push and subsequent explosive increase in the level of consumer credit by engaging in economic practices that made lending more profitable.

The rapid increase in consumer credit and mortgages in the post World War I period attracted the attention of state legislatures, primarily due to a variety of usury laws.[30] Loan sharking and other personal types of credit extension remained prominent

[29] Kenneth A. Snowden, "Mortgage Rates and American Capital Market Development in the Late 19th Century," *Journal of Economic History* 47 (Sep 1987): 672, 688.
[30] In 1919, not counting mortgages, there was approximately 1 billion dollars in outstanding consumer credit. By the late 1960s, that number had increased to $100 billion, a yearly growth

until the passage of the Uniform Small Loan Act (USLA) in 1916, just before that post-war increase in consumer credit. This Act was the first federal one of its kind, designed to limit the amount and type of interest that lenders could charge in consumer loans. While versions of the USLA remained in force through the present, it suffered from problems of low adherence and lackluster enforcement. While the USLA's existence proved that federal policymakers had an interest in regulating those types of loans, smaller lenders and credit card companies would find ways around the regulations by charging fees and mandating very short terms.

The commercial banking industry became more interested in consumer lending in the mid to late 1930s, even while it was still suffering from the depths of the Great Depression. The thrifts and other loan granting financial institutions that managed to stay afloat discovered that individuals who were creditworthy enough to receive a loan were usually profitable risks.[31] For the most part, these institutions operated without much federal regulation, since a majority of the laws concerning consumer credit were still state-based, a system that did not change until the late 1960s.

The average maturity on most bank instruments lengthened in the 1960s. While this change allowed for better returns on each account for the bank, it required the bank to shoulder more of the default risk. Therefore, it behooved loan officers to scrutinize prospective borrowers with more care than in the past. Fair Issac Corporation (FICO) and other numeric scores, the prominent credit rating system in place today, began its

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rate of over 9.5% a year, which only slightly backed off in the 1970s. See Noel Capon, "Credit Scoring Systems: A Critical Analysis," *Journal of Marketing* 46 (Spring 1982): 82-83, and Paul R. Moo, "Legislative Control of Consumer Credit Transactions," *Law and Contemporary Problems* 33, No. 4*, Consumer Credit Reform* (August 1968).

[31] Ibid., 658. See also Lendol Calder.

meteoric rise during this time. It simplified the process by quantifying applicant information and placing it into a widely transferable formula that produced a number that served as a proxy for creditworthiness. While the types of information used into determining a FICO score can be—and are—legally limited, such factors as "credit history," which generally accounts for about one third of the score, could serve as proxy variables for individuals that have a hard time getting credit on more subjective bases. This system, for better or worse, benefits people who have never had trouble securing credit in the past, and hurts people who have had trouble. Numeric systems had been in place since the 1930s, but it was not until the technological advances of the 1960s that they were truly efficient and useful, and the number of credit bureaus on the local and state level substantially increased.[32] By the late 1970s and early 1980s, there was significant combining of credit bureaus, leaving a handful of national credit scoring companies who were better able to impress upon creditors and debtors alike the importance of numeric credit scoring.

Credit scoring systems made the public and private natures of creditors more conflated and confused. Creditors continued to defend and protect their loan decision-making apparatuses just as the quantifiable nationwide credit score became more prominent. Potential borrowers could figure out their precise creditworthiness based on that one measure, but the criteria—how promptly bills were repaid, how much credit one held at any given time—that went into that number and how those criteria were weighted remained an industry secret.

[32] Capon, 82-83.

Keeping a Secret

The history of the credit market, and how discrimination happened within it, frames one of this work's major points. Banks in the United States are simultaneously public and private entities. The private nature of banks is obvious—shareholders own them and set policies. The public aspect of banks is also evident. There is a central banking association in the United States, the Federal Reserve, that is public and any serious bank must join, pay dues to, and buy depositor insurance through that public system, while ensuring their policies comply with Federal Reserve regulations. While they grant credit to the public, the decision making process that goes into who gets that credit is an intensely private process.

This reality, that the private mission of banks is to secure profit for their shareholders while their public mission is to serve their communities, weighs heavily on issues of credit discrimination. Generally, with the exception of the short lived Bank of the United States in the early nineteenth century, federal and state governments have taken a more active role in ensuring that public mission is met in the second half of the twentieth century. By the 1970s, that government impulse to ensure a bank's public mission had grown substantially through civil rights measures designed to keep banks from withholding their services to protected demographic groups.

When banks argued against more regulation of their credit making process in response to the calls of women's activists in the 1970s, part of their argument was that their private enterprises had a better ability to determine creditworthiness than the government. However, exactly what those abilities were and how they manifested remained one of the most well guarded industry secrets in American history.

Creditors understood the importance of keeping their practices secure. The only thing that banks actually produce is information on depositors and debtors. If that information, or even more important, the tools they used to secure that information became public, that bank would lose any competitive edge and allow creditors and debtors to determine their own risk potential. Unfortunately, for women trying to secure greater credit access, it was this private information that credit advocates failed to make public.

This was one of the failures of the women's movement to end credit discrimination. Even though they established working groups, roundtables, and "committees on credit," credit discrimination never gained the prominence in women's rights groups of other causes like abortion rights, labor rights, or the passage of the Equal Rights Amendment. Credit discrimination had a difficult time finding the traction of these topics among women's activists. Not only did the topic of credit discrimination have the potential to alienate candidates more concerned with social issues; some proponents were concerned about challenging the credit industry, especially if creditors could produce data that would prove that women were indeed bad credit risks and so discrimination against them would not be considered "invidious distinction."[33]

While the activists for equal credit did help in securing legislation to force equal access to credit, there was no way of really knowing if the lending behaviors of banks changed to consider women equal with men.[34] Without forcing banks to give regulators

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[33] *Hearings before the Subcommittee on Consumer Affairs of the Committee on Banking and Currency on H.R. 14856 and H.R. 14908*, by Leonor Sullivan, chairwoman. Washington, D.C.: Government Printing Office, 1974.

[34] More on equal credit legislation in the state and federal legislatures in Chapters 2 and 3.

data on their lending practices, activists could never prove discrimination in the lending office. Not only did the lending process remain clouded in mystery, data that would exonerate or implicate the banks with discrimination or invidious distinctions remained unavailable. Even more difficult to secure than lending policies were a sample of loans that banks turned down, or altered, compared to those they accepted. A few studies used very limited information, or asked women who applied for loans to submit their information, instead of using a systematic process to secure loan information from the banks themselves.[35]

Even though they could not secure the necessary information to prove discrimination, women's activists and sympathetic policymakers used qualitative evidence to begin the major battle over credit discrimination. During a time when lenders were attempting to standardize the subjective nature of credit lending on a grander scale—by the early 1980s, twenty to thirty percent of all lending decisions were made nearly entirely by a numeric score, a proportion that has exploded since then—there were enough grievances to begin legislative procedures to attack the process.[36] While civil rights groups took up some of those issues in the 1960s, it took broader based consumer protection movements and their appeals to Congress to find some relief.

Credit discrimination raised an alarm because of its potential to economically oppress a large segment of the population based solely on the whims of credit officers. By withholding their services, regardless of reason, creditors could make any

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[35] *Report of the National Commission on Consumer Finance: Consumer Credit in the United States*, by Ira M. Millstein, chairman (Washington, D.C.: Government Printing Office, 1972).
[36] Ibid.

demographic group relatively poorer by limiting the use of their income. Again, many creditors and bankers argued that discrimination did not exist, but even if it did, they were in the business of being discriminatory. Consumers and the federal government could not expect them to make bad loans in the name of equality.

The credit industry had a social responsibility not only to remain efficient and profitable, but also to maintain a level of equity.[37] Throughout American history, federal and state regulators had placed limits on the credit industry's profitability and efficiency. Not solely because of a desire to increase consumption, but instead due to a public mistrust of banks and a religious impulse against high interest rates, most states passed usury laws in the eighteenth and nineteenth centuries in an attempt to curb interest rates and make credit affordable. In the early twentieth century, the federal government established the Federal Reserve, which requires banks to keep a certain amount of money in reserve and helps set interest rates across the country. During the New Deal, the federal government passed more bank regulations, some of which determined the types of loans banks could make.

The first federal movement and legislation that started the battle against unclear credit lending was the Consumer Credit Protection Act (CCPA) in 1968. That Act's main thrust was to force the financial industry to be clearer about the terms of the credit

[37] Being efficient with capital is not necessarily the same as the massive economies of scale that large banks pursued in the latter part of the twentieth century, though they are related. A profitable and efficient credit market is only possible if lenders make intelligent decisions and avoid poor credit risks whenever possible. The larger banks in the latter part of the twentieth century generally believed that their economies of scale—combined credit files, vast computerization of risk determination, and the ability to absorb more defaults with more good loans—helped them create a better credit market. However, the pursuit for more business, regardless of the quality of or return on the investment, severely weakened the benefits gained from these economies of scale.

agreement, especially in regards to Annual Percentage Rates (APRs) and finance charges.[38] This mandate for more openness in the credit market would reverberate throughout the industry, and stoke consumer demands for more regulation. To that end, the CCPA called for the creation of the National Commission on Consumer Finance (NCCF). This group had the power to collect data and subpoena witnesses to investigate disparities or other issues concerning the facilitation of consumerism. The NCCF would raise the alarm in the federal government over credit discrimination and illustrate the need for regulations against that practice.

In that long history, however, none of the regulations made a significant effort to regulate the industry's responsibility to maintain their public mission. There was no real precedent to accomplish what the supporters of the federal legislation against credit discrimination, a bill that would become the Equal Credit Opportunity Act (ECOA), wanted to gain. Some powerful group, either inside or outside government, would have to take an interest in that responsibility to create a new precedent and incite change. That group was a coalition of consumer and women's rights activists.

Although credit discrimination was not a top priority amongst the national women's groups, NOW and others offered some support to ending the practice. This new strength, along with the investigations by the NCCF, was sufficient to press the women's movement into action in a new way. Not surprisingly, in the early 1970s, the United States Congress, with pressure from the NCCF, the national women's movement and a

[38] For an exhaustive look at the CCPA, the related Uniform Consumer Credit Code, and how firms were expected to follow them, see William F. Willer and Frederick M. Hart, *Consumer Credit Handbook: Statute, Regulations, Forms* (New York: Bender, 1969).

broader grass roots appeal, began to seriously deal with the problem of credit discrimination.

Postwar Consumerism and the Growing Need for Credit

One of the main ways that consumption quickly grew through most of the mid 20th century was the increasingly easy way credit became available to consumers. For most of the 1950s and 1960s, prime interest rates remained at or below 6%. At that time, rates like these were not a considerable disincentive to consumers to take out long loans. The only problem was that there was not much of an infrastructure to offer it to them. However, the rise of credit cards as a national, organized industry in the 1960s and early 1970s meant that the amount of consumer credit available to individuals increased substantially.

While credit cards dated from the early postwar period, not until the 1970s did the industry to explode and become immensely profitable. At first, technological strictures kept credit card issuers, especially individual banks, from really developing into a major market force, since electronic transfers were not always easy to develop. Credit card issuers also faced difficulties with their customer base. In the 1960s and early 1970s, only half of all cardholders carried a balance from month to month, and since federal and since state laws limited credit card companies, they could not charge high interest on the balance because of usury laws nor could they charge an annual fee. This inability to charge high rates on those who did carry a balance or charge them extra fees made the profit margin on early credit cards slim.[39]

[39] Lewis Mandell, Credit Card Use in the United States (Ann Arbor, Braun and Brumfield: 1972).

Two main credit card companies emerged because the economies of scale required to remain profitable—massive customer bases were required to ensure a high enough number of customers that carried a balance from month to month. In the 1970s, most retailer cards ceased to exist as independent entities after years of fighting against the monopolization of the industry. In the end, a few shut down their operations, but many sold their operations to either BankAmericard or Mastercharge. Once these two large companies established a national monopoly and avoided the issues of strict interest rate laws, they expanded their customer base and established perhaps the most efficient consumer credit mechanism in American history.

Therefore, because of consumer needs and rising prices, the demand for consumer credit continued to rise in the 1970s, even as interest rates soared. The greater dependence on a consumer economy, the growing need for consumer credit to enter that market, and the continued push by the American government to foster homeownership all brought more Americans, particularly women, into the credit market.

Conclusion

By investigating at the historical context of the 1970s economy and the women's movement, this chapter has established a foundation for studying credit discrimination against women. It has combined a discussion of women's rights, changes in credit in the post-war period, and the 1970s economy to offer a for the investigation into how credit discrimination against women is based on all three of these topics, and how it manifests through grass-roots appeals, legislative efforts, and market-based initiatives.

By any possible measure, consumer credit became more important to Americans after World War II, and accelerated in the 1960s and 1970s. There was more credit

available, and more people used more of it. The economic situation of the 1970s made issues of consumer credit starker as interest rates rose and people required more credit to maintain their lifestyles and pay their bills. Therefore, even as consumer credit became costlier, the demand for it increased among women who were suffering discrimination in that market.

At the same time, the second wave of women's movement reached its pinnacle of prominence, a few years after the quick rise of the late 1960s, but before the stagnation of that movement in the late 1970s/early 1980s. Not only did members of that movement, as represented in national and state organizations, see the importance of credit discrimination in achieving equality, women who were not involved in the women's movement also joined in fighting against credit discrimination. As women became more prominent in wage labor and gained more economic independence, their equality in the credit market became more important, and they worked to secure greater legislative protection for credit access.

Chapter 2:

Recognizing Credit Discrimination against Women:

From Realization to Rights Groups and Early Legislative Efforts.

I have been employed as a teacher and guidance counselor for 8 years in Philadelphia. My salary is near $14,000 [roughly $60,000 in 2009 dollars, adjusted for purchasing parity]. I have no children. I had been a depositor in checking and savings accounts since 1965. They would not give me a $2,000 loan so I could get a car. Consequently, I took the bus to work and to and from the university for a year when I had to drop my classes. 4 hours of public transportation daily is ridiculous.[40] *Ms. Deal, to NOW. 2/20/73, from Pennsylvania*

Upon [my] husband's notice to cancel my credit cards, I was told I was responsible for his debts and if didn't pay for them, they would take away the house deeded to me in the divorce decree. I could not, however, keep my husband from using the cards…It went on for 2 years after mine [her credit cards on their joint account] was cancelled while we were separated but not divorced. In which time my husband ran up $15,000 in debts [her monthly income was $200-$400 a month].[41] *Returned questionnaire (name removed from the government agent, referred to here as "Ms. Corgan") responding to a request from the Governor's Task Force on Women and Credit of Ohio women to share their stories about credit discrimination.*

When I was single I had no problem getting credit. When I married, it continued to be that way…But when we divorced, everything changed. I had no trouble getting credit while single again as I was working and receiving substantial child support—but when I remarried that is when everything reversed. It seems my present husband did not have good credit. While going through his divorce, bills were left unpaid…To make a long story short, when my name changed so did my credit.[42] *From Mrs. Vedder, responding to an article in Glamour magazine in*

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[40] Emily Card Papers [hereafter referred to as EC Papers], "Letter 18" in author's records, Newcomb College Archives, New Orleans, LA. The names of women who participated in hearings or wrote letters in a non-professional capacity have been changed.
[41] Ohio, *Governor's Task Force on Women and Credit* (1972). SA 312 Box 2, Ohio Historical Society [hereafter referred to as OHS], Columbus, OH.
[42] EC Papers. "Letter 33" in author's records.

November 1972, requesting women send letters to NOW explaining their experiences with credit discrimination.

> Some people needed a lawyer, or a realtor to get a house…I needed a gynecologist.[43] *Statement from Nancy Pierce Leeth, the Regional Representative (Ohio) of the National Women Political Caucus, at the Ohio Task Force on Women and Credit Hearings, Columbus OH, July 29, 1974.*

These women's stories may seem out of place today, but they were usual complaints from women who tried to secure credit in the late 1960s and early 1970s. Divorced, married, or single, women encountered a considerable number of problems when they tried to use their future income by securing a line of credit through mortgages, credit cards or other types of bank loans. These four women, a small representative sample out of a movement of thousands, took their problems public in the early 1970s, looking to end credit discrimination against them by convincing the American public and its policymakers that credit discrimination was a serious problem.

Ms. Deal made a decent wage in early 1970s Philadelphia, yet she, like my mother in the mid 1960s, could not get a loan from her own bank to purchase a new car. She had these problems even though car loans are some of the easiest loans for banks to make because of the security of the car as collateral and every state government's requirement to hold automobile insurance. Clearly, Ms. Deal had sufficient income to purchase a car worth only two months of her salary, but was still in an economic position that left her vulnerable to patriarchal lending decisions that kept women from exercising their credit rights. Especially in terms of credit, single women occupied a liminal space where they may have been unable to secure needed financing because they could not, or would not, solicit a man's support, usually a father or husband, on a credit application.

[43] Governor's Task Force on Women and Credit SA 312 Box 1, OHS.

Ms. Corgan's story is one of the most heart-wrenching stories in the archives on credit discrimination, and it demonstrates the usually devastating impact of divorce on a woman's economic well being during this era.[44] During their separation, but before their divorce, Corgan's ex-husband maliciously ran up credit-card bills on their jointly held credit card. Unfortunately for her, their divorce decree gave her both the deed to the house, which represented a majority of the couple's assets, *and* responsibility for the jointly held debt, primarily the mortgage and installment debt on their joint credit cards. She was unable to take out a second mortgage on the home—the first mortgage was about half paid-off—because no bank would give her a loan due to the troubles in her marriage. As an added complication, if Ms. Corgan decided to sell the house, she would have had to split its sale price with her ex-husband as per the divorce agreement. Insofar as other types of credit were concerned, banks ignored court-ordered alimony as part of her income, partially because she admitted to having some problems securing that payment. To make matters even worse, she left a well-paying clerical position because of continual sexual harassment from her boss.

While Corgan encountered more severe credit access problems than most other women, her divorce significantly hurt her ability to secure credit. Not only did she suffer because of the particular issues of her marriage, she also suffered from the general

[44] In the 1970s, sociologists became interested in the study of the "feminization of poverty." This study incorporated issues of unequal pay, welfare policies, and patriarchal systems to describe the process that makes women more prone to poverty in the United States, and the global west. Obviously, while credit discrimination is an important aspect of this process, it is left out of many of the discussions. Diane Pearce. "The Feminization of Poverty: Women, Work, and Welfare," *Urban and Social Change Review* 11 (1978). Sakiko Fukuda-Parr. "What Does Feminisation of Poverty Mean? It Isn't Just Lack of Income," *Feminist Economics* 5, No 2 (1999). S. Razavi, "Gendered Poverty and Well-Being: Introduction," *Development and Change* 30, No 3 (1999). David Brady and Denise Kall. "Nearly Universal, but Somewhat Distinct: The Feminization of Poverty in Affluent Western Democracies, 1968-2008," *Social Science Research* 37 (2008).

problems that many divorced women faced. Creditors often did not count alimony as dependable income, and credit bureaus either did not keep any credit information on married women or just gave them their ex-husband's credit rating, making them nonentities in an economy that was becoming increasingly dependent on credit histories and quantifiable scores.

Mrs. Vedder's story is a little more typical of the challenges divorced women faced. While she did not have a malicious ex-spouse or a pathologically irresponsible husband, the situation that she entered with her second husband hurt her ability to get credit. For many women, changes in their marital status also changed their ability to secure credit, generally for the better when they married and for the worse when they divorced. In her case, Mrs. Vedder was able to avoid common credit problems and pitfalls when she divorced by keeping some of the joint credit accounts in her maiden name.

Most of the time, a divorced woman had no credit history or shared her ex-husband's, which could be quite poor leading up to a divorce since divorcing couples are likely to have money problems. Many credit bureaus before the mid 1970s kept a single file on married couples. If a single woman had not already established credit before her marriage, or if she was married for more than 7 years, how long a financial transaction remains on one's credit file, the jointly held file was her only credit history at the credit bureau. Instead, Mrs. Vedder encountered problems when she remarried. While she avoided being lumped in with her ex-husband, her current husband's credit and financial history threatened to harm her own credit rating when credit reporters and bureaus combined his and her credit files.

The last statement came from a feminist activist, Nancy Pierce Leeth, who tried to find a mortgage to purchase a home she could easily afford on her salary. The banker admitted this much, but still required that Leeth submit a document commonly referred to as a "baby letter." Female borrowers often had to find a doctor to write a note saying that she took birth control—or, that through some other means, would not have children during the term of the loan. These letters were a common practice across the country, and were a requirement for many Federal Housing Authority (FHA) and Veteran's Authority (VA) loans in the post-war period.[45]

With the exception of Nancy Pierce Leeth, there is no reason to assume that any of these women defined themselves as feminists before these instances of credit discrimination made them activists. Unlike issues of discrimination in society and culture, which attracted women who often considered themselves liberal or radical; economic discrimination—especially credit discrimination—attracted women from across the political spectrum. The inclusion of working class and conservative women, along with women more comfortable in the standard women's rights movement, broadened the attack against credit discrimination past most other feminist issues of the 1960s and 1970s.

While these four stories illustrate some of the types of credit discrimination against women, it is important to remember that discriminatory credit practices kept millions of women in the postwar era away from credit access. In mid-20th century

[45] *Report of the National Commission on Consumer Finance.* Credit legislation in the 1960s did not explicitly outlaw these letters, but the main government lenders, the FHA and the VA removed them from practice on their own in the late 60s/early 70s. Independent banks, though, continued to use these until the mid 1970s

American society, where consumerism and economic well being became more connected to an individual's ability to procure credit, every un-married woman who wished to leverage her future income would be harmed by a credit market that discriminated against her. For any woman, student loans, credit cards, mortgages, car loans, department store cards, insurance policies, and even utility hook-ups could be limited just because of her gender and marital status. For women, attempts to secure these types of credit often came into conflict with the increasingly embattled social ideal that they should remain covered by a male relative in the economic realm.

A limited collection of personal stories and individual experiences cannot statistically prove that class-based discrimination against women existed in the credit market, since statistical significance cannot be determined without a more sizeable collection of both accepted and denied applications across geographic regions. The intent of this chapter is not to attempt to prove the existence of discrimination, because that information is not any more available now than it was 35 years ago when the analysis of gender based credit discrimination began. Instead, this chapter will develop a broader argument about how creditors treated women and investigate the rationale behind that treatment. By developing that argument and showing how creditors treated women, this chapter will show why many women in the early 1970s saw the treatment they received from creditors as discriminatory. In conclusion, this chapter will show how women mobilized to fight this discriminatory treatment by alerting receptive women's groups and policymakers to their plight.[46]

[46] There is some disagreement on this. Some claim that discrimination did exist and a few claim it did not. A few more suggested that discrimination did exist, but was justifiable based on

Stories about this discriminatory treatment created a qualitative evidence base for rights advocates to argue for legislation.[47] In the 1970s, credit access legislation on both the state and federal levels depended on the compelling nature of this anecdotal evidence. There are very few statistics available to evaluate lending practices, and the few germane analyses do not agree on the level of credit discrimination that may have existed, nor are those analyses complete enough to make any broad conclusions. Banks were (and are) unwilling to put forward the required information to construct an evidentiary base of data, even if those numbers could exonerate them from charges of discrimination. Banks, especially in the wake of the 1960s civil rights legislations and increased banking regulation, hesitated to open themselves up to even more regulation and forced divulgence of their lending processes.

However, women's groups were also hesitant to use bank-lending data because they were worried that they might inadvertently support discrimination against women if the statistics showed that women had higher default rates. Women's advocates always had to be mindful of the possibility that women might actually be worse credit risks, particularly women who were married or divorced. If they produced statistics that proved women were worse credit risks, they would hand creditors a powerful weapon—

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women being a higher risk in certain loan types. Michael Ferguson and Stephen Peters, "What Constitutes Evidence of Discrimination in Lending," *Journal of Finance,* 3 (1996). U.S Commission on Civil Rights, *Mortgage Money: Who Gets It? A Case Study in Mortgage Lending Discrimination in Hartford, Connecticut*, Arthur S. Flemming, chairman, (Washington, D.C.: Government Printing Office, 1974). *Report of the National Commission on Consumer Finance.* Capon, Noel. "Credit Scoring Systems: A Critical Analysis." Nevin, John R. and Gilbert A. Churchill, Jr. "The ECOA: An Evaluation." *Journal of Marketing* 43 (Spring 1979): 95-104. Rachlis, Mitchell B., and Anthony M.J. Yezer, "Serious Flaws in Statistical Tests for Discrimination in Mortgage Markets" *Journal of Housing Research* 4, (1993): 315-336.

[47] This conflict between qualitative evidence and quantitative evidence underpins part of the following chapter on federal legislation.

economic rationale for discrimination. Either way, without a much larger set of data to evaluate, proponents of increasing credit access would have to establish any arguments about credit discrimination through strong qualitative evidence and convince policy makers that instances of discrimination, not only systematic discrimination, was worthy of their attention.

The lack of credit statistics on specific individuals or demographic groups does not necessarily have to obfuscate the analysis of credit discrimination against women. One can still use available qualitative information to clearly describe how women's activists fought for credit access equality. Instead of using statistics to tell their story and prove their point, they relied on personal experience, an increasingly important tool in the fight for women's liberation in the 1970s.[48]

Therefore, instead of getting mired down in a discussion of statistics, this chapter will instead show how proponents of equal credit access, be they private, state, or federal groups, used anecdotal evidence to put names, faces, and personal experiences onto the general problem of credit discrimination. The stories that they collected illustrate that a large number of women felt strongly enough to go find someone to hear their complaints. These letters, stories, and testimonies prove that women who experienced discrimination in the credit market had certain commonalities in their experiences—their martial status, their gender, and their work experience. The presentation of that evidence by women's supporters created a powerful force that convinced policymakers that the experiences of

[48] Sara Evans, *Tidal Wave: How Women Changed America at Century's End* (New York: Free Press, 2003).

these individual women were, in fact, representative of the experiences of all women who attempted to secure credit.

Most women who suffered discrimination did so because of men—either due to problems associated with their former or current husbands, or because of most male creditors' discriminatory views about women's earning potential and economic management. Sometimes these creditors' attitudes reflected outdated beliefs about women's labor participation. They also grew out of a patriarchal system whose adherents believed women were unable to fully appreciate the importance and uses of credit. Thousands of women believed that creditors and credit agencies discriminated against them. These women, regardless of their marital status, argued that they were as serious about repayment of loans as men were. Often, they cited sufficient income and economic equality as ways to explain why they deserved credit. Occasionally, these women would pull from the rhetoric of the Women's Liberation Movement and claim that their rights as women, particularly in the economic and consumer aspects, should be equal to the rights of men.

These sentiments are important to remember because they speak directly to the idea that affected women did not base the problem of credit discrimination on economic hardship or need. While the use of credit may not have always been a dire necessity, it always served as a way for women to gain full participation in the consumer's republic. Most of these letter writers operated under the assumption that credit discrimination was a civil rights issue. These women realized that American society was changing into one

where consumption was important to one's identity as a full American citizen.[49] This chapter will show that instead of relying solely on economic arguments, women who responded to the call of rights organizations supporting credit access equality, claimed that it was a right for all women.

Collecting Evidence

To make their voices heard, aggrieved women prepared hundreds of statements at hearings and wrote thousands of letters to women's groups, legislators, and policy makers. A vast majority of the women was middle-class, but some were welfare recipients who could not find creditors who would accept welfare or aid payments as income for any type of credit. Other women were divorcees who did not understand that in the eyes of the credit bureau, they did not exist as an entity separate from their now ex-husbands. Still others wrote pleas as professional single women who found that no bank would take a risk on them without a man to cover the debt.

These arguments and complaints found a home in the early 1970s in two places. The first was in the number of women's and other rights groups that worked against credit discrimination. These groups covered the spectrum of rights organizations, including groups known for supporting women's rights—National Organization for Women (NOW), Women's Equity Action League (WEAL), Commission on the Status of Women (CSW)—and groups more known for championing consumer's rights—the Institute for Public Interest Representation, Consumer Action Leagues, and the Young

[49] Lizabeth Cohen, *A Consumer's Republic: The Politics of Mass Consumption in Postwar America* (New York: Vintage Press, 2003).

Women's Christian Association (YWCA). These groups organized the letters into a considerable base from which to build a case against credit discrimination.

The other destination for these letters were the state and federal level commissions that wrote a number of state, and later federal, laws to outlaw discrimination against women. Women presented statements in public hearings held by both the National Commission on Consumer Finance and state level commissions. The goal of these women's groups, the NCCF and the state level commissions was to raise awareness of the growing problem of credit discrimination in a world where credit was becoming increasingly important.

The rights groups, and to a lesser extent the state commissions, initially collected unsolicited letters in the early 1970s. Later, they asked more women to share their stories of discrimination in efforts to bolster their arguments with greater numbers and more evidence. Local and national women's groups spread the word through articles in women's magazines like *Glamour*, advertisements in newspapers, or requesting local chapters to send complaints from their members.[50] The sentiments that encouraged women to write, and for state and women's groups to collect, those letters did not emerge out of the ether. Instead, the re-emergence of the women's movement along with long-term structural changes in the labor market and the role women played in it, placed women more squarely in the credit market.[51] Only through fair treatment in the credit market could women continue a movement based on increasing their rights.

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[50] *Glamour Magazine*, November 1972.

[51] For On women in the labor market, see Cynthia Harrison, *On Account of Sex*, Cobble, *The Other Women's Movemen*t, Alice Kessler-Harris, *In Pursuit of Equity*; and Susan Hartmann's

Almost all of the respondents who sent in their stories had incomes squarely in the working/middle class for a single individual in the early 1970s, and only a few of the letter writers admitted to being on welfare or encountering issues of abject poverty. Credit discrimination, therefore, was not an issue that poor women addressed as strongly, or nearly as often, as middle class women, although their voices do occasionally arise in these debates. In addition, the evidence does not suggest that these problems attracted much significant attention from non-white women. At no time did any of the women who spoke out against credit discrimination, in either legislative hearings or letters, mention her race. In addition, if one generalizes from the addresses of those who sent letters or attended hearings in the Columbus example, poorer women had little representation among the activists.

It is likely that African-American women who experienced discrimination followed the responses of African-American men as opposed to white women.[52] It was more common for African-Americans to concentrate on credit discrimination in housing, particularly on such issues as redlining, credit availability in poor urban neighborhoods, and the cost of credit in community stores.[53] This reality offers a rationale to consider the issues of credit discrimination as an issue of a broad middle class, leaving out issues of race, although the topic of race will occasionally arise in the legislative debates described

chapter on the IUE in *The Other Feminists: Activists in the Liberal Establishment* (New Haven: Yale University Press, 1998).

[52] Robert Weems, *Desegregating the Dollar* (New York: New York University Press, 1998).

[53] For a description of these issues in the 1960s, see David Caplovitz, *The Poor Pay More: Consumer Practices of Low-Income Families* (New York: Free Press, 1967).

in the next chapter. Most likely, the issues of credit availability were not the most pressing issue for the poorest groups of women, regardless of their race.[54]

Discovering a Problem

The American credit market made it difficult for women to secure credit. In most cases, banks still operated under the assumption that women did not have complete agency over their own incomes, so creditors required a male to cover them. This requirement was particularly strong when lenders denied married women credit cards in their own names, or when women who applied for loans had to procure a male cosigner. Often, this situation meant that women did not exist as separate credit entities, and did not build their own credit histories. Women also experienced discrimination because of childbearing decisions and other life choices, including remaining single, which placed them outside of societal norms. Patriarchal tradition in the capital markets and long standing stereotypes about the participation of women in the economy worked to put capital out of reach of many women.

The growing number of women in the workforce along with the growing prominence and success of the women's movement in the late twentieth century United States prompted a stronger call to secure economic equality in the labor market through attempts to secure equal pay. In the 1960s, when the debate over equal pay intensified, feminists from a wide variety of women's groups charged that the work of women was as valuable as that of men. However, attempts to correct labor and wage equality were not the only efforts in the 1960s to correct the economic disparities between men and women.

[54] Race played a factor in the types of legislation that women's groups and other proponents for regulation supported. In some cases, race, ethnicity, etc., will find protection in the same laws that protect women. Other laws kept them out of that protection.

Given the growing importance of the consumer economy in the 1960s, there was a greater need to address gender inequalities in the consumer market. In 1968, Congress passed the Consumer Credit Protection Act. That Act is summarized in its Section 102(a)

> The Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit…It is the purpose of this title to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices.[55]

By supporting the "informed use of credit" and making it easier for consumers, only defined as men in this legislation by using the third person male pronoun, to find "meaningful disclosure of credit terms," the 1968 Congress established precedence for federal regulations on how creditors managed their business. Aside from its provisions to require credit card companies and other creditors to be more forthright with their policies, the Consumer Credit Protection Act also established the National Commission on Consumer Finance (NCCF). The NCCF was to investigate current credit conditions, determine when discrimination occurred, and find how credit practices (either open or secretive) may hurt consumers, or any group thereof.

In December 1972, the NCCF released its report, *Consumer Credit in the United States*. It supported the argument of the CCPA and claimed that credit discrimination was harmful to the economy at large. If a creditor denied a loan to a consumer because of a non-economic reason, essentially anything other than income or wealth, then the competitiveness of the market should produce another lending agent that would be

[55] *Consumer Credit Protection Act*, United States Code, 15. § 1601-1613.

willing to make that loan.[56] The report, however, did not deal with the question how competitive the market actually was and the actual likelihood that another creditor would always be available to grant credit; a serious consideration when one considers the state of the economy in the early 1970s. Interest rates had been on the rise since 1970, limiting the demand for credit. While the NCCF report recognized that women might occasionally experience obstacles to securing credit, it did *not* recommend new policies or legislation to correct the problem. Although women had come forward with examples of discrimination, the NCCF did not find any systematic discrimination in the limited data they had acquired. The notoriety and findings of the NCCF report in 1972 encouraged many lending institutions, primarily FHA and VA lenders, to phase out some of its discriminatory behaviors, such as baby letters. While the NCCF reports stated that discrimination did not occur consistently, it did show that some women had trouble getting credit.

Even after the NCCF report, questions remained about how and why discrimination, even if it was not systematic, manifested itself. In 1974, legal scholar Margaret J. Gates suggested that credit discrimination brought five "areas of concern." First, single women had more trouble obtaining credit than single men did. Next, creditors often required a woman to reapply for credit in her husband's name after marriage and they also would not extend her credit in her own name. Fourth, creditors discounted a wife's income when considering married couple credit. Last, Gates found

[56] *Report of the National Commission on Consumer Finance*.

that separated women had a difficult time reestablishing their own credit when their marriage situations changed.[57]

Gates supported these findings with two examples drawn from micro-level studies that showed women were creditworthy. These two studies, one on consumer installment credit from 1941 and another on home improvement loans to low-income families in the 1950s, both showed that women were good credit risks as a class and deserving of credit. In fact, low-income households led by women were better risks than men in the realm of home improvement loans to low-income families. This program's delinquency rate was 4%, while families headed by women only had a delinquency rate of 2%.[58]

Even without damning statistical evidence, emerging problems in women's access to credit were impossible to ignore. As more and more women realized that they were not alone in their negative experiences, they joined their voices and created a chorus against credit discrimination. The problems were so compelling across the political and social spectrum that women from all political backgrounds participated in this movement. Some women appealed for legislative assistance, while some tried to form new banks that recognized credit needs of women. For those voices not to be lost in the wilderness, they had to come together to show that the five problems Gates identified were common enough to elicit broad action.

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[57] Margaret J. Gates, "Credit Discrimination Against Women: Causes and Solutions," *Vanderbilt Law Review,* 27 (April 1974), 411.

[58] Ibid. Although, according to NCCF reports in the 1970s, women had a higher default rate for home equity loans. *Report of the National Commission on Consumer Finance*.

Rights Groups

While women were making their voices heard and state legislatures became increasingly interested in solving the problem of credit discrimination, a number of organizations stepped up to facilitate fighting credit discrimination. For the most part, these groups supported legislation to outlaw credit discrimination, and offered personal help to women who suffered problems. Ohio is a good example of the average state's response to women's rights; they passed the ERA over complaints from conservative women and union pressure, but did not pass a state version of the ERA when it failed.

The first women's group that made a statement against credit discrimination was the Women's Equity Action League (WEAL), a national organization started in Ohio by moderate feminists who wanted to avoid the issues of sexuality and abortion. At their national meeting in December 1972, WEAL passed a resolution on credit discrimination. They argued that since "credit was a necessity as a means of payment for goods services," credit discrimination "prevented women from fully and equitably participating in our economic system."[59]

Other women's groups soon joined these efforts. The National Organization of Women held a workshop on credit at their national meeting in February 1973. While the resolutions from that meeting did not reach the floor of the organization for a vote, those NOW members in the credit committee meeting wanted to endorse legislation to prohibit discrimination and require that all local NOW chapters establish credit task forces.[60] They believed that if they facilitated local action, it would encourage more women to

[59] WEAL of Ohio records at the OHS. Box MSS 450-2, "WEAL 1972 Resolutions"
[60] "Women and Credit: A listing of activities in the Public and private sectors relating to women and credit," Center for Women Policy Studies, 1973.

publicly address credit discrimination that they experienced. The national organization followed part of their suggestions and established a Task Force that worked to collect some of these experiences, which was instrumental in the passage of federal legislation in 1974 and the collection of data the following year.[61]

One state-level group that straddled the line between government and private organization was the Ohio Commission on the Status of Women (OCSW, also known as Ohio Women, Inc.), created by the Ohio Senate using the model of the Presidential Commission on the Status of Women in 1963. This group supported broad economic rights for women. Most of their focus was on supporting the passage of the ERA in Ohio in the early 1970s, which it did in 1973.[62] In addition, the OCSW supported a state level Equal Pay Act, prompted by the 1970 amendment to the 1963 federal Equal Pay Act that broadened the scope of that legislation. The OCSW claimed that systematic discrimination kept women from securing better pay for performing the same jobs as men.[63]

The OCSW's support for legislation to help secure economic equality for women was not total, like WEAL and NOW before them. In this way, the OCSW remained ideologically close to its federal predecessor, the PCSW, by pushing for labor equality, but shied away from broader attempts to secure economic equality. For instance, when representatives introduced Ohio House Bill 490 in 1974, OCSW *opposed* the legislation

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[61] National Organization of Women of Ohio Papers, Ohio Historical Society, Historical Archives, Columbus, OH. For a general account of NOW's actions, see Gilmore.
[62] When the ERA finally failed in the early 1980s, Ohio did not follow suit with a state version.
[63] OCSW presented data that showed in 1970, 32,000,000 women worked, and that 75% of the full-time female workers made less than $6,000 a year. Less than 33% of full-time male laborers earned less than that amount. OCSW Records at the OHS Box 426-3, Folder 10.

for a number of reasons. The OCSW was worried about the language of the law and did not want the bill to protect other demographic groups. They were also concerned that the bill's weak punitive measures would mean that prosecutors would never pursue infractions.

It was not until 1975 that OCSW supported Ohio equal credit legislation, and by then, the federal passage of the ECOA rendered moot much of the impulse for state level action. Ohio did not move on passing their state level legislation. The OCSW worried about passing legislation that they agreed with in theory, but not in structure. They wanted a bill that protected all discriminated classes, not just women. This argument never came up on the state level, and only arose on the federal level in subcommittee discussions in the House of Representatives. Their second problem was that they were hesitant to build a system based on court cases because of differences across state laws and federal policies.[64]

Describing the Problem

Women's complaints about credit access to a broad array of groups and individuals, including congressmen, women's groups, and creditors, prompted state and rights organizations to pay attention to credit discrimination. Before these letters, state governments did not consider credit rights as a major policy initiative. After women began sharing their stories, however, NOW, WEAL, and government commissions solicited more examples, primarily through local chapters of women's groups and advertisements and articles in popular women's magazines. The most prominent of these solicitations was NOW's article in *Glamour's* November 1972 issue. The experiences

[64] Ibid.

and situations of affected women merged around a number of problems those women faced, and allowed activists to effectively advocate for state—and later federal—government intervention.

The number of women who responded to that call convinced many of those women's groups to establish a case against credit discrimination based primarily on anecdotal evidence. Because the banking industry did not have quantitative data on women's access to credit, or their lack thereof, or was unwilling to share that data, women's and consumer rights groups relied on the anecdotal evidence provided by letter writers.

Most of the women expressed concern about discrimination they faced when they applied for unsecured revolving credit—credit cards, retail cards, gas cards, and so on. Some women, however, discussed discrimination in mortgage lending, student loans, insurance, car loans, and other credit types. No matter what type of credit they tried to secure, these women clearly outlined some experiences shared by all. Divorced women had constant problems breaking free of their ex-husband's credit rating or history. Married working women had no credit because contemporary credit policy just gave them their husbands' credit rating, or these wives saw their income discounted by creditors. Single women had a difficult time proving their commitment to repaying their loans at some financial institutions. Instead of continuing to languish alone against a discriminatory credit market, these women shared their stories in the early 1970s with organizations they believed could help. This sharing and raising awareness allowed affected women to construct a body of evidence that was increasingly difficult to ignore.

Letters to Legislators-Sen. William Brock

The first way that women shared their experiences was to send complaints to a variety of people, including their local or federal Congressmen or bank regulatory authorities, which then forwarded most of them to Senator William Brock (R-TN), who was then working on federal credit legislation. A majority of these letters came from women victims via NOW's nascent credit branches both at its Washington, D.C. headquarters and in some of its local chapters. Some of those letters went to Carol de Saram and Lynne Litwiller-Edmonds in the national office—this was the address given in the *Glamour* article. Others went straight to the government, generally through the NCCF, which ran an article asking for more of these letters in the May 6th edition of *Business Week*. A small handful of the letters went directly to local congressional representatives. The rest of the letters went to a handful of other rights-based institutions including the American Civil Liberties Union (ACLU). The ACLU and other groups received letters after the victim's attempts to work directly with individual creditors failed. Emily Card, one of Brock's staff members interested in securing equal credit legislation, consolidated a representative sample of all of these letters.

While a plurality of the letters that arrived in Brock's office came from California women, the collection included letters from around the country, with very few cities represented twice (San Diego, Santa Monica, Detroit, Chattanooga, Atlanta and Baltimore). Besides these larger cities, there are letters from suburbia (Hollywood, California, Bethesda, Maryland, and Decatur, Georgia) and smaller cities (Brookline,

Maine, Des Moines, Iowa, and Eugene, Oregon).[65] Most of the women from these cities had problems securing installment credit, generally in the form of credit cards from retailers and the larger credit companies, BankAmericard and Master Charge. Lenders forced husbands to co-sign on loans, usually by incorrectly citing state laws or standard policy, even when the wives were the primary wage earners.

Some of the more interesting stories in this national set include problems with baby letters. Banks required baby letters for mortgages and other long-term loans from married women because they believed that childbearing would take priority over a woman's job, therefore curtailing her ability to repay the loan. Creditors that required baby letters forced women to choose either consistent income or children: balancing career and family was almost never an option. There was at least one story about a woman who had to sign a baby letter for a credit card because she was married and of childbearing age.[66] In one case, the credit card company refused to accept a medical affidavit that her husband was sterile.[67] Another woman could not get a rental lease without a baby letter. One Seattle housewife, Mrs. Lanegan, attempted to work around her credit problem by claiming her husband as her employer, and citing half of his income as hers. Mrs. Lanegan received a credit card based on that application.

Single and newly single women also reported problems. One separated woman, Mrs. Novoselic, bemoaned her marital status, as it left her long-term creditability in

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[65] Information from women's letters in the Emily Card Papers, Newcomb College Special Collections, New Orleans, Louisiana.
[66] This requirement for a baby letter was quite unusual for installment credit, often these were required for larger loans like mortgages by many institutions, including those insured by the FHA and Veteran's Affairs.
[67] Emily Card Papers.

question with many lenders. Since Mrs. Novoselic's estranged husband was responsible for paying for any future divorce, she was convinced that he would never actually go through with the final step of their separation. She described "short of his being hogtied and shanghied [sic] by some amply endowed woman of genius, I don't anticipate any change in my situation." Mrs. Novoselic went on to make broader claims about credit discrimination in general, and said that it represented an "Orwellian…erosion of civil rights."[68] In even better language, one of the aggrieved women argued about the outdated patriarchal traditions in the lending industry to the NCCF, "19th century concepts are not functional with the reality of employed and emancipated women who form equalitarian, not dependent social relationships."[69]

A handful of these women applied for mortgages or mortgage refinancing. Ms. Reznor had to deal with the problems of two ex-husbands. Reznor's first ex-husband had to cosign on her mortgage after their separation, even though he had late-stage terminal cancer. After encountering problems with her second husband in securing a mortgage, Reznor divorced him "because of his bad credit."[70] Her story ended successfully, because she had the foresight, from previous negative experiences with her first husband, to keep her credit records in her own name. Another woman, Ms. Spence, had a professional job at the University of Colorado, yet a local bank denied her a refinanced mortgage. After she informed that bank that she sent a complaint to the Federal Reserve, the ACLU, and her state legislator about her application's denial, she was suddenly

[68] Ibid.
[69] Ibid.
[70] Ibid.

creditworthy enough to deserve the second mortgage.[71] Ms. Spence's experience, at the very least, casts suspicion on the creditor's argument that women were less credit-worthy. If that were the case, then the bank would not have bent so easily for someone who was not credit worthy just because she raised a ruckus.

The hundreds of women who appeared at congressional hearings, state hearings, or who sent letters to congressmen or civil rights groups, made similar arguments—that credit discrimination hurt their ability to participate in the economy as equals. Most of the time, discrimination came in the form of requiring husbands, or some man, to vouch or cosign for them, when their incomes should have been sufficient on their own. Sometimes, single, working women did not receive the consideration that their work history and income demanded. Generally, the discrimination that women faced in the credit market was a result of an outdated patriarchal system that did not believe that women deserved credit access. Attempts to correct this problem started with rights organizations and state level commissions.

State Level Government- The Ohio Governor's Credit Task Force

The testimony of these women convinced a number of other state-level government commissions to make a concerted effort to collect more of their experiences and show that credit discrimination was a problem that deserved legislative attention. One of the earlier groups that asked aggrieved women to come forward was the Ohio Credit Task Force (also known as the Governor's Task Force on Women and Credit), a commission appointed by Governor John J. Gilligan that investigated credit

[71] Ibid.

discrimination against women.[72] The organization collected over 70 questionnaires during 1973.[73] These standardized forms asked a number of questions of the aggrieved female responders, including the length of their employment, their income of all types, and their marital status. Another section allowed these women to provide some detail about the problems they encountered in the credit market. While in some instances these qualitative sections were terse and straightforward, some women attached multiple legal-sized sheets to expand this section.

These reports are particularly important, because unlike the letters that victims of discrimination sent in droves to women's magazines, women's groups and legislators, these forms organize pertinent data about the women *as borrowers* to help qualify the instances of discrimination that they suffered. This connection of clearly defined borrowing criteria with each individually denied applicant is paramount to understanding how or why these women were discriminated against, and this connection by activists groups was made far too infrequently to statistically rationalize the occurrences of discrimination. Unfortunately, the Ohio Credit Task Force did not include instances where women received credit, so there is no way to compare criteria of successful loan applicants with those who failed to secure credit.

The average age of the women who returned questionnaires to the Ohio Credit Task Force was 35.4, and at the time of their credit problems, 34 were married, 15 were

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[72] Ohio Task Force (OTF) on Women and Credit Papers, OHS SA 312, 1-3. *She Supports Her Children, and Can't Get a Loan or Buy a Car or even a House: Final Report of the Governor's Task force on Credit for Women*, by Diane Poulton, chair. Columbus, Ohio, 1974.

[73] The commission put out 1/8 page advertisements in the front section of the major Ohio newspapers (*Columbus Dispatch, Cincinnati Enquirer, Cleveland Plan Dealer, Toledo Blade, Akron Beacon Journal*) asking women who had experienced discrimination to send them their information. They also asked women's groups to direct complaints to the commission. Governor's Task Force Files, OHS.

divorced, 5 were separated and 11 were single. As for their work and income, each had an average of 3 years of employment at their current job, most in "pink-collar" occupations, including 35 as secretaries, and another 10 as teachers. On average, each earned an income of $8,500 (when the average household income was about $10,500). Thirty-five of them had college degrees, another 11 attended at least some college, and 14 ended their formal education after high school. Lastly, and importantly for credit reasons, they averaged 13 years of residence at their current town.[74]

The types of credit these women applied for and the reason creditors denied their applications are of particular importance. Again, a majority of these women applied for credit cards, either directly through national organizations (Bankamericard, now known as VISA, and MasterCard/Choice), or through banks. Most of the rest applied for retail credit. Sears and J.C. Penney's were the more prominent examples of these retailers, but there were smaller local examples as well. There were a handful of other credit types represented, including auto loans, and four of the women, two of them married, two divorced, had applied for mortgages.

Creditors offered a variety of reasons for each woman's denial. The most common one was the requirement that husbands sign the credit applications, which was primarily a problem when women were applying for retail or standard credit cards. Often, women saw this requirement as discriminatory because wives were never required to sign credit applications for their husbands.[75] Other times, women would receive credit

[74] "She Supports Her Children," statistics by author, see Appendix for total breakdown.
[75] This is particularly true in community property states. In these states, before reforms that began in the 1970s, husbands were held responsible for the debts accrued by the couple. Since

cards, but only in their husband's name. While this solution met their economic needs, a number of women argued that they deserved the credit on their own terms so they could prove that they belonged as economic citizens in their own right, and that the access to credit was an important civil right. In addition, if the credit card were in their husband's name, only his file in the credit bureau would benefit from earning good credit.

Sometimes the justifications that creditors gave to women they denied were patently ridiculous. One woman included a statement from an auto insurance company that refused to issue an auto insurance policy to any single woman. A bank refused to give a credit card to one single woman with seven other credit accounts and an income of over $17,000 (the average household income in central Ohio in the early 1970s hovered around $10,000-11,000) because she had a "lack of credit experience." Some credit card issuers refused women because they did not have a "high enough" net worth, or because they had part-time employment—obstacles that men rarely encountered when they applied for credit.[76]

Also worth noting in this collection are the four women who applied for mortgages. Two of those four were married women who encountered the same problem. The bank completely discounted the income of one of the married women, a blue-collar worker making $9,000 a year. The other, an office manager making $8,650, had only half of her income counted by her lending institution.[77]

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creditors had a very limited legal recourse towards wives in that situation, they required husbands to sign off on those applications.

[76] Governor's Task Force Papers, SA 312 Box 1 Folder 1/2.

[77] Ibid.

Banks ignored or discounted the incomes of these two women because of an outdated economic rationale that the income of wage-earning women was inconsistent. Both of these women were still relatively young, 29 and 22, respectively, and the banks worried that their jobs were temporary, or that childbirth and child rearing would remove them from the job market for an extended period. The banks feared that the cessation of the wife's income from these couples would result in them not being able to keep up the mortgage payments. Whether or not that assumption was accurate—evidence about the dedication of working women to their jobs in the twentieth century suggests that it was not—it completely removed any sort of decision-making or responsibility from these women and their husbands. These lending institutions did not trust these borrowers to make their own decisions on long-term investments.

The other two women were divorcees who encountered different issues than the married women or each other. One of them, a secretary making $6,600 a year with an additional $1,200 a year alimony, did not get her mortgage because the bank did not consider her alimony as dependable income, even though it was court ordered. The lending institution refused the other applicant because of her ex-husband's credit record. Since she did not keep accounts in her own name, once they divorced, she had no file on record at the credit bureau. She essentially became an 18 year old with a job, but no credit history, looking for a mortgage.

While most problems concerning credit centered on installment credit, problems in mortgage finance was a bigger ordeal for many women to correct. The economic conditions of the 1970s made this type of financial issue more pertinent, as homeownership and interest rates were both on the rise. Since for many, a home was

their largest investment, financing that investment was paramount to entering adulthood. In the 1970s, affording that investment could be prohibitively expensive, and so discrimination against women, particularly married women who saw their incomes discounted, made mortgages even more expensive for many women.

Ohio Governor's Credit Task Force-Hearings

In the summer of 1974, over 200 women attended a number of hearings in Ohio for the governor's new Task Force on Credit. This commission traveled to Columbus, Toledo, Cincinnati, and Cleveland, and listened to the testimony of women who experienced credit problems.[78] In addition to these statements, around fifty representatives from banking and credit institutions defended their practices, giving these live hearings a different feel from the national collection. The testimonies of both of these groups show how and where they disagreed.

Most of the women who made statements at the hearings fit a general mold. Many of them were divorced or widowed, and their inability to find a man to cosign loans or vouch for credibility was the main problem they encountered when trying to secure credit. These attempts often met similar results as the women who responded to the Ohio Task Force's questionnaire. One widow inherited a successful gas station from her deceased husband. Even though she worked at the gas station while he was still alive, the bank would not offer her the same line of credit to keep the business running. Another woman wanted to open a bookstore. She needed a male co-signer, so she got her ex-husband to do it. Even more embarrassing, her ex-husband was a student with no

[78] Proceedings of the Governor's Task Force for Credit for Women. July 29-August 10, 1974. Ohio Historical Society, State Archive, Box 312-1.

income. Another widow had her credit card revoked when her husband died. She was only able to reestablish the card when she reminded the credit card company that she had a good job and her deceased husband was a successful banker and a state politician with considerable social influence.[79]

Married women had problems different from the ones experienced by the single or newly single women. One of them applied for a small business loan to open an antique store, but the bank denied her application. The loan officer who had worked on her application suggested to her, "well honey, what makes you think you know anything about business?"[80] Mrs. Staley, a married woman, did not get a student loan to attend graduate school from either private sources or the university itself. The university told her that for loans, the school ranked her fourth priority behind single men (first), married men (second), and single women (third).[81] Another issue involved a married woman who unsuccessfully attempted to take out a life insurance policy as the primary wage earner of her household. The insurer's policy precluded it from insuring workingwomen as primary wage earners.[82]

A vast majority of the women who spoke up against credit discrimination in Ohio, and around the country, were middle or working class women whose jobs and income placed them above 80% of the median income for an household in 1973, around $10,500. While the incomes of the respondents in Columbus are unknown, the average income in

[79] Ibid., July 29 1974, Page 2, 31.
[80] Ibid., 170.
[81] Ibid., 38
[82] Ibid., 45. Discrimination in insurance policies are even more convoluted than in more standard credit policies, but actuarial science gives the fight against this type of credit discrimination a different tint. Often, economic and actuarial statistics are sufficient by themselves to justify (or not) specific insurance costs for women in relation to men.

the zip codes of most of their home addresses would suggest similar economic situations. The women believed that they deserved more or better credit based on their economic status. However, a few of the women who spoke up during the hearings were women on welfare, or advocating for women who were.[83] Obviously, the economic position of these women on ADC or other types of welfare was more precarious than the economic position of other women at the hearings. These creditors refused to accept welfare as income, severely hampering their ability to secure credit based on their state-ordered income. Instead of being able to budget long term, without installment credit these women had to budget month to month, leaving them without any flexibility in their spending.

The stories of higher and middle income women who had difficulty securing their own credit came from similar impulses as the stories from lower income women. While the stories of 250 women are not enough, necessarily, to make the jump from proving individual discrimination to proving class discrimination, the types of problems they had were consistent. Wives often had to defer to husbands, no matter what their relative economic positions were. Ex-wives and widows had to live with the legacy of their former spouses, or their husbands left them as credit non-entities. The rationale that creditors offered for these behaviors and practices was difficult to tease out in the early 1970s, but some answers came during the Ohio Task Force Hearings.

About 20 percent of the testimony in the Ohio Task Force Hearings came from individuals who represented creditors, banks, and other parts of the financial services industry. Most of them directly asserted that even if discrimination might occur

[83] Ibid., 80-95.

occasionally, it never happened in the offices they managed. With that said, almost all of the creditors also complained about the level of regulation they were forced to endure, and that they expected more unnecessary regulations.[84]

Sometimes, the lending representatives cited evidence that despite the experiences of hundreds of women, systematic discrimination against them as a class did not exist. Robert Fickell of the Department of Commerce noted that not a single discrimination case came through the Truth in Lending Act, which his Department regulated. Since it was the only federal legislative option currently available for women to bring forward claims of credit discrimination, he argued that if no one had brought a case based on that recourse, then there was no actionable discrimination in the credit market. [85]

Each of the representatives of the credit industry took pains to explain why their practices were good ones, even if women had occasional problems with securing credit. One of the most eloquent of the credit representatives, Dan Shackleford of State Savings Company, noted that for some reason it was harder to grant women credit for entrepreneurial purposes because women "don't nail boards together."[86] Shackleford's most insightful quote best explained the reason that many creditors required husbands to co-sign on all loans, "if he [the husband] doesn't sign it, he knows something we don't."[87]

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[84] A number of civil rights legislations, including the CCPA, required creditors and credit bureaus to maintain records and make them available upon request of government regulators or individual customers.

[85] Fickell made no claims about how prominent this legislation was, or how many women could have realized that they could fight credit discrimination on those grounds. Proceedings of the Governor Task Force.

[86] Proceedings of the Governor's Task Force for Credit for Women, July 29, 53.

[87] Ibid., 62.

This terse statement effectively shows how banks valued information, and wanted to be able to make better lending decisions with full disclosure. At a time when credit was more difficult to secure, it behooved creditors to know more about a debtor's ability to repay. However, requiring the husbands sign off on a wife's application gave him considerable control over his wife's economic status. Many supporters of equal credit access argued that this behavior was discriminatory, particularly since wives rarely had to sign off on their husband's credit applications, or that husbands were not always legally responsible for debt that wives incurred in their own name.

Richard Wade, the President of First State Bank, gave the broadest defense of good practices by the creditors. He bracketed his entire testimony by reminding the panel that credit was "privilege, not a right," facilitated by the credit industry. He argued that bank lenders were interested in the individual borrower, and women who have positive lending characteristics would get the credit they deserve. Wade believed that the real problem was that most women credit seekers do not "know what to ask." [88]

This claim, that women did not "know what to ask," is an important admission by the credit industry that there was a deficiency in how women understood credit and their credit rights. A few other representatives agreed with him. Robert Fickline, the Director of Consumer Credit at Ohio National Bank claimed that "education" was the biggest problem facing women in the credit market.[89] This assertion, however, flies in the face of the basic way banks made money, to exploit information asymmetries to their advantage. The more women knew about the credit market, including how much they should pay,

[88] Proceedings of the Governor's Task Force for Credit for Women, July 30, 11-30.
[89] In fact, in the mid 1970s, a number of banks realized how they were missing out on a huge part of the market and started offering more services to women looking to learn more about credit.

what prevailing interest rates should be, and what their credit rights were, the less a lending institution was able to exploit them. By advocating real financial literacy amongst women, these bankers on some level appreciated the fact that women were disadvantaged in the credit market in the 1960s and 1970s.

Representatives of the credit industry also celebrated the success of women within their industry. Some cited women in higher positions, believing that two loan officers out of a dozen institutions apparently disproved a glass-ceiling thesis. Donald Wolfe of Buckeye Federal Savings and Loan sang the praises of one "girl" in his office who could make a $10,000 loan. Besides the fact that he referred to a woman in her mid 20s in a professional capacity as a child, a $10,000 limit kept her from making any mortgages or other sizeable loans.[90]

In general, the creditors worried that new regulations would circumscribe their lending practices, which they believed were good ones. By trying to undermine the importance of new laws by claiming there was no discrimination in each of their institutions, these creditors expected to influence the task force against new credit laws.

Admittedly, the creditors did not have many advocates in these hearings. For the most part, the rest of those attending the hearings were hostile to the creditors' position, since they were the victims of perceived discrimination from those creditors. The commissioners of the hearings also made their sympathies towards the victims clear. However, the commissioners were largely unable to truly bring the creditors to task. They were largely ignorant of the particular mechanics of bank lending or banking legislation, another way that the creditors were able to exploit an information asymmetry.

[90] Proceedings of the Governor's Task Force for Credit for Women, July 30, 37-51.

In the end, perhaps the clearest way to measure the somewhat surprising success of the creditors is to note Ohio was not among states that passed equal credit legislation before 1974. No equal credit legislation made it through the Ohio legislature before the U.S. Senate passed federal legislation.

When creditors and bankers argued against these types of laws on the state level, they did not direct their complaints towards profitability, since that might implicitly admit that they did discriminate. Their arguments were more about their rights as businesses and maintaining an unfettered route to helping worthy individuals securing credit, instead of defending their ability to make money.

State Level Efforts

In light of the efforts of women to make their voices heard, a number of states, beginning with California and New Jersey in 1972, passed legislation to end credit discrimination against women.[91] By the time the U.S. Congress considered national legislation in 1974 and made state initiatives obsolete, 18 other states joined them. Colorado, Connecticut, Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Rhode Island, Tennessee, Texas, Vermont, Washington, and Wisconsin all passed some form of equal credit legislation. This list includes states with both community and common property states, states with conservative and liberal governments, and states that would have different experiences passing the Equal Rights Amendment.

These state laws protected against different types of credit discrimination and offered different types of remedies to those victimized by discrimination. A majority of

[91] See Appendix A for a complete list of state laws about gender based credit discrimination.

the states allowed for actual or punitive damages, but none outlined how to determine those damages. Maine, Maryland, Minnesota, New Jersey, and Rhode Island allowed an undefined "administrative" procedure to punish offending lawbreakers, in most cases a fine to the state. Vermont and Washington allowed for both administrative and personal damages, which might have given a greater incentive for applicants to come forward. New York's policy was the most stringent of the states. Like Vermont and Washington, its state law allowed for both compensatory and administrative procedures. On top of those recourses, it required a cease and desist order and a judicial review of lending practices, offering a complete array of punitive and reformative responses to credit discrimination.

Most of the state laws are simple one-line prohibitions against discrimination in any credit transaction. Many of these laws simply "prohibit discrimination by any creditor solely on the basis of sex or marital status." Maryland and New Jersey limited their prohibitions against discrimination only in retail or unsecured credit. Kentucky's law only prohibits discrimination for secured credit—mostly mortgages and car loans. A few states, Alaska, Delaware, Idaho, Kansas, Pennsylvania, and South Dakota, had some clauses in separate home financing laws that prohibited sex discrimination in those transactions.

Interestingly, one of the state laws went farther than the provisions that provide protection against discrimination. Maine's statute "create[d] a *civil right to credit*, making it unlawful for any creditor to refuse the extension of credit to any person solely on the basis of age, race, color, sex, marital status, ancestry, religious creed or national

origin in any credit transaction."[92] Maine's legislation was the only state or federal law to make this claim, rebutting the arguments of those credit industry representatives like the ones in the Ohio Task Force hearings, and supporting the point of the letter writers who saw the importance of credit as it pertained to their economic citizenship.[93]

Some states took a narrow view of who received protection from credit discrimination. Over half of the states—Connecticut, Florida, Illinois, Maryland, Massachusetts, Minnesota, Rhode Island, Tennessee, Texas, Vermont, and Wisconsin—only protected individuals based on their sex or marital status. These states created their laws based on both the national economic changes of women and addressed the most typical complaints listed in the letters and testimonies.

Other states took a broader approach to protection, and included race, creed, color and national origin. Ostensibly, these states, Colorado, Indiana, Kentucky, Maine, New Jersey, New York and Washington, did not rely solely on the testimony of aggrieved women from their credit policies, and made their measures more consistent with federal civil rights legislation. They modeled their policies on the Consumer Credit Protection Act, which was supposed to protect all consumers in the credit market, and the Civil Rights Acts of 1964. This broader base of protection relies more on a general belief that credit access is a "civil right" to everyone, as the Maine statute suggests.

California is unique because it passed two separate laws in March 1972, collectively known as the Equal Credit Act (ECA). The first law prohibited creditors

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[92] Maine T. 5 Revised Statute, Chapter 337.

[93] Some states had passed Equal Rights Amendments to their constitutions in the light of the federal battles to pass that amendment. The next chapter on federal legislation will discuss how these two legislative pushes were related.

from refusing to issue a credit card solely because of the applicant's race, religion, creed, color, national origin, ancestry, or sex. The second "prohibited the denial of credit to women if earnings or separate property are such that men possessing the same amount of property or earnings would receive credit."[94] California's second law also included a unique provision that required credit-reporting agencies to identify the separate credit history of each spouse in addition to the couple's joint accounts. This second provision would help stop the problem that many divorced and widowed women encountered once their husbands were out of the picture. Often, women's credit histories would be inexorably tied to credit histories of their husbands, so when those husbands were gone, the women often had no credit file to their names.[95]

California, along with Arizona, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin are community property states.[96] Particular laws in each are different, but they all operate under the assumption that both spouses have an equal stake in the family as an economic unit. Most of the time, these considerations are important in divorces, where a court halves a family's assets and then distributes a half to each spouse. However, there are important ramifications during marriage, especially in regards to credit. For one, there was a significant gray legal area where loans that involved community property—secured loans—may require a husband's signature because he

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[94] California Civil Codes S. 1747.80, S. 1812.30-.31 and S. 5116.

[95] There was already some national support for this type of credit reporting legislation with the Fair Credit Reporting Act in 1970, which has provisions for ensuring that credit scores are accurate and information must be available. The success of this statute has long been disparaged because about 80% of credit files have some error in them—see Allison Cassady and Edmund Mierzwinski, "Mistakes Do Happen: A Look at Errors in Consumer Credit Reports," (Washington, D.C.: National Association of State Public Interest Research Groups, 2004).

[96] Alaska is an "opt-in" community property state, where the state assumes separate property, but both spouses can agree to a legally binding community property agreement.

would be responsible for half of that asset or liability. While many creditors, including those *not* in community property states, cited this as a reason for getting a husband's signature, more often than not, they did not require a wife's signature on a husband's application. Second, since most credit bureaus in the 1970s were local or state organizations, creditors in community property states usually just kept community credit scores on couples, and often just in the husband's name. This meant that divorced women in community property states had an additional hurdle to overcome when establishing credit on their own. These legal and economic characteristics shaped the formation of California's ECA.

Even considering California's position as a community property state, it is a good representative of the state laws passed between 1972 and 1974. Both of California's credit laws offered actual damages and injunctive relief. The first legislation offered credit card protection to all demographic groups, while the second gave broader credit protection to individuals based on their gender and marital status. Additionally, the second bill –called the California Equal Credit Act (ECA)—was the subject of a detailed economic study by economist Cathleen Zick, which is particularly useful to determining the effectiveness of state-level credit legislation.[97]

Zick's study showed that state legislation could be effective against credit discrimination against women. By following 241 different women who attempted to find loans (137 from before the ECA in 1973 and 104 after), Zick hypothesized a number of factors that may have affected the probability of credit extension to women, and whether

[97] Cathleen D. Zick, "Equal Credit Opportunity Legislation and Indicators of Credit Worthiness; An Economic Study of Women Applicants for Credit in California," *Journal of Consumer Affairs*, 17:2 (Dec 1983).

those variables changed after 1973.[98] While there are a number of economic studies that look at the credit experiences of women, many of them are limited because they only use accepted loans and the terms of those loans. On the other hand, most studies that look at the acceptance rate of credit-seeking women do not develop any rigorous economic conclusion. Zick's study answers both of these problems by taking a detailed quantitative look at both successful and unsuccessful credit applicants.

Zick's study follows a number of individuals with precise data to chart what types of applications were accepted, including the loan terms. Out of the 18 different criteria she tracks, she considered a handful of them as "borrower criteria" that could negatively affect women applicants (number of children, age, marital status, and alimony). She argued that if discrimination existed against women, then those borrower criteria should effect a woman's ability to obtain a loan only before the passage of California's ECA. Sure enough, before 1974, the number of children, age, and marital status all decreased the probability of getting a loan, but these characteristics did not effect loan applications after 1974. At the same time, a female applicant's wage and homeownership became more important in the loan decision after California passed the ECA, proving that general credit criteria became more important for women after the ECA passed.

Not all the news was unabashedly positive, as Zick also found that some income discounting of women occurred when they applied with husbands on joint accounts, and creditors still discounted some non-wage income, particularly alimony, welfare, and social security. Lastly, Zick also found that some creditors still required husband's signatures when they were not required for community property laws and some of these

[98] Zick, 370.

creditors did not require a wife to sign off on a husband's credit application, though some did require her signature.

The push for state legislation continued after the federal legislation passed in 1974. Georgia, Hawaii, Idaho, Iowa, Michigan, Missouri, Ohio, Oklahoma, and Pennsylvania introduced equal credit for women bills in their legislatures, although the passage of the ECOA undercut many of these attempts. The increasing popularity of state legislation in the two years after the production of qualitative evidence is undeniable. State legislatures across the country recognized a problem, many of them held hearings, and endured some pressure from individual women; private rights groups, and public/government organizations. This pressure prompted those legislatures to protect women against discrimination in the credit market.

Conclusion

Through their own stories, as they were filtered and facilitated by state organizations and private groups, women who suffered discrimination built a strong case for fighting against discrimination in the credit market, arguing that limited credit access kept them from full economic citizenship. Married, separated and single women all wrote letters to rights groups and representatives, attended state hearings, and spoke out against discriminatory creditors. The rights groups and states responded to these calls for help by collecting those stories and using them to support a change in credit and economic policy. Occasionally, those groups worked by directly assisting in their individual battles with creditors and by pushing for broader legislative and financial changes that would eliminate the systematic discrimination those women experienced in the market.

For their part, the financial industry worked against this threat to their independence. They claimed that their loan making was rational, and would not discriminate against a woman just because of her gender or marital status. Often, they used that economic rationality defense to explain that not giving loans for unsupported reasons was not profitable, therefore objectively not a good business practice. However, banks continued to balk at offering statistics that showed that women who walked into the loan office had similar acceptance rates as men. For creditors, the privacy of their customers, and more importantly their decision-making systems, was sacrosanct.

Creditors and banks suffered from new government regulation. Regulatory pressure on the financial industry increased in the late 1960s to include more rules that protected consumers and their credit rights, primarily through the Consumer Credit Protection Act. While financial intermediaries enjoyed only mixed success in stopping regulation, they were increasing more able in reducing its impact in their bottom line. Although they could not know it at the time, the era of regulatory pressure on banks was nearing its end.

The types of discrimination that women suffered from those creditors, ranging from requiring a husband's signature, to discounting income, to having no credit history all worked against their ability to participate in the credit market. The growing number of state laws that addressed these issues showed a legislative impulse to solve these problems. In 1974, the U.S. Congress took that impulse, and attempted to outlaw credit discrimination across the nation.

Chapter 3

"An Easily Understood Problem:

The Passage of the Equal Credit Opportunity Act (1974)"

As they sent letters and went to hearings, women continued to suffer instances of credit discrimination into the mid 1970s, even as state legislatures passed more laws designed to end credit discrimination.[99] The stories convinced women's rights proponents that credit discrimination was a considerable problem that affected thousands, if not millions, of adult women every year. The complaints quickly moved beyond local and state considerations and became a federal issue by 1973/1974.

After they heard from the thousands of women who had experienced discrimination in the credit market, women's rights activists wanted to use that momentum to secure state, then federal legislation, to end credit discrimination. The fight for the ERA was the most prominent of these struggles, as women's activists looked to end all forms of legal distinction between men and women with a single constitutional amendment. As the capstone of efforts to include women in equal rights legislation, the ERA brought together all of the piecemeal legislation that addressed women's equality.

The 1970s attempt to pass the ERA was not the only culmination of women's rights activism. Economic equality between the sexes remained vitally important. Women

[99] Many of the complaints went to state organizations since banks and most creditors had state charters and answered to state authorities.

benefited from efforts to secure equal pay, consumer protection, and fair housing legislation. As the last chapter argues, these attempts to secure economic equality framed the responses of women who looked to fight against credit discrimination.

By the early 1970s, women's activists who supported measures to outlaw economic discrimination on the state level looked to extend their thrust to include federal legislation to outlaw credit discrimination in all its forms. This desire to secure federal legislation came from a need to strengthen the policies and make sure that there was recourse against creditors with multi-state or federal charters. Proponents of federal legislation believed that a number of demographic factors commonly found on most types of credit applications were superfluous and discriminatory. There was almost no statistical evidence that directly linked race, nationality, religion, age, gender, or marital status to a higher default rate. Therefore, when banks made loans to individuals in minority groups, minority debtors repaid those loans at the same rate as all of their debtors.[100] Since default rates across different demographic groups were similar, it makes sense that an equal credit access law would not affect the profitability of credit granting institutions.

Since there was insufficient evidence to suggest statistically significant differences in default rates, the only vestige of discrimination that remained for the proponents of regulation to legislate against was the discrimination during the decision process. At that point, subjective decision-making by lenders could have an implicit discriminatory effect.

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[100] Besides the fact that finding such statistics was nearly impossible, if creditors only took the very top applicants from discriminated groups, these should have been able to avoid default with relative ease. In fact, discrimination of this type was actually harmful to the industry. See Michael Ferguson and Stephen Peters. "What Constitutes Evidence of Discrimination in Lending," *Journal of Finance,* 50 (June 1995): 739-748.

The proponents of the legislation believed they held the civil rights/politically liberal moral high ground of fighting this invidious distinction. In addition, a precise and well-administered law would not negatively affect the very industry they aimed to regulate. They believed any increase in the default rate, assuming that some women given loans would default on them, would be offset by the higher number of good loan opportunities: the thousands of women who gained newly unfettered access to credit.

To illustrate this story, this chapter will begin by recapitulating how the ideas for federal legislation came about through state legislation and national studies to end discrimination. Then, it will tell the story of the passage of the Equal Credit Opportunity Act (ECOA), particularly concentrating on the committee debates in the House of Representatives. Last, it will describe the immediate aftermath of the Act's passage by looking at how the Act changed in the rulemaking process and how effective the ECOA was in the late 1970s.

Getting to the Federal Legislature

Convincing federal legislators and creditors that women were good, or even bad, credit risks regardless of their gender or marital status became the paramount thrust of the proponents of the ECOA. Advocates for equal credit access believed that current federal legislation that dealt with credit discrimination, which in the late 1960s and early 1970s consisted of a few points in the Truth in Lending Act/Consumer Credit Protection Act, were insufficient in both their scope and their enforcement. Many argued that these unsatisfactory regulations required a "reappraisal" that would culminate in a new,

powerful, overarching policy that clearly outlawed invidious distinctions in the credit market.[101]

Sometimes, these arguments were unclear, especially as they relied on state level legislation. The *New York Times*, for instance, noted an April 1973 New Jersey Assembly decision that approved a state version of the ECOA after its introduction in the U.S. Senate. The sponsors of that bill in New Jersey released a statement; "There is an assumption in the business that women are poor credit risks. This assumption is false. To the contrary, available relevant studies indicate that women are better credit risks than men." [102] While the New Jersey decision included some moving anecdotal evidence, the statement includes very little statistical evidence—especially since the "relevant studies" are not cited and unclear. The only real statistics available at that time did not concentrate on credit availability to women. The 1972 NCCF report, probably one of the sources for that *Times* article, used primarily anecdotal evidence heard during its May, 1972 hearings. That NCCF report also cited a St. Paul, Minnesota Department of Human Rights survey, "Installment Loan Survey of St. Paul Banks: Is There Sex Discrimination?" that did a sample of loan applications by men and women with identical economic characteristics: all applicants were married, the only wage earner, and had spouses in school.[103] Both the anecdotes and the survey found that discrimination against women could not be found in the denial or approval of loans, but were present in other

[101] Barbara Curran, "Legislative Controls as a Response to Consumer Credit Problems" (Chicago: American Bar Foundation, 1968).
[102] Walter H. Waggoner, "Assembly Votes Credit-Bias Ban," *New York Times*, 13 April 1973, Page 83.
[103] *Report of the National Commission on Consumer Finance*, 152-153. In testing for discrimination, regulatory bodies call this test "coupling," where two applicants are identical in every way except for one demographic characteristic.

requirements, namely requiring the husband's explicit approval or the need to reapply for a loan when a woman's marital or career status changed.[104]

The issues with using only qualitative evidence were not lost on the members of NCCF. Their 1972 report did *not* recommend new legislation. It proposed that the "extensive publicity" that accompanied the report would be enough to allow lending institutions to review and reform their own practices.[105] It did recommend reviewing state laws, like the ones described in the previous chapter, to avoid gender discrimination, primarily in the form of requiring wives to get a husband's signature on a loan application, but not requiring a husband to get his wife's signature on the same. It also argued that a Congressional remedy without specified goals or numbers would be a difficult solution because regulators would be unable to measure success or bring particular charges against offenders.

They were not alone in assuming that legislation and regulation might not be helpful. In 1974, Duane Harris wrote in the *Journal of Money, Credit, and Banking* that credit availability was related to monetary policy and economic conditions. He found that in tight money periods, like the one of the mid 1970s, banks "increased loan stringency at a greater rate to new customers [which included many women] as they attempted to satisfy established customer demands."[106]

The Act's supporters ignored the arguments, that credit discrimination was rational and not invidious. Their timing could not have been much worse. The 1970s

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[104] Ibid.
[105] Ibid.
[106] Duane Harris, "Credit Availability Doctrine," Journal of Money, Credit, and Banking, 6:2 (May, 1974). 235

economy made concerns over credit access more problematic with increasing interest rates, women who wanted secure equal access to credit wanted to ensure that creditors would be unable to discriminate against them and that they could enjoy equal credit and economic rights. The policies that required spousal permission and extended general assumptions about a woman's economic priorities may have had some economic merit that the bill's supporters dismissed, something again called "rational discrimination." [107] In most cases, household income and debts *did* change when a woman got married, but they generally changed for the better. The supporters of equal credit legislation believed that forcing a woman to reapply for credit was an "invidious distinction," especially when placed in context of the era, when women were achieving greater economic equality. By the 1970s, the new brand of consumer culture that required the present use of future income had made the availability of credit a rite to adulthood. It was necessary to purchase a house, a car, or buying consumer items on account. Women were kept from at least some aspects of this rite because of patriarchal tradition, effectively denying them their citizenship in the "Consumer's Republic." [108] A quotation from the 1974 Hartford, Connecticut mortgage-lending case study illustrates this reality:

> Whether because discrimination in mortgage lending is prohibited by both Connecticut and federal law or for other reasons, lenders in Hartford do not generally admit that they reject applicants on the basis of the race or national origin…(discrimination there is 'subtle')…discrimination on the basis of sex is a different matter. Here, the major problem is not that mortgage procedures or criteria *permit* opportunities for decisions on the basis of discrimination. Rather, traditional mortgage lending criteria followed by Hartford mortgage lenders virtually *require* sex discrimination.[109] [emphasis original]

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[107] Gary S. Becker, The Economics of Discrimination (Chicago: University of Chicago Press, 1957).
[108] Cohen, *The Consumer's Republic.*
[109] *A Case Study in Mortgage Lending*, 18.

Sex discrimination was "required" in the Hartford mortgage lending offices because of a patriarchal tradition that had no statistical validity and required female applicants to navigate difficult obstacles when they applied for credit and offered them worse terms on that credit. Aside from almost all lenders requiring spousal permission, only 22% of lenders counted 100% of the wife's income when making a decision about a joint proposal. About a similar percentage did not count it at all. The authors of the case study suggest that one of the main problems was that there were almost no women in decision-making roles in the lending institutions. There were fewer female loan officers than African-American loan officers in Hartford in the early 1970s.[110] The qualitative problem of a possibly discriminatory patriarchal system is what legislators had to address, but problems in measurement, confusion over the consideration of the protection of other demographic factors, and a well-organized credit industry that loathed regulating such a subjective part of the process confused the goals of the act's proponents.

The ECOA in the Senate

Senator William "Bill" Brock (R-TN) sponsored the ECOA after his office's efforts to find the stories of victimized women in the credit market in the early 1970s, and was the first attempt to legislate against gender discrimination in the credit market.[111] The bill sailed through the Senate Banking committee and Senate floor debates without much alteration, and arrived at the House for the next legislative session. To get a sense of the

[110] Ibid., 20-23. For a discussion on how collecting information on minorities, and women, is more costly for banks because of this underrepresentation, see Charles W. Calomiris, Charles M. Kahn, Stanley D. Longhofer, "Housing-Finance Intervention and Private Incentives: Helping Minorities and the Poor," *Journal of Money, Credit and Banking*, 26:3, Pt. 2 - Federal Credit Allocation: Theory, Evidence, and History (Aug., 1994).

[111] During the Senate process, gender and marital status were the only demographic groups represented in the bill.

debate between advocates of women's rights and financial institutions, it is important to note the ECOA's tenure in the Senate through Brock's sponsorship and its resounding passage through the committee and floor debates.

Senator Brock became passionate about the issue after a Consumer Credit Protection Act hearing he attended in 1972. The complaints he heard at that hearing, along with letters sent to women's magazines, women's groups, and state organizations, illustrated the demand from women to stop credit discrimination. Emily Card, one of Brock's legislative assistants, drafted the bill that would become the ECOA and built a substantial case based on public support, evidenced by the thousands of letters received by national organizations and Brock's office. NOW asked women through women's magazines in 1972 to write into their NOW Credit Project with their stories of credit discrimination, and the effort produced over 3000 letters that strengthened the anecdotal evidence. A similar request within Brock's home state of Tennessee and other state groups in Ohio, Massachusetts and California produced another set of letters in support of legislation.[112] Brock's office, through Card, collected this material and created legislation through the aegis of the CCPA, and were successful in passing the resolution that would create the ECOA in the Senate.

In addition to the grass roots effort that established a strong qualitative base proving that credit discrimination occurred, parts of the government bureaucracy also offered its support. Under the Directorship of Elizabeth Duncan Koontz, the Women's

[112] Emily Card, interview by author, 17 February 2006. Dr. Card also noted that when she drafted the legislation, it did not include any of the factors besides gender and marital status. Those factors were added to the legislation between her draft and its appearance in the *Congressional Record*.

Bureau of the Department of Labor—where Brock would later serve as Secretary under Ronald Reagan—prepared statistics to show the importance of credit availability to working mothers, a group particularly vulnerable in the credit market.[113]

Although there was a mix of "bottom-up" qualitative evidence and "top-down" quantitative data, the majority of the support for legislating credit discrimination was qualitative.[114] However, the two types of evidence created a bill balanced enough to pass the Senate. The bill sailed through the Senate, creating the assumption that a measure that attacked discrimination against such a wide group of people had little problem gaining legislative and general support. While this might be true, the qualitative and anecdotal evidence presented a relatively weak analytical and statistical argument and left holes for detractors in the credit industry. Credit granters made profits by exploiting a serious information asymmetry that made their business both profitable and defensible against attacks on that asymmetry. If individuals seeking loans knew the mechanics and regulations that went into loan decisions, or had more power to manipulate them, the industry would become less profitable because the grounds for negotiations would be more even.[115] Though creditors had a strong reason to maintain their secrecy, the industry's qualitative evidence increased suspicion that their secret systems were propagating invidious distinctions against women creditors. The reasons for supporting a law were powerful enough that supporters of women's rights had little problem securing

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[113] Ibid.
[114] Ibid. The statistics in those reports were either inconclusive, or they showed discrimination against women in certain circumstances, insufficient to require a reworking of the credit system on just those findings.
[115] For more on Information Asymmetry in lending decisions, see Kam Hon Chu, "Free Banking and Information Asymmetry," JMCB 31: 4 (Nov. 1999)

Senator Bill Brock's support to gain unanimous passage of the Equal Credit Opportunity Act in 1973.

The Senate unanimously supported the original text of the ECOA. It provided that "It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex or marital status, or age."[116] Although in many ways the unanimity on the Senate floor was relatively unimportant. Instead, the House Subcommittee on Banking and Currency meetings dealt with the real issues about the ECOA and credit discrimination in general. Over the course of those meetings, before the House passed an amended version of the ECOA in 1974, the proponents and opponents of credit legislation debated the need of such legislation.

Creditors and financial intermediaries did not agree with the assumptions of the ECOA's supporters. They countered with their own limited statistical evidence that credit discrimination could only be found among married women and divorced/single men and women. Most of this discrimination was complicated by different state rules and systems.[117] Their argument questioned the need to regulate against a practice that in their eyes was not occurring with any real regularity. The credit granting institutions were fighting as carefully as possible against proposed regulations that were using the spirit of the civil rights and women's movements to control the industry at a level rarely

[116] 15 U.S.C. § 1691.
[117] *A Case Study in Mortgage Lending*. State laws about credit are outlined in the previous chapter and in Appendix X.

attempted by policymakers.[118] The possibility of having their credit decisions mandated from the government horrified them, and they organized a defense, in both Congress and the rulemaking institutions, primarily the Federal Reserve, to maintain their autonomy.

The debate about the ECOA, as it evolved from earlier discussions and concerns over women's credit rights, illustrated the women's and economic regulatory movements in the 1970s as it played out in the political system. It is also notable for being a clear debate over social values. If society values credit and access to it, then legislators and creditors had to find some balance between the efficiency of capital and how equitably creditors distributed it, a process that had just begun with equal rights legislation instituted in the late 1960s. The future of that balance depended upon the Congress's passage of the ECOA and the dialogue it would open.[119] The ECOA shows how these two debates about social values and economic protection/equality arose as they moved from the private sphere of the individual and firm and into the public sphere of the legislature and society.

ECOA in the House

Even considering these problems about the availability of data and information, the real battle arrived when the bill went to the House the following year. On June 20-21 1974, the Subcommittee on Consumer Affairs of the Committee on Banking and Currency heard testimony about the general need and usefulness of a law that would ban

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[118] Mortgage lenders were familiar with such regulation, especially after 1968's Fair Housing Act. However, other credit-granters, such as credit cards and department stores faced few policy issues, expect for the Consumer Credit Protection Act, which did not have any sort of demographic discriminatory rule before the ECOA effectively amended it.

[119] For a discussion about government policy about women's rights and social values, see Cynthia Harrison in Milton M. Carrow, Robert Paul Churchill, and Joseph J. Cordes. *Democracy, Social Values, and Public Policy* (Westport, CT: Praeger, 1998).

discrimination in credit.[120] Two pending resolutions were the basis for this hearing, H.R. 14856 and 14908, which together banned an assortment of discriminatory practices in the credit industry as an amendment to the CCPA. Their goals, according to Chair Leonor Sullivan (D-MO), the chairwoman of the committee, were to remove "arbitrary barriers" to credit access without "destroying creditor's rights," and, more broadly, to "stabilize the economy" and "enhance competition."[121]

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[120] The members of the subcommittee in 1974 had very little professional background with banking, most were professional politicians:
Chairman Leonor K. Sullivan (Politician D-MO)
Walter E. Fauntroy (Pastor and Civil Rights Activist, D-DC)
Parren J. Mitchell (Lawyer and Politician, D-MD)
William A. Barrett, (Politician, D-PA)
Henry B. Gonzalez, (Politician, D-TX)
Andrew Young, (Diplomat, Civil Rights Activist, Politician, D-GA)
Fortney H. Stark, Jr. (Engineer, Banker, Politcian, D-CA)
John Joseph Moakley (Lawyer, D-MA)
Edward I. Koch (Lawyer and Party Leader, D-NY)
Chalmers P. Wylie (Lawyer, R-OH)
Margaret M. Heckler (Lawyer, Editor, R-MA)
Stewart B. McKinney (Airman, Politician, R-CT)
Matthew J. Rinaldo (Politician, R-NJ)
Angelo D. Roncallo (Lawyer, Politician, R-NY)
Clair W. Burgener (Politician, R-CA)

[121] *Hearings before the Subcommittee on Consumer Affairs of the Committee on Banking and Currency on H.R. 14856 and H.R. 14908*, by Leonor Sullivan, chairwoman (Washington, D.C.: Government Printing Office, 1974) 1, 4. Section 502 of the Act stated:
"The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this [Equal Credit Opportunity] Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status." Leonor Sullivan started her political career as an aide to her husband, John Sullivan and after his death, she served as an aide to Leonard Irving. Her St. Louis congressional district elected her 12 times, serving from 1953-1977. She became famous for both a quote, "A woman with a woman's viewpoint is of more value when she forgets she's a woman and begins to act like a man," and because she was the only woman to vote against the ERA in the 1970s.

These final goals to stabilize the economy and enhance competition were unusual, but telling additions to the official hearings. Those at the hearings had the larger economy in mind when they debated this measure, and understandably so, because the 1974 economy was weak. While consumer credit was continuing to grow at an explosive rate, the economy itself was stagnating. A new era of rising inflation and unemployment began in 1974, and there was no public or political consensus on a solution at that early stage. Increasing inflation caused significant economic hardship for most people, through massive increases in energy costs. In response to inflationary pressures, the Federal Reserve cautiously increased interest rates, which only caused more problems for people requiring credit. With increasing interest rates, consumers were unable to secure credit to offset income shortfalls; all while unemployment grew because of the nature of the 1970s economic problems. While the government wavered on how to fix these problems and bring relief to the American people, the members of the House subcommittee found consensus on the point that discrimination in the credit market was an additional obstacle that American consumers should not have to navigate.[122]

The subcommittee was trying to determine if invidious distinctions in the credit market against women were hurting the economy.[123] The most important and confusing problem that Congress had to consider was proving that discrimination existed in the first place. Congress also had to justify the fact that the very presence of discrimination harmed creditors, by influencing them to make poor lending decisions, and consumers,

[122] Ibid., 14.
[123] Ibid., 7.

by keeping them out of the credit market. Proponents of federal legislation had to convince Congress of these realities, and the need for credit regulation.

The subcommittee concentrated on the NCCF 1972 report, *Consumer Credit in the United States,* to determine the negative effects of invidious distinctions on the economy. If a creditor denied a loan because of a non-economic discriminatory reason, then the competitiveness of the market should produce another lending agent that would be willing to make that loan.[124] This argument did not deal with the question of how competitive the market actually was, a serious consideration when one considers the state of the economy as it entered the mid 1970s. Interest rates had been on the rise since 1970, limiting demand for credit in mortgages and bank loans, but not necessarily in credit cards. Also, government regulations established in the Consumer Credit Protection Act limited the amount of interest rate 'undercutting' that lenders could do, which included such measures as misleading potential borrowers with temporarily low rates. Therefore, the belief that market competitiveness should keep any discrimination from happening was economically sound in theory, but did not consider the troubled economy, the societal mores held by lenders, and the political strength to protect their business.

The real question that the House Subcommittee had to answer, then, was not whether or not women suffered discrimination—there were plenty of stories to prove that discrimination did occur. The real issue was whether credit discrimination against women was rational and creditors could use a woman's gender against her. The job of loan officers is to discriminate against bad credit risks by using tried and true statistical

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[124] *Report of the National Commission on Consumer Finance: Consumer Credit in the United States*, by Ira M. Millstein, chairman (Washington, D.C.: Government Printing Office, 1972).

science, usually organized under the three C's: character, collateral, and credit. If available evidence showed an undeniable connection between being a woman and *not* being creditworthy, then equal access legislation would be counterproductive, adding another weapon to the arsenal of those arguing against the legislation.

The House Subcommittee answered that question by developing the ECOA with three main points. First, they outlined the purpose of the Act, which was to enhance economic stabilization and competition by eliminating discrimination based on "race, color, religion, national origin, age, sex, or marital status."[125] It would also improve the economy by continuing to promote the "informed use of credit," which is the only real point that connects this act to its parent, the CCPA.[126] Civil rights groups tacked race, national origin, religion, and age onto the legislation after the Senate passage, but they were doomed from the start. Not only did those other demographic factors also largely lack the quantitative evidence that also plagued the sex and marital status factors, but also the qualitative evidence to support them was weaker because of the higher correlation of loan default rates with other economic variables such as high interest rates, inflation, and other credit problems such as redlining and income disparities.

Second, since a large number of institutions lend capital, the subcommittee chose a large number of regulatory institutions to maintain compliance within the industry. The sheer size of the government bureaucracy is apparent here. Some of the regulating

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[125] Important results of this language as per marital status included the outlaw of then common credit practices, namely requiring a spouse's signature, discounting the wife's income, and requiring only women to reapply for credit when their marital status changed.

[126] *Hearings before the Subcommittee on Consumer Affairs of the Committee on Banking and Currency on H.R. 14856 and H.R. 14908*, by Leonor Sullivan, chairwoman. Washington, D.C.: Government Printing Office, 1974. 3-4. In the long run, this was the most effective part of the Act.

organizations were able to easily take over policy management, namely the Federal Reserve Board, the National Credit Union Association, and the Federal Deposit Insurance Corporation. Others were not as able to become credit regulators, including the Civil Aeronautics Board and the Department of Agriculture.[127] Eventually, the Federal Reserve would divvy responsibility for the regulation between seven government agencies. None of them had been tapped to author the regulations that laid out how the ECOA would operate, and only a few had the infrastructure to enforce them.

The third part of the act dealt with liability. It outlined the rules behind class action suits, capped punitive damages at $10,000, and set a statute of limitations of three years, but loopholes remained in this section of the legislation. State credit and property laws varied, and the act did not establish a consistent hierarchy between federal and state legislation. Creditors could still ask prohibited questions, inquiring about marital status or asking one's age, as long as they were used for specific legal purposes, such as those related to credit and property laws. For instance, a husband's responsibilities for his wife's debts changed according to the type of credit or the state where the couple resided, and creditors often wanted to be able to go after a tardy debtor's spouse. This problem was the most ridiculous of all. How were loan officers supposed to ask a question to ascertain borrower rights, and then not use that information when deciding on the loan? These points framed the subcommittee hearings.

Government officials who generally supported the legislation testified first. Federal Reserve Governor Jeffrey M. Bucher, paid lip service to the fact that economic discrimination harmed a competitive industry since it kept creditors from making the

[127] Ibid., 5-7.

most profitable loan decisions. However, he questioned the ability of the federal government or the Federal Reserve to enforce the measure, noting the subjective nature of credit decisions and the difficulty to coalesce state laws, federal laws, and regulatory agencies. He also balked at having the Federal Reserve enforce the Act.[128]

The Assistant Attorney General for Civil Rights, J. Stanley Pottinger, and the Equal Employment Opportunity Commission Associate Counsel, Issie Jenkins, gave broad support to the measure, but weighed in with similar concerns about enforcement. While coordination and effective regulation required centralization, no agency wanted that responsibility. Chairwoman Sullivan, along with Jenkins and Pottinger, wanted to give the Federal Reserve the authority to write the rule, but Bucher continued to claim that the Federal Reserve lacked the staff and time to produce a rule and enforcement measures within a year. Other agencies also weighed in on the enforcement issue with lukewarm support. Some, such as the Bureau of Indian Affairs, wanted particular exceptions, but most continued to question how to translate the bill into enforceable regulation. Some of the agencies, such as the Small Business Administration, proposed self-regulation on a much wider scale, thereby eliminating the pressures of centralization. Most, including the National Credit Union Association, toed a line that gave tacit support, but emphatically stated that need for it was minimal because those agencies already followed anti-discriminatory procedures.[129]

The credit industry aimed to balance its pledge to be nondiscriminatory, thus diffusing the government's attack, with its goal of questioning the need for the bill. The

[128] Ibid., 30-35.
[129] Ibid., 35-55, 64-88.

government agencies that entered statements into the hearings had already traced out the argument that discrimination might not be widespread enough to warrant action. A board member of the National Consumer Finance Association (NCFA) and President/CEO of Capital Financial Services, Inc., Thomas A. Haeussler, gave the lead testimony from the credit industry that challenged the act's purpose and credibility. His theoretical argument centered on the idea of the credit industry as a private enterprise with a public mission, an important distinction when placed in the context of increasing bank regulation in the 1960s and early 1970s that brought more public/government oversight and control to that private enterprise.

Haeussler was also concerned that the granting of credit would change from being a "privilege" to being a "right."[130] If too many people—including policy makers—believed that everyone should have access to credit, creditors worried that they would not be able to discriminate against legitimately bad credit risks, even if they were discriminating against a whole class of individuals.

Haeussler attacked the basic theory of the legislation and called for it to include lower maximum penalties, a shorter statute of limitations, and the ability of loan officers to ask potentially "illegal" questions if they related to the borrower's ability to repay. He cited the two facts that women's groups popularized in their support of the measure. The first was that women made less than men did; the second was that working married women made less than working single women. Haeussler argued that if these two points were correct, then *ipso facto*, their credit potential was less and they deserved less credit because of limited earning potential. Instead of putting limits on the credit industry,

[130] Ibid., 90-91.

Haeussler suggested improving the employment status of all women and depending on state laws to combat the occasional and rare occurrences of true invidious distinction in the loan offices. He continued to argue that most credit granting agencies outlawed discrimination in their own ranks, and cited the National Council of Financial Associations Code of Ethics as proof. As a final salvo, Haeussler also used economic rationality to speak to the concerns that discrimination hurt the competitiveness and profitability of the credit industry. "Our job isn't to turn down loans," he argued, insinuating that the subcommittee was unable to determine which questions were appropriate to ask to determine creditworthiness.[131]

By the second day of the hearings, two important trends appeared. The first was that regulators needed to consider whether discrimination was systematic. Representative Sullivan stated that the subcommittee's goal was producing an "effective and workable" bill.[132] Since no one came out strongly against the bill's intent, the real work would be in making the bill enforceable and giving it some legal weight. The next trend was a bigger issue for the policymakers involved in the process. They would have to construct this bill on women's experiences, not economic statistics. The first appearance of quantitative statistics from the NCCF reports and the Women's Bureau about the credit situation of women indicated that women did not necessarily experience class-based discrimination.[133] These findings bolstered the credit industry because it was hard "evidence," insofar that evidence could be produced, that systematic discrimination

[131] Ibid., 91, 110, 115, 126.
[132] Ibid., 129.
[133] *NCCF Report*.

against women did not occur. It allowed representatives of the industry to protect their system with something more than just traditions.

Since the bill at this point still included race, age and other demographic factors, some of the committee members wanted more data to support legislation outside of the experiences of women, which had completely dominated the discussion. Supporters introduced a Civil Rights Commission Report, "Obstacles to Financing Minority Enterprises," into the record to show some of the developmental economic problems that discrimination brought. Using Supreme Court cases and subpoenaed bank portfolios, it offered some statistics on lending to minorities, but these statistics were vague at best, since they did not include a comparison to loans to non minorities given by the same banks at the same time for the same purposes. The report's use of statistics and figures fueled the fire of the opponents who continued to put the burden of proof on the prosecution. As in other legal and legislative battles for civil rights, the ECOA's opponents realized that "figures speak, and when they do, courts listen."[134]

While the qualitative evidence that women experienced unwarranted credit discrimination was strong, the bill needed data, because figures indeed spoke to the House subcommittee. Unfortunately, when the supporters of the act spoke in figures, they mumbled. Evidence, even before the banking industry took the stand, had mounted against supporters of a strong ECOA, and creditors were not helping them by producing any evidence either way. The only instances of discrimination could be found concerned

[134] Ibid., 139, 177, 179. The final quote is from the federal Court's opinion in *Brooks v. Beto*, (366 F. 2d 1, 9 (5th Cir. 1966)) which placed the burden on banks to prove they were not being discriminatory with provisions of the Civil Rights Act. The final draft of the ECOA essentially overturned this ruling.

marital status, *not* gender. The federal government, through its Federal Home Administration (FHA) and Veteran's Administration (VA) loans followed the spirit of the 1968 CCPA. Before then, the VA required "baby letters," affidavits that women would not bear children during the term of the loan. The FHA was also notorious for not counting the wife's income. By 1974, however, 90% of FHA loans and all VA loans counted 100% of income, a feat accomplished without a specific regulation. [135]

The women's groups representatives that took the stand on the second day, Ann Scott, NOW's Vice President for Legislation, Margaret Gates, co-director of the Center for Women Policy Studies, and Ann Kolker, the legislative coordinator of the National Women's Political Caucus, asked the committee to remove race, ethnicity, religion, and age from the groups the act protected, since these factors did not fit their original agenda from the bill's introduction in the Senate. They wanted to create a measure that relied on broad qualitative evidence and implied that only evidence that supported the creditworthiness of women had the necessary qualities to pass a floor vote. They believed that since these credit problems were nationwide and consistent with a pattern of discrimination, it was possible, and necessary, for the U.S. Congress to legislate against them. They introduced the Hartford, Connecticut case study to give their argument some scientific vigor, but alienated some of their allies in the civil rights camp who would have

[135] Ibid., 262. The Housing and Community Development Act (1974) amended the FHA to outlaw sex discrimination in August of 1974, after the removal of baby letters. Jane Roberts Chapman, "Sex Discrimination in Credit," in Jane Roberts Chapman, ed., *Economic Independence for Women: The Foundation for Equal Rights,* (Beverly Hills, Sage: 1976). Chapman's article is illustrative for some groundwork surrounding the ECOA, but because of timing, she was unable to look at ramifications of the Act. She also does not investigate the legislative history of the ECOA.

pushed for a broader protective measure, even if they could not support credit rights for everyone based on statistical data or their collection of complaints and letters.[136]

The removal of other demographic identifiers may have hurt the argument of the women's movement. They had built a two-fold argument that discrimination in credit was invidious and that women had similar credit risks as men. Agreeing to downplay the first argument by removing protection for other demographic groups worked to validate the system in place, and made collaborating data for the second point, that women deserved equality because their economic experiences and literacy was as high as men, even more important. This move was a clear statement that women were convinced that their experience in the credit market was markedly different from the problems experienced by other groups left out of the credit market, so it deserved its own policy measures based on their unique economic status. The women's advocates were unwilling to bring other groups under the aegis of ECOA protection, alluding to concerns that discrimination against racial minorities, the elderly, and the young might prove to be economically rational, which would provide a fatal weakness to the legislation.

The women's groups who supported equality in 1974 won a seemingly solid victory when Congress passed the Equal Rights Amendment and a number of states quickly ratified it. The proponents of equal credit believed that the ERA passage could correct credit discrimination by making different treatment of male and female applicants illegal. Armed with a mountain of anecdotal evidence, some statistical data, and on the heels of ERA success, the bill's supporters were convinced that women could compete

[136] Ibid., 353, 357.

with men in the credit market, as long as there were no invidious distinctions made against them.

In light of this groundswell to fundamentally change their system, the banking industry and other corporate lenders came together to amend the bill. Homer L. Stewart, Jr., senior Vice President of the Republic National Bank of Dallas, Texas, Charles T. Russell, senior Vice President of National Bankamericard, Richard F. Kerr, the National Retail Merchants Association representative and Vice President for Credit for Federated Department Stores, and Randy Lively, the director of Public Affairs for Sears, presented an argument to limit the scope of the act. Like the credit professionals, they attacked the bill's legal strength, particularly the long statute of limitations, the high limit for class action suits, and the conflict among state laws. They also took issue with the definition of discrimination. "Invidious distinction" ignored the actual discrimination that the credit industry performed to maintain profitability, "rational discrimination." They complained that not lending to women was "excessively cautious," not an "invidious distinction," but without statistics—that no one was in a rush to produce or demand—there should not be a real impetus to change the lending process.[137]

The industry agreed that courts should listen when figures speak, but those figures were not compelling enough to bring the credit industry into line without a fight. The industry accepted the statistics that were used from the NCCF report and Hartford Case Study, but were not moved enough to accept the staunch legal ramifications for following its recommendations because of its small data base, its inability to connect discrimination with unprofitable business practices, and the fact that it did not recommend legislation.

[137] Ibid., 300, 301, 307, 311, 317, 335, 343, 409, 442, 444.

By December 1974, when Leonor Sullivan finally presented the bill to the floor vote after these hearings, the enthusiasm for the act had diminished.[138] By the end of 1974, the previously assumed swift passage of the ERA was in trouble, and those problems had filtered down to bolster the credit industry arguments. Sullivan beseeched her colleagues to pass the bill in that legislative session, but the bill that they were considering was significantly different.

Besides protecting women only, amendments added exceptions that allowed lenders to ask discriminatory questions to ensure compliance with other state laws, particularly community property laws. It also lowered maximum limits on legal redress, and explicitly removed criminal litigation as a form of punishment. The House passed it, but they passed a weaker bill than the one that went to the subcommittee in July, and President Ford signed an amended version of the bill into law in 1976.

In the interim, it took a year for the Federal Reserve to implement Regulation B, the rules of the ECOA. Regulation B had to balance the amount of regulation that the credit industry could, or would, stand with the amount of enforcement that the supporters of the bill desired. It had to outline particular exceptions to the law, but keep it simple enough to keep enforcement efficient. For the most part, many of those advocates fighting for a strong federal legislation that would bring discriminating creditors to task would be disappointed in the relatively few cases brought forward and the relatively light punishments given out due to the weakened regulations.

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[138] *United States Congressional Record*, 15041, 15231, 37971-37973.

The ECOA in the Federal Reserve, Enforcement Hearings, and its Effectiveness

A number of articles in the *New York Times* by one of their economic writers, Eileen Hanagan, kept track of the rulemaking process in the Federal Reserve and the pressures that supporters of stronger regulation had to endure from the credit industry and a reluctant federal policy apparatus. One article noted some victories by the bill's supporters, but those victories only recouped some of the ground already lost. Some of these revised rules removed a bias against part-time work, banned questions about a woman's intention to have children, and reintroduced the rule that required a written explanation if a bank denied a loan.[139] All of these points should have been in the regulation anyway if the Federal Reserve rule writers were following the spirit of the law that passed in the House.

A letter to the editor on October 3, 1975 also showed the beating that the bill was taking at the Federal Reserve. Susan Onaitis, the National Coordinator for the Task Force on Women and Credit wrote, "Federal Reserve regulations weakened the law to the point that one wonders whether it will have any impact on creditors who continue to discriminate against women." A month before the completion of the Federal Reserve's regulation, loopholes in the law obviously remained. Credit lobbyists successfully fought to keep a written explanation of a loan denial only mandatory of if a rejected applicant requested it. Lenders could also indirectly ask about childbearing plans, and creditors

[139] Eileen Hanagan, "Federal Reserve Officials Tell Women They will Revise Rules on Credit Bias," *New York Times,* 19 September 1975, p. 30.

could require information on the husband, and therefore his consent to the loan, even if he was not on the account.[140]

One of the arguments that the Federal Reserve put forward in Senate hearings was that it was under serious pressure from the credit industry because of the high costs of necessary changes. In a 1977 cost/benefit analysis of the ECOA, economist James Smith showed that the Federal Reserve reduced the costs with every change to the regulation it made after the law passed the House in 1974.[141] Smith's analysis found that creditors passed those costs on to their consumers; an estimated $190 million, $300 million by some counts, in costs associated with mass mailings, file systems and computer database changes. Credit customers later found these costs in higher finance charges, increased rejection rates, and higher costs of goods from retailers who extended credit and had to change their department credit practices.

Those initial costs could be high for the credit industry, but $190 million in one-time and recurring costs that creditors passed onto consumers anyway should not have been a serious argument for an industry that in 1975 amounted to about $120 billion, so the costs would be about around 0.16%. When concluding his cost/benefit analysis of the ECOA, Smith stated, "benefits must be measured in terms of human dignity and the benefits to society that should flow from greater social equity."[142] Attacks from the credit industry during this rulemaking process weakened the Act's purpose of achieving greater social equality, which a number of the letter writers pointed out when they wrote to their

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[140] Susan Onaitis, "Letter to the Editor," *New York Times,* 3 October 1975.
[141] James Smith, "The Equal Credit Opportunity Act of 1974: A Cost/Benefit Analysis," *Journal of Finance* 32 (May 1977): 611-613.
[142] Ibid., 621.

legislators in the early 1970s.

Other October 1975 news articles outlined the new rules, and they mentioned briefly some of the changes that weakened the bill's purpose. These changes included the *voluntary* requirement to keep accounts in both names and a longer lead-time, until November 1976, for the Federal Reserve to implement the rules, even though the ECOA began enforcement in early 1976. Lastly, credit regulators decided not to require written disclosure of a denied loan contract.[143]

In March 1976, President Ford signed an amended ECOA. The bill incorporated the regulatory process from the Federal Reserve meetings and changes that the Senate made in 1975 that reincorporated the other demographic groups like race and ethnic origin. The following legislative session, the Senate Committee on Banking, Housing, and Urban Affairs held hearings concerning the enforcement of equal opportunity in lending measures. These hearings covered the entire litany of anti-discriminatory legislation, including the ECOA, the CCPA, and the Fair Housing Act. The chair, William Proxmire (D-WI) thought the meeting was important because no agency was enforcing equal opportunity laws. No agency or individual filed a case about credit discrimination had since the CCPA's inception in 1968; but lending institutions did not keep the required records that would support these suits. Proxmire bemoaned the regulatory laxity that was painfully evident in the Home Loan Board, the Federal Reserve, the Office of the Comptroller, and the FDIC, calling their record of

[143] *New York Times*, 10/17/75, Page 1. Sen. Joe Biden, Jr. (D/DE) had just introduced a bill that would require written disclosure of a refused loan contract in all cases, as a direct amendment of the CCPA. The committee later amended the bill to include that last point.

noncompliance "disgraceful."[144] Finally, some of the few statistics that institutions and industry outsiders produced showed continued discrimination after the ECOA's passage, while some analyses did not.[145] However, none of the represented agencies at the Senate hearings in 1976 wanted to take responsibility for lackluster data collection or enforcement. To respond to claims that they did not keep appropriate records, the institutions extended a defense based on privacy rights, arguing that they could not release or collect data since loan applicants did not want their private information released. Unfortunately, the House Subcommittee in 1974 did not consider this problem.[146]

The fact that the lending institutions ignored the law by not keeping records or telling borrowers about their rights was not what particularly disturbed the Senate committee.[147] What the committee did fear was that each of the five cases that victims brought forward in 1975 for redress was resolved before the Justice Department was even notified, effectively denying the Justice Department the opportunity to enforce the law.[148] Questions arose about how it handled those cases, and whether or not lending practices had changed at all.

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[144] *Hearings Before the Committee on Banking, Housing, and Urban Affairs on Oversight on Equal Opportunity in Lending Enforcement by the Bank Regulatory Agencies*, by William Proxmire, chairman (Washington, D.C.: Government Printing Office, 1976) 1, 19.

[145] The evidence used by the Senate Committee showed some discrimination going to 1977, but a study done in 1978 by Richard and Carol Peterson failed to show discriminatory practices, even before 1974. Their study showed that the failure to collect information on the part of the credit agencies was problematic because of assumptions made by Regulation B. Richard L. and Carol M. Peterson, "Testing For Sex Discrimination in Commercial Bank Consumer Lending," (Working Paper 19) (West Lafayette, IN: Credit Research Center, Kranmert Graduate School of Management, Purdue University, 1978).

[146] Ibid., 10, 13. 33.

[147] This point was especially important because the current state of the ECOA put the burden of proof on the plaintiff to prove discrimination.

[148] Senate Hearings. These cases were often settled out of court.

The credit industry was unwilling to be an equalizing force in society, because of imagined costs—above and beyond the $190 million, possibly onerous changes to their decision making apparatus due to the inertia of tradition, the general distaste for regulation, and most importantly because they believed it was not their job. In 1976, the regulatory agencies were also unwilling to make the credit industry take on that role. Lastly, the supporters of the act, even though they had friends in Congress and could get their issues heard, still lacked the power to enact real change. Some qualitative changes were easy enough to make, but when regulators asked the industry to prove that their process was not discriminatory, they balked.

Doris A. Hull's report for Housing and Urban Development on the ability of women to secure mortgages, "Women in the Mortgage Market," supported the idea that the law would not alter the tradition of lending. Hull discussed some broad economic characteristics of women in 1976. While women's incomes were lower than men, their income growth rate since the early 1960s was higher, opening up more potential for profitable loan making. However, there were other less quantifiable problems. While the law required credit lenders to count alimony and child support, lenders considered those sources of income to be notoriously undependable. The growing number of homes with women as the primary wage earner also complicated the issue. Hull's report showed the limited power of women in the mortgage market because of their unequal access to credit, but it questioned the ability of law to alter a long-standing tradition.[149] The credit market in the United States had made some industry-wide changes since the Colonial era,

[149] Doris A. Hull, *Women in the Mortgage Market* (Washington, D.C. Housing and Urban Development 1976).

but creditors still made decisions under largely the same assumptions, that women in particular did not have reliable income on their own. The mid twentieth century pursuit of equity had not yet changed that fact.

The ECOA's advocates wanted a preventative measure, instead of a punitive one, because consumers generally lacked the information or resources necessary to fully utilize the punitive and remunerative measures in other types of consumer protection laws, as the few lawsuits brought by consumers demonstrated.[150] Consequently, since creditors believed that unlawful practices remained profitable in the face of possible litigation, those practices would continue, as long as lenders still held a belief that women were more risky. Punitive, instead of preventative, measures were also insufficient because of the prohibitively high cost to educate the consumer, the general reluctance by federal authorities to truly punish the offenders, and the inability to provide remuneration to the affected consumer. The answer, according to the legal industry, was to provide for public enforcement, through eliminating the profit motive of banks to continue discriminatory practices and empowering state attorney generals to sue on behalf of consumers. The general thrust to "champion" consumer rights was the most important point.[151]

In addition to a discourse about the ECOA's role in consumer protection and social equity, there was a discussion within the credit industry about women borrowers. One study by Martha L. Garrison described the fortitude women needed to fully realize

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[150] For a discussion on punitive credit laws, see Dorothy Cohen, "Remedies for Consumer Protection: Prevention, Restitution or Punishment," *Journal of Marketing* 39 (October 1975): 24, 30.

[151] "Consumer Protection: New Hope Following Failure of Civil and Criminal Remedies," *The Journal of Criminal Law and Criminology*, 66 (September 1975): 271, 277, 280-285.

the provisions of the ECOA. "Vigilance in monitoring compliance with the Equal Credit Opportunity Act may be necessary," she wrote. "In particular, women who want credit in their own names must make assertive efforts to acquire it." Garrison found that the a lag in the credit industry's recognition of the credit-ability of women caused these 'demeaning' credit lending trends to persist a year after the ECOA's passage.[152]

Legislators and regulators assumed the credit-ability of women throughout the hearing process for the ECOA, even in the face of limited data. Once regulators browbeat the industry into keeping better data and requiring banks to file reasons that banks denied women credit after 1976, better analysis and conclusions were possible. In 1982, Helen Ladd compared banks in New York and California, and found that in New York, but not California, married women applying alone, and all unmarried applicants, female *and* male had worse credit terms if they could secure it at all. However, she did note improvement in the opportunities that women had to compete for mortgage funds. She added her voice to the chorus that claimed law alone would not end discrimination, and that improving the economic status of women at large was the most effective way of ending credit discrimination.[153]

The scope required to secure useful quantitative data is too prohibitive to create nationwide study of the ECOA that is comparable to Kathleen Zick's study of California's Equal Credit Act or Helen Ladd's comparison of New York and California banks. However, a few studies do look at effects of the ECOA in other ways. F. Jerry

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[152] Martha L. Garrison, "Credit-Ability for Women," *The Family Coordinator* 25 (July 1976): 241, 246.
[153] Helen F. Ladd, "Equal Credit Opportunity: Women and Mortgage Credit," *American Economic Review* 72 (May 1982): 167, 170.

Ingram and Arthur E. Warner conducted a study in 1981 based on South Carolina banks. They coded 750 loans, and reduced each down to two sets of variables. The first set included what so-called "risk-return" variables, which described each applicant's job, income, and loan characteristics. The second set included demographic factors covered by the ECOA, such as sex, race, age, and marital status. They did not find any difference in the access to credit for the protected demographic groups when they controlled for the risk-return variables.

Richard and Carol Peterson conducted a study in 1978 of 37,000 loans that were either completely repaid, paid or charged off, in the previous decade—charged off loans were loans that banks had to remove from their books, usually because of nonpayment—at 30 different banks across the country. Unlike Zick's study, there is no analysis of loans that creditors denied at the outset, and they do not elaborate on why some of the loans failed. They concluded that there was no evidence that sex-based consumer credit discrimination, invidious distinction, occurred before 1974. However, they assumed that *if* creditors did not perform any of the discriminatory acts, such as baby letters or requiring a husband's signature, *then* discrimination would not exist. This assumption may have overestimated the abilities and proclivity of the Federal Reserve's rulemaking and enforcement mechanisms to keep creditors from performing any of the outlawed acts. If the creditors did not believe that women were worthy of credit and they did not have to be concerned about federal regulators catching them, then discrimination could very well continue.[154]

[154] Peterson and Peterson. ii, 2, 14.

Thomas Durkin and Gregory Elliehausen conducted a survey of random consumers in 1977 that asked the respondents about their perceptions about credit and what they assumed about creditors. A number of their questions dealt with the new ECOA, and whether consumers believed there was a problem with how the credit market used personal information. Instead of receiving or soliciting experiences from individuals who obviously had problems with the credit market, discriminated women, this broader sample of over 6000 people offers a strikingly different picture.[155]

As three tables from that study show, a representation of this broad personal experience did not quite follow the experiences of women who fought to secure protection and equality through legislation. Each shows the responses to one of the survey questions. Table 1 shows the responses to the question, "Which criteria do you think is most important to creditors?" Fittingly, credit and financial factors are primary here; the 'credit' and 'collateral part of the three C's, but respondents believed that the third 'c,' character, was relatively unimportant to creditors. Therefore, the "c" that the ECOA regulated the most, "character," was the criterion by far viewed as the least important by potential debtors.

[155] Thomas Durkin and Gregory Elliehausen. 1977 Consumer Credit Survey (Federal Reserve Board of Governors 1978)

Table 1			
Which Criteria Are Most Important to Creditors?			
Criterion		Mentions	
		Number	Percent (N=6002)
Personal			
	Family Size	68	1.13%
	Marital Status	69	1.15%
	Sex	27	0.45%
	Age	110	1.83%
	Race	12	0.20%
	Personal Reputation	228	3.80%
	Other	73	1.22%
Credit			
	Credit History/Report	1583	26.37%
	Assets/Collateral	556	9.26%
	Amount of Other Debt	646	10.76%
	Other	40	0.67%
Financial			
	Type of Employment	1033	17.21%
	Homeownership	94	1.57%
	Time of Current Address	102	1.70%
	Amount of Income	1089	18.14%
	Other	34	0.57%
Other			
	Other	45	0.75%
	Not Known	193	3.22%

Table 2 shows consumer's responses to a question that which credit criteria should be illegal. Here, the criteria about character was considerably more important to respondents, with race and sex well over 70%, with marital status and age the next most important. These answers correspond to the responses from the first question. Respondents believed that "character" is least important to creditors, and they should not discriminate based on those factors.

Table 2		
Which Credit Criteria Should Be Illegal?		
Criterion	Number of Mentions	Percent of Respondents (N=2563)
Length of time on present job	127	4.96%
Length of time at present address	293	11.43%
Race	1928	75.22%
Having a checking account	429	16.74%
Homeownership	308	12.02%
Sex	1850	72.18%
Amount of other monthly payments	98	3.82%
Age	1024	39.95%
Income	94	3.67%
Marital Status	1230	47.99%
Size of Family	674	26.30%
Previous Credit Experience	119	4.64%

Table 3 shows the responses to a different type of question. It asked those consumers who did not receive credit why the bank denied them. Three years after the ECOA's passage, and a year after the Federal Reserve published the regulations, 15 creditors had the audacity to admit that they denied a loan to a married couple on those criteria alone. Another five creditors limited the size of the loan because of the marriage.

Table 3					
Reasons for Credit Denial or Limitations Given To Respondents					
Criterion		Denial		Limitations	
		Number	Percent	Number	Percent
Personal					
	Marital Status	15	3.07%	5	2.51%
	Sex	0		0	
	Age	25	5.11%	5	2.51%
	Race	0		1	0.50%
	Other	4	0.82%	1	0.50%
Credit					
	Credit History/Report	148	30.27%	29	14.57%
	Assets/Collateral	38	7.77%	35	17.59%
	Amount of Other Debt	26	5.32%	16	8.04%
	Other	2	0.41%	1	0.50%
Financial					
	Type of Employment	64	13.09%	17	8.54%
	Time of Current Address	25	5.11%	5	2.51%
	Amount of Income	40	8.18%	28	14.07%
	Other	6	1.23%	3	1.51%
Other					
	All Other	24	4.91%	19	9.55%
	No Reason	55	11.25%	15	7.54%
	Not Known	17	3.48%	19	9.55%
Totals		489	100.00%	199	100.00%

Based on these responses, Durkin and Elliehausen suggest that most people believe that personal factors are not important when applying for credit, and that knowledge of the ECOA is very limited. In any case, the fact that many consumers underplay the importance of personal characteristics, they would be likely to believe that any legislation regulating it may be unnecessary.[156]

The drafter of the legislation offered a different response. In 1980, Emily Card noted that the passage of the ECOA "changed [the system] almost overnight." Women,

[156] Durkin and Elliehausen, 34, 36.

however, were generally unable to employ these monumental changes to gain better access to credit. A lack of publicity about the act, a weakening national economy, and the doomed ERA campaign took a lot of thunder out of the ECOA passage. Card believed that the patriarchal tradition was already changing, so the law would not have to be an impetus for those changes, just an accelerant. She also noted the difficulty of determining the economic status of women at the end of the 1970s due primarily to unclear census records that did not include precise information on women's assets or income. This lack of data both from the government and from lenders obscured the act's effectiveness.[157]

In the late 1970s and early 1980s, the economic position of women improved because women earned more than they had in the past, even women still in heavily sex-segregated employment. By the 1980s, jobs in most industries had not reached income parity with men and women were still more prominent in lower paying and part time employment. The 1970s idea that the sky was the limit for the women's rights movement had created a major conflict between traditional roles for women in American society and new economic opportunity for women in the consumer economy.

By 1979, the ECOA's role in these economic and political trends became clearer. One evaluation of its role came from John R. Nevin and Gilbert A. Churchill, Jr. They showed that the ECOA met the goal of limiting the industry's ability to arbitrarily discriminate. However, they added an important caveat that other "secondary" factors remained important in the credit granting decision, including homeownership,

[157] Emily Card, "Women, Housing Access, and Mortgage Credit," *Signs* 5--Supplement- Women and the American City (Spring, 1980): 217-219.

employment duration and stability, and credit history. These factors fell heavily on women looking for credit since the attempts to gain economic equality for women had not completely succeeded.[158]

One way to determine the public's knowledge and reception of the ECOA is to look at how letter writers and editors received it in the press. Articles in the *New York Times* concentrated on how the public knowledge of the ECOA was quite low. As late as June 19, 1977, a survey done by the Women's Year Project through the New Jersey Division of Civil Rights found that only half of the female respondents could correctly answer at least three out of 16 questions about equal credit rights, laws, and opportunities. A few months later the *Times* also found that keeping women educated about those rights was important because a vast majority of women would be single at some point during their adult lives.[159] These authors in the *Times* also rejected the somewhat common idea among the act's opponents that financial independence for women would result in marriage instability.[160]

One indirect, but notable, consequence of the ECOA was that it effectively increased the home-buying power of married couples and women at a time when the housing industry suffered hard economic times and high interest rates. Rents and

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[158] John R. Nevin and Gilbert A. Churchill, Jr., "The ECOA: An Evaluation," *Journal of Marketing* 43 (Spring 1979). Walter H. Waggoner, "Assembly Votes Credit-Bias Ban," *New York Times*, 13 April 1973, Page 83.

[159] Joan Cook, "Credit: Confusion Persists," *New York Times*, 19 June 1977.
Ibid., Frances Cerra, "Educating Women about Credit Rights" 9 October 1977.

[160] It is significantly outside the scope of this paper to discuss what, if any, effect on the family increased financial independence for women would bring. However, I would be remiss to omit the fact that this conservative tact was an important, yet implicit, force in keeping women from realizing the same economic and credit opportunities as men with more unofficial and personal means. This is where the discrimination truly lies, with the personal beliefs of lenders and others who dissuade or discourage economic independence.

mortgage payments increased substantially from 1972 to 1977. Housing costs, in the form of monthly rent and mortgage payments, rose 80 to 90%, during a period when inflation, as high as it was in the mid 1970s, only caused wages to increase around 45%. Since the ECOA meant that creditors considered women's incomes more fairly, there was a massive increase in income available to spend on housing and mortgages. Economic columnist Jane Bryant Quinn concluded that the increase in available housing money resulted in higher-priced housing and accelerated housing inflation. The demand for mortgage money rose in the already high interest environment of the late 1970s, which could inexorably tie women to the labor market to pay for a family's home.[161] Quinn's negative assessment of the ECOA was shortsighted because as long as the ECOA worked, these systematic changes would not be temporary. If the housing market was viable, then rational creditors would recognize these changes in women's credit and incomes, and "housing inflation" would only occur insofar as housing inflation existed in the past, through broader housing market trends, not through an increase in incomes counted towards a mortgage. This argument is exactly what the ECOA was litigating against, the discriminatory idea that women's income was inherently instable and insignificant. They wanted to show that women's incomes were dependable and that women and married couples were able to maintain a household economy with, or without, a workingwoman's income.

The *Washington Post* also reported on legal actions surrounding the ECOA. The Federal Trade Commission charged Delta Airlines with discrimination against female

[161] Ibid., Jane Bryant Quinn, "More Dollars Now Available to Buy Houses; More Money Available to Buy Housing." 9 September 1978.

applicants for travel credit in August 1978, and the airline quietly decided to eliminate the offending parts of its credit applications. In October, a federal court found Citizens Mortgage Corporation in violation of the ECOA, and forced them to "inform its employees of the antidiscrimination policy, and notify [its] real estate brokers and developers that it has the same loan standards for women and divorced persons as for any other group."[162]

Two other legal actions gained much more press and notoriety. In November 1978, the FTC brought its first complaint against Bloomingdale's, which resulted in a $50,000 civil penalty, the largest penalty up to that date. A federal court found Bloomingdale's guilty of discounting certain aspects of women's income, including alimony and other court ordered payments.[163]

Six months later in May 1979, the FTC made its largest ECOA claim against Montgomery Ward & Co., Inc., resulting in $175,000 in civil penalties. The claim was not based on a gender issue, like Bloomingdale's, but the use of zip codes to determine creditworthiness, which was included as a discriminatory measure at the end of the House committee discussion of the ECOA.[164] It is important to note that the ECOA enjoyed its widest press coverage when it was attacking these large, iconic department stores. However, none of these corporations had to endure a punishment that involved any sort of legal or criminal ramifications, showing the punitive weakness of the act when compared to other anti-discriminatory measures.

The political atmosphere of the 1980s was not conducive to strengthening any of

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[162] Ibid., "Delta Probe," 11 August 1978. "Suit Settled," 19 October 1978.
[163] Ibid., Carole Shifrin, "Bloomingdale's Agrees to End Credit Bias," 17 November 1978.
[164] Ibid., Larry Kramer, "Wards Fined by the FTC in Credit Case," 30 May 1978.

the components of the ECOA. The general trend away from non-protective government regulation was particularly true in the financial industry, the aftermath of the Savings and Loan Crisis notwithstanding. The ECOA fell into a gray area between the protection and equality themes illustrated in both women's history and consumer history. Through aggregation of "equal" and "fair" banking and credit legislation, the ECOA lost most of its independent visibility and public awareness. The failure to educate potential and current borrowers, as noted by the *Times* in the late 1970s, persisted into the 1980s and 1990s.

Conclusion

Even if regulatory problems, lax enforcement, and a lack of publicity made the ECOA an incomplete measure, few other policy options were available. One possibility would be an affirmative action-type response, requiring certain quotas or percentages, but both creditors and lenders dismissed this plan out of hand in the subcommittee hearings because it would involve a more comprehensive rewrite of creditor policies, and directly punish credit-worthy men besides. The legislation's proponents also believed that women were deserving of equal credit without requiring banks to give it to them at the expense of men. [165]

Even with its problems, the ECOA was not completely faulty. After its passage, women did not suffer discrimination in the credit market at the same level they did before 1974. The virtual disappearance of the ECOA in the public's consciousness, as described in Durkin and Elliehausen, may have had a negative effect on the credit market. This is

[165] Michael Ferguson and Stephen Peters, "What Constitutes Evidence of Discrimination in Lending," *Journal of Finance* 50 (June 1995): 739-748.

especially true since many demographic groups today would be more competitive for credit because their economic criteria is closer to parity with white males today than 30 years ago, and if more people were aware of their credit rights, then creditors might behave more equitably. The slow weakening of the pink-collar effect and the rampant expansion of credit made demographic factors less important than income. The proponents of equal credit for women were unclear whether those other demographic factors were good determinants of creditworthiness. At the same time, credit-scoring systems have made the credit process for some types of consumer credit more objective.

The ECOA's passage in 1974 showed that the financial industry would battle with government regulators and interest groups led by the women's rights movement and NOW. The government's victory in getting legislation passed was not complete. Not only was the ECOA weaker than the proponents desired, but knowledge of the act among potential loan applicants of it was lacking.[166]

The ECOA is unique among antidiscrimination measures because such a small segment of the population, lenders and regulators, is responsible for its implementation. Those lenders and regulators share the responsibility to enforce the measure, but often have competing interests in ensuring its success. Groups desiring equal credit opportunity responded to these realities by taking a different route than their brethren in other rights struggles. Instead of an appeal for greater enforcement, public education became the key, but this shift was too late to capture the 1970s "moment." The quantifiable impact that the ECOA made is unclear, but there is a wider knowledge of

[166] Durkin and Staten, 138. Joan Cook, "Credit: Confusion Persists," *New York Times*, 19 June 1977.

credit rights and borrowers are better at searching out avenues of credit, which in turn are broader—especially in the consumer sector—because of deregulatory trends in the industry since the 1970s coupled with rules like these that ensure a level field.[167] These trends together have fostered the growth of an industry that can has great freedom in its investment decisions and criteria, as long as it treats different demographic groups similarly.

The confusion that surrounded the ECOA in the mid 1970s was endemic of a larger problem. Consumers and women in particular were confused about their legal rights. This point is why educating potential borrowers of their rights is as, if not more important, than the punitive factors of the ECOA. By educating consumers, credit policy can decrease the informational advantage that creditors exploit.

While most women in women's rights groups were comfortable securing additional rights by securing state and federal legislation, not all women were comfortable with using federal policy making to correct credit discrimination. Other women, those like my mother, never found a place in those women's groups because they were less prone to use the federal government to secure women's rights. Some of those women attempted to directly change the nature of that asymmetry by opening banks ran for and by women in the early 1970s, in the model of other minority groups. Particularly common in the northeast, Women-operated banks offered capital services to primarily female customers. In some cases, the banks were independent, but larger bank corporations established a few women's banks and branches of their own.[168] These banks

[167] Durkin and Staten, 112, 131.
[168] *New York Times*, "U.S. Issues Tighter Rules To Outlaw Bias in Credit" 17 October 1978.

were generally too limited in their scope to reach a majority of women across the nation, and suffered the usual problems by any new entrant into the banking market. These issues aside, their experiences complete the picture of how women dealt with a discriminatory credit market through organizations, legislation, and financial institutions.

Chapter 4:

It Was the Spring of Hope, It Was the Winter of Despair:

A Tale of Two Women's Banks, 1975-1997

When banker Martin Simon took over as President of the 12-year-old First Women's Bank of New York (FWB-NY) in 1987 he claimed, "I believe that when this bank was formed, it was making a political statement as well as a business statement. I don't think the political statement is as valid anymore. I think the business statement needs to be reaffirmed."[169]

That political statement, the idea that women deserved equal access to credit, has been the main thrust of this work. So far, I have shown how women shared their personal experiences and argued against credit discrimination in the legislative process. Women's banks, however, were a slightly different response to the problem of credit discrimination. By depending on the free market to prove that women were creditworthy, bankers and entrepreneurs who started banks for women believed that they could end credit discrimination by showing mainstream banking the error of their discriminatory ways. At the same time, they hoped to display the economic, and profit, potential of women as bank customers.

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[169] N.R. Klienfield, "A Bank of His Own: Martin Simon," *New York Times*, 8 February 1987, sec. 3, p. 6.

This chapter will investigate the institutional/free market response towards credit discrimination against women. This institutional response is the final thrust of the attack against discrimination after the organizational attempt described in Chapter 2 and legislative attempt described in Chapter 3. Banking leaders created women's banks in an attempt to correct the problem of discrimination at its source and prove the creditability of women. First, this chapter will outline the economic and social context of women's banks in general. It will offer an overview of the banking environment in the 1970s, and briefly look at other attempts by other ethnic and minority groups to create their own credit market. Then, this chapter will examine how women's banks participated in the women's movement for economic equality, and illustrate some of the general trends of women's banks. Lastly, this chapter will concentrate more specifically on the women's banks phenomenon by looking at two of the most prominent examples, First Women's Bank of New York and Women's Bank of Denver (WBD).

FWB-NY and WBD serve as clear examples of how women's banks failed or succeeded based on their experiences with consistent leadership, lending effectiveness, and local economic conditions. In the hands of a number of leaders, FWB-NY in New York struggled to live up to the ideological goal of reaching out to women, especially those left out of the sexist mainstream banking system. While it brought some attention to the particular problems that women faced when trying to find access to credit, the bank never really succeeded as a bank. FWB-NY leadership also oscillated between operating a mainstream bank or a feminist organization. For the former, profitability would be paramount, but to serve the latter mission might involve foregoing profit to serve a community of women.

On the other hand, the stable WBD, under the long-term and steady direction of Chair Mary Roebling and President LaRae Orullian, enjoyed moderate success when measured by its financial statements. By behaving as a bank with a feminist mission, instead of a feminist organization with a profit motive, WBD was more successful than FWB-NY. WBD eventually changed its focus to concentrate more on mainstream banking in the early 1990s once it felt that the obstacles that women faced in the credit market were no longer relevant enough as a guiding force for their institution, essentially completing what many women's bank proponents wanted in the first place.

The story of all women's banks, including FWB-NY and WBD, offers a different description of credit discrimination against women. Instead of concentrating on the problems women encountered and how they tried to find succor through legislation, women's banks wanted to correct the problem with market initiatives. The political statement these banks wanted to make was that women were profitable credit risks and deserved access to credit. Women's rising income in relation to men, and their dedication to repaying their debts, made them good risks, which was an argument that opponents of credit discrimination had made since the start of their movement in the late 1960s.[170] These banks hoped to give women a chance to receive credit for starting small businesses, owning their own homes, or meeting their consumer credit needs. The leaders of women's banks believed that they could prove to the broader banking system that banks should not punish credit-seeking women by discounting their income or

[170] For an exhaustive economic discussion on the wage gap between women and men, and how it widened and closed through American history, see Claudia Goldin, *Understanding the Gender Gap: An Economic History of American Women* (New York: Oxford University Press, 1990).

making them navigate extra obstacles.[171] By promoting services that would be particularly attractive to female customers, such as supporting financial literacy and counseling them through the loan process, these banks served all women, not just their customers.

Those customers fell into three broad categories. The first of these categories were affluent women, and some men, who wanted to keep an account in women's banks as part of Simon's political statement, and a show of support for a feminist institution reaching out to women who needed access to credit. They did not need the women's banks as an avenue to credit.

The second group of customers consisted of female business owners and middle class women who, in the past, had encountered difficulties when trying to secure credit in their own names. When the leaders of the women's banks established their institutions, these were the customers they envisioned supporting. While some of them may have defaulted because of bad luck in a business decision or deal or because of the bad late 1970s economy, they were no different from a general pool of credit applicants. This experience helped the women's banks prove that creditors should evaluate the creditworthiness of women on their own merits, without special regard to their gender or marital status. The third group of customers was a small group of women who could not secure credit in their own names and were not creditworthy. Most of the women's banks were able to avoid most of these customers, but at times, this group made up a

[171] For a discussion on how subjective discrimination hurts the credit market, see Ferguson and Peters.

disproportionally large section of their loan portfolios because of the banker's desire to offer a route of credit to women as a feminist service.

For women's banks, like all banks, the trick to surviving as a financial institution was to get enough information about their customers to minimize the number of bad loans. However, women's banks had to add the weight of that political statement to the burden of making that decision. The real story of women's banks, then, is how they succeeded, or failed, in balancing those burdens.

The Context and Reason of Women's Banks

In 1977, journalist Jenny Tesar interviewed representatives (either Presidents or boardmembers) from of the six women's banks for an article in the *Banking Journal* and they each had something to say about why they got involved in women's banking

> Mabel E. Hamilton- President Connecticut Women's Bank, Greenwich,
> "Our organizers wanted a bank where people could come to get personalized, individual attention, without discrimination and without fear that they would be considered ignorant, unsophisticated, or lacking in financial judgment."
>
> Judith B. Foster- Committee Member, Women's Bank N.A./Denver,
> "We felt there was a strong need for a bank that had the capacity to deliver special services to women."
>
> Rowan Henry- President, First Women's Bank of California/Los Angeles,
> "Our organizers wanted to provide a place where women who require banking services would feel welcome and comfortable, where they would feel people are interested in them thus might be more helpful."
>
> Emily H. Womach- President-Designate of Women's National Bank in W.D.C,
> "The main thing we have to offer is our attitude. There is a real need for financial management counseling. So many people, particularly women, come to me and say, 'Emily, I have a stupid question to ask and I don't know any one else I can talk to because I'm sure they would just look at me and thing I was completely dumb. So would you tell me...' And the question would not be stupid. It was just that they had never come in contact with anything like that before and they didn't know whom to turn to."

> Patricia Connolly, President of Western Women's Bank in San Francisco,
> "If banks did the job they were supposed to do as far as their women customers and depositors were concerned, there wouldn't be a need for women's banks."
>
> Sally S. Buck-President of Womensbank in Richmond, Va.,
> "The title was one of our organizers' biggest debates. Would 'women' in the title be a plus or minus? They decided that in the long run it would be a plus, and I think it has turned out to be."

These statements served as general guidelines for what women's banks wanted, serving the special needs of women who required credit.[172] By offering personalized attention, where women could find answers to their banking questions and feel comfortable asking for help from clerks and bankers who would respect them, these women's banks worked to introduce women to banking generally and the credit market specifically. The inviting atmosphere of these banks encouraged thousands of women to take a more active interest in their economic and credit lives.

From 1975 to 1979, four more women's banks, seven women's credit unions and two women's savings and loans opened across the country, mainly in major metropolitan areas, but also in a few smaller markets, such as Salt Lake City and Milwaukee. The founders of these banks—a mix of women's rights activists comfortable with conservative politics and the free market with banking entrepreneurs hoping to tap an under-served market—realized that the successful expansion of credit rights to women that occurred in the 1970s would not be sufficient by itself to end discrimination as they saw it.

To accelerate that expansion of credit towards women, women's banks also reached out to women to convince them of the benefits of investment and credit. The

[172] Jenny Tesar, American Banking Association Banking Journal, October 1977, 58-68.

banks also encouraged more women to enter the financial and banking job market and provided them training for that industry, although sometimes there was a distinct difference between women who had spent their lives in the industry, usually as tellers or secretaries, and the new female managerial staff. This difference sometimes caused a schism between leadership and the staff that complicated internal labor problems because the expectations and goals of the staff and the management.[173]

The general idea of all of the women's banks was to offer a route to capital that did not involve navigating the mainstream banking industry, a route previously unavailable to women. Women's banks expected that their success would encourage mainstream banks to accept women as equals in the lending market, and make their particular mission obsolete. In the meantime, women's banks believed that their special attention to customer service would allow them to be competitive in the mainstream banking market. Instead of raising public awareness, or appealing to state/federal policymakers for help, some women decided that working around the problem by creating new banking options would directly help women and make the political statement that women deserved equal access to credit.[174]

As these new banks were incorporated in the 1970s, inflation and unemployment weakened the economy. On one hand, increased energy costs drove up the cost of almost

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[173] Allison Tom, "Children of our Culture? Class, Power, and Learning in a Feminist Bank," in Myra Marx Ferree and Patricia Yancey Martin, *Feminist Organizations* (Philadelphia: Temple University Press, 1995) 165-179. This anthropological piece about a training program at an unnamed women's bank illuminated class and experience divides between the management and the trainees. Often, these banks had to find female tellers and other staff by hiring them from other service industries or from their homes. This lack of both financial knowledge and bank practices caused some considerable problems for the bank.

[174] In one way, the women's banks did attempt to increase public awareness of credit and consumer rights by helping improve the financial literacy of women and make them more capable to defend their own consumer rights.

everything in the United States. Because of these increased costs, many employers laid off hundreds of thousands of employees, particularly blue-collar workers. However, due to the nature of 1970s inflation, increased unemployment did not correct increases in the price level. Continued inflation encouraged the Federal Reserve to keep interest rates high. By 1977, the fed funds rate leapt over 7%, and remained that high until the mid 1980s. These high interest rates made money much more expensive to borrow, and it behooved all banks to become more competitive to secure business opportunities that remained. Not many businesses may have been willing or able to borrow money at nearly 20% in 1979.

While the 1970s economy worsened, consumer groups and some members of Congress pushed for greater regulation in the consumer and banking markets. This dissertation has already outlined some of these attempts, including the 1968 Consumer Credit Protection Act (CCPA), and the Equal Credit Opportunity Act (1974), while other types of regulations, such as the Community Reinvestment Act (1977) imposed stricter rules on banks. These regulations changed how banks loaned money, and required them in many cases to answer to government regulators.[175] In just five years, the protections of the CCPA were unable to keep up in the rapidly changing economic environment.

By offering more personalized services to those who borrowed from the bank, women's banks had the potential to maintain better relationships with female customers. These banks planned to serve working and other professional and middle-class women who would probably be borrowing money on their own for the first time, harkening back

[175] Even though many of these regulations were not particularly powerful, nor did they outline any real mechanisms for government intervention.

to the time in America's economic history when personal relationships dominated the loan market.

By opening their own banks as a method to combat gender discrimination, the leaders of women's banks were not blazing a new trail. Other minority groups had already built their own banking institutions in an attempt to facilitate lending and other banking services. African-Americans, Hispanics, Asian Americans, and a variety of ethnic and religious groups opened their own banks in the United States to offer members of those communities a more dependable route to credit. Sometimes, these banks looked like standard mainstream banks. Bank of Italy's operations in the United States, for instance, eventually became the Bank of America. Other times, they were small neighborhood institutions, such as Korean, Japanese, and Chinese banks in numerous "Chinatowns" and "Koreatowns" on the West Coast. These banks used their knowledge of the local community to gain an advantage over larger banks in those enclaves. Community banking was and is very important to devout Muslims, who depend on Islamic banks to provide them services without charging or earning interest on their accounts.

African-American banks dated from the antebellum period, when wealthier southern free blacks opened their own private banks in their communities, and advocated for a national bank for African-Americans. After the Civil War, wealthy whites founded the Freedmen's Bank, which lasted barely 10 years and suffered significant problems because of bad loans and worse management. Smaller community-based African American banks grew during the "great migration," but did quite poorly during the depression; only six African-American banks remained by the late 1930s.

Through the postwar and civil rights eras, most academics who study the issues of capital access agree that the importance of African-American and other ethnic and community banking systems waned. They argue—convincingly, albeit with little proof or data because of issues already raised in this dissertation—that by the late 20th century, white owned financial institutions no longer openly discriminated against potential minority depositors and borrowers.[176]

Women's banks however, were not quite in the same boat as their African-American, Asian American, and Hispanic counterparts. With the exception of the Susan B. Anthony Savings and Loan (1923) and a handful of other small credit unions, women's financial institutions did not have their own history before the 1970s. Banks discriminated against them in the credit market through a more socially acceptable, if outdated, patriarchal model that only really came under attack in the 1960s and 1970s.

In 1974, the year before FWB-NY opened, the U.S. Treasury counted 44 U.S. minority-owned banks, defined as having half ownership (by shares) by members from an ethnic minority group or women, with around $673 million in assets.[177] These banks wanted to extend the benefits of banking to their local communities, often because they believed that those communities suffered discrimination in the banking market, a model that the women's banks wanted to emulate. By catering to local needs, these banks could

[176] For more, see Gary A. Dymski and Robert E. Weems Jr., "Black-Owned Banks: Past and Present," in *African-Americans in the U.S. Economy*, Ed. Cecilia Conrad, et al. Rowman and Littlefield Publishers, Lanham, MD, 2005, 246-252; and Gary Dymski and Lisa Mohanty, "Credit and Banking Structure: Asian and African-American Experience in LA," *American Economic Review* 89: 2 (May 1999) 362-366.

[177] John T. Boorman and Myron L. Kwast, "The Start-Up Experience of Minority-Owned Commerical Banks: A Comparative Analysis," *Journal of Finance* 29 4 (September 1974) 1123-1141. This number does not include a number of credit unions that serve specific communities, such as military servicemen, educators, or state employees.

address deficiencies, not only in loans and mortgages, but also in financial education and convenience. While the Fair Housing Act outlawed redlining, racial minorities continued to have a hard time securing housing credit because adherence and enforcement of the measure remained spotty. In addition, since white men dominated the position of loan officers around the country, any subjectivity in credit decisions, be it racist or sexist in nature, could result in a negative outcome for those seeking a loan.

While minority banks have a longer and more varied history, women's banks in the 1970s and 1980s fit very well into this model. Subjective and racist loan decisions that kept African-Americans and other minorities from receiving the credit their incomes deserved also worked against women. Therefore, the underlying reason for the banks' creation was the same. This similarity was not lost on the Treasury Department, which in 1977 deposited $12,000,000 in FWB-NY through its Minority Bank Deposit Program (MBDP).

In 1970, Richard Nixon's Deputy Treasury of the Treasury and Chairman of his Committee on Minority Enterprises, Charles Walker, instituted the MBDP. The Treasury Department designed this two-phase program to support banks with over half minority ownership through stockownership and board members, so it primarily helped banks that were over half owned by racial minorities or, later, women. In the first phase of the program, between 1970 and 1972, the MBDP placed $35 million of Treasury funds directly into these banks on long-term deposit, giving those banks more opportunities to assist their intended constituents in securing capital and giving new minority and women's banks an additional route to stable capital. During the second phase, the federal government encouraged corporations, unions, religious foundations, and educational

institutions to deposit money in MBDP banks by supporting those banks long-term.[178] By the end of 1972, government deposits accounted for over 13% of all deposits at a representative sample of all minority banks.[179] When the Federal government made that deposit into FWB-NY in 1977, it was a large part of nearly 100 million dollars deposited in over 80 minority banks.[180]

A minority bank classification by the MBDP helped increase the number and size of loans FWB-NY could offer to its customers. Obviously, the Treasury Department agreed with the banks' founders and viewed women as a disadvantaged group. This agreement waned during the Reagan administration, as the Treasury significantly cut money spent on the MBDP, citing the Republican administration's interest in cutting the domestic budget, and the possibly bad strategy of investing in relatively small and new banks.[181]

In the mid 1990s, two economists, Ifekhar Hasan and William Hunter evaluated the performance of minority banks, including a set of women's banks, as compared to non-minority banks.[182] Their findings showed that the most important factor corresponding to a bank's inability to be profitable was if the bank was less than three

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[178] Definition from the U.S. Treasury Minorty Bank Deposit Program-fms.treas.gov/mbdp/index.html.
[179] John T. Boorman and Myron L. Kwast.
[180] Jimmy Carter, "Minority Bank Deposit Program Memorandum for the Heads of Departments and Agencies," April 1977. From John T. Woolley and Gerhard Peters, *The American Presidency Project*, Santa Barbara, CA: University of California http://www.presidency.ucsb.edu/ws/?pid=7327. Acccessed March 20, 2008.
[181] *New York Times*, 16 February 1977, sec. 4, p. 1. "Teller: News From The Women's Bank" 10th Anniversary Edition. Roebling Papers, Box 90 folder 15. The MBDP did not end in the early 1980s, however. After enduring a drop in support after the Reagan administration's pulling back from the program, some private corporations continued to support the program. Microsoft, for instance, continues to support the MBDP with around $50 million in deposits.
[182] Ifekhar Hasan, William Hunter, "Management Efficiency in Minority and Women-Owned Banks," *Economic Perspectives* 20, No. 2, (March 1996).

years old, a logical result since the growing pains of new banks are clear. During the late 1970s and early 1980s, this group of new banks would have included a disproportional number of minority and women's banks. As one may expect, the mainstream banks were more efficient than their minority counterparts were, but interestingly, the group of women's banks proved to be more efficient than the other minority banks. Hasan and Hunter chalk this finding up to the greater economic stability and the economies of scale of middle class women in relation to other middle class minority groups in the 1970s and 1980s.

The differences between women's banks and other minority banks come from the different characteristics of those communities. While minority banks can and must concentrate their services in particular geographic areas, women as a group do not have living patterns clearly definable by geography. Instead, women's banks had to develop in medium to large cities just to ensure a market big enough for growth. While women and minority groups both had less income than their white male counterparts did, economic oppression of minority groups often came from clear racist social beliefs. Sexism was an obstacle that mid to late twentieth century women faced, but their economic oppression also came on a more intimate level, from their husbands or fathers. Attempting to get past both of these barriers to credit involved a larger jump for some women, especially those whose husbands left them or those who were trying to raise families alone.

Women's banks also fit into the growing 1960s and 1970s trend of alternative, women-owned businesses, falling into the same category as other popular alternative women's institutions such as bookshops and boutiques. For some women, the credit discrimination that they experienced was less important than the problems they faced

when starting their own enterprises. In addition to running women-owned businesses themselves, the female leaders of the women's banks wanted to help fund other women-owned enterprises.

One of the main problems that start-up women's enterprises often encountered was a lack of capital. Before 1970, most potential female business owners could finance their enterprises only through personal connections. After 1970, women started to look for funding through more traditional, external routes. A successful women's bank system would go far in creating an external route to credit access for women business owners, while at the same time giving broader visibility to that growing trend of women's owned businesses.[183]

Women's banks sought to address all of these issues: succeeding as a minority bank, addressing the general issue of credit discrimination, offering professional jobs to women, and improving women's financial literacy. They wanted to accomplish these goals at a time when creditors ignored credit-seeking women because tradition assumed they were not profitable. Women's banks wanted to speak to every woman, whether or not she was a feminist. They would offer credit and other banking services to all women unfairly rejected by the mainstream banks.

To help create a more inviting environment, women's banks took great pains to hire a primarily female staff. This goal was difficult to reach at times because the

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[183] Moore, Dorothy P. "An Examination of Present Research on the Female Entrepreneur—Suggested Research Strategies for the 1990s," *Journal of Business Ethics*: 275-281, (1990). Marlow, Susan and Dean Patton, "All Credit to Men? Entrepreneurship, Finance, and Gender," *Entrepreneurship, Theory, and Practice* 29:6, November 2005, 717-735. While the ECOA covered business loans, it was not until the early 1980s that groups such as the Small Business Administration pushed for more specific additions to that law to cover women-owned businesses.

qualified pool of female bank executives and loan officers was quite small. While the number of female bank officers in the United States surpassed 10,000 by the 1970s, very few of these officers were in a position to make sizable loan decisions. For instance, in the Hartford, Connecticut metropolitan area, there was only one female loan officer in the early 1970s and five male African-American loan officers.[184] More minorities and women became officers during the 1970s; in 1970, 14.9 percent of bank officers and managers were female, in 1978 that proportion increased to 32.9 percent.[185]

Therefore, by employing more women in the banking industry, marketing themselves as women's institutions, and improving the financial literacy of their customers, women's banks assumed that they would be able to help solve the problems of credit access for all women. Instead of pursuing new regulations and rules, the women's bank leaders trusted the credit market to show that women were acceptable credit risks. However, they were not always successful in balancing those goals, finding a profitable customer base, and developing a long-term investment strategy.

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[184] *Mortgage Money: Who Gets It? A Case Study in Mortgage Lending Discrimination in Hartford, Connecticut*, by Arthur S. Flemming, chairman, U.S Commission on Civil Rights. Washington, D.C.: Government Printing Office, 1974.

[185] *Washington Post*, 23 February 1980. In some ways, the opinion of women bankers has not changed. On the May 9, 2009 episode of *Saturday Night Live*, the "cold opening" was a skit that presented actor Will Forte as Secretary of the Treasury Timothy Geithner, reporting answers from the fictional "written section" of the "Stress Test" given to America's 19 largest banks that month. The 6 minute skit largely poked fun at the greed or ignorance of America's largest banks. One question that Forte's Geithner presented, however, comically dealt with how the banking industry viewed female employees

Question 41: "Given their historic under representation in banking, women should be encouraged to enter the field, as long as they are…"

Morgan Stanley wrote "Doable." Bank of New York Mellon wrote, "Immediate Family Members." Citigroup wrote, "Hey Geithner, we got a job for your mother."

The General Experience of Women's Banks

With the exception of a few specific credit unions, the women's banks began in earnest in July 1975 with the establishment of FWB-NY.[186] Of all the women's financial institutions, FWB-NY operated under the most public scrutiny. Even at its opening on October 16, 1975, the *New York Times* was quick to point out the difficulties First Women's New York encountered in raising capital, but it tempered that statement by blaming the weakened stock market and the general unpopularity of bank stocks at the time because of a bad credit market in the mid 1970s.[187]

Three women's banks in California, one each in San Diego, Los Angeles, and San Francisco, joined First Women's New York in 1976, and others followed suit over the next few years. At the same time, Chase Manhattan started a new branch bank called Chase Exchange, designed to serve the specific needs of women by hosting classes and other educational opportunities to teach women about banking and their economic rights. The head of that program, David Rockefeller, called the $36 a year seminar and educational program, "differen[t] in degree, not in kind" from Chase's mainstream business. It served as some evidence that mainstream banks were more willing to accept women as independent credit customers, even if they opened separate branches to attract them.[188] The press remained generally critical of women's banks. Editorials appeared

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[186] The Susan B. Anthony Savings and Loan opened in 1923, but stood largely by itself and did not have any larger effect on the banking industry or credit availability to women.
[187] Virginia Lee Warren, *New York Times*, 17 September 1975. *New York Times,* 16 October 1975. Judy Klemesrud, *New York Times,* 17 October 1975.
[188] Philip S. Gutis, "In The U.S. Fewer Women's Banks," *New York Times*, 24 October 1980. p 13. Chase opened the doors to Chase Exchange to men and women.

about how women could not run an effective banking institution. The editor of the *St. Louis Dispatch* claimed he was "unnerved" by a bank staffed by women. [189]

The first group of women's banks were state chartered, but a group of investors wanted to establish a federally chartered women's bank in Washington, D.C. The Comptroller of the Currency denied their initial attempt to procure a federal charter in January 1977, but after some political maneuvering and pressure, the Comptroller reconsidered and granted the charter in July of that year.[190] During that time, the women's banking industry continued to grow, adding banks in Denver (the federally chartered WBD), Bethesda, Maryland, and Greenwich, Connecticut. These leadership and management requirements of these new banks further exacerbated the very low supply of female bank executives. Even with neighboring banks loaning part-time expert staff—male and female—men slowly entered the upper ranks of these banks. This lack of available female leadership and the need to include less experienced female bank officers and women helped illustrate the larger issue of staff turnaround, as women were sometimes pushed up the ladder in this part of the banking industry. While increased experience among female bank executives began to address that problem, major problems remained in some of the women's banks.[191]

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[189] Address to the National Association of Bank Women Convention in Cincinnati, 14 October 1968. Roebling Papers, Box 17, Folder 29.
[190] William H. Jones and James L. Rowe Jr., "U.S. Refuses To Charter D.C. Women's Bank**,"** *Washington Post*, 7 January 1977 Claudia Levy, "Women's Bank Group Assails Ruling," *Washington Post*, 8 January 1977. "Women's Bank Charter Denial Generates Probe," *Washington Post*, 11 January, 1977. "Women's Bank Plan," *Washington Post*, 2 February 1977. James L. Rowe Jr., "D.C. Women's Bank Slated To Open with U.S. Charter," *Washington Post*, 7 July, 1977.
[191] Deborah Rankin, *New York Times*, 21 December 1978.

The industry journal, the American Banking Association's *Banking Journal*, ran a full spread on the new women's banks in its October 1977 issue. The article was essentially a fluff piece that shared interviews with six women's bank presidents. One interesting point the article made was that a few unnamed women bankers at mainstream institutions opposed the women's banks because they felt that they made women separate but not necessarily equal.[192] Not only did the ideological foundation of women's banks come into conflict with its business goals, but the *Journal* reported that the ideology itself was under some critical scrutiny by individuals within the bank who wanted to see women's banks primarily as profitable institutions.

Business Week followed the next October with an article outlining the first few years of women's banks. It observed that a number of women's banks seem to have mastered the hard lessons common to minority businesses "Gone is much of the militant feminism that originally characterized the genre. Today the emphasis is on such pragmatic banking basics as experienced management, aggressive marketing, and prudent lending policies."[193] The *Business Week* article was an early indication that women's banks had to adjust to become more mainstream and profitable to remain viable as banking institutions. Some banks succeeded in those pragmatic banking practices. *Business Week* reported that First Women's Bank of California, Women's Bank (Richmond), and WBD had good economic and market profiles, unlike the major deficiencies at Women's Bank (San Diego), Western Women's Bank (San Francisco),

[192] Jenny Tesar, *Banking Journal*, October 1977. 72.
[193] "Feminism takes a Backseat at Women's Banks" Business Week, 9 October 1978 p. 125.

and FWB-NY. The article ended on a hopeful note, suggesting that women had become more interested in obtaining credit, and that the newer banks had higher capitalizations.

New Deal and Great Society economic policies and regulations, and their increasingly perceived failures in the 1970s, shaped the world of mainstream banks during that era. Those failures and the rise of conservative economic politics at the end of the 1970s resulted in a shift in the American economy towards greater trust of free market initiatives. Women's banks joined in this trend. A few of the women's banks began to turn a profit in 1978, but problems remained. Some of the banks made bad loans early on, because they used emotional instead of economic criteria to make some of them. The second president of FWB-NY Lynn Salvage said "we overdid our support of women at the expense of the total market…we felt an obligation to give credit to every woman who came through the door. We were a soft touch."[194] Early losses for some of the women's banks came from consumer loan losses, but more importantly their mission to help women business owners put their loan portfolios at risk, since small business loans are some of the most volatile loans on any bank's portfolio. FWB-NY and the other women's banks were all susceptible to this problem, as women-owned businesses approached them to find credit they had been unable to secure with mainstream banks.

At the end of 1978, the *Wall Street Journal* reported that women's banks lost more money than other independent banks established at the same time and described the problem of women's banks in finding experienced female officers.[195] A year later, however, a number of the banks began to turn around and earn profits, led by WBD, First

[194] "Problems and Solutions at First Women's Bank" *Business Week*, 9 October, 1978. p. 130.
[195] Jane Seaberry, "A New Generation of Women's Banks," *Washington Post*, 27 June 1979.

Women's Bank in D.C., and Connecticut Women's Bank. These three banks were latecomers into the market, and an article by William Jones in the *Washington Post* attributed some of their success to watching the older women's banks make mistakes.[196]

By the early 1980s, problems mounted. There were takeover attempts at two of the banks, FWB-NY and Women's National in D.C. While the takeover attempt at the FWB-NY failed, the Women's National Bank takeover bid became hostile after that bank reported sizeable losses. These takeover bids—at deflated prices—were consequences of poor management at these banks and a lack of profitability, but these were not the main concerns of women's bank leaders. More importantly, some of the leaders were more worried about their long-term goals. After a decade, the leadership of most women's banks could not decide between their desire to maintain a more personal connection with their mostly female customers and their desire to become more profitable in the vein of mainstream banks. In most cases, these two goals were not compatible because those personal services, especially taking extra time with female customers who were ignorant of banking practices, were costly endeavors.

By the mid 1980s, a few of the women's banks, including FWB-NY, WBD, and the other national bank in Washington D.C., claimed that they had "outlived" their purpose because of the effectiveness of the ECOA. The ones that remained began to eye transition strategies—hence Martin Simon's claim about reaffirming the business statement and diminishing the political statement.[197] None of the women's banks was strikingly successful in creating a niche female market. WBD was the first bank to make

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[196] William H. Jones, *Washington Post*, 5 January 1979. *New York Times*, 11 February 1979.
[197] Rudolph A. Pyatt, Jr., "Women's Banks Losing Special Interest Role," *Washington Post*, 7 May 1982. Tom Bisky, *ABA Banking Journal*, June 1982, 195.

a successful move away from women-centric banking.[198] In fact, by the end of 1986, most women's banks, notably FWB-NY, saw men take over more leadership posts and turn the banks away from their initial mission of particularly helping women. While profits became more the norm instead of the exception, assets at almost all of the women's banks continued to fall and only a few were able to improve their poor return on asset ratios within the first few years.[199]

By 1987, a number of women's banks across the country had changed their names and attempted to make a transition to either small community or standard banking.[200] While all banks suffered some problems during the regulatory pressures of the 1970s, small banks particularly suffered during the deregulatory efforts of the Reagan administration. Banking deregulation made it easier for larger banks to crowd out smaller banks by relaxing rules about bank mergers and takeovers, while making it easier for larger banks to defeat smaller ones in interest rates wars. Coincidentally, the political validity of the women's banks weakened as women's access to credit increased, or at least complaints about discrimination decreased in the late 1980s and early 1990s.

Most women's rights activists relied on policy corrections brought by the ERA and ECOA. They figured that changing laws would be sufficient to changing the entire system and did not really consider recreating a system they believed was discriminatory. However, proponents of the women's banking system were unconvinced of the effectiveness of that option. The banking deregulation of the 1980s made it more

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[198] Phillip S. Gutis, "In the U.S., Fewer Women's Banks," *New York Times*, 15 September 1985.
[199] Alan Breznick, "Men Take Over Bank for Women," *Crain's Business Journal*, 26 January 1987.
[200] *New York Times*, 8 February 1987.

difficult for the banks to compete with the larger mainstream banks just as the importance of access to credit became more prominent. It is impossible to determine to what extent women's banks were not competitive because of their local environments or these broader regulatory changes. It is a more useful historical exercise to investigate the experiences of those banks and determine the broader affects those banks had on their local and national populations.

The supporters of women's banks instead wanted to prove that discrimination against women was not economically rational. Advocates for women's banks wanted to prove that point without having to rely on data from state and other civil rights organizations. Instead, they wanted to serve as active examples of how women could serve as a creditworthy lending base for any creditor. By serving women, though not exclusively, these banks followed a business model and mission statement that they could prove the rationality of including women in a creditor's portfolio, and finally disabuse discriminatory creditors of their taste for discrimination.

Roebling argued that women were a "feminine gold mine," and by offering them credit, banks and other creditors could make a lot of money as they helped those women gain a better grip on economic citizenship. Their second goal was to prove the creditability of women without depending on new regulations. They believed that the free market would repay their trust by convincing other creditors to give loans to women. Third, women's banks wanted to educate women on banking in general, and their economic rights in particular. By giving women the tools to operate more efficiently in the free market, the leaders of women's banks believed that they would be better

economic agents. Lastly, women's banks wanted to employ more women in the banking industry and bridge the gender gap within that industry.

Two Examples: First Women's Bank-New York, and Women's Bank of Denver

On October 16, 1975, opening day for FWB-NY, over a thousand people visited the Manhattan location and 350 of them opened new accounts, many of them women who cited their inability to get credit at other banks.[201] However, pessimism among the leaders and board members of FWB-NY tempered the rousing opening. The directors, along with FWB-NY's first President Madeline McWhinney, had a hard time drumming up the necessary capital to operate a competitive, successful bank. In the mid 1970s, problems associated with stagflation and higher energy costs caused considerable weakness in the stock market. Depressed stock prices, especially in the banking sector, was a significant factor in depressing FWB-NY's stock value, severely limiting the bank's ability to raise new capital.[202] FWB-NY did not endure this environment alone, as bank stocks in general suffered during the mid 1970s, but as a new bank, FWB-NY was less able to weather the storm effectively. FWB-NY opened the same week that New York City almost declared bankruptcy, and suffered through the city's specific economic problems, including a steady departure of capital from New York City.[203] Eventually, FWB-NY defeminized its name in 1989, and failed in 1992.

The press about FWB-NY's opening was optimistic because of positive public attention following a successful marketing campaign by the bank. The following

[201] *New York Times,* 17 October 1975, p. 55.
[202] *New York Times*, 16 October 1975, p. 55.
[203] In fact, then Mayor Abraham Beame prepared a statement that the city was bankrupt he would give the day after WBD opened.

summer, however, the bank's operating statistics told a different story. With $13,000,000 in deposits, FWB-NY operated at a yearly deficit of $400,000, in addition to abysmally low returns on its assets (ROA), a common measure to determine how well a bank invests its capital.[204] These problems were potentially fatal to the FWB-NY, as they would be for any new bank, especially in the economic turmoil that was the 1970s, which pushed many investments out of the market with high interest rates. The bank's directors needed to show that they invested their capital wisely, by making more money through interest paid in than they lost in interest paid out, measured by ROA. If they failed, then investment in that bank would diminish at both the equity (measured by stockholders) and debt (measured by depositors) levels. At the same time, FWB-NY suffered staffing problems from the top to the bottom. At the top levels, quick changes in leadership, with corresponding changes in direction, meant that the FWB-NY never really followed a consistent strategy for more than a few years. At the lower levels, quick staff turnover and a lack of a qualified pool of experienced female bank workers hurt their ability to bring more women into the field.

During an earlier time of economic turmoil, the 1930s, Trenton Trust bank in New Jersey also endured considerable problems. Instead of suffering local economic problems and issues with its mission and need to serve women, Trenton Trust was just one of hundreds of banks struggling during the Depression. To make matters worse in 1937, the bank President, Siegfried Roebling, the scion of the New York architectural family that built the Brooklyn Bridge, died suddenly of a heart attack. While this tragic

[204] *Wall Street Journal*, 24 March 1976, p. 36. *New York Times*, 18 August 1976, p. 18. Often, the benchmark for ROA is an index of 1 or better. FWB-NY rarely did better than .75.

event had a number of catastrophic repercussions for many of Roebling's endeavors, the new leadership of Trenton Trust was never in doubt. In his will, Roebling left his position at the bank to his wife, Mary.

Mary Gindhart grew up in a middle class family in the suburbs of Philadelphia in the first decades of the twentieth century. After the death of her first husband, banker and organist Arthur Herbert in the late 1920s, she took a teller job at a bank, which was at that time an unusual job for a woman. Not satisfied with this entry-level position, she enrolled at the Wharton School of Business at the University of Pennsylvania, taking classes on banking. Since Wharton did not allow women to take the usual day classes, she was able to continue her daily employment as she took courses at night. In 1931, she met and married Siegfried Roebling after she earned a banking degree.[205]

In spite of Mary Roebling's professional and collegiate background in banking, and her consecutive marriages to two bankers, the bank directors expected her to liquidate Trenton Trust, especially since it was near bankruptcy.[206] In a truly stunning move, at her first Board meeting Roebling made clear her intentions to run the institution. This decision made Mary Roebling the first female bank president in American history. She quickly turned Trenton Trust around as the United States slowly crawled out of the Depression. In 1941, Roebling became Chair of the Board, in addition to being President, and led Trenton Trust in a new profitable direction.

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[205] "The Glamour of Money," biography of Mary Roebling, 1980. Mary Roebling Papers, Special Collections, University Library, Rutgers University, New Brunswick, New Jersey. Hereafter referred to as the Roebling Papers.
[206] Ibid.

Roebling believed that banking was "glamorous" and required a new style of merchandising and marketing to become successful, and effectively marketed the benefits of Trenton Trust to potential customers for nearly four decades. That is why in 1977, the Board of Directors of the not yet-opened Women's Bank of Denver (WBD) asked Roebling to chair their Board of Directors. The board of WBD saw her appointment as a great advantage. Although she was 71 years old, Roebling dedicated herself to being an active Chair. Her connections and fame as the first female bank president and a prolific public speaker brought the WBD a lot of positive publicity when it opened in 1978.[207]

FWB-NY and WBD are at the opposite ends of the spectrum of women's bank experiences amongst the dozen women's bank institutions formed during the 1970s and 1980s. First Women's Bank failed because of the negative economic situation in New York and leadership issues that kept the bank from following a consistent strategy. Women's Bank of Denver succeeded because it learned from the mistakes of First Women's New York, enjoyed a better economic environment in Denver, and had persistent leadership that followed a more coherent lending policy, resulting in better returns for the bank.

It Was the Worst of Times: The Rise and Fall of First Women's Bank, New York

FWB-NY opened at the intersection of 57th Street and Park Avenue, in an expensive district two blocks southeast of the southeast corner of Central Park in Manhattan, in October 1975 to address the problems that women had in finding credit, taking over a building from a very expensive restaurant.[208] While some bank directors

[207] "The Glamour of Money."
[208] "It's Your Money" Video from EC Papers.

and feminist leaders, including Betty Freidan, saw the feminist impulse to increase women's economic opportunity as the primary reason for launching a new bank, some of the backers of the institution saw the bank purely as a business venture, tapping into the profitability of the market instead of serving it.[209] This difference, between being a woman's institution and a for-profit bank, weakened the impact that the second wave women's movement had in banking. The different goals—occasionally in opposition since the women's bankers may want to help women even if the profits were not there—led to slightly competing visions for the bank's future. As a practical measure to help reach out to potential women customers, FWB-NY offered specialized counseling and a wide array of banking products.[210] From day one, a number of obstacles beset FWB-NY. Instability in its leadership, too many bad loans, occasional problems with staffing, and a constant lack of capital kept FWB-NY from ever fulfilling its goals as an effective banking institution or as an exemplary women's institution.

The first years of FWB-NY were difficult. The economic problems of the 1970s hit the New York banking industry and its general economy hard. Even larger, more established banks had a hard time making the appropriate shift to deal with the problems associated with the changes in bank regulation, which allowed larger banks to take more control and eliminate competition through interest rate "wars." Unemployment and inflation were also rampant in New York, so total bank growth through either supply (new accounts) or demand (new loans) was slow. The timing of FWB-NY in New York

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[209] While Freidan did not do a lot of publicity or work for the bank, Emily Card interviewed her for Card's "It's Your Money" mini-series on PBS. There, she gave general explanations about why credit for women, and access to it, was important.

[210] Virginia Lee Warren, "First Women's Bank and Trust of NYC Scheduled to Open," *New York Times*, 17 September 1975.

City could not have been much worse, as it corresponded almost to the day with the *New York Daily News*'s sensational headline, "Ford to City: Drop Dead," after President Ford refused a grant to the city.[211]

While the local economic environment put the FWB-NY at an initial disadvantage, the bank most importantly had problems with the returns on its investments. In the first few years, it had loaned out only 25 percent of its deposit base, which is quite low, especially considering that as a banking institution its mission was to make more money available to women. Although the *Wall Street Journal* claimed the bank had a bright outlook, the bank suffered a $2.83 loss per share.[212] Staffing issues continued. President McWhinney failed to rally support around her administration, and the bank narrowly settled a sexual discrimination charge out of court when it fired front teller Susan Salvia, who claimed she lost her job after telling her superiors about her pregnancy. This case was particularly troublesome because it was the opposite of the founders' promise to advocate for women and to provide professional opportunities for women as well as economic ones. Salvia's case is just the most visible of the staffing problems that FWB-NY endured.[213]

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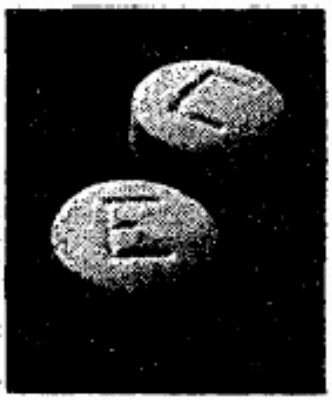
[211] Daily News, "Ford to City: Drop Dead," 25 October, 1975.
[212] *Wall Street Journal*, 24 March 1976, p. 36.
[213] *New York Times*, 18 August 1976, p. 18. At one point, the chair of FWB-NY, Evelyn Lehman had to deny charges of discrimination against male workers. *Wall Street Journal*, 24 March 1976, p. 36.

When the big red minus sign pops up on your pocket calculator and that Excedrin headache starts banging away get thee to The First Women's Bank. We'll show you our unique "Unforgettable Check." You cannot write a check without making an automatic carbon of it—so no more sinking feelings when you remember what you forgot. The Unforgettable Check is just one of the many services we offer. And if you need a loan just ask for one of our experts. (They keep Excedrin in their desks.) Now, see—you're feeling better already.



THE FIRST WOMEN'S BANK

111 E. 57th (at Park) N.Y. 10022 phone 212-644-0670

Figure 1- A 1976 advertisement for FWB-NY from the *New York Times*.

At the end of 1976, the Federal Reserve Board tapped McWhinney to be an officer of the Federal Reserve in New York.[214] Her replacement, Lynn Savage, took office in early 1977, and ran the institution more like a mainstream bank than her predecessor. She tightened the loan standards after claims that part of the bank's economic problems came from bad lending decisions for borrowers who could not afford the bank's terms. She cut costs by eliminating staff and a lot of the advertising, which up to that point had concentrated on highlighting the individual stories of women who had good experiences with FWB. Savage's decision to end the advertising campaign was long lived; FWB did not run a single ad to round up new business in the New York Times between 1976 and 1987.[215] The bank's economic woes persisted in spite of Savage's cost cutting; FWB-NY posted a $938,000 loss in 1976, and a $514,000 loss in 1977. In addition, its initial capital, the money that FWB-NY would use to loan out and expand with, shrank from $3,000,000 in 1975 to $58,300 by the end of 1977. Mostly because of bad loan write-offs, FWB-NY endured criticism that it had made loans to women who had no ability to timely pay them back.[216] Shrinking capital is usual for a new bank in the first few years, but shrinkage of that degree would be a major problem for any new bank. In March 1978, Savage admitted that FWB-NY had to raise $3,000,000 in new capital. This attempt to raise capital failed because FWB-NY could not find enough private

[214] Ibid.
[215] *New York Times*, 16 February 1977, sec. 4, p. 1. There were a few advertisements in the mid 1980s seeking shareholders to sell their shares for two different takeover bids, and a few ads for a female stockbroker who had her offices in the FWB building. (*New York Times* 8/4/83, 10/14/1983).
[216] Ibid.

investors to make a commitment to purchase the preferred stock—an ominous situation that possibly illustrated a growing lack of belief in the bank's effectiveness.

In 1978, FWB-NY began to turn around parts of its poor economic showing. By the end of that year, the bank turned a profit for the first time ever and posted a modest gain of $57,000 for the year. However, the stock prices endured long-term damage. At the beginning of 1979, stock prices were 33 percent of what they were at the end of 1975, and an independent audit was pessimistic about the bank's future.[217] In 1980, Judy Mello became the new President and CEO of FWB-NY, and continued the slow move into profitability by improving the loan portfolio. The bank showed more promise in the early 1980s. In 1980, the bank's assets totaled $16,000,000, which grew substantially by the end of 1981 to $20,300,000. Its earnings also continued to grow, from the $57,000 in 1978 to $72,000 in 1980, to $359,000 in 1981, but this growth still did not bring the bank's return on its equity or assets to a comparable level with other banks at the time.[218]

These signs that FWB-NY was becoming more stable and profitable prompted competing takeover attempts in 1982. Both bids intended to increase the bank's effectiveness and profitability, but the leaders of the two groups differed in their motives for these improvements. On one side was Ralph Vallone, Jr., a local executive and stockholder of the bank who owned around 9.5 percent of the stock and wanted the bank to be better prepared to fulfill its ideological mission. In his bid for control, he claimed "[a] bank which is basically formed as a nondiscriminatory entity is a fine concept," but

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[217] Deborah Rankin, *New York Times*, 22 December 1978, sec. 4, p. 1. *New York Times*, 30 March 1979, sec. 4, p. 5.
[218] Eric Pace, "25% Stake Sought in Women's Bank," *New York Times*, 11 August 1982, sec. D, p. 4.

he thought that the bank needed to make more money "to continue serving this very worthwhile ideal."[219] On the other side of the takeover was a Brazilian investment corporation, Brazilinvest. Brazilinvest had interest in the bank's metropolitan location and the unique press and publicity it offered as a bank, not necessarily in its usefulness as a feminist institution. The two different attempts clearly outlined a debate between the bank's ideological and profit motives.[220] However, even Vallone suggested a weaker ideological premise than the bank had at its inception.

The debate over the takeover bids amongst the stockholders and the board highlighted the conflict between FWB-NY's goals as a bank and as a feminist institution. Nearly 7200 shareholders—about 55 percent of them women—accounted for about 375,000 shares. The board split, but in the end, it did not make any difference. Neither Vallone nor Brazilinvest got the shares they required to take over control of the bank.[221] The high prices offered by both purchasers, generally between 30 and 50 percent over the current stock value, did not convince the stockholders to go one way or the other. A majority of shareholders did not bother to decide and declined to vote for either option. It is common for votes involving shareholders to be lackluster, especially when the shares are as spread out as they were for FWB-NY. What was problematic for FWB-NY was not the fact that either take-over bids failed; it was that *both* of them did because of the lack of interest amongst the wide field of stockholders. Where one might expect a higher

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[219] Ibid.
[220] This debate primarily occurred privately, although both sides did advertise their attempts to buy up shares in the *New York Times*. For the most part, bank newsletters and private memos outlined the two sides.
[221] Ibid., "Bid For Women's Bank," *New York Times*, 14 October 1982. Lydia Chavez, "Women's Bank May Get a New Bid," *New York Times*, 15 October 1982, sec. D, p.5.

level of interest and activism among the shareholders of FWB-NY compared to other banks, it was just not the case. The debate, then, was not so much over the bank's agenda and goals, but whether or not any of the shareholders had enough interest to make a stand.

The battle over the bank's ideological and economic goals prompted *Crain's Business Journal* to give FWB-NY more attention in the years after the failed buy out bids. One article called the bank's performance "miserable," generally citing the low returns on bank assets. In 1986, one time bank director and shareholder Muriel Siebert told the article's author that, "[the] time has come for it to be a business and make some money."[222]

That battle continued into 1987, when a new group of investors took over a 42 percent interest in the bank and put men in charge of the bank's operations and board of directors, except for the President, to the recently installed Neale Godfrey.[223] These investors claimed that the bank had not done enough to go after the richer female population, female executives or business owners, and so proposed to step even further away from the idea of serving the majority of women who suffered discrimination because of their unequal pay or their marital status. One of the affluent women to whom the FWB-NY now directed its attention was Catherine Majorisi, president of a computer company and a board member of the National Association of Women Business Owners. Majorisi exemplified this new approach of FWB-NY, "When I [first] invested money [at

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[222] Frank Sommerfield, "Women's Bank Jettisons Ideals for Snob Appeal," *Crain's Business Journal*, 24 March 1986.
[223] "Company News; Tender Offer Set for First Women's," *New York Times*, 21 January 1987, sec. D, p. 4. Alan Breznick, "Men Take Over Bank For Women," *Crain's Business Journal*, 26 January, 1987.

FWB-NY], it was like lending money to a friend. It was a supportive kind of thing. Now I have to look at it as a business decision."[224]

The first male chair and CEO of FWB-NY, Martin Simon, took office in February 1987.[225] He led the effort to go after those affluent niches by opening new branches and reaching out to small, boutique-style female business owners. Simon and the rest of FWB-NY's board felt that the goals for the bank remained unmet. They still believed that women suffered discrimination, even with the advent of anti-discrimination laws over the past decade, and needed an "unbiased lender."[226] For them and the bank's supporters, women's banks were the most effective answer to other discriminatory problems that slipped past the scope of those laws, like the problems of divorced women who may have never established credit in their own names, which would have been standard before 1974.

During this time of rededication to their goals and enthusiastic leadership, FWB-NY suffered a fatal blow. In 1987, the United States Treasury withdrew the money it had put on long-term deposit to support the FWB-NY as a minority institution. The quick removal of $12,000,000 was especially fatal because that money produced a majority of the bank's income through the interest it collected as loans. The Treasury believed that FWB-NY handled the money inefficiently, citing the poor returns that plagued the bank throughout its entire existence, but said nothing publicly about the presidency of the bank

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[224] Ibid.
[225] FWB-NY had a temporary male president, Edward Hahn, between the terms of Judy Mello, who resigned in May 1983, and Jill M. Considine, who took office in December, 1983. "Women's Bank Loses Its Chief," *New York Times*, 11 May 1983, sec. D, p. 2. "Business People," *New York Times*, 15 December 1983, sec. D, p. 2.
[226] N.R. Kleinfield, "A Bank of His Own: Martin Simon."

going to a man. Almost overnight, the assets of FWB-NY decreased by 29 percent.[227] The withdrawal of federal money was a clear signal that a social program belt-tightening federal government under the Reagan administration no longer believed in supporting economic equality efforts amongst minority groups, including women.

In another effort to bolster the bank, Simon spearheaded a massive campaign in 1987 to find new investors to raise the bank's capitalization, both to replace the money withdrawn by the United States Treasury and to allow the bank to grow and make more loans. This move was successful. 70 investors holding 82 percent of the bank's stock, including former *TIME* magazine publisher Henry Luce III, raised the capitalization of the bank from $4,000,000 to $35,000,000, making FWB-NY the 19th largest bank (out of 121) in New York.[228] Simon was confident that this new capital would give FWB-NY the push it needed to become successful in the long term. Simon and the Board coupled the new capitalization campaign with new publicity-grabbing measures. They continued the branching process, maintained their new goal of reaching out to affluent women by putting branches in the Garment and Diamond districts, and planned to open a specialty branch designed for children in the toy store FAO Schwarz. They also, unsuccessfully, tried to find a retail partner to open a new building to house both a bank and a store/restaurant. After coming under fire by animal's rights activists in the late 1980s for offering fur coats to customers who opened $50,000 certificates of deposit, they changed the promotion to Tiffany's gift certificates.[229]

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[227] Ibid.
[228] "Company News; Women's Bank is Recapitalized," *New York Times*, 15 July 1987, sec. D, p. 4.
[229] Gary Belsky and Linda Moss, "Bank Bagged," *Wall Street Journal*, 22 February 1988, p. 4.

Lastly, the bank started advertising heavily.[230] Almost every advertisement after 1987 concentrated on the bank's competitiveness. Early advertisements in this period highlighted the new recapitalization that Simon spearheaded. Only one advertisement, which ran a couple of times in mid 1988 alluded to their feminist mission, and only then to mention how they have expanded their practice while "expressing [their] special commitment to women." Later advertisements sold FWB's enviable interest rates on deposits, and eventually led consumers through FWB's name change to First New York Bank of Business in 1989, when they shifted their focus to middle market businesses and high net-worth individuals.

These attempts at recapitalization, new advertising, or even a change in name, however, never addressed the banker's underlying economic problems or the question of whether a bank with an ideological focus on women instead of an economic focus on profits could succeed. Its returns on equity remained below the standard benchmark of 1 percent for new banks. During that renewed push in 1987/1988, Martin Simon claimed, "I think the way of dealing with our unfavorable image is for people to see that we're a serious bank…if we don't achieve those two goals [branching and growth], we don't deserve to have that favorable image."[231] A few months after that statement, FWB-NY changed its name to the First New York Bank for Business, effectively ending its attempts at operating as a feminist organization. At the same time, the Board of Directors in 1988 did not re-nominate board member Sarah S. Kovner, who was the biggest proponent of using the bank for feminist purposes, furthering the shift of FWB-NY's

[230] "First Women's Gambles on Rapid Growth," *Crain's Business Journal* 4/25/1988.
[231] Women's Bank, N.A. Press Release 5 October 1977, Roebling Papers, box 13 folder 29.

direction. Three years later, the bank failed because of continued leadership problems and a poor economic showing. FWB-NY never achieved Simon's goals to be a "serious bank" and offer real credit assistance to women. As the first women's bank, however, it did establish a precedent.

It Was the Best of Times: Women's Bank of Denver

One of Women's Bank of Denver first press releases claimed that "American economic history will be made by the establishment of the Denver bank."[232] This optimistic statement proved that the import of their mission was not lost on the WBD Board. In 1978, two years after forming an organizational committee and three years after the opening of FWB-NY, Women's Bank of Denver opened at 17th and Stout Streets in Downtown Denver's Financial District. While the opening of any new bank is touch-and-go in the short term, WBD succeeded despite the odds. While FWB-NY failed to meet its expectations either as a feminist institution or as a bank, WBD succeeded because of the better economic conditions in Denver in the 1970s and 1980s, superior leadership, and better investment decisions.

In the post war era, the number of banks in the Denver metro area grew by only 53 percent, but the assets in those banks increased over 300 percent. By the 1970s, Denver ranked 24th nationally in population, but second to last in banks per capita, so the banking industry in Denver was ripe for growth.[233] Denver was a great example of rapid economic growth in the west the 1970s due to the rapid growth of the energy industry, as the East Coast and Rustbelt endured poor economic conditions. Property values rose in

[232] Ibid.
[233] October 6 Press Release, Roebling Papers, Box 90, Folder 13.

Denver from an assessed $1.39 billion to $1.88 billion. The national dip in value in new building construction in 1974, which is an important leading factor to economic growth in an area, affected Denver less than other metropolitan areas, and bounced back much more quickly there than in other areas, as early as mid 1975. Lastly, women in Denver had comparable labor force participation, but faster growing incomes.[234]

Even though the Denver metropolitan area offered the WBD a fertile banking environment, the main difference that contributed to WBD's successes was its leadership. Two women were particularly important to this effort, chair Mary Roebling and long-time President LaRae Orullian. Both of these women were prominent financial figures before the bank opened and brought fame and experience to Denver.

LaRae Orullian was an obvious choice for WBD President. While the bank was still in organization, the initial board members courted her for her unique experience. She had attended the Ohio State University's Graduate Banking School in the mid 1950s and majored in real estate, finance, and mortgage lending. Orullian was also the highest-ranking female banker in the western U.S. in the 1970s, as the executive Vice President of Guaranty Bank and Trust in Denver.[235] She was also the first woman banker to serve on a bank board in Colorado and the first woman President of the Denver Chapter of the American Institute of Banking. She had plenty of experience germane to the banking environment in Denver, but she was also a feminist and believed in the ideological mission of the bank. Her plan was to run the bank as efficiently as possible, as a way to

[234] October 6 Press Release
[235] Marsha Austin, "Orullian's Circular Path," *Denver Business Journal,* 1 May 1998,

prove to the rest of the banking world that catering to women was not only proper, but also profitable.[236]

The real public relations coup of WBD, however, was the choice of Mary Roebling as the chair of its board. Not only was she famous in the banking community for her abilities as a bank president, but she was also a well-known national speaker. Most of her public speeches addressed the economic position of women. Generally, she addressed the labor experiences of women, but most often, she railed against wage discrepancies between the sexes. She was a clear choice for a banking leader who would work to fight against credit discrimination towards women.

Roebling articulated her thoughts about banks and women in a series of talks she gave to the National Association of Bank Women, a group dedicated to help and serve women in the financial sector from 1968 to 1985.[237] At that group's national convention in Cincinnati in 1968, Roebling delivered a very broad speech. Instead of dealing with the particulars of women in banking, she spoke more about the issues of women in business. Her goal at that time was to "eliminate the negative attitude women have of doing business with other women."[238] By concentrating on the positive aspects of a woman's stereotypical gender roles, Roebling was able to put forward an argument that women had a proclivity to budgeting, could understand household economy, and had a long history of economic responsibility and banking ability, making them ideal bankers.

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[236] Orullian took her task to run a profitable bank very seriously. In a letter to the Board on 14 December, 1978, she reminded them of her order not to reproduce the Board minutes. Roebling Papers Box 91 Folder 2.

[237] In the 1980s, NABW changed their name to Financial Women International (FWI), which ceased their operations in 2009. fwi.org (Accessed March 2010)

[238] National Association of Bank Women, 14 October 1968, Cincinnati, OH. Roebling Papers Box 17 Folder 29.

Since Roebling believed that the banking industry had made considerable gains in accepting female labor since the 1940s, the new goal for banks was to remove the implicit and subjective inhibitions of the patriarchal banking system.[239] In one of her more prominent speeches, "Women in Banking," Roebling examined why the growth of female participation in the higher bank positions lagged significantly behind the growth of women in the clerk and teller positions. She argued that there was not much opportunity for a woman to break into the low-turnover senior positions held by men. The competition for these positions was heavy, there were few qualified female candidates, and prejudice against those women in the hiring process.[240] She was convinced, much like the later leaders of FWB-NY, that the new rules and regulations outlawing discrimination were not sufficient to end the more subjective and sexist barriers that women experienced when they attempted to find credit.

By the mid 1970s, her speeches changed to reflect the growing acceptance of women in banking positions. These speeches, along with other press releases that Roebling issued after her acceptance of the WBD position, now emphasized her idea of the importance of bank "psychology," a term that Roebling used to describe how customers felt about conducting their business at the bank and how the bank fostered positive growth in that regard.

Roebling's concentration on the "psychology" of women's banks was not completely theoretical in nature. She thought that making women comfortable at the loan

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[239] National Association of Bank Women, 10 May 1975, Baltimore, 20 September 1977, Princeton NJ. Roebling Papers Box 17 Folder 28.
[240] "Women Outside Banking—Women Inside Banking" 1976 Roebling Papers Box 16 Folder 20.

office would be an important step to helping women enter and contribute in what most lenders, and borrowers, considered a man's world. Again, the leaders of all of the women's banks believed that women still suffered from inequalities in the credit market, even after legislation made those discriminations illegal. However, Roebling's personal inclinations led her to concentrate more on the fact that women's psychology in banking would be a very profitable path for a bank. Since Roebling was a major proponent of correcting wage imbalances and proving that women had more economic power than bankers believed, she claimed that the bank would help tap into "the benefit of our feminine gold mine."[241]

That feminine gold mine resulted in solid economic health and growth for WBD. Throughout its existence, WBD performed as well as its banking counterparts, only having problems in the mid 1980s in the wake of broader banking issues and the savings and loan crisis. The bank's leaders measured its effectiveness through its growth in assets, deposits, and equity, and its earnings per share, which remained very high as the price of the stock soared from an initial $10 offering to the bank's sale in the mid 1990s at $166.[242] Over the course of 20 years, WBD grew more than 600%.

[241] October 6 Press Release.
[242] "Orullian's Circular Path."

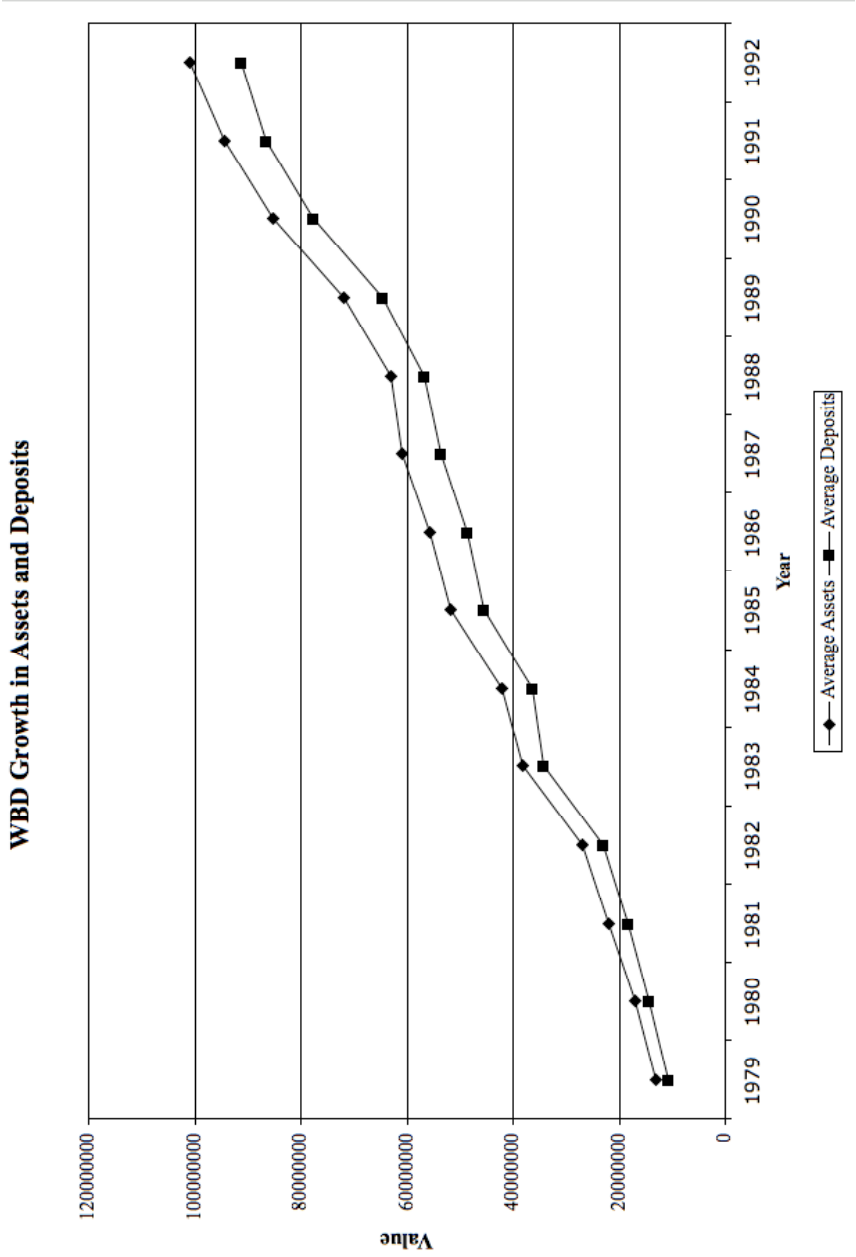

Figure 2- Women's Bank of Denver Growth in Assets and Deposits [243]

[243] All tables tabulated by the author from information available on WBD's consolidated shareholder reports.

Unlike FWB-NY, whose economic position was never enviable, WBD had very good economic characteristics. In their first 10 years, WBD's assets and deposits quadrupled.[244] Superior banking practices and profitability, consistent and strong leadership of the bank, and the economic conditions of Denver all worked together to make WBD a successful enterprise. In fact, by the mid 1980s, WBD agreed that some of the issues surrounding the credit problems of women had decreased, primarily due to the passage of the ECOA in 1975 and the movement of women into the banking mainstream. Unlike FWB-NY, which relied on advertising to sell the bank to its more affluent customers, the WBD's advertisements embraced a warmer, inviting tone. By combining the letters W and B into a heart shape, and filling the advertisement with the staff, a mix of mostly women with some men, the bank reached out to all of Denver.[245]

[244] "Teller: News From the Women's Bank" 10th Anniversary Edition.
[245] Women's Banks Advertisement, Roebling Papers, Box 90.

Figure 3- Women's Bank of Denver Advertisement from the *Denver Post*

Conclusion

In the late 1980s, college student Erin O'Neill asked Mary Roebling if the future of women's banks was threatened by increased attention from other banks and legal changes. Roebling's response was illuminating, especially when considered with important factors such as bank confidence:

> The key term in you question is "the future." Clearly there is, today, less need and justification for women's banks than there was in many past years, and there probably will be less need in the future. The question, really, is how far in the future? If I set aside the fact that I am a woman, and look cold-bloodedly at the banking industry, I am sure that male-dominated components of this industry will seek a bigger share of the women's market by what means are feasible, legal and profitable. Because of the vastly increasing earnings of American women, they would be foolish not to institute measures attracting more female depositors and borrowers. Whether this, per se, works against the establishment of new women's banks in the future is most anybody's guess. With tongue somewhat in cheek, let me say that by, say, 1990, all banks will be unisex….? Maybe. Maybe not.[246]

Working with efforts to secure credit access equality, women's banks in the mid 1970s responded to a need among women to fully enter the mid twentieth century consumer society. By offering women financial literacy and better access to credit, these banks worked to improve the economic status of women and show other banks that women were good investments. Roebling's quote speaks to the idea that she believed that women's banks were successful in that regard. Their main problem was the tension between whether to bolster their status as a feminist organization, help women's economic status and literacy, or to improve their status as a banking institution. While these two points of view never exploded into a serious debate, they always bubbled under the surface. What made the debate even more problematic was that the differences between the two goals were never completely clear, and the banks did not know how to

[246] Mary Roebling Papers, Box 24, Folder 40.

balance them. So, while the mechanics of shifting from one position to another was not a difficult prospect, the changes it required in how the banks lent money could result in serious issues because of the consistent long term planning required to make a bank successful. At the same time, some of the women's banks were never efficient either as a bank or as a feminist institution, including FWB-NY; and others in San Diego and Utah.

This need for long term planning is what separated the experiences of FWB-NY and WBD. FWB-NY suffered from constant change in its leadership and the absence of a good model to follow. WBD had the exact opposite experience. When Roebling left in 1989, La Rae Orullian took over as chair. Until her departure in 1997, WBD had two ideologically similar leaders for two decades. In the early 1990s, WBD decided to shift towards a more general banking institution, and succeeded in making that transfer. This move was even more necessary in the 1980s when the government support of minority banks decreased, and a number of them closed.[247]

By succeeding in operating as a successful bank and feminist institution, WBD—along with the other more successful women's banks in Los Angeles and eventually the other national bank in D.C.—illustrated to the banking industry that women were credible risks, and today bank discrimination against women in most lending environments no longer occurs. Most of these successful banks ended on their own terms, either changing their name once they felt that the problems of women's credit diminished or selling

[247] "Teller: News From the Women's Bank" 10th Anniversary Edition. In general, the 1970s were a relatively healthy time for banks, even with the increased regulations of the late 1960s and early 1970s. Fewer than 80 banks closed in the entire decade, slightly less than the 1960s, and significantly less than the 1980s when other issues (the de facto repeal of Regulation Q which allowed for more interest rate competition and the savings and loan crisis) increased the rate of bank failures.

themselves to larger banks. Coincidentally, the number of women working in banks increased, and the gender differential in financial literacy decreased through the efforts of the women's banks. However, just because discrimination in the lending office diminished, that does not necessarily mean that the experiences of women and men in financial institutions, or in the credit market, remain the same.

Conclusion

Although advocates for women's economic rights, be they members of women's rights groups, female bank customers who could not secure credit, or women's bank leaders, lacked the quantitative evidence to concretely prove that women suffered credit discrimination, there was too much qualitative evidence to ignore. Thousands of women were unable to secure the credit they were due based on well-established lending criteria; their character, their collateral, and their past credit experience—which for many of them was limited because of invidious distinctions they encountered in the credit system.

Those invidious distinctions took numerous forms. The clearest types occurred when women could not get credit in their own names for credit cards, car loans, or mortgages, even when their income was clearly sufficient. Other times, women might be required to sign affidavits that they would not have a child over the course of the loan. Married women might see their income discounted because lenders might not take their commitment to their job, or repaying their dates, seriously. In all of these cases, the fact that women were discriminated against or forced to maneuver past additional obstacles just because they were women proved there were invidious distinctions amongst creditors.

Armed with stories of these discriminatory encounters instead of numbers these advocates, female bank leaders and customers, with some women in the women's rights movement, persisted in their fight to end credit discrimination against women. They

were operating within already established rights movements for women and consumers, but had to negotiate both of these trends within the 1970s economy and society. In some cases, these associations bolstered them; for instance, they borrowed some of the language and techniques from the women's movement, particularly in letter writing and awareness raising campaigns. In other cases, it weakened them, as credit rights and the credit market changed drastically in the late 1960s and early 1970s, and ran into significant issues in the 1970s economy.

While it may be difficult to determine if either the women's attempts or general chances in the economy finally ended open discrimination against women in the credit market, the women's efforts were worthwhile. For the grass roots and awareness raising efforts, the evidence suggests that they were successful since they helped convince thousands of women to write to women's groups, credit regulators, and legislators to secure fair treatment. At the very least, more people paid attention to the plight of women in the credit market after the late 1960s.

Different attempts at state and federal legislations had different results. States passed different types regulations, some much weaker than credit access advocates wanted because of low thresholds for punitive damages or unclear language, such as regulations passed in Maryland, New Jersey, and Kentucky. Other state laws, such as the ones in New York, Vermont, and Washington, were quite strong, and had the potential to serve as a disincentive and keep creditors from discriminating against women unfairly. All of these state laws became less important when the federal government passed the ECOA in 1976.

Studies about the success of the ECOA showed positive and negative consequences. One on hand, the ECOA was a good scare tactic to convince creditors to give women fair access to credit, even if few cases concerning credit access for women ever made it to the courts. Others argued that the ECOA was pointless because discrimination did not exist, or that discrimination was quickly going away because of a change to a consumer-based economy where creditors could not afford to turn down good credit risks. Others complained that the ECOA did not have sufficient power to keep discrimination from occurring, because there were few lawsuits and consumer literacy about their rights remained abysmally low.

The women's banks also had a mixed record. Their goals were to help women get access to credit, both by offering it directly, and by convincing the rest of the mainstream credit market that women were creditworthy regardless of their gender or marital status. Some of those women's banks, like Women's Bank of Denver, did quite well with strong, consistent leadership in a growing community. Others, like First Women's Bank of New York did poorly, with weak leadership in a bad economic market.

Overall, though, these banks may have missed their window of opportunity. The economic status of independent women was not secure enough to really support the industry much earlier than the late 1960s, and most of the problems surrounding women and credit were answered by other methods by the early 1980s, including the ECOA and the generally improving economic status of women. By depending on a long-term solution for short-term gains, the women's banks ran into problems, but the successful banks were able to ease out of the banking industry in the 1980s and 1990s on their own terms. If encouraging increased and equal access was their only goal, then these banks

were successful. If one analyzes economic measures of banking success, profitability, return on assets, etc., they will find some of the women's banks wanting, but the importance of those factors to the leaders of the women's banks was not paramount to their mission of proving the credit-ability of women.

These efforts, ranging from raising awareness, to passing legislation, to starting women's banks, were the attempts that equal credit advocates pursued in the 1970s to correct credit discrimination. The successes of any of these efforts alone might not have been enough to end discrimination, but together, the chance of success was much higher. Procuring new rights for credit access, ensuring that women were well aware of those rights, and convincing creditors that women were good credit risks, were all important to ending discrimination. However, those efforts have not been entirely successful in ending all types of credit discrimination against women.

Forty years after women started to fight against credit discrimination consumerist society and consumer credit have changed the environment within which women fight for equal credit access. The increasing ease at which anyone can get credit in the past twenty years has completely overshadowed any issues women might have had getting credit. For most of the 1990s and 2000s, many creditors wanted to extend credit to whomever they could, and women were too large a group to discriminate against or ignore.

Although discriminating against women in the credit market makes little economic sense, broader issues about a woman's economic status, and by extension her access to credit, remain in the United States. The first bill that President Barack Obama signed was the Lily Ledbetter Act, which allows individuals to sue their employers over wage discrimination after the original 180-day period afforded by the Equal Pay Act.

The act was named after a female warehouse executive who found out at her retirement that Goodyear Tire had paid her less than her male peers throughout her career.[248]

Along with the question of why a gender pay gap remains in the United States, there are even issues concerning how it is measured. The United States Bureau of Labor Statistics reports that the ratio of a woman's pay to a man's pay is somewhere in the mid 70 percent range. Some women's groups fighting for greater government activism claim the ratio to be somewhere in the high 60 percent range, while groups that are against government intervention claim nearly 100 percent. Aside from being a battleground for economic rights, this issue of pay inequity directly relates to credit discrimination, since if women earn less, they will generally have less access to credit.

At the very least, women who earn less might not have access to *good* credit. As consumer credit became more prominent in the second half of the twentieth century, changes in the credit industry created more options for lower quality credit. While some of these types of credit, such as pawnshops and loan sharking, new industries sprang up in the mid twentieth century to take advantage of the increased demand for consumer credit.

Companies that offered payday advances and check cashing services, extending bank services to the "nonbanked," individuals who cannot afford the time or the money to use standard financial institutions, nor get credit from them. Statistics on who use these places usually do not include any information on gender, but the discussion on the

[248] Sheryl Gay Stolberg, "Obama Signs Equal-Pay Legislation," *New York Times* 29 January, 2009.

feminization of poverty from Chapter 1 might suggest that poor female-headed households might be heavily represented in the customer logs of these places.

Because of their decreased ability to secure higher quality credit, single and divorced women also suffered disproportionally in the late 2000s mortgage crisis. The Consumer Federation of America found that women were 32% more likely to receive sub-prime loans than men in the past decade. In total, the National Community Reinvestment Coalition found that in 2005 women held 37% of all high-cost loans, a group including subprime loans. During the same period, women only accounted for 28% of regular mortgage loans.[249]

The National Association of Realtors found that around 25 percent of America's 8 million single mothers spent more than half of their income on housing, compared with less than 10 percent of income on average spent by single fathers. This disparity in spending amounts shows another major issue in the economic status of women, and their ability to access credit.[250]

It is unknown if the problems that women suffer in the American economy today are due to invidious distinction or by rational discrimination. Thirty-five years ago, proponents of equal credit access for women were able to convince policymakers and most creditors that they suffered from invidious distinctions. Four more decades of unequal treatment, though, might change some of those conclusions. Women's pay

[249] "National Studies of Lending Trends," National Community Reinvestment Coalition, ncrc.org, accessed February 2008.
[250] "Field Guide to Women Homebuyers," National Association of Realtors, realtor.org/library/library/fg212, accessed February 2008.

equity has been slow to improve, and this lack of equal pay limits the creditability of women.

Long-term structural changes in the credit market in the past twenty years have diminished the impact that gender based discrimination might have in keeping women from securing credit. Changes in policies have allowed more financial institutions to extend credit, including removing interest rate restrictions in the early 1980s and removing some barriers for banks to extend credit with the partial repeal of Glass-Steagall in the mid 1990s. This extension of credit means that banks are more likely to concern themselves only with rational discriminatory factors, such as low wages or poor payment histories, because banks need to ensure that they find the better risks among the growing number of people searching for credit access. Even if the attempts of credit access advocates were unsuccessful in convincing the mainstream credit market that women were creditworthy, changes in the credit industry have also eliminated some of the invidious distinctions against women in the credit market.

As the story of women in the subprime mortgage market attests, the improving status of women in today's credit market does not mean there are no invidious distinctions against them. Like in the 1970s, the only real chance to eliminate that discrimination is to educate debtors and consumers. The nascent Consumer Finance Protection Agency, under the leadership of law professor Elizabeth Warren, is working towards educating consumers and creditors about their credit rights. If debtors, women included, were more aware of their rights and the paths they could take to ensure them, they will be more able to secure the credit they deserve.

Unknowledgeable female debtors are not the only ones unaware of invidious distinctions in the credit market. Many people, including a number of avowed feminists, have been shocked to hear about my work, especially since it happened so recently, and its effects have direct ramifications in today's world. For the most part, if credit discrimination did not happen to them, then it happened to their mothers. While my mother's story was an important one to instigate my research, she most definitely was not alone. I met a researcher in New Orleans whose banker did not count her income for a mortgage she and her husband applied for in the early 1970s. I have a colleague whose grandmother fought for her own name on a credit card forty years ago. At a conference, I talked to a fellow presenter whose wife was an intern at First Women's Bank New York.

Therefore, while this dissertation might not be a standard history dissertation because of its topic or its lack of a robust historiography, I always get reminders of how germane it is. On one hand, the general impact is great. Women make up over half of the United States population, and the issues of keeping credit from them are important ones not only for society, but also for economic policy and decision-making. On the other hand, its specific impact is everywhere, especially for the individual women who are unable to secure loans based on their own characteristics.

It is the mix of historical and contemporary importance of credit discrimination and the responses against it that compelled me to follow this story. I have told the stories of women who experienced discrimination in a broader context of their historical and economic environment. This context is important to understand why their complaints deserved action by women's groups, legislators, and the credit market itself. By

illustrating cases of invidious distinction in the past, hopefully policymakers and creditors can stop, or at least better understand them, in the present.

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Appendix A-
State Laws at the time of the ECOA Debate - Early 1974

STATE	LAW	DATE
California	Civil Code S. 1747.80	3/4/72

Prohibits refusal to issue credit card solely because of a person's race, religion, creed, color, national origin, ancestry, or sex.

Remedy: For willful violations, actual damages plus 250, injunctive relief

Civil Code S. 1812.30-.31;
S. 5116

Prohibits denial of credit to women, single or married, if earnings or separate property are such that men possessing the same amount of property or earnings would receive credit. Requires that a credit reporting agency, upon written request, identify separate credit history of each spouse, as well as joint account if such information is on file.

Remedy: Actual damages plus $500 for each willful violation, injunctive relief.

Colorado	Rev. Stat. 73-1-109; UCCC- 73-5-206	6/7/73

Prohibits denial of or more stringent terms for consumer credit sale, consumer lease, or consumer loan, on basis of discrimination solely because of race, creed, religion, color, sex, marital status, national origin or ancestry. Exempts sellers, lessors, or lenders if balanced from consumer credit for previous year are less than one million dollars.

Remedy: Actual and exemplary damages, minimum $100-maximum $1000, costs and attorney fees

Connecticut	Public Act 73-573	10/1/73

Prohibits discrimination by any creditor solely on the basis of sex or marital status.

Remedy: actual damages as determined by administrative commission.

Florida	Chapter 73-251	10/1/73

Prohibits discrimination on the basis of sex or marital status or race in the areas of loaning money, granting credit, or equal pay for equal services performed.

Remedy: Compensatory damages, punitive damages, and attorney's fees

Illinois	S.H.A. Chapter 121 1/2, S. 385.1; 388	10/1/73

Prohibits denial of credit solely on account of sex or marital status. Requires that credit card issuer consider financial status of a married couple or individual applicant, as requested by applicants.

Indiana	I.C. 1971, 22-9-1-3	TBD?

Renders unlawful discrimination because of race, relition, color, sex, national origin or ancestry relating to acquistion or sale of real estate, or the extending of credit as defined in the Indiana Code.

Remedy: actual damages as determined by Indiana Civil Rights Commission

Kentucky	K.R.S. Chapter 344	6/21/74

Prohibits financial institutions to discriminate against applicant for financial assistance related to real property because of an individual's race, color, religion, national origin, sex, or age. Specifically makes it unlawful to refuse to give full recognition, because of sex, to the income and expenses of both spouses where both will be obligors I a real estate transaction. Prohibits discrimination by any party to a credit transaction because of race, color, religion, national origin, or sex, but provides that an applicant's credit history, as well as state laws on dower, curtsey, descent, and distribution may be considered.

Remedy: Actual damages, costs, attorney's fees, injunctive relief.

Maine	T. 5 Rev. Stat. Chapter 337	6/28/74

Creates a civil right to credit, making it unlawful for any creditor to refuse the extension of credit to any person solely on the basis of age, race, color, sex, marital status, ancestry, religious creed or national origin in any credit transaction. Provides that financial institutions may require both husband and wife to sign a note and mortgage to perfect a security interest.

Remedy: Administrative procedure—cease and desist, court awarded penal damages ($100, $250, $1000), possible actual damages

Maryland	Ann. Code, Art. 83	7/1/73

S. 128(e) & S. 153C(b)

Prohibits discrimination by any seller or financial institution against any buyer or prospective buyer wishing to establish a retail credit account because of the sex or marital status of the buyer. Prohibits discrimination by the seller against any installment buyer because of the sex or marital status of the buyer.

Remedy: Administrative procedure—cease and desist; no damage recovery

Massachusetts	General Laws, Chapter 151B, S. 4 (14)	4/11/73

Makes it unlawful to deny or terminate credit or services or adversely affect an individual's credit standing because of individual's sex or marital status.

Remedy: Actual damages; special damages up to $1000 in absence of actual damages; legal fees; administrative procedure.

Minnesota	Stats. 1971, S. 363.03	8/1/73

Prohibits sex discrimination in the extension of credit.

Remedy: Administrative Procedure

New Jersey	Civil Rights Stat. Ann. S. 10.5-12 (f) & (i)	1972

Prohibits direct or indirect denial of advantages, facilities or privileges of public accommodation (which include retail shops, stores, and establishments dealing with goods or services of any kind) because of a person's race, creed, color, national origin, ancestry, marital status, or sex. Prohibits discrimination on same bases by financial institutions and other mortgage lenders.

Remedy: Administrative procedure

[In addition, the NJ Dept. of Banking issued a directive on 4/6/73 prohibiting inquiries by state-chartered lending institutions into birth control practices or other information bearing on intention or capacity of mortgage applicants to have children.]

New York	Chapter 173	7/15/74

Makes it unlawful for any creditor to discriminate because of an applicant's race, creed, color, national origin, sex, or marital status. Specifically prohibits inquiry reflecting discrimination unless for purpose of compiling statistics for purposes of demonstrating compliance or for purposes of evaluating valid, objective criteria of creditworthiness. Also prohibits inquiry concerning applicant's capacity to bear children or advocacy of birth control of family planning. Prohibits automatic or unwarranted discounting of income because of an applicant's race, creed, color, national origin, sex, marital status or childbearing potential . Requires credit reporting agencies to maintain separate credit histories for married individuals on written request.

Remedy: Administrative Procedure, possible fine up to $10,000 payable to state of NY, compensatory damages, cease and desist order, affirmative action order, judicial review

Rhode Island	General Laws 34-37-4.1	5/11/73

Prohibits discrimination by financial organizations and other credit granting commercial institutions on basis of applicant's sex or marital status.

Remedy: Administrative Procedure

Tennessee	Public Chapter 727	4/5/1974

Makes it unlawful for any creditor or credit card issuer to discriminate between qually qualified individuals, whether male or female, or solely on account of martial status against any individual with respect to various aspects of credit transactions.

Remedy: Civil liability in individual action (minimum-$100, maximum-$1000), up to $10,000 in class action, costs, and attorney's fees.

Texas	Vernon's Ann. Civ. Stat. Art. 5069-2.07 & 8.06	8/27/73

Prohibits denial of credit or loans in an individual's own name, or restriction or limitation of the credit or loan granted, solely on the bases of sex.

Remedy: the greater of actual damages or $50, court costs, and revocation or suspension of license

Vermont	8 V.S.A. S. 1211, S. 1302 (3) 9 V.S.A. S. 2410, S. 2362	7/1/74

Prohibits credit discrimination on basis of sex or marital status in connection with loans or mortgages, retail installment contracts, retail charge agreements, or bank credit cards.

Remedy: Administrative procedure, actual damages and possible penalty up to $1000 in individual action.

Washington	R.C.W. 49.60	6/7/73

Makes it unlawful to discriminate against any person in credit transactions because of race, creed, color, national origin, sex, or marital status. Makes it an unfair practice to use or require the designation of a person's sex, race, creed, color or national origin on a document concerning application for a credit transaction.

Remedy: Administrative procedure, actual damages, costs, and attorney's fees, injunction

Prohibits credit discrimination by financial organizations or other credit granting institutions on basis of applicant's sex or marital status.

Remedy: $1000 for each violation.

Appendix B:
Survey Questions and Results from Banks through the Ohio Credit Task Force Questionnaire

Ohio Credit Task Force Commercial Bank Survey and Results

	YES	NO	No Answer	
1. Do you have a written credit policy?	14	75	11	
2. Does your firm employ credit scoring in evaluating a credit application?	7	89	4	
3. Have you had a change in your credit policy regarding women?	3	93	4	
4. Do you consider the nature of a person's employment in granting credit?	89	7	4	
5. Do you have minimum income requirements for loans?	25	71	4	
6. Are there established minimum loans for people with different incomes?	14	82	4	
6b. Do they vary with marital status?	3	18		

	YES	NO	No Answer	Sometimes
8. If a married man applies for a loan do you require financial info concerning his wife?	71	25	4	
8b. Do you require other info regarding his wife?	64	25	11	
8c. Do you require signature of wife on application?	25	64	8	3
8d. Is employed wife treated as a dependent for purposes of evaluating husband's application?	28	64	8	
9. If a married woman applies for a loan do you require financial information regarding the husband?	78	18	4	
9b. Do you require other info regarding the husband?	71	18	11	
9c. Do you require signature of husband on application?	28	61		3
9d. Is employed husband treated as a dependent for purposes of evaluating wife's application?	11	82	7	

	None	1-50%	50-100%	No Policy
10. In considering a mortgage or other long term loan application, how much of the wife's income do you count?	18	6	21	48
	YES	**NO**	**No Answer**	**N/A**
10b. Would this vary according to wife's age?	43	32	7	18
10c. Would this vary according to the wife's type of employment?	43	32	7	18
10d. Would this percentage vary according to the wife's length of time employed?	43	32	7	18
10e. Would this percentage vary according to the ages of children?	36	39	7	18
11. As a general rule, will you give credit to a student/husband an a working wife without requiring an additional co-signer?	82	7	11	
11b. Will you grant credit to a working husband and a student/wife?	86	7	7	
12. Do you count alimony and child support payments as part of a divorced woman's income?	75	18	4	
12b. Do you take into consideration the promptness of these payments?	68	18	11	
13. In calculating a widow's income do you count as income monthly trust payments?	93	3	4	
13b. Her Social Security?	96		4	
13c. Stock and bond dividends?	93	3	4	
14. Do you ever ask fathers to co-sign for unmarried women?	86	7	7	
	YES	**NO**	**No Answer**	**By Request**
15. If a woman notifies you of a change of last name due to marriage, do you change the last name on her account?	82	7	8	3
15b. If a woman changes her last name due to marriage, do you close her account and solicit a new application?	3	71	26	
15c. If a woman changes her last name due to marriage, do you require info about her husband?	14	75	11	
15d. If a woman changes her last name due to marriage, do you require her to use her husband's existing account?	3	82	11	

16. Upon the death of a husband, do you close the account?	7	78	15	
16b. Upon the death of a husband, do you solicit a new application?	11	71	18	
16c. Upon the death of a husband, do you require a co-signer		78	22	**Sometimes**
16d. Upon the death of a husband, do you maintain account in the husband's name?	32	46	15	7
	YES	**NO**	**No Answer**	**Other**
17. When a divorce occurs and account is in husband's name, do you remove wife's signature from the account?	21	50	7	22
17b. When a divorce occurs and account is in husband's name, do you close the account?	7	57	14	22
17c. When divorce occurs and account is in husband's name, do you transfer account to her name?	14	46	21	19
17d. When a divorce occurs and account is in husband's name, do you solicit new application?	14	53	14	19

Appendix C
Women's Financial Institutions in the United States

Women's Banks

July 1975- **First Women's Bank** (Renamed First New York Bank for Business in1989)
Failed in 1992, acquired by Merchant's Bank of New York

March 1976- **Women's Bank** (San Diego) (Renamed California Coast Bank in 1978)
Acquired by Heritage Bank in 1981, closed in 1993

September 1976- **Western Women's Bank** (San Francisco) (Renamed Golden Gate Bank in 1980)
Acquired by Greater Bay Bank in 2004

November 1976- **First Women's Bank of California** (Los Angeles) (Renamed Guaranty Bank of California in 1984)
Still in Operation

February 1977- **Women's Bank** (Richmond) (Renamed Women's Bank West Branch in 1984 after being acquired by First Virginia Colonial Bank. Renamed Parham North Branch in 1995.
Closed in 1997

April 1977- **Connecticut Women's Bank** (Renamed Connecticut Community Bank in 1984)
Acquired by Gateway Bank in 1994

May 1978- **Women's National Bank** (Washington, D.C.) (Renamed Adams National bank in 1986)
Still in operation

July 1978- **Women's Bank** (Denver) (renamed Colorado Business Bank in 1997, American Business Bank in 2001, and then Cobiz Bank in 2003)
Still in operation

February 1979- **First Women's Bancorporation of Utah** (Renamed Western Home Financial Corporation in 1979)
Closed in 1986

November 1979- **First Women's Bank of Maryland** (Renamed First Women's Bank in 1990 and Grandbank in 1997)
Acquired by Century National in 2001

Women's Credit Unions and Savings and Loans

Association of Polish Women Credit Union
Closed in 1989

California Women's Savings and Loan Association
Failed in 1990, bought by Fidelity Federal Bank

Cape Cod Women's Credit Union
Acquired by First Citizens Federal Credit Union in 1993

Chicagoland Women's Federal Credit Union
Acquired by Pacesetter Federal Credit Union in 1989

St. Louis Women's Federal Credit Union
Acquired by Select Employees Federal Credit Union in 2003

Westchester Women's Federal Credit Union
Acquired by C D Number 2 Federal Credit Union in 1985

Wisconsin Women's Credit Union
Acquired by Telco Credit Union in 1982

Women's Federal Savings and Loan
Acquired by Charter One Bank in 1993

Women's Southwest Federal Credit Union (San Antonio, Texas)
Still in operation