Ending Discrimination, Legitimating Debt: The Political Economy of Race, Gender, and Credit Access in the 1960s and 1970s

LOUIS HYMAN

Credit and Prosperity

Today, in the aftermath of the subprime crisis, there is a foreboding sense that it is too easy for Americans to borrow. Living beyond our means on our cards and our mortgages, Americans borrowed at an unsustainable pace, and what put us here, the logic goes, was the unfortunate collision of lenders' greed and borrower's cupidity. Yet free-for-all borrowing defined another moment's economy as well, but without the ill consequences: the postwar period. After World War II, cheap credit underpinned the suburban prosperity, through government-insured loans, auto financing, and even department store Charga-Plates. Low-cost credit networks for the middle class, and especially for the suburbs, made all forms of borrowing economical and easy. Capital flowed efficiently from institutional investors through financial intermediaries into the waiting hands of borrowers. This easy credit intertwined inextricably with what economists have called the postwar "golden age of capitalism."[1] For those with access to this bountiful credit, American Dreams could be readily turned into an American reality.

© The Author 2011. Published by Oxford University Press [on behalf of the Business History Conference]. All rights reserved. For permissions, please e-mail: journals.permissions@oup.com.

doi: 10.1093/es/khq149

Advance Access publication February 7, 2011

Contact information: E-mail: lhyman@gmail.com

1. Marglin and Schor, *The Golden Age of Capitalism: Reinterpreting the Postwar Experience*, Studies in Development Economics (New York: Clarendon Press, 1990).

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

For those excluded from this credit system, however, consumer life proved much more challenging. Though middle-class white people, particularly men, had ready access to many sorts of credit, low-income African-Americans and women of all classes and races had far greater difficulty borrowing. Home financing was impossible to find or extremely expensive. Urban retailers, unable to resell their customers' debts, charged higher prices both for cash and for credit purchases. Divorced and married white women also found themselves unable to get credit—unless they got their husband's permission. Credit flowed easily through channels made intentionally and unintentionally for married white men, creating for them a lush world of consumption, but for those outside, only a desert.

From the viewpoint of federal policymakers, the very success of credit in creating the postwar suburban prosperity proved the ability of credit to transform economic life. Confronted by African-American urban riots and by organized feminist lobbying, politicians came to agree that widening credit access would help redress economic inequalities of both race and gender. Despite noble hopes, the solutions to ending discrimination, while effective in the short run, proved unsuccessful in the long run at ameliorating racial and gender economic inequality, and only served to further entrench racial and gender discrimination in a more indirect way. By the 1970s, consumer credit, legitimated as fair through federal policy, grew to an unprecedented volume and creditors extended it, in the name of consumer equality, to all Americans with uncertain consequences for the economic future of the United States.

By the mid-1960s, a two-tier credit system had emerged in the United States. The practices, technologies, and assumptions embedded in the credit practices of affluent and poor consumers could not have been more divergent. For middle-class Americans, credit had become an entitlement. Rather than a privilege, it was a right tightly interwoven with suburban material culture and everyday middle-class shopping habits. Homebuyers borrowed their mortgages, financed their cars, and charged their clothes. To be denied credit went beyond an economic inconvenience; credit access cut to the core of what it meant to be an affluent responsible adult in postwar America.

Even as poor Americans evinced consumer desires of the 1960s, their credit experiences remained more akin to the world of the 1920s. For poor African-Americans in the cities, in particular, credit relations had toxically stagnated. Ghetto retailers kept their accounts in leather-bound ledgers and collected payments door-to-door every week, rather than on mainframes that billed automatically like suburban retailers. Credit cards were nonexistent. Mortgages from banks were

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

hard to come by.[2] Less transparent and more prone to hucksterism, urban credit relations seemed to exploit poor consumers' limited geographical mobility, meager financial resources, and fear of impersonal institutions.

Affluent white women, despite their greater access to retailers, confronted inequalities in credit as well. In a world of retail setup for men or dependent married women, working married and divorced women struggled to acquire independent credit access. In a consumer society dependent on credit, even well-paid women could not borrow for cars, homes, or department store shopping, which curtailed their choices and insulted their sense of self-worth rooted in the consumer privileges of their class. Professional women wanted credit access concordant with their economic power.

In these two worlds of consumption, the credit problems of affluent, white female Americans and poor black Americans emerged for different reasons and with different consequences. Yet credit reformers cast both broadly as discrimination. In the name of fairness and equality, activists, executives, and policymakers negotiated a series of laws in the late 1960s and early 1970s intended to promote credit "fairness" for all Americans—first for women and then for many varieties of discrimination.

Through these acts, the federal government grappled with the ubiquity and centrality of consumer credit in the economy, and with the fact that denial of access to credit, whether because of race, income, or gender, constrained the choices and quality of life available for consumers. Congress passed laws to guarantee impartial, which was equated with 'just,' access to credit. At the same time, these laws legitimated practices that would have seemed usurious two generations earlier. Though critics attacked the particular ways in which the credit system was constituted, there was no longer a fundamental critique of the role of credit itself in the economy and society. By the 1960s, credit access was deemed to be unequivocally beneficial. Credit use, far from marking one as immoral or unthrifty as it might have done in the 1910s, denoted high social status and personal responsibility. In the 1960s, those without credit agitated for more "fair" or "equal" access. By the end of the decade, as access to credit became a social marker of independence and prosperity, various credit activists for women and people of color demanded

2. As a number of historians have explained, FHA policies led to the systematic disinvestment in black-owned housing in the middle of the twentieth century. The best remains Thomas Sugrue, *The Origins of the Urban Crisis,* Princeton Studies in American Politics (Princeton, NJ: Princeton University Press, 1996).

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

access to credit. Those left out—middle-class women and working-class African-Americans—wanted in. While consumer historians pointed to the importance of bottom-up protests by welfare activists and consumer organizations, I believe that legislative changes and business competition—that is larger structures of the state and capitalism—played a more decisive role in changing access policies for groups denied credit.[3] By the 1970s, consumer credit, legitimated as fair through federal policy, grew to an unprecedented volume and creditors extended it, in the name of consumer equality, to all Americans with uncertain consequences for the economic future of the United States.

Ghetto Riots and Congressional Reactions

As America watched poor black areas of cities burn in April of 1968, the reasons for the looting, it was commonly believed, went beyond a protest of Martin Luther King's assassination. For some observers, poor black Americans had simply run wild, indulging themselves in the consumer goods that they ordinarily could not afford. For many white policymakers, however, a lack of local business ownership, rather than a lack of consumption, explained the riots. Since the ghetto residents did not, for the most part, own the stores, rioters burned them.[4] But for black leaders and for white intellectuals and politicians long involved in credit reform, the reasons behind the riots were more complicated and tied not only to the difficulties of ownership, but the credit system poor Americans faced in a society defined by consumption.

3. Lizabeth Cohen and other historians have emphasized the importance of the welfare rights and consumer movements in transforming retailers' credit policies. While these protests no doubt affected specific retailers and consumers, I believe that overall the riots, legislative changes, and business competition played a more decisive role in changing access policies for groups denied credit. At the same, the implied radicalism of these consumer movements should be questioned since they merely demanded access to credit and did not push for a larger critique of the credit, much less the capitalist, system. (Cohen, *A Consumers' Republic* (New York: Random House, 2004), 381–5.)

4. I use the term 'ghetto' intentionally. Analytically, while "inner city" does not contain some of the pejorative qualities of "ghetto" today, neither does it contain the intentionality of "ghetto." "Inner city" seems more an artifact of geography rather than a consequence of state policy, as was the reality of the racial geography of the 1960s. Historically, as well, 'ghetto' was used rather than "inner city."

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

Even before King's assassination, in July of 1967, President Lyndon B. Johnson had appointed the Commission on Civil Disorders, also known as the Kerner Commission, to understand why poor black residents of American cities had been rioting repeatedly for the past two years.[5] That most stores in riot-torn areas were white owned, the Commission found, led to "the conclusion among Negroes that they are exploited by white society." While emphasizing unemployment and a lack of business ownership in black communities, the Commission also pointed to the "exploitation of disadvantaged consumers" as one of the causes of the riots. Rioters, protesting merchants "selling inferior goods" or "charging exorbitant prices" had lashed out against white merchants.[6] Poor families in the ghetto, after all, had the same postwar material desires as the affluent residents of the suburbs. Nearly all poor black households, for instance, had televisions. Rather than protesting a lack of consumption, as historians have tended to imply, rioters protested the usurious credit with which they actually had used to shop. It was not an absence of consumption that spurred the rioting, then, but the conditions under which consumption had occurred. Unequal debt and consumer practices were at the heart of the divide in the Kerner Commission's oft-repeated pronouncement that "our nation is moving toward two societies, one black, one white—separate and unequal."[7]

The ways that ghetto consumers purchased these televisions could not have been more different than the way that suburban consumers bought theirs. Rather than anonymously taking televisions, groceries, and clothing from stores, the actions of many rioters revealed deeper frustrations with their personal relation to the stores. The rioters exacted the vengeance of consumers repeatedly wronged as they looted stores. The rioters rebelled not only against the white ownership and the substandard goods, but also the draconian credit relations that compelled poor consumers to pay more, get less, and be publicly shamed when merchants repossessed the goods upon default. During the April 6th riots in Chicago, the Washington Post reported, a seventy-two-year-old neighborhood man, "his deeply etched face illuminated by a blazing grocery store" chanted "burn, burn, burn. White man ain't milking me no more."[8] Credit structured

5. U.S. Kerner Commission, *Report of the National Advisory Commission on Civil Disorders*, New York Times reprint (Bantam Books: New York, 1968), 274.

6. Kerner Commission, 274.

7. Kerner Commission, 1.

8. Sauter Van Gordon, "Flames Erase Long Stretch of Chicago's Madison Street," *The Washington Post*, April 7, 1968, A7.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

the world of ghetto consumption and it was the structures of the credit system that drew the ire of rioters more than a lack of business ownership in their communities.

Ghetto consumers, unlike suburban consumers, were stuck in a world of personal credit relations with particular retailers, which restricted the operations of the market to reduce prices. A 1967 study found that 70 percent of low-income consumers only had credit references with low-income retailers or no credit references at all, which meant that they could not get credit outside their neighborhood. The exact same model of General Electric dryer that cost $238 in more affluent areas would cost $370 in the poorer areas of Washington.[9] Despite the higher prices, poorer residents who wanted to buy a dryer tended not to leave the neighborhood for the cheaper stores, not because they did not want to, but because they could not. Local neighborhood merchants offered them credit that many poorer consumers could not get at the lower-priced downtown or suburban stores. Without credit references, much less credit ratings, lower downtown stores would not extend them credit, much less difficult to reach suburban retailers. Lower-income consumers knew credit buying on such usurious terms was a "bad idea"—they were not foolish—but if they wanted televisions and other markers of modern life, they had no choice, even as they resented the terms under which modern American life was offered to them.[10]

Middle-class conventions of credit lending failed ghetto residents, isolating them from the larger consumer market. Paul Dixon, the chairman of the Federal Trade Commission, known for his antitrust crusades and promarket stances, testified before Congress that "the poor are poorly served when seeking to satisfy their wants for home furnishings and modern appliances, products which are part and parcel of an acceptable standard of living in American today."[11] Dixon hoped "steps [would] be taken which will render unprofitable behavior which seeks to exploit the ignorance, immobility, or

9. Federal Trade Commission, *Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers* (Washington, DC: GPO, 1968), Historical Collections, Baker Library, Harvard Business School, Harvard University, Cambridge, Massachusetts, 16.

10. In his survey of the urban poor, David Caplovitz found that, contrary to the expectation of much of the prescriptive consumer advice literature, most poor consumers realized they paid higher prices. David Caplovitz, *The Poor Pay More: Consumer Practices of Low-Income Families*, 1967 edition (New York: Free Press, 1967), 95, 97.

11. Congress, Senate, Committee on Banking and Currency, Subcommittee on Financial Institutions, "Consumer Credit and the Poor," 90th Congress, 2nd session, April 19, 1968, 5–6.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

illiquidity of the poor." The necessity of consumer credit to buy modern merchandise on a limited income bound poorer consumers to local merchants who charged higher prices and higher interest rates than the merchants in more affluent areas. One strain of reformist thought, held by Dixon and others, proposed that consumers needed to be educated to comparison shop because they believed that a lack of education caused these "buying habits of the poor." Educating shoppers to comparison shop would not, he acknowledged, "alleviate the misfortune of poverty" but would "work to assure that each member of our community regardless of income receives a dollar's worth of goods for every dollar spent."[12]

Yet the reason that even relatively high-income households from the ghetto had no outside credit was that local merchants actively sought to constrain the choices of low-income consumers. Relatively few high-income ghetto residents had accounts outside their neighborhoods. Fifty-seven percent of ghetto households with incomes over $500 a month either had no credit references or references only with local merchants.[13] For instance, inner city residents would go to Sears, fill out a credit application, and put down other stores where they had credit. These ghetto retailers would shortly thereafter receive a call from Sears inquiring about the customer. The retailer would claim never to have ever heard of the customer, Sears would refuse the customer credit, and then the retailer would call the customer to tell them, as a lawyer with legal aid testified in 1969, "Come on in, your credit is good with us even though not with Sears."[14] Rather than consumer education, ghetto consumers needed an institutional path out of the closed credit system of their neighborhoods.

In ghetto economies, the Federal Trade Commission discovered a world of installment credit that had been eclipsed in the revolving credit world of the postwar suburb. Installment credit, waning elsewhere in the economy except for automobiles and houses, remained the most frequent credit instrument of ghetto life. Revolving credit had not penetrated the economic world of the poor. Low-income area retailers charged average higher interest rates than in affluent areas. At low-income stores, 7 percent of installment contracts

12. Congress, Senate, Committee on Banking and Currency, Subcommittee on Financial Institutions, "Consumer Credit and the Poor," 90th Congress, 2nd session, April 19, 1968, 5–6.

13. Calculated by author from FTC, *Economic Report*, 43.

14. Benny Kass, Congress, Senate, Committee on Banking and Currency, Subcommittee on Financial Institutions, "Fair Credit Reporting Act," 91st Congress, 1st session, May 19–23, 1969, 129–130.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

charged 33 percent interest rates, which no middle-class stores ever charged. While middle-class retailers in appliances and furniture only sold 27 percent of their sales volume on installment credit, in low-income areas, retailers sold 93 percent of their sales on installment.[15] While many affluent and suburban stores no longer even offered installment credit, in poor urban areas installment credit remained the only kind of credit to be had. Some ghetto merchants charged lower interest rates, but in turn, raised their prices. The Federal Trade Commission (FTC) investigators found that instead of competing on price, as middle-class retailers did, low-income merchants competed mostly on ease of credit terms. Whether in prices or in interest, poor consumers paid much more than affluent consumers for the same goods.

With installment credit also came the possibility of repossession, which had largely disappeared in the revolving credit economy elsewhere in the United States. The income of ghetto residents, Federal Trade Commission (FTC) Chairman Paul Dixon testified, was "low, irregular, and unreliable."[16] Even after consumers borrowed, disruptions in their income could interrupt the payments on what they borrowed.[17] While repossession had become economically unfeasible for middle-class Americans, the enormous rate of default in the ghetto made it still necessary there. In the ghetto, there was one repossession case for each $2,600 in sales compared to one for each $232,000 in sales in the rest of the consumer market.[18]

Why was repossession so high? Senator William Proxmire, a liberal democrat from Wisconsin known for his frugality and active in credit reform, believed that possession was caused by the "shoddy merchandise" poor consumers bought on time. When the goods broke, it made consumers feel "taken" and "so many of them stop making payments."[19] Stopping payment, in his view, was an act of protest rather than an act of irresponsibility. Rather than reflecting the inherent creditworthiness of the buyers, the high rates of default reflected the exploitive relationship between the buyers and the sellers.[20] But by breaking the contract, shoppers unfortunately undermined their own "credit in downtown stores." [21] Small acts of

15. FTC, *Economic Report*, ix.

16. Congress, Senate, Committee on Banking and Currency, Subcommittee on Financial Institutions, "Consumer Credit and the Poor," 90th Congress, 2nd session, April 19, 1968, 7.

17. Ibid.

18. Furness, "Consumer Credit and the Poor," 20.

19. Ibid; 21.

20. Ibid.

21. Ibid.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

consumer resistance only tightened the grip of ghetto's financial structure.

Though these merchants charged their customers outrageous prices and grinding interest rates, their return on investment was actually *less* than that of retailers in more affluent areas. With remarkable access to accounting ledgers, credit applications, and customer surveys, the FTC survey provided a picture of the total relationship between ghetto merchant and ghetto customer that was lost in other consumer-oriented studies. While the report affirmed the higher prices and shady sales practices found in other studies, it also found that these practices did not result in higher returns for retailers.

Consumers faced higher prices at low-income market retailers, but the sales and credit methods of the ghetto retailer quickly eroded this sales margin. The average gross profit margin at these stores was 61 percent compared to 37 percent at general market retailer, but the costs of the ghetto retailer were quite different from his counterpart in the suburbs.[22] Since nearly all the sales were on installment credit, merchants faced the greater bookkeeping and billing expense that had propelled more affluent retailers toward the advantages of revolving credit in the 1950s. Low-income consumers had higher rates of default and the installment contract, unlike revolving credit, allowed retailers to repossess goods and to take the defaulter to court. And ghetto retailers did.

Ghetto retailers relied on courts to enforce the debt obligations of their customers much more frequently than middle-class retailers.[23] The FTC pointed out that one large middle-class department store—whose sales volume "far exceeded" the total volume of *all* low-income retailers in DC—had only twenty-nine judgments for the entire year.[24] If middle-class retailers filed suits at the same rate as low-income retailers, instead of 616 court cases a year, they would have had fifty-five thousand judgments.[25] Relying on court-ordered repossession did not increase revenues, it just lowered losses.

While retailers relied on the courts to enforce their debts, they did not look to bank and finance companies to finance their installment contracts. Unlike middle-class stores, 80 percent of low-income retailers did not sell their installment contracts to finance companies or banks. Only 2 percent of general market appliance stores and 43 percent of general market furniture stores did not sell their finance

22. FTC, *Economic Report*, ix.
23. Ibid; xii.
24. Ibid; 33.
25. Ibid; 34.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

paper.[26] In-house financing demanded more staff to handle all the accounting and billing for all those installment contracts, which for middle-class retailers were cheaply outsourced to a finance company.[27] Moreover, by not selling their installment paper, low-income retailers had to bear any debt loss directly and, unlike finance companies, could not diversify their risk across cities and companies.[28] For every dollar of merchandise sold by a low-income retailer, 6.7 cents went to bad debt losses compared to the 0.3 cent bad debt loss of a more affluent retailer's sales dollar.[29] With twenty-two times the bad debt loss per dollar of sales, ghetto merchants had to charge higher interest rates and prices. With such high rates of default, it is unclear whether any finance companies or banks would have bought the contracts.

Instead of selling contracts to finance companies, ghetto retailers instead borrowed the capital directly from the bank and had to pay for the interest on the money borrowed as well as to repay that money to the bank whether or not customers paid them. By charging higher prices, merchants could raise their margins and possibly avoid losing the money they had already paid the wholesaler for the merchandise. If an installment contract ran twelve months, the low-income retailer recovered his wholesale cost, on average, in six months, while for the general market retailer, it would take eight months. Anticipating a higher rate of default, the low-income retailer raised prices so that even if the customer stopped paying half-way through the contract, the retailer did not lose money.[30] Between bad debt losses, lawyers' collection fees, higher insurance premiums, more accounting staff, and higher sales commissions, the higher costs of ghetto retailers accounted for 94 percent of the difference in the gross margins.[31] While the ghetto merchant still made 6 percent higher net profits on sales than middle-class retailers, lower volumes, fixed costs, capital expenses, and higher default losses meant that small low-income retailers actually had a lower rate of return (10.1 percent) than general market appliance stores (20.3 percent), furniture stores (17.6 percent), and department stores (13 percent).[32] The poor paid more, but the

26. Ibid; xii.
27. Ibid; 19.
28. By this point, most installment paper was resold without recourse. The holder of the obligation could not force the original seller to take the merchandise back.
29. FTC, *Economic Report*, 18.
30. Ibid; 17.
31. Ibid; 20.
32. Ibid; 20.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

merchant did not profit. The credit system of the ghetto hurt both sellers and buyers.

Though the system hurt both ghetto retailers and consumers, it was the anger of consumers rioting in the streets that alarmed the nation. The higher prices, the frequent court decisions, wage garnishments, and repossessions that were the bread-and-butter of the ghetto merchant no doubt contributed to the antagonism of poor consumers. Repossessions were public affairs that everyone in the neighborhood could see. Repo men would come and remove the family television, publicly shaming the family, in addition to taking their television. The public methods of the low-income retailer fostered resentment in ways that the suburban revolving credit, whatever its drawbacks, kept more private.

Little wonder, then, that the stores that sold on credit, along with liquor stores and men's shops, the *Washington Post* reported, were the "most popular victims of the riots."[33] When DC rioters broke into many stores, they burned the credit records before they took the merchandise. Burning the records, they hoped, would erase the debts that many rioters had at their neighborhood stores. More than an opportunity to get free merchandise, the riot was a chance to start over. As an "easy-credit" clothing store burned, one man reportedly yelled in the street, "Burn those damn records!"[34] In another widely republished account, a mother told her son, as they looted a delicatessen near 7th and S Streets in DC, "Don't grab the groceries, grab the book."[35] The book held the records of debts that her family and neighbors owed to the store. Burning credit records, it was hoped, would end the onerous interest payments. Unfortunately for the rioters, many stores kept duplicates somewhere else in case of conventional fire, which in these cases, also protected them against arson. A *Post* reporter noted that "their stores may not be in the best of shape, but their books look good."[36] While their merchandise might have been lost, their accounts receivables were not.

In the aftermath of the riots, the senator Proxmire, inaugurated hearings that inaugurated a long series of influential credit reforms over the next decade. Before the 1968 riots, credit reform to empower

33. Murray Seeger, "Washington Ghetto Smoldering Ruins Block After Block," *Los Angeles Times*, April 7, 1968, 18.

34. Williard Clopton, "11,500 Troops Confront Rioters; Three-Day Arrest Total at 2686," *Washington Post*, April 7, 1968, A14.

35. "Avenging What's-His-Name," *Time Magazine*, April 19, 1968; "Generation Gap in the Ghetto," *Washington Post*, April 7, 1968, B6.

36. "Most Riot-Damaged Stores Have Credit Records Intact," *Washington Post*, April 11, 1968, A4.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

consumers had been largely unsuccessful. Some legislators, like Senator Paul Douglas from Illinois, had pushed unsuccessfully for credit reform throughout the early 1960s.[37] Legislators intended to make all loans express their interest rates and charges in a uniform manner, known as Truth-In-Lending laws, as a way to empower consumers in their credit choices. The informed consumer could rely on retailer competition to reduce interest rates. For various political reasons over the years, these measures failed. In the aftermath of the riots, however, the need to redress the problems of the ghetto riots acquired a new urgency. As the witnesses and the legislators pondered the problem of ghetto credit they recognized, as did Betty Furness, the Special Assistant to the President for Consumer Affairs, that "the proof was right here in the streets 2 weeks ago . . . [in] the stores that were burned and looted."[38]

Many reformers connected with urban life testified at the hearings. Proposals for community-owned banks, urban mortgage lending, government-sponsored credit cards, small business loans, as well as many other ideas, were floated.[39] The underlying reality of the inner city economy, insular and isolated from the larger capitalist market was acknowledged, but a bridge was not constructed. For instance, John Jacob, the Acting Executive Director of the Washington Urban League, applauded the calls for investment in the ghetto and saw the hearings as "one of a number of growing indications that America has finally decided that it might be appropriate to begin to extend capitalism to black Americans."[40] As Jacob reminded the committee, "black people in the ghetto buy television sets, washing machines, clothes, and toothpaste" just like white people in the suburbs, but they just paid more.[41] Ghetto residents "buy them with borrowed cash that will cost them double or triple in the long run . . . . [and] on installment plans that balloon prices so that they could have bought three items by the time they get through paying for one.." If white policymakers and bankers were really concerned about increasing the stake of black America in capitalism, Jacob argued, they would worry less about business loans and find a way to enable black Americans to

37. On these initiatives, see Paul H. Douglas, *In the Fullness of Time: The Memoirs of Paul H. Douglas* (New York: Harcourt Brace Jovanovich, 1972).

38. "Consumer Credit and the Poor," 18.

39. For more on the proposed credit solutions to the urban crisis, see Louis Hyman, *Debtor Nation* (Princeton: Princeton University Press, 2010), forthcoming.

40. Congress, Senate, Committee on Banking and Currency, Subcommittee on Financial Institutions, "Financial Institutions and the Urban Crisis," 90th Congress, 2nd session, September 20 and October 1–4, 1969, 1, 232.

41. "Financial Institutions," 235.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

use affordable credit to buy their homes, cars, and toothpaste just like white America. While other witnesses conveyed the trickery of merchants and the importance of black entrepreneurship, Jacob offered a different way to quell black consumers' rage—provide them with institutional choice. The easy credit of the suburbs was not a singular relation between a borrower and lender, then, but a multiplicity of relationships between financial and retail institutions. This mesh of institutions was the consumer capitalism that excluded poor African-Americans, and through the lack of cheap credit, helped keep them poor.

Congress offered few solutions coming out of the hearings, but one of the most important was the Section 235 mortgage subsidy program, which was created as part of the Housing Act of 1968.[42] Overseen by the Federal Housing Administration, the Section 235 program would provide mortgages to low-income borrowers, and heavily subsidize the mortgage.[43] While some low-income African-Americans bought their first homes through the Section 235 program, the other features of a competitive housing market—such as fair home prices and quality construction—were absent. Home builders, real estate agents, and housing inspectors formed insidious combinations and pushed overpriced, sometimes uninhabitable houses, on first-time buyers. Many homebuyers found themselves defrauded, as they had been through their own neighborhood retailers, and simply walked away from the properties.[44] The Section 235 program did not address the fundamental lack of a competitive housing market connected to the larger currents of capital. Without this institutional context, the program simply replicated, on a grander scale, the heartbreak of the corner store.

Congress also passed the truth-in-lending laws that had repeatedly failed, but were more consonant with a belief that consumers given

42. Spelman, "Federalization & Housing: At Point of No Return?" *Mortgage Banker* (June 1971): 57; Robert Gray, "Good Counseling: The Answer In Successful 235 Housing," *Mortgage Banker* (August 1971): 14.

43. To qualify, a family could earn no more than 135 percent of the local public housing income limit that was based on local economic conditions and size of family. Such limits varied locally across the country. A family of four could earn up to $5,805 in Red Bay, Alabama, $6,615 in Paterson, NJ, and $7,695 in Boston, MA for example. (Department of Housing and Urban Development, *Regular Income Limits for Sections 235 and 236 Housing (Based on 135 Percent of Public Housing Admission Limits)* (Washington: GPO, 1969).); Department of Housing and Urban Development, *1970 HUD Statistical Yearbook* (Washington: GPO, 1970), 234; Philip Brownstein, "The 1968 Housing Bill," *Mortgage Banker* (May 1968): 20.

44. Department of Housing and Urban Development, Office of Audit, "Audit Review of Section 235 Single Family Housing," 10 December 1971 (Washington: GPO, 1971), Vertical Files collection, Loeb Library, Harvard University, 4–5, 10.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

clear choices would not let themselves pay too much—a competitive market would not allow it. The truth-in-lending law called the Consumer Credit Protection Act mandated uniformly calculated interest rates on all credit transactions. For inner city consumers, whose problems were the ostensible reason for the hearings, these solutions were no solution at all. Truth in lending information could not help consumers overcome the institutional barriers that kept them tied to local retailers. They were not in a competitive market. Ironically, then, the possibility of overcoming credit exploitation would not come from hearings held in the aftermath of the riots, but hearings held to help affluent white women who felt their exclusion from credit access in a distinctly different way.

The Feminist Fight for Credit

While poor black Americans confronted the limits of their credit options and turned, unsuccessfully, to the state for redress, another group, much more affluent but still constrained in their credit access, began to lobby Congress for credit equality. For upper-middle class women in the late 1960s and early 1970s, credit formed an indispensable foundation of their economic and social lives, yet the ability to use credit remained contingent on a man's creditworthiness or even his permission. Unlike today, when microfinanciers win Nobel prizes for recognizing the higher creditworthiness of women over men, in the 1960s and 1970s, lenders considered women of all marital statuses poor credit risks. Single women, married women, and divorced women all encountered barriers in their access to credit but for different reasons and with different effects. Marital, parental, and employment statuses all shaped women's need and demand for credit, and why creditors denied them that credit. While women enjoyed greater liberties in divorce and coveture law at the end of the 1960s than earlier, they also found that everyday credit practices and retail policies had not kept pace with the statutes. Affluent white women, who explicitly juxtaposed their class-based "right to credit" against welfare mortgage programs (Section 235) for poor African-Americans demanded credit in the name of ending discrimination—a rhetorical move that ultimately and unintentionally aided poor black consumers as well.

The main institutional barrier to women's credit access, as for ghetto consumers, was the credit history – the record of credit transactions that was supposed to inform potential lenders whether a borrower was a good risk or not. Even in the late '60s and early '70s, as so many middle-class married women entered the workforce,

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

women still depended on their husbands for their economic identity. Single women, perhaps unexpectedly, had the easiest time establishing a credit identity, but lenders limited their credit access in ways that they did not for single men. Employed single women could easily get credit at department stores for soft goods, but found it incredibly hard to get long-term loans for cars and houses. Abundant credit necessitated a husband and when a woman married, her credit history was erased and replaced by her husband's.

Though today credit cards are the main source of revolving credit, in 1970, department stores provided nearly all the revolving credit in the United States, which made their policies far more influential than they would be today. Most department stores, for instance, forced newly married women to close their accounts and reapply for credit in their husbands' name. Upon divorce, which was beginning to rise as a consequence of no-fault divorce laws, the consequences could be even more severe. A woman found that even though she might have paid her bills diligently for years, she was a person without a past and unable to get any form of credit whether at a department store or at the gas company. The existence or lack of individual credit histories for women drove many of the differences in credit access between single, married, and divorced women.

Jorie Friedman, for instance, had worked as a well-paid newscaster for Chicago's NBC affiliate for many years before meeting her husband and had had credit accounts at most major department stores, always paying her bills on time. Through her large salary as a newscaster, she never had any trouble getting credit, that is, "until [she] got married."[45] Friedman recalled that "the response of the stores was swift." One store closed her account immediately and all the rest sent her applications to reapply, asking for her husband's name, bank accounts, and employer. Friedman's own name, accounts, and employer no longer mattered. The stores all claimed that they were forced by the law to close the accounts, but using her investigatory skills as a reporter, she quickly discovered that there were no such laws in Illinois. Retail credit practices, not the law, created the situation.

Beyond practical issues, for feminist activists, credit dependency was a tangible reminder of how institutions defined them as an economic appendage of their husbands. Applying for a charge account at "one of the world's largest department stores," Friedman was asked for her husband's employer. Unfortunately her husband, her husband had been unemployed when they were married — since his unsuccessful bid for the Chicago mayorship. With a husband out of

45. Friedman, "Credit to Women," 5/22/72, 50.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

work, even a well-paid tele-journalist could not get credit. At the department store, the NBC newscaster offered her employer's name and her bank information, but was told by the credit officer that "we don't care about the women, just the men" and refused her an account. To Friedman, this experience summed up the credit problems of married women: "In the eyes of a credit department, it seems, women cease to exist, and become non-persons, when they get married."[46]

The ties of marriage were not symmetrical. While married men could easily make credit choices affecting their households, married women who tried to do the same met consistent obstacles. For women who were the primary household earners, such a husband-centered credit system made their lives even more difficult. Sharyn Campbell, a lawyer with National Organization for Women (NOW)'s Legal Defense Fund, recounted the story of a married woman who, upon applying for charge card with a "major chain store," was told that her application could not be accepted unless her husband was listed as the head of the household and she as a dependent.[47] The outraged woman, who was a "practicing attorney earning the same salary as her husband," went to the Fund for legal redress when the credit officer told her that she "might have children and then become dependent on [her] husband."[48] Lenders took the greatest possible care to establish the probability of a wife's possible pregnancy, including requiring in many cases a letter from her doctor that she was either infertile or on a well-regulated birth control program. No similar inquiries were made, Campbell pointed out, about "the effect that unforeseen illness or physical impairment would have on [the husband's] earning capacity."[49] No medical examinations or doctor's letters were ever required on behalf of the man. Working mothers were not conceived as part of the credit system.

Usually lenders only counted the husband's income in determining how much credit the couple was good for; if they counted the wife's income, lenders only included a fraction thereof. In Minnesota, the state Department of Human Rights received repeated complaints of sex discrimination in credit access. To investigate discrimination, the Human Rights department had two investigators, a man and a woman, each earning $12,000 and each the sole support of a family, go to

46. Ibid; 52.

47. Campbell, "Hearing on Availability of Credit to Women," May 22, 1972, unpublished, Folder "Hearings and Related Records Availability of Credit to Women," Box 35, RG Records of the National Commission on Consumer Finance, 1970–72, NARA, 182.

48. Ibid.

49. Campbell, "Credit to Women," 5/22/72, 184.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

twenty-three banks to borrow $600 for a used car. More than half the banks refused the woman credit without the husband's signature or "approved the loan only as an exception to their usual procedures." Some, suspecting her marriage was in trouble, referred the female investigator to marriage counseling. The same banks, denying the women a loan, waived the co-signer requirement for the man.[50] As the St. Paul's study showed, women could not easily borrow money for a car, even though a husband could easily borrow without his wife.

Lenders defended their policies on in several ways, all of which revolved around the absence of a married woman's independent credit history. At the national retail store, Sears, Roebuck, women regularly had difficulty in gaining independent credit, without the assistance of men. Mildred Hagen, a credit executive with Sears, testified that accounts defaulted to the husband unless the wife requested special treatment. The Sears manual allowed special treatment if "her circumstances qualif[ied] her as acceptable according to Sears normal standards." [emphasis in text].[51] Hagen insisted, however, that accounts defaulted to the husband in an effort to "avoid confusion of misapplied payments, misapplied sales, etc.," rather than an intentional desire to affirm patriarchy.[52] Male authority, however, riddled the Sears credit training manual. The manual required that a married woman's name be prefaced by "Mrs." and that the remainder of her name be that of her husband, as in "Mrs. John Smith." Again Hagen explained this procedure as a simple artifact of bookkeeping. The Sears witness claimed that "these instructions help to prevent mistakes on credit reports" and that "without this information it is possible for erroneous reports to be made if there are a number of individuals with the same common name in file." Sears justified its policy toward women as an effort to keep the files straight with the credit bureau. But denying women separate credit kept their identities *out* of the credit bureau, which in turn prevented women from forming independent credit identities! In keeping a family's—and that is the husband's—credit rating straight, wives were denied their economic existence.

Many lenders also erroneously pointed to state laws that made the husband responsible for the wife's debts, which they claimed forced

50. Howard, "Credit to Women," 5/22/72, 74.

51. Hagen, National Commission on Consumer Finance, "Hearing on Availability of Credit to Women," May 23, 1972, unpublished, Folder "Hearings and Related Records Availability of Credit to Women," Box 35, RG Records of the National Commission on Consumer Finance, 1970–72, NARA, 121.

52. Hagen, "Credit to Women," 5/23/73, 121.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

them to check with husbands before extending their wives credit.[53] Yet the reverse was not true. If such laws had still existed which by 1972 they did not the wife would have also been responsible for her husband's debts. Yet these same responsible lenders never thought they ought to consult with the wife before extending the husband credit. Moreover national firms, such as J.C. Penney, often had common credit applications for their stores across the country, undercutting the state-specific requirements that they used to defend their credit policies.[54] Feminist desire for economic independence and the middle-class expectations focused the exasperation that many professional women felt about the limits of their economic freedom.

Theoretically, separate credit histories were possible to establish, but for most married women the institutional and financial barriers were insuperable. Even when women were aware of their options, special requests had to be made and obstinate sexist clerks overcome. While men automatically acquired a public economic identity, married women with public economic identities were special cases. At the same time, while men automatically acquired a public economic identity, married women with public economic identities were special cases. According to bankers, most married women wanted their income lumped with their husband's in their credit applications so that the household could borrow more. Only in couples where the wife earned enough by herself and had feminist political beliefs did women seek out a separate credit account. Women could be identified separately but at the cost of a lower ability to borrow.

The annoyances faced by a married woman without a credit record multiplied into serious trouble if she were divorced, abandoned, or widowed. While divorced men continued to enjoy the creditworthiness their record provided, divorced women were effectively unknowns, and were treated as such by lenders. Because husbands were expected to approve credit for their wives, divorced women who wanted credit at department stores were compelled, sometimes, to produce a divorce decree or even have their ex-husbands sign for the account.[55] Divorced men, who still retained the family credit rating, did not need their ex-wives' signatures for anything. Lenders' refusal of credit despite a good repayment history astonished these divorcees, but their so-called repayment histories were in their husbands' names,

53. Griffiths, "Credit to Women," 5/22/72, 11.
54. Litwiller, "Credit to Women," 5/22/72, 65.
55. Gallagher, 5/22/72, 194.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

not their own. Having submerged their credit identities throughout their marriage, divorced women found a gaping hole in their credit records for the entirety of their married lives. Women found themselves disconnected from the main consumer institutions of middle-class life, even if they had the income that gave them the ability to participate.

Discrimination and the Surprise of Market Failure

Though lenders commonly discriminated by sex and marital status, retailers and bankers began to feel pressure to change in the early 1970s from very different sources. At the local level, independent feminist groups as well as those associated with national organizations like the NOW organized locally and in many places successfully to petition their city and state governments for changes in their laws. Seeing an opportunity, executives at corporations and banks wrote anti-discrimination guidelines, seeing affluent women as good opportunities for profit and to grab market share from their competitors. More than any law, the possible profits of lending to affluent women provided a tremendous incentive for feminism. Banks like National Bank of North America, a New York-area bank, ran advertisements proclaiming that they, unlike their competitors, did not discriminate: "whether you're a Miss, Mrs., or Ms., we make loans to all creditworthy people."[56] In the advertisement, an attractive blond woman, who carries in one hand department store boxes under her right arm and holds the left one up in a no-doubt ambiguous fist signifying both greeting and solidarity, unites consumer credit with feminism.

Despite these gestures toward credit equality from bankers, the market incentives for lending to women had already existed and had already failed to erase discrimination.[57] Discriminating against profit was nearly inconceivable. Joseph Barr, president of American Security

56. National Bank of North America advertisement, [1974], Folder 59, Box 30, National Organization for Women collection, Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Massachusetts. Hereafter I will refer to the National Organization for Women collection by NOW. National Bank of North America was, in 1970, 98 percent owned by the finance company CIT and was the twenty-eighth largest bank in the United States (CIT Annual Report, 1970, 4).

57. The credit market seems like it would be a classic instance of Gary Becker's theory of discrimination, where the discriminating group reduces their own utility (Gary Becker, *The Economics of Discrimination* (Chicago: University of Chicago, 1957).

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

and Trust Company and former undersecretary of the treasury, testified that "profit is still a more powerful motive than discrimination, especially in public institutions."[58] Contradicting the testimonies and letters from women who encountered discriminatory lenders, he believed from his experiences as a banker that most women were good credit risks, but most importantly he thought that if women were good credit risks, and bankers discriminated against them, they would lose good profits. Market pressures would solve credit discrimination if women were good loan candidates. Yet the market had not. Why had the market failed to stop gender discrimination?

Despite the local patchwork of legal changes across the country and a proactive push from executives, discrimination in lending persisted. Studies revealed that despite local legal changes, cultural ideas overrode legal and institutional guidelines on lending. The prejudices and assumptions of low-level loan officers drove discrimination. Formal anti-discrimination policies did not filter down. Market competition for consumers could not overcome the scrutiny of employees. Betty Howard, of the Minnesota Department of Human Rights, believed that despite the law, the formal anti-discrimination policies of banks "[did] not appear . . . to be filtering down to the middle and lower level of credit interviewers."[59] Howard testified that despite the law, most interviewers, with whom credit control rested, believed "anatomy is destiny." Attractive women in childbearing ages, "regardless of her employment record or good credit references," would have difficulty in getting credit, one credit bureau head told Howard, because "they are very likely to get pregnant and are considered bad credit risks."[60] Similarly, department store credit officers had similar difficulties implementing higher-level directives. Even after official Sears policy changed to count alimony and child-support as income, the actual employees did not always do so. Hagan referred to a "problem of communication" to the lower level credit employees whose decisions reflected "society and circumstances" rather than corporate policy. With such "radical changes" under way in society, Hagan argued, it would take time for the corporate policies to be truly understood by employees.[61] Loan officers embedded in a bureaucracy and a culture did not respond to market pressure when their judgments were based on inherently discriminatory information. The market alone would not completely change lender discrimination.

58. Barr, "Credit to Women," 5/23/72, 67.
59. Howard, "Credit to Women," 5/22/72, 79.
60. Howard, "Credit to Women," 5/22/72, 80.
61. Hagen, "Credit to Women," 5/23/72, 134.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

Across the country, local chapters of NOW organized "credit task forces" to gather information and organize on the local level, while coordinating with the national offices in Washington. Following the hearings, Sharyn Campbell, who had become the national coordinator for the NOW Task Force on Credit, reiterated in a letter to the membership the organization's belief "that all people should have equal access to credit privileges provided they are creditworthy."[62] The National Commission on Consumer Credit hearings had spurred NOW into action. Campbell told the membership that the hearings had "established that a nationwide pattern of discrimination against women [did] indeed exist in the various elements of the credit industry. At the local and state level, Campbell encouraged local chapters to "conduct studies to document discriminatory activities," as well as protest discrimination from retailers and lenders, and to support legislation to end "the denial of credit on the basis of sex or marital status." The local legislative campaign was very successful. By 1974, half of the states had laws that prohibited sex discrimination against women.[63] At the everyday level, however, women still needed to confront the assumptions of employees, which was necessary, as NOW vice-president Gene Boyer thought, "to help make feminist credit policies a reality by whatever means possible."[64]

Though drawing on the language of black radicalism, feminist credit activists reaffirmed the primacy of income as the justification for credit access and, while certain that gender discrimination was unjustifiable, offered contradictory positions on racial discrimination. Class prerogative structured feminists' notions of women's liberation.[65] Many of the testimonies centered on the outrage that middle-class professional women felt at being able to have careers as independent women and still be treated like dependent homemakers. These critics, like the National Organization for Women's Lynne Litwiller, seemed more bothered that a "woman achieves the use of credit only as an appendage of the husband" than that women in general were ever denied credit. Credit for these professional married women was not a strategy of survival but an expression of class

62. Sharyn Campbell, " Now Task Force on Credit," November, 1973, Folder 59, Box 30, NOW.

63. From Sharon Campbell to James Lowery, August 29, 1974, Folder 59, Box 30, NOW, 1.

64. Gene Boyer to Wisconsin Now Chapters, et al., August 6, 1973, Folder 59, Box 30, NOW, 1.

65. This critique of the middle-class women's liberation movement is most clearly articulated by bell hooks in her classic *Feminist Theory: From Margin to Center* (Boston: South End Press, 1984).

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

privilege, economic independence, and pride.[66] To struggle for equality and respect in the workplace and then be denied the consumer benefits of that achievement in the marketplace just reinforced how undervalued professional women were. "While it might seem [that] the refusal to grant credit to married woman is a trifling matter," as Equal Employment Opportunity Commission lawyer, Sonia Pressman-Fuentes saw it, "to women and to blacks such conduct is devastatingly symbolic of their second-class status in American society."[67]

At root, however, much of the anger expressed at the hearings was the class outrage of being treated like a poor person. Feminist critics both identified with and distanced themselves from the poor. As Faith Seidenberg of the American Civil Liberties Union and past president of NOW testified, "all women are poor, even those who work . . . . because they have no access to credit."[68] Though she intended it as a statement of solidarity, the implication of Seidenberg's statement was that being a woman made even a rich person be treated as if she were poor, which was the fundamental slight. Denying poor borrowers credit was justified, but denying the wealthy was not. In New York, Seidenberg remarked, it was "almost impossible [for a woman] to open an account in a department store under her own name, even though she is a professional and is gainfully employed."[69] While feminist critics wanted credit to be available to all women, they also wanted their professional status to count when it came to their consumption. When questioned about the legal right to credit, Seidenberg agreed that while borrowers could be turned down for financial reasons, they ought not to be turned down because they were "black or because they are women or because they are Italian or something."[70]

66. Such economic erasure extended beyond credit to other areas of upper-middle class life such as stock ownership. One such story from the hearings concerned a woman who had owned stock before her marriage in 1970. After her marriage she was notified by her stockbroker firm, Merrill, Lynch, that she now had to have her husband sign a consent form for her to manage the stock because "women have squandered the grocery money on bad investments." Without his signature, the account would be frozen. Even after two years, the woman, "still trembling with rage from this dehumanizing experience" had not allowed her husband to sign the form. Merrill, Lynch did freeze the account. (Litwiller, "Credit to Women," 5/22/72, 64–5).

67. Pressman Fuentes, 188–9. Pressman Fuentes was, at that time, a lawyer with the Equal Employment Opportunity Commission, although in her testimony, she made clear that she was not testifying on behalf of that agency.

68. Seidenberg, "Credit to Women," 5/22/72, 115.

69. Ibid; 122.

70. Ibid; 136.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

At the national level, NOW intended to continue to gather evidence of discrimination and push for the passage of Congresswoman Bella Abzug's anti-discrimination bills in Congress.[71] Responding to the testimony as well as letters written to her about women's experiences, Abzug, the prominent feminist and congressional representative of New York, called for the end of credit discrimination based on sex. Whatever the cultural and social roots of discrimination, she saw the law as the final arbiter of what was allowed. Credit discrimination against women was possible because "all credit institutions, whether they were banks, department stores, mortgage companies are able to do this because at present, neither the United States nor the individual states have passed legislation to prohibit credit discrimination based upon sex."[72] Abzug called for "viable and vigorous legislation . . . to correct this incredulous and dehumanizing practice against women."[73]

The argument that Abzug and many other feminists made was extremely counterintuitive. Though NOW relied on the group identity of women to organize collectively, in terms of credit access NOW called for the end of group identity. Creditworthiness was individual, not collective. To end discrimination against women, women would have to organize as a group to be treated as individuals. At the National Commission on Consumer Credit hearings, witnesses asserted that loans should be made on the basis of personal credit histories not demographic categories. Prominent legislators and activists like Bella Abzug denied the possibility of valid discrimination based on gender or marital status because they denied that women had an essential creditworthiness. Feminist credit activists believed that individuals should be judged worthy or not worthy of credit, not categories of people.

At the heart of this credit reform, then, rested a contradiction that repeatedly surfaced throughout the credit reform of the 1970s, but was ultimately unresolved: the appropriateness of real categorical discrimination in a credit system based on profit. Discrimination might, it was argued, reflect actual differences in borrowing behavior. Group A might be charged higher premiums because they, as a group, could be riskier borrowers than Group B. If lenders were to profit from lending to Group A, then they would need to charge Group A

71. Lynne Litwiller, "Report of National Task Force on Taxes and Credit," October 15, 1972, Folder 59, Box 30, 2; Bella Abzug's bills were HR 15546, HR 15547, and HR 15548.

72. Abzug, "Credit to Women," 5/23/72, 41.

73. Ibid.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

higher interest rates or refuse them credit at a higher rate than Group B to have the same rate of profit. The third-rail question of the hearings was: If Group A is riskier than Group B, can the higher rates of interest and refusals be considered unjustifiably discriminatory? Representatives Ira Millstein and Senator William Brock asked many witnesses before the National Commission on Consumer Credit about the possibility that women were actually poorer credit risks than men. The witnesses stammered and then claimed, like Minnesota's Department of Human Rights' Betty Howard, that "anything that stereotypes an individual . . . is discriminatory. You cannot judge an individual by grouping characteristics."[74] As testimony to the entrenched belief that discrimination, ipso facto, was wrong, even if possibly actuarially justified, few witnesses seemed to even understand the question, repeatedly returning to the importance of the individual.

Even as Millstein asked this crucial question, however, he woefully misunderstood how credit systems worked at the beginning of the 1970s. While legislators eventually agreed on the goal of credit equality, the means to that end depended on exactly how discrimination happened within lending institutions. Legislators misunderstanding of the lending process, and the statistics which underpinned it, led to policy solutions that solved less than they had intended. The answer to how to eliminate unjustifiable discrimination, such as against stably employed middle-class women and African-Americans, depended as much on how the decision to lend was made as upon the legislative decision to mandate credit equality. Actuarial science and statistical analysis had little bearing on whether lenders extended credit to women—or any other group. While limited numeric systems existed, these were rarely based on detailed statistical analysis. Loan officers' everyday prejudices and assumptions more decisively determined credit eligibility. Creditors, or rather their low-level evaluators, did not deny women credit or charge them higher premiums because of their unflinching loyalty to statistical regressions but because they believed in a certain set of assumptions about the proper relation of men, women, and credit. The credit scoring systems reflected more the deskilling of loan officers' labor than statistical science.

Yet, for both the witnesses and the commission, the solution to discrimination against women lay in greater transparency of credit evaluation and increasing automation of decision making, in moving credit evaluation out of the hands of discriminatory loan officers and

74. Howard, "Credit to Women," 5/22/72, 93.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

into the algorithms of objective quantitative credit lending models, which they believed would end discrimination. Senator Leonor Sullivan, one of the driving forces behind the 1968 act, saw the hearings' purpose as discovering if "discriminations against women in the extension of credit are based on real or imagined creditor problems or on old laws which may or may not still exist."[75] Sullivan was less agnostic than Millstein about discrimination. She "notice[d] that many millions of women, American women, obtain credit today without any difficulty, ... but those women who encounter difficulty in obtaining credit often are penalized for no other reason that the fact that they are women and that is wrong."[76] Making credit evaluation objective —defined as individual and numerical—would help women get the credit that they deserved.

The call for judging individuals on their own merits went against fifty years of lending practices. Categories were necessary to lend at the volume required in a debt-driven economy. Applicants could not be judged one by one, with all the details of their personal situations. Instead, if the push for ending gender discrimination from above was undone by the embeddedness of low-level employees in sexist and racist cultures, the best option was to remove these employees from the decision-making process, where their prejudicial categories discriminated against potentially worthy borrowers. Credit scoring, while not statistically derived in 1970, offered an opportunity to undo unjustifiable discrimination. Deciding between credit applications, whether by sex, telephone ownership or shoe size, was a necessary component of the system. What could be done, however, was to make sure that discrimination based on cultural assumptions and habits was replaced by scientific differentiation based on data and evidence.

Or at least have gender and race removed from the decision. As late as the early 1970s, race had remained a standard question on many credit applications. The Federal Trade Commission conducted a study of the lending practices of a major consumer finance company in 1970 and 1971. Collecting racial information remained a standard practice. At the individual level, Sheldon Feldman, an FTC official said, whether an applicant was white, black or "of Spanish origin" was noted on every application. The credit applications were all given a point score of which white borrower got seven points, a "person of Spanish origin" four points, and a black borrower no points at all. Loan officers inspected minority applications more attentively than white applications. Applications from "racially

75. Leonor Sullivan, "Credit to Women," 5/22/72, 6.
76. Sullivan, "Credit to Women," 5/22/72, 6.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

mixed marriages," Feldman noted, "were automatically rejected because of what was considered to be the inherent instability of such marriages."[77] As with mortgages, this major consumer finance company made no loans in "blacked out" areas which were, Feldman found, "largely black, low income neighborhoods in large cities." Even if reliable customers had lived there before the finance company imposed the black out, they received no more loans. It would be easy to see how simply excluding such categories from the credit scoring process would be a good way to end discrimination.

With better individual credit data and without race, gender, or any other source of discrimination, lending could be made transparent and objective. Congress could insist that such discrimination be grounded in evidence and not anecdote. Progressive groups like the National Organization for Women promoted universal credit surveillance to insure equal credit access for all. Women—single, married, or divorced—would all have credit ratings to insure fairer access to credit. Avoiding discrimination gave a moral underpinning to expand surveillance. For instance, a NOW press release called on "Congress [to] amend the fair credit reporting act to require such [credit bureau] agencies to maintain individual files on all consumers without regard to sex or marital status." In doing so, feminist activists believed that gender discrimination could be eliminated.

Statistical Reason and Credit Reform

The feminist push for credit reform was successful. The fight for credit fairness—as understood as expanded credit access—that began with the Consumer Credit Protection Act culminated in the Equal Credit Opportunity Act (ECOA) in 1974. Emerging from the recommendations of the National Commission on Consumer Finance's final report and reflecting the nationwide surge of feminist activism on credit issues, ECOA initially focused on the experiences of women. ECOA, as passed in 1974, forbade only discrimination on the basis of sex and martial status. In pushing for an end to discrimination, progressives legitimated the expansion of both credit access and credit surveillance. But even though feminist activists had fought only for greater access for affluent women, once the legislative doors opened to forbidding discrimination against women, it was a short step to stop discrimination against other

77. Sheldon Feldman, Assistant Director for Special Statutes, Federal Trade Commission, "To Amend the Equal Credit Opportunity Act of 1974," 52.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

groups as well, though that had not been the original intention of the feminist credit activists.

Banning one form of discrimination made banning other forms, like racial discrimination, politically easier. Congress quickly expanded the anti-discrimination protections of (ECOA) with amendments passed in 1976 to prohibit discrimination by race, religion, national origin, or age. As President Ford signed the amendment into law, he remarked that it promoted "equal opportunity in all aspects of our society" and the shared commitment of Congress and the administration to "achieve goals of fairness and equality in a broad range of business transactions [which] millions of American consumers engage in every day of every year."[78] The suspicions of a private information database on every American and the lingering doubts about borrowing, fears still prevalent in the 1960s, were overcome and resolved through the notion of fairness and accuracy. Universal information was legitimate as long as it was accurate and enabled every American had the right to obtain credit regardless of race or gender.

By the late 1970s, in an effort to eliminate any possibility of lawsuit, many creditors completely eliminated loan officers in evaluating applicants and accelerated the shift to computer-based credit models.[79] The "traditional credit manager," Richard Cremer, a Montgomery Ward's credit executive, remarked, "emphasized his face-to-face contact with the credit applicant," which allowed nonrelevant qualities of the applicant to cloud the loan officer's

78. Gerald Ford, "Statement on Signing the Equal Credit Opportunity Act Amendments of 1976," March 23, 1976, in John Woolley and Gerhard Peters, The American Presidency Project [online]. Santa Barbara, CA: University of California (hosted), Gerhard Peters (database). http://www.presidency.ucsb.edu/ws/?pid=5745; Gerald Ford, "Remarks Upon Signing the Equal Credit Opportunity Act Amendments of 1976 and the Consumer Leasing Act of 1976," March 23, 1976, in John Woolley and Gerhard Peters, The American Presidency Project [online]. Santa Barbara, CA: University of California (hosted), Gerhard Peters (database). http://www.presidency.ucsb.edu/ws/?pid=5743.

79. To create these models, creditors took a sample from their files that included reliable customers, defaulting customers, and rejected applicants. A computer performed a multivariate regression on the data to find out which factors best predicted the lending outcome. Then the rejected applicants were "augmented" to give them the outcomes that the model predicted to find out how well the previous selection criteria worked. The regression was then turned into an easy-to-use system to find out if a customer should be approved or denied. That model was then run against a second sample from the creditor's files to see how well it predicted the outcome of the loan. Over time, the model could be refined with newer information. (Congress, Senate, Committee on Banking, Housing, and Urban Affairs, Subcommittee on Consumer Affairs, "Credit Card Redlining," June 4–5, 1979, 247.)

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

judgment.[80] "Biases, prejudices, and even mood" could affect the loan officer's evaluation, Cremer felt, and this hurt revenue. The credit score, according to Ward's policy, "encourage[d] a decision motivated by economics alone" and was the "only available method that meets the criterion of fairness."[81] Race, marital status, and other "protected categories" were easily removed as variables from the models as creditors moved from human "judgmental systems" to computer credit models. Without these discriminatory categories in the models' variables, any hint of illegality could be easily disproved. Creditors could point to their models that had no variable for gender or race and say that they did not discriminate. The computer model offered creditors the appearance of nondiscrimination by eliminating human prejudice. Applications became more consistent and less subject to the whims of a particular loan officer. In computer models, feminist credit advocates believed they had found the solution to discriminatory lending, ushering in the contemporary calculated credit regimes under which we live today.

Yet removing such basic demographics from any model were not as straightforward as the authors of the ECOA had hoped. Legislators seem to not have fully understood how statistical models function. The objective credit statistics that legislators had pined for during the early investigations of the Consumer Credit Protection Act could now exist, but with new difficulties that stemmed from using regressions and not human judgment to decide on loans. In human-judged credit lending, a loan officer who knew the race and gender of an applicant would be more discriminatory, whereas in a computer credit model, knowing the applicant's race and gender allowed the credit decision to be less discriminatory. The dilemma in completely excluding race, as well as other protected categories, was that if these variables actually did predict whether a borrower would default and if they correlated with anything else, then the correlated variable would acquire the predictive power of the protected category. Women would not have to be biologically less creditworthy than men for this to occur. Women could simply be more vulnerable to unemployment, which caused income interruption. If women tended to disproportionally own high-heeled shoes, then the variable in the data set for high-heel ownership would also reflect women's job volatility since gender would have been eliminated from the

80. Richard Cremer, Congress, House, Committee on Banking, Currency, and Housing, Subcommittee on Consumer Affairs, "To Amend the Equal Credit Opportunity Act of 1974," 94th Congress, 1st session, April 22–23, 1975, 86.

81. Cremer, "To Amend the Equal Credit Opportunity Act of 1974," 91.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

regression. Without gender in the data set, the spurious relationship between shoe ownership and creditworthiness could not be mathematically eliminated. The collision of statistics with racist and sexist labor markets, not culture or biology or shoe ownership, could produce discriminatory credit scores. But with credit scores what had once appeared discriminatory now seemed objective. In passing legislation geared to a world of prejudiced loan officers, Congress made the newer computer-driven credit models actually more discriminatory.

In real life, zip codes, not shoes, came to be at the center of a renewed credit debate. Zip codes, developed for the efficient distribution of mail not economic demography, began to be heavily used by credit scoring companies. Zip codes, in some areas, also tended to reflect racial and economic geography. For instance, if race actually did help predict the default rate of borrowers and it did correlate with zip code, however loosely, then a zip code variable, in the absence of a race variable in the model, would acquire race's predictive power to the degree that zip code correlated with race, which in turn, correlated with a more volatile labor market.[82] In the late 1970s, lawsuits were brought against Amoco, Mobil, and Diner's Club for racial discrimination by their use of zip codes in their credit models. Critics, like Massachusetts Senator Paul Tsongas, correctly saw the use of residential location as a proxy for race in these credit models. A study conducted by the Massachusetts Attorney General's office found that 43 percent of black Massachusettsians lived in zip codes that hurt their credit scores. Black Massachusettsians were six to seven times as likely as whites to live in such neighborhoods, making it more difficult for them to get credit.[83] Rather than address race directly, and the greater difficulties that black Massachusettsians had in holding onto a job in the tough economy of 1970s Boston, Tsongas only sought to add geography to the long list of other protected categories.

Sidestepping the more fundamental question of how economic structures, not individual character, made borrowers creditworthy rendered the anti-discrimination legislation less important than it needed to be. The desire to render two borrowers otherwise the same except for race and gender ignored a fundamental reality of the

82. Numerous studies found zip codes to be statistically significant predictors of default. (Gail Rubino, National Retail Merchants Association representative, “Credit Card Redlining,” 244.)

83. Dwight Golann, assistant attorney general, Massachusetts, “Credit Card Redlining,” 262.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

American labor market. Race and gender did affect the ability of men and women to find and keep employment. While Congress might pass a law to help guarantee access to credit, the labor markets continued to pay women less and fire African-Americans more frequently. Without remedying the underlying differences in ability to secure the ability to pay back debt—good jobs at good wages—the law only encouraged overlending to borrowers. In a sexist and racist labor market, otherwise the same women and African-Americans were frequently less creditworthy—not from any intrinsic untrustworthiness or lack of desire to pay back their debts, but from the very precariousness of their position in the workplace. If liberals wanted to rectify the financial condition of poor women and minorities, rather than focusing on credit access, they would have had to have had to remedy the core inequalities of the labor market. Credit access could not recreate the white middle-class prosperity, which relied as much on credit as on good jobs.

As William Fair, the founder of Fair, Isaac & Company, the foremost developer of credit models in the United States remarked, if Congress wanted to exclude race as a matter of social policy, then it should pass a law implementing that vision, but to exclude race from the credit models did not, and could not, accomplish that goal.[84] Simply disallowing a category made it impossible for it to be statistically separated off from other correlated variables. Geography and race were correlated, but without knowing the race of borrowers, it became impossible for geography not to include the effect of race.[85] Divorce, for instance, was such a strong predictor of a borrower default that Citibank struggled in the 1980s to make its credit models predict default and not just marriages breaking up.[86] If creditors could ask for race and marital status, actual discrimination could have been eliminated, rather than just the appearance of ending discrimination.[87]

At the same time, however, of all the credit card providers in the United States by the late 1970s, only two oil companies and Diner's

84. William Fair, "Credit Card Redlining," 220, 236. William Fair's company went on to create the well-known FICO score – Fair, Isaac Corporation—that is today synonymous with credit score.

85. Ibid; 222.

86. Author interview with John Reed, former CEO of Citigroup. June 5, 2009.

87. Of course, at the same time, credit reporting agencies with access to a predictive variable, like martial status or race, would be hard-pressed not use it. Again and again, credit bureau executives testified that they wanted to use whatever legal variables available to them to increase the predictive power of their models. If they had race or martial status, there would always be the temptation to use them. With proper legal enforcement, however, the credit models could have been evaluated.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

Club were called to task for such discrimination. Most credit card companies had already voluntarily removed zip codes from their credit models, for fears of these accusations. The discrimination against minorities and women, so explicit only a decade early, seemed to have been largely eliminated from public view, legitimated by the apparent absence of gender and race from creditor's computer models. Master Charge and VISA were nowhere to be found. Diner's Club was singled out, but it was alone among the large universal credit card systems. The credit card industry upheld the letter of the ECOA by expanding its credit offerings to inner city Americans, no doubt replacing some of the older local credit relations. While formally eliminated, however, racial and gender discrimination persisted through the transition from human- to computer-based evaluation methods. The commonsense reasoning of ECOA was fundamentally at odds with the statistical reasoning of computer models. The "social evil of stereotyping," as Tsongas termed it, had been ostensibly eliminated from the world of credit but the social reality of economic inequality remained.

Debt Legitimated

Early calls for an actuarial basis for credit scoring had, with unforeseen consequences, been achieved. The seemingly arbitrary discrimination of sexist and racist loan officers had been computerized. Prejudice was no longer part of the credit system. But the third-rail question of credit lending remained: is it discrimination when there is a statistically significant difference between groups? While Congress passed legislation to maintain the appearance of fairness and prohibited discrimination, William Fair's honest rejoinder to the public-relations-oriented retailers and voter-oriented politicians remains. In the creation of these discrimination-free models, Congress legislated away their ability to fully eliminate the effects of race and gender. Transparency was attained, but at the cost of justice. The credit system, mysterious and arbitrary in the mid-1960s was, by the late 1970s, legible and mechanistic. In an effort to end credit discrimination and give more Americans the opportunity to enjoy consumer prosperity, liberal politicians remade the legal context of indebtedness.

The benefits of credit access for the groups who were the most economically precarious were uncertain. In the 1960s, credit had become a right because credit had become necessary to participate in the consumer promises of postwar America. Only when it was optional could credit be seen as a privilege. Articulated as a right,

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

activists fought against discrimination to grant credit to those excluded. Of course, credit was a curious right in so far as no one got it for free and everyone had to pay.

Borrowing in the midst of the postwar prosperity had been clearly advantageous, but the advantages of borrowing after that moment ended, and the present age of volatility began, was more doubtful. The easy credit that had underpinned the prosperity of the postwar economy, of course, expanded even as that economy's other key features—job stability and income growth—ended. "Fairness" in lending, defined as objective and widespread, seemed to have been achieved, but the earlier question lingered: did borrowing actually help consumers when their incomes were so uncertain? In a time of rising unemployment and deindustrialization, the logic of borrowing from a future income that underpinned the postwar growth economy unraveled. Credit is only as good, or bad, as its economic context. While suburban Americans never experienced the same levels of job volatility or capital redlining as those in the inner city, after 1970, the mainstream world, at least in terms of labor and credit markets, began in many ways to look more like the unstable economy of the ghetto. If borrowing in the midst of employment and rising income helped postwar Americans live their dreams, borrowing in an era of job volatility and stagnating wages only portended nightmares.

Bibliography of Works Cited

Books

Hooks, Bell. *Feminist Theory: From Margin to Center*. Boston: South End Press, 1984.

Caplovitz, David. *The Poor Pay More: Consumer Practices of Low-Income Families, 1967 edition*. New York. Free Press, 1967.

Lizabeth, Cohen. *A Consumers' Republic*. New York: Random House, 2004.

Douglas, Paul H. *In the Fullness of Time: The Memoirs of Paul H. Douglas*. New York: Harcourt Brace Jovanovich, 1972.

Hyman, Louis. *Debtor Nation: The History of America in Red Ink*. Princeton, NJ: Princeton University Press, 2011.

Stephen, A. Marglin, and Juliet Schor. *The Golden Age of Capitalism: Reinterpreting the Postwar Experience, Studies in Development Economics*. New York: Clarendon Press, 1990.

Sugrue, Thomas. *The Origins of the Urban Crisis, Princeton Studies in American Politics*. Princeton, NJ: Princeton University Press, 1996.

U.S. Kerner Commission. *Report of the National Advisory Commission on Civil Disorders, New York Times reprint*. New York: Bantam Books, 1968.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press

Magazines and Newspapers

Washington Post.
Time.

Archival Sources

Baker Library. *Historical Collections*. Allston, MA: Harvard University, (BAK).
Historic Corporate Reports.
Old Class Collection.
National Archives. College Park, MD (NARA).
National Commission on Consumer Finance.
National Organization for Women.
Schlesinger Library. *Historical Collections*. Cambridge, MA: Harvard University (NOW).

Congressional Records

Congress, Senate. *Committee on Banking and Currency, Subcommittee on Financial Institutions, "Consumer Credit and the Poor."* 90th Congress, 2nd session, April 19, 1968.
Congress, Senate. *Committee on Banking and Currency, Subcommittee on Financial Institutions, "Fair Credit Reporting Act."* 91st Congress, 1st sesssion, May 19–23, 1969.
Congress, House. *Committee on Banking, Currency, and Housing, Subcommittee on Consumer Affairs, "To Amend the Equal Credit Opportunity Act of 1974."* 94th Congress, 1st sesssion, April 22–23, 1975.
Congress, Senate. *Committee on Banking, Housing, and Urban Affairs, Subcommittee on Consumer Affairs, "Credit Card Redlining."* June 4–5, 1979.

https://doi.org/10.1093/es/khq149 Published online by Cambridge University Press