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A Thesis
Submitted to the Graduate College of Bowling Green State University in partial fulfillment of the requirements for the degree of

MASTER OF ARTS
May 2010

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ABSTRACT

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This thesis examines the role of a single state, Nebraska, in the lengthy and complex history of the proposed Equal Rights Amendment—specifically its impact during 1972 and 1973, the two crucial years when the amendment was passed by both the House of Representatives and the Senate and then went to the individual states for ratification.

The core of this project centers on these fundamental issues: Nebraska’s unique single-house legislature and the rising New Right’s ability to take advantage of liberals’ disorganization in order to strengthen their own forces. Nebraska’s unicameral legislature, lacking the built-in checks-and-balances system inherent in bicameral legislatures, permitted propositions to be passed more quickly and reduced opportunities for in-depth debate. In 1972, Nebraska became the second state in the union to pass the ERA. In 1973, Nebraska rescinded its ERA vote just as quickly. This move would have significant impact on the actions of other states, and Nebraska would become a battleground in the struggle for power between liberal and conservative groups.

Data collected and analyzed for this project came from a variety of sources, including books, articles, author interviews, newspapers, published reports, and archives. Yet all relevant research led to one conclusion: that Nebraska’s Unicameral created an opportunity for the modern conservative movement to take advantage of this opening in Nebraska politics and gain strength and credibility through a wider national audience.

Although many at the forefront of the pro-ERA movement during this critical period assumed the amendment would pass quickly, the strength of the rising modern
conservative movement was underestimated by many pro-ERA activists. This project concludes that the momentum once held by the pro-ERA forces was drastically slowed by victories in conservative activism on the state level, starting with Nebraska, and that the evaluation of that state’s Unicameral allows us to ask deeper questions than simply which states passed the ERA and which did not. By analyzing the controversies within this rescinding state and the significant factors that allowed conservatives to gain the upper hand, we can come to a deeper understanding of why the ERA was defeated.
To Jeremy – my inspiration and support.
ACKNOWLEDGEMENTS

I would like to first acknowledge Dr. Linda Van Ingen who first encouraged my exploration of Nebraska’s role in the Equal Rights Amendment debates. She provided support, guidance and supervision on many legs of this journey and her advice was invaluable.

Thank you to my Masters Thesis Committee members: Dr. Stephen R. Ortiz and Dr. Leigh Ann Wheeler. I genuinely appreciate their suggestions on the many drafts and commitment to see this project to completion.

This work would not have gone very far without the Nebraska State Historical Society employees. The weeks I spent in those archives were made more pleasant by their smiling faces and eagerness to help. Their responses were always quick and informed which helped my research run relatively smoothly during my trips.

Thank you also to the wonderful librarians at the University of Nebraska Kearney Calvin T. Ryan Library. They never made me feel like an imposition and sometimes spent hours helping me locate the information I sought.

To my family and friends who put up with me and patiently participated as sounding boards throughout the research and writing stages a deep appreciation and gratitude for your love and understanding. Particular thanks to Laura Logan, Jen Almjeld, Tessa Roberts, Jan Thompson, Lee Nickson-Massey, and Kris Blair whose support and advice saved me from madness on several occasions.

My debt of gratitude can never be accurately expressed to my former classmate and good friend, Jen Durgan. I know her skills as an editor increased the value of my
writing tenfold! It was such a relief to know my manuscript was in such capable and
credible hands.

Finally, but not least, thank you to my incredible, supportive, encouraging,
amazing spouse, Jeremy. Without him any college degree would still be but a dream. He
has seen me at my lowest and highest points and yet he still loves and supports me.
Thank you for knowing when to push, when to listen, and when to comfort me. I am so
grateful that you are truly my partner in life.
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CHANGING THE COURSE:
AN INTRODUCTION TO A DISCUSSION OF NEBRASKA’S ROLE
IN THE OUTCOME OF THE ERA

The 1970s in the United States was a decade of passionate national debate over
the proposed Equal Rights Amendment (ERA)—an amendment whose goal was to
guarantee equality of rights under the law regardless of sex and be enforced by U.S.
Congress.1 Beginning in 1923, this amendment had been proposed annually; finally, in
1972, the ERA was passed by both the houses of Congress, the House of Representatives
and the Senate. The ERA then went to individual states for ratification. At that time,
many contemporary politicians, scholars, historians, and even much of the general
populace assumed that the amendment would quickly become law. However, individual
state decisions were unpredictable, and the required number of ratifications was never
reached.

Although historians and scholars in the social sciences have debated the reasons
for the defeat of the ERA, one state played a crucial role yet has been neglected in the
literature and research.2 Nebraska was the second state to ratify the amendment, yet its

2 Donald Matthews and Jane S. DeHart, Sex, Gender, and the Politics of ERA (New York: Oxford
Feminism Between the Wars (Westport, CT: Greenwood Press, 1981); Christine Bolt, Sisterhood
Questioned?: Race, Class, and Internationalism in the American and British Women’s Movements, c.
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States: Woman Suffrage, Equal Rights, and Beyond (New Brunswick, NJ: Rutgers University Press, 1990);
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(Albany: State University of New York Press, 2002); Cynthia Harrison, On Account of Sex: The Politics of
Women’s Issues, 1945-1968 (Berkeley: University of California Press, 1988); George and Margaret G.
Klosko, The Struggle for Women’s Rights: Theoretical and Historical Sources (Upper Saddle River, NJ:
Rights Amendment in the 1920s,” in Women’s America: Refocusing the Past, Linda K. Kerber and Jane
Sherron De Hart, eds. (New York: Oxford University Press, 2000); Christine Lunardini, From Equal
Suffrage to Equal Rights: Alice Paul and the National Women’s Party, 1910-1928 (San Jose CA: Excel
Press, 2000); Susan Ware, Beyond Suffrage: Women in the New Deal (Cambridge, MA: Harvard University
ratification vote was rescinded within a year—a reversal that would eventually have a
great impact on the actions of other states. Rescission made Nebraska a battleground
state in the struggle between liberal and conservative groups as exemplified by Phyllis
Schlaflfy’s claim that the defeat of the ERA in Nebraska was the first major victory in the
fight against liberalism.³

Nebraska’s view of the Equal Rights Amendment dramatically changed in the
short period between 1972 and 1973, from solid support to serious opposition, but the
details of the events that caused this change have gone largely unexamined.⁴ While most
agree that Nebraska, in 1972, was the second state to ratify this amendment, some argue
Nebraska’s exact position in ratification, as its approval arrived on the same day as those
of three other states. Also, Nebraska’s initial ratification approved only the first clause of
the amendment. Because of this the vote was returned to the state in order for the second
and third clauses to be approved as well. So there is some controversy as to the
chronological ranking of Nebraska’s ratification. Nebraska did ratify in March 1972, after
this initial setback. Unexpectedly, however, Nebraska introduced legislation on January
10, 1973, to rescind its previous vote to ratify. On March 15, 1973, Nebraska became the

³ Press Release Newswire, December 23, 1982; Phyllis Schlafly, “Can a State Rescind Ratification of
⁴ Nebraska State Legislature. Floor debate on Legislative Resolution 83. 82nd Leg., 2nd Sess. Nebraska
State Legislature, Legislative Records. Lincoln, Nebraska. And Nebraska State Legislature. Floor debate
first of five states to rescind its ratification of the ERA.\textsuperscript{5} This precedent-setting development became a building block on which the ultimate defeat of the ERA eventually was founded.

Despite thirty years of academic neglect, it is imperative that this reversal in support of the ERA is understood because it allows scholars to better understand the complexity of the ERA, as well as the success of the developing conservative movement, through an evaluation of the arguments for and against the amendment in the media and during Unicameral floor debates. Furthermore, Nebraska is unique in its single-house, state-level government. The research in this thesis is crucial in recognizing the influence of Nebraska’s legislative processes on the national momentum, strategies, and contributions of both pro- and anti-ERA activists. The influence of a single-house legislature upon the legislative process of a national amendment had not yet been addressed. I argue that the rise of the modern conservative movement, media representations of the actors at the state level, and the influence of the \textit{Roe v. Wade} Supreme Court decision all had momentous effects upon the outcome in Nebraska’s decision.

This chapter gives an overview on the subject of Nebraska’s rescission, addresses methodological processes used in this thesis, provides a literature review, and outlines the arguments that are made in the following chapters. This thesis explores the reasons why the proposed Equal Rights Amendment was ratified by the Nebraska legislature and later

\textsuperscript{5} For coverage and approximation of the ratification, see articles: Washington (AP), “Congress Approves Equality for Women,” \textit{Kearney Hub}, March 23, 1972, Sec. A, p. 1. Lincoln (AP). “Unicam Ratifies Women’s Rights,” \textit{Kearney Hub}, March 24, 1972, Sec. A, p. 1. For the legislative rescinding vote, see: Nebraska State Legislature, Floor debate on LR 86, 82nd Legislature, 2nd Session, March 29, 1972. Hawaii was the first state to ratify the amendment and never publicly doubted that decision. Soon thereafter, four more states, including Nebraska, submitted their ratification votes. However, due to a “clerical error,” Nebraska had to reconsider the amendment and vote once again on the amendment, this time including the missing sections of the previous ratification.
rescinded. It also explores the national and statewide implications of Nebraska’s rescission. To aid in this discussion, a brief history of the legislation and a historical review of the establishment of the Nebraska Unicameral is necessary because Nebraska’s unique Unicameral legislative body distinguishes it from other states.

Background Information

Historian Charles Tilly argued that researchers must know how they will frame their analysis and how expansive or narrow that framework should be in order to avoid ineffective comparisons.6 The “smaller” history of Nebraska’s intrastate debate regarding the Equal Rights Amendment is often overshadowed by the “larger” story of the national picture if viewed only from afar, a fact that is made evident in the dearth of meaningful discussions of rescission measures in the national narratives of that time. Each state has a unique history in its support for or opposition to the proposed Equal Rights Amendment. The histories of those states that rescinded their approval of the amendment are especially important, as they demonstrate unusual situations and public opinions not seen elsewhere during that period. Without conducting a formal analysis of the rescinding states, only a portion of the full history of this failed amendment is being told. Nebraska’s unique legislative body and its specific story of the ERA reflects changing attitudes that were occurring and reflected at the national level—in politics as well as everyday life.

As David Kyvig argued in “Historical Misunderstandings and the Defeat of the Equal Rights Amendment,” the misunderstandings of historical analysis led directly to

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the defeat of the ERA. However, whereas this thesis concentrates on the unaddressed concerns of opponents of the ERA, Kyvig focused on the procedural misunderstandings. He argued that by failing to study the processes of previously proposed amendments the success of the amendment was significantly weakened. I agree that “a better understanding of American constitutional amending history could have refocused the rhetoric of the ERA movement and altered tactics of its congressional supporters”; it was evident in the Nebraskan testimonies that a better understanding of the oppositional concerns would have prevented many of the more successful arguments against the amendment. Kyvig’s contention that many had consistently underestimated the southern and conservative responses throughout the amending process proved accurate in the discussion of anti-ERA activists as well.

To have a meaningful discussion of the Equal Rights Amendment, it is important to understand the history of this controversial subject. Alice Paul, a celebrated suffragist, wrote the first draft of the first Equal Rights Amendment, which was introduced to U.S. Congress in 1923. The U.S. Constitution was designed to be difficult—but not impossible—to amend. It takes two-thirds approval in both houses of Congress to ratify an amendment to the Constitution. The ERA of 1923 failed to be passed, but the legislation was introduced annually to Congress from that point on. Finally, in the early 1970s, it seemed that the national mood was finally moving toward a favorable outcome for this amendment. As Nebraska’s ratification and rescission became watershed

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8 Kyvig, 47.
9 Kyvig, 53. “The southern response had shaped the fate of these amendment efforts. Only one of the eleven former confederate states had ratified the Twenty-third, or District of Columbia Presidential Voting Amendment, only two the Twenty-fourth or Anti-Poll Tax Amendment. Earlier all but three held out against the Nineteenth, or Woman Suffrage Amendment, and none ratified the Child Labor Amendment.”
moments for this amendment, it is surprising that Nebraska’s decision to rescind is discussed only minimally in the scholarship examining the history of the Equal Rights Amendment. Following Nebraska’s rescission, four more states rescinded ratifications of the ERA: Tennessee in 1974, Idaho in 1977, Kentucky in 1978, and South Dakota in 1979.\textsuperscript{10}

A review of studies touching upon the ERA shows that the scholarship typically, but not exclusively, falls into four major categories: studies on the development of women’s rights at the turn of the twentieth century but after women’s suffrage; analyses by political and legal theorists during the 1972-1988 ratification debates; biographies of major participants; and studies about the rise and influence of the new conservative movement upon politics of the 1970s and 1980s. Few accounts have been found to consider the contradictory opinions expressed by this group of rescinding states (Nebraska, Tennessee, Idaho, Kentucky, and South Dakota).

Inspired by the renewed women’s movement of the 1970s and 1980s, historians began to research the era between 1920 (when the Nineteenth Amendment granting women’s suffrage was approved) and 1972 (when the ERA was passed by both houses of Congress) looking to document the activism that led to the development of the “new” women’s movement. In these studies, historians considered how the campaign for suffrage led to the campaigns for the ERA and protective labor legislation. This research provides a better understanding of the ERA’s first major proponent, Alice Paul, and the

\textsuperscript{10} Matthews and DeHart, Appendix 2. The legality of the rescission was hotly debated until 1982 when the time allowance for the ratification of the Equal Rights Amendment expired and the issue became moot. Consideration for rescission of a ratified amendment is not unprecedented. In 1868, both Ohio and New Jersey attempted to rescind their ratification of the Fourteenth Amendment, which bestowed citizenship on former slaves and defined Equal Protection Clauses. However, by July 1868, enough other states had ratified the Fourteenth Amendment that potential rescission in those two states became moot.
National Woman’s Party (NWP), as well as the dividing concerns of the protectionist activists. Examples of discussions of the activism on behalf of women’s rights after 1920 are prevalent.

Histories such as Susan D. Becker’s *The Origins of the Equal Rights Amendment: American Feminism Between the Wars* and Cynthia Harrison’s *On Account of Sex: The Politics of Women’s Issues, 1945-1968* discussed women’s rights activism and governmental policy in the early part of the twentieth century which led the U.S. Congress to vote for the ERA in 1972. Written at least in part to document the existence of women’s rights activism between the two world wars, Becker studied the actions and policies of those she called “equalitarian” feminists—those feminists seeking, among other things, equality in the workforce and in economic standing—in the 1920s and 1930s. She concentrated on members of the National Woman’s Party, including former suffragist Alice Paul, and how the organization alienated many potential allies through its “all or nothing” attitudes. Harrison picked up where Becker left off in her discussion of the years after World War II. Harrison argued that the lack of a cohesive postwar social movement (like the suffrage movement) forced smaller interest groups to influence policymakers bit by bit rather than garnering wide support for monumental legislation. She also argued that the increasingly hospitable environment for women’s rights in the post–World War II years flourished as a result of federal protective labor legislation, which gave women more protection in the workplace by providing living

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12 Becker; Harrison.
13 Becker, 197-227.
wages, shorter hours, and better working conditions. She concentrated on how women’s rights organizations worked toward collaborative relationships with politicians and other political groups.

Other histories, such as Amy Butler’s *Two Paths to Equality: Alice Paul and Ethel M. Smith in the ERA Debate, 1921-1929*, Nancy Cott’s *The Grounding of Modern Feminism* and “Equal Rights and Economic Roles: The Conflict Over the Equal Rights Amendment in the 1920s,” Christine Lunardini’s *From Equal Suffrage to Equal Rights: Alice Paul and the National Women’s Party, 1910-1928*, and Susan Ware’s *Beyond Suffrage: Women in the New Deal*, also covered the actions of women’s rights advocates after women’s suffrage including the organizations they formed, in order to examine the transition from suffrage and the “second wave” of activism. These works address specific aspects of the transition period immediately following the passage of the Nineteenth Amendment. Suffragists faced a complicated decision regarding whether to campaign for equal rights or for protective legislation to further women’s rights. As these works point out, Alice Paul and others felt strongly that another amendment, specifically the Equal Rights Amendment, was necessary to acquire true legal equality for women. Butler’s work began as a biography of Alice Paul; however, the divergent efforts of Ethel Smith led Butler to write a comparative history of the two major activists in relation to equality for women. Butler concluded that Smith had been more successful because she sought tailored legislation compared to Paul’s push for a constitutional amendment. Lunardini also explored Alice Paul’s involvement in the crossover period between suffrage and the Equal Rights Amendment, but chose to focus instead on the

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14 Harrison, 39-51.
broader subject of why suffragists could not maintain their unity in pursuit of Equal Rights. She alluded to the possibility that “some of the underlying causes for the failure of the ERA in the 1970s and 1980s correspond precisely with the underlying causes for dissension in the women’s movement”—but she did not explore those possibilities.16 The relationship that developed between the two groups led by these women created profound disagreements, which split the movement and eventually affected the outcome of the ERA.

Legal scholars provided the necessary research regarding both the legal standing of an Equal Rights Amendment and the legality of rescission. Lawyers Barbara Brown, Thomas Emerson, Gail Falk, and Ann Freedman wrote “The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women” in 1971, just prior to congressional approval, in order to analyze the need for an ERA.17 This was one of few pieces published in any law journal prior to the 1972 passage of the ERA. It was a landmark analysis of the ERA because it argued the constitutional need for the amendment with no obvious allegiance to any one organization or political agenda.18 This article is also one of the first instances in which scholars assessed the probability of drafting women into the military as a direct result of an ERA, an idea that became integral in the argument against the amendment. Brown, et al stated, “the requirement of serving [in the military] will be as unattractive and painful for them [women] as it now is for many men. On the other hand, their participation will cure one of the great inequities of the current

16 Lunardini, xx.
17 Brown, et al. This piece was written in the spirit of a Friend of the Court (FOC) in which the pros and cons of the legislation was laid out and analyzed for ease of understanding by congressional members.
system.”19 In Nebraska, as with other states, enforced military service for women was indeed one of the possible consequences of the ERA—and one that many considered a threat to traditional gender roles and family values. Rex Lee’s *A Lawyer Looks at the Equal Rights Amendment* analyzed the seeming redundancy of an Equal Rights Amendment. Lee argued that legislation such as the Fourteenth Amendment and Article V already protected women against discrimination and, therefore, was unneeded. Although this argument would be used by anti-ERA forces much later in the fight against the ERA than the timeframe of 1972-1973, it is important to notice that the conservative argument evolved from simply a devaluation of family ties and femininity (subjective social issues) to a more significant legal standing of redundancy (objective legal issues).

Scholars who had been immersed in the ratification debate failed to discuss Nebraska’s legislative decisions and placed no historical significance on the events. The best known of these sources only briefly mentions that Nebraska was one of five states to rescind its vote. Janet Boles’ *Politics of the Equal Rights Amendment: Conflict and the Decision Process*, Riane Eilser’s *Equal Rights Amendment Handbook*, Phyllis Schlafly’s *The Effect of Equal Rights Amendments in State Constitutions*, and Miriam Aberg, Patricia Small, and Allen Watson’s “Males, Fathers, and Husbands: Changing Roles and Reciprocal Legal Rights” all contained research that was conducted between 1977 and 1980.20 Eisler used her work as a campaign platform on behalf of ERA ratification. Clearly stating her bias for the ERA in her introduction, self-identified feminist author Boles focused on the political process rather than the details of the debates surrounding the ERA. Boles argued that the ERA was a platform used by political parties to compete

19 Brown et al., 979.
20 Boles; Eisler; Lee; Phyllis Schlafly, *Policy Review*; Aberg, Small, and Watson.
for voters. However, this would not be the case in Nebraska, as the Unicameral system is nonpartisan and would make overt partisanship nearly impossible. In addition, one politician who did attempt to use the amendment to further his political career in Nebraska was not re-elected; some suggested it was because he had campaigned against the amendment.

Like Eisler, Schlafly was attempting to convince her audience to join her position against the ERA. Schlafly argued that in those states where an Equal Rights Amendment had been added to state constitutions, the new law had weakened the status of women, as well as the status of families, by forcing women to work outside the home and distracting them from their familial duties.21 Many of the same concerns voiced by Schlafly - such as the weakening of family values and the potential altering of gender roles - surfaced among Nebraskans.

Schlafly’s efforts are central to Donald Critchlow’s text, *Phyllis Schlafly and Grassroots Conservatism: A Woman’s Crusade*. Critchlow’s primary interest was not the ERA, but rather the development of Phyllis Schlafly’s political career. Only a single chapter in Critchlow’s book explored the ERA and Schlafly’s role in the debates. He does not, however, explore any state in particular, nor does he discuss Schlafly’s travel to Nebraska in order to persuade legislators to rescind. Instead, he chooses to generalize Schlafly’s influence to the national level, arguing that Schlafly was only a figurehead for the anti-ERA movement—even though evidence indicates that Schlafly was very active in advocating Nebraska’s rescission.22

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21 Schlafly, 60-71.
The reasons for the ERA’s failure were explored in Mary Francis Berry’s *Why ERA Failed: Politics, Women’s Rights, and the Amending Process of the Constitution* and Jane Mansbridge’s *Why We Lost the ERA*.23 Mansbridge argued that the ERA was defeated, in part, because the opposition “shifted the debate away from equal rights and focused it on the possibility that the ERA might bring substantive changes in women’s roles and behavior.”24 This was especially true in Nebraska where women traditionally helped their families on the farm and in the fields but were also expected to do the “women’s work” as well, in other words, the cooking and cleaning. And yet Mansbridge’s only mention of Nebraska is fleeting. Whereas Berry argued that the eventual outcome of the ERA could have been predicted based upon previous attempts to amend the U.S. Constitution, to Berry it was about timing, especially in garnering support from states. Using the example of the Nineteenth Amendment, Berry argued that approval gained state by state had eventually brought women suffrage.25 However, Nebraskans had considerable support until outside forces invaded the state in the winter of 1972-1973.

Only one scholar has done an analysis of the role of the rescinding states. In her Harvard University doctoral dissertation, Nancy Baker researched what she described as rescinding states, but analyzed only three: Nebraska, New Jersey, and New York—two of which never actually rescinded.26 Baker’s definition of rescinding states is flawed because New York and New Jersey are not commonly recognized as rescinding states.

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24 Mansbridge, 20.
25 Berry, 56-69.
since their ratifications were never officially rescinded. Baker argued that their rescissions occurred as a result of a “successful grassroots mobilization.” However, Baker failed to note that the grassroots mobilization was not established in Nebraska until after the establishment of Schlafly’s STOP-ERA organization and that it was strongly influenced by outside forces. Furthermore, her analysis of Nebraska was based upon very limited primary sources, focusing foremost on Unicameral legislative logs and the *Omaha World-Herald.* Baker seems to have been more interested in proving that the ERA was a complicated piece of legislation in examining the reasons why rescission occurred or how grassroots mobilization was quick in debilitating the momentum of the ERA. Baker suggests that the legislative “rush” to ratify was the reason that the anti-ERA grassroots efforts were successful. I argue this was only a small portion of the overall history of rescission.

Recently, there has been a rise of new scholarship analyzing the effects of the rising New Right in response to various social movements. Works like Lisa McGirr’s *Suburban Warriors: The Origins of the New American Right,* Catherine Rymph’s *Republican Women: Feminism and Conservatism from Suffrage through the Rise of the New Right,* Elinor Burkett’s *The Right Women: A Journey Through the Heart of Conservative America,* and Bruce Schulman and Julian Zelizer’s *Rightward Bound: Making America Conservative in the 1970s* analyze the new conservative movement in

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27 It is commonly accepted that five states rescinded their ratifications: Idaho, South Dakota, Nebraska, Kentucky, and Tennessee. New York and New Jersey ratified the amendment, but there is no official record of the states rescinding in both houses of the state-level legislatures.

28 Baker considers only the Unicameral transcripts and the *Omaha World Herald.* This is very limiting because the Unicameral is in the Nebraska capital of Lincoln, and Baker consulted neither of the Lincoln papers, which are commonly considered by Nebraskans as the primary source for Unicameral news; nor was there an analysis of private collections found at the Nebraska State Historical Society; nor did she consider the more rural areas of Central or Western Nebraska.
response to its newfound visibility and seeming rise from nowhere.29 These works begin to seek answers about the strength and values of a relatively new political force. McGirr’s work addressed the interaction of conservative activists on California politics, which included aggressive campaigns against the ERA and provided great insight into the foundation of the conservative movement in response to what they saw as liberal excesses of the 1940s through the 1960s. Rymph focused her study on women of the Republican Party, which provided enormous insight into the conservatives but also reminded us that not all conservatives were Republican, and vice versa. This split was apparent after the Barry Goldwater campaign in which the conservative made a clear and controversial separation from the Republican Party. Burkett began her research after the congressional elections of 1994 ushered into office the largest number of Republican women in history.30 Burkett chose to analyze why so many conservative women had taken an interest in politics and discovered the history of what she called “old faithfuls” and the effective acquisition of the “new recruits.” Much of the success of the conservative women, as outlined by Burkett, centered on the alienation many had felt with the depreciation of their value systems, namely the importance of family and what they saw as a rampant immorality taking over the country. Much more relevant was the work by Zelizer and Schulman. These editors indicated that the rise of conservatism was not automatic or inevitable.31 Nebraska’s gradual turn into a very conservative state was the result of years of subtle changes. No one can easily pinpoint exactly when, but

30 Burkett, 15.
31 Zelizer and Schulman, 3.
historically liberal actions of Nebraskans—such as the reformist move to a Unicameral system—indicate that its shift toward conservatism occurred between 1935 and 1973. Zelizer and Schulman wrote, “In many cases, conservative activists succeeded because liberal organizations encountered huge challenges and stumbled politically.”

Although in this instance they were not writing about the ERA, their statement could also speak to the fact that conservative activists were able to gain the upper hand in Nebraska because the liberal organizations were unprepared to effectively argue their case.

Research on Nebraska’s rescission is complicated by the distinct lack of information on the early (1970-1974) ERA actions and debates at both the state and national levels. I began this research as part of a grant project titled, “Equality Under the Law?: Understanding the History of the Equal Rights Amendment in Nebraska” at the University of Nebraska–Kearney. As a student in Nebraska, I had considerable access to the Nebraska Historical Society, which housed Nebraska newspaper archives, Unicameral transcripts, and the personal collections of legislators, organizations, and citizens. I conducted this research through those avenues together with a few oral history interviews. These archives contain substantial resources on the campaign efforts and various events from 1977 through 1988—presumably because of the intense fight for both the last three state ratifications and the deadline extension. Many of the files, however, are incomplete. The Nebraska chapters of NOW, League of Women Voters, and Commission on the Status of Women are missing months and sometimes years of correspondence, newsletters, meeting minutes, and newspaper clippings. It is not clear whether these gaps are the result of poor recordkeeping, weather damage, inactivity, neglect—or any combination of these factors.

32 Zelizer and Schulman, 9.
In addition, because many of the state senators from this time period never submitted their professional or personal papers to an archive for preservation, there was inconsistency in the records of state senators. Therefore, local newspapers became an important means of supplementing the senators’ personal collections. As a result of the narrow scope of the scholarship surrounding the Equal Rights Amendment, I utilized both archival materials and nontraditional methods of analysis. For example, using analysis of Nebraska newspapers, such as the *Kearney Hub, Omaha World Herald, Lincoln Journal, Lincoln Star*, and Lincoln’s Sunday paper, the *Lincoln Journal-Star*, we can see how the Equal Rights Amendment was covered. In addition, an analysis of article wording and article placement can help determine what Nebraska newspaper editors presented as important to Nebraskans and often how women’s issues were perceived by the public through the use of “Letters to the Editors.”

Also key to this study is a focus on textual analysis—things like metaphors, emphasis, and alliteration. Word choice and verbal communication are particularly important when conducting and disseminating research, as these forms are the symbolic representation of an individual’s identity. Feminist scholars, like Daphne Patai and

33 John E. Richardson, *Analysing Newspapers: An Approach from Critical Discourse Analysis* (New York: Palgrave MacMillan, 2007), 89-91; for further discussion on the press bias with controversial issues, see: Jim A. Kuypers, *Press Bias and Politics: How the Media Frame Controversial Issues* (Westport, CT: Praeger Publishers, 2002); also see: Robert M. Entman, “How the Media Affect What People Think: An Information Processing Approach.” *Journal of Politics* 51, no. 2 (1989): 347-370; Annabelle Sreberny and Liesbet van Zoonen, *Gender, Politics, and Communication* (Cresskill, NJ: Hampton Press, Inc., 2000). Support for this type of analysis can be found in the work of communication specialist John Richardson. Richardson shows the sense of responsibility newspaper editors face in the placement of articles, arguing that “one key determining force [of the choice in placement and selection] is the audience. In short, without a sense of the audience, there can be no selection of what journalists and editors present as ‘the news’.” Richardson states that “journalists use … ground rules to select, order and prioritise [sic] the collection and production of news and while they ‘may not be written down or codified by news organisations [sic] … they exist in daily practice and in knowledge gained on the job.’” As Richardson explains, the news the public receives is based on a set of journalistic ground rules which, as Annabelle Sreberny and Liesbet van Zoonen explored in their book *Gender, Politics, and Communication*, often meant that topics related to women’s rights were relegated to the back pages of the women’s interest section and not the front pages, which typically display the news stories considered most important.
Sherna Gluck, have researched the importance of words and true representation.\textsuperscript{34} It was the use of words which made the distribution of information appear reliable, emotional, and/or questionable. It was often this rhetoric—as opposed to actions—that caused unintentional and intentional disagreements within Nebraska’s legislation. As one can imagine, many disagreements on the legislative floor were instigated by one party’s use of a word or phrase that was considered offensive by the other party. As will be discussed in Chapter Four, these words and phrases were sometimes used incorrectly or to evoke an emotional response.

When I first began this project, many of my research questions revolved around trying to figure out why the rescinding states are no more than a footnote in most scholarship on the ERA. These research questions led me to formulate theories about the effect of Nebraska’s rescission upon the rest of the ratification process, the deciding factors in which Nebraska initially ratified and later rescission, the arguments (legal or emotional) for and against the ERA, the reasons the rescinding states are often glossed over as though they do not matter, and the influence of national movements upon the actions at the state level. What follows is an outline of how I addressed these issues within the chapters.

Chapter One (\textit{Nebraska Stands Out: An Atypical State-Level Political Structure Created During the Great Depression Influences 1970s’ Politics}) provides a history of the establishment of the Nebraska Unicameral in 1934 and how initiatives which began with the foundation of a Unicameral affected the 1972 and 1973 ERA processes. This chapter analyzes the arguments for and against the new state legislature which

foreshadow concerns that arose during the ERA debates and eventual rescission to establish the history of the creation of the Unicameral legislature and the debates surrounding the ERA. These unique circumstances inhibited serious analysis of the legislation; no inherent system of checks and balances existed in its structure that a typical bicameral house would have provided.

Chapter Two (Half a Century in the Making: Political Adversaries Established During the Early Twentieth Century Construct a Solid Foundation Opposing the ERA) provides a brief history of the ERA, including some legislation leading to the 1972 approval by Congress. The relationships established in the success of the Nineteenth Amendment granting women’s suffrage and developed through efforts to further women’s rights in the 1920s through 1960s created opposing opinions which were never resolved. By not addressing these issues, early women’s rights activists unknowingly created a vehicle that the rising conservative movement would eventually use to its advantage.

Chapter Three (Lincoln, We Have a Problem: The Grumblings of Displeasure and the Influences of National Organizations, November 1972 – January 1973) investigates the history of the ERA in Nebraska and considers the role of the Speaker of the Unicameral, Richard Proud, and his direct connections to rising conservative leaders such as Phyllis Schlafly. This analysis is supported by research in legislative logs, state newspapers, personal/professional papers of then-governor J. James Exon and Senator Shirley Marsh, as well as documents from a variety of women’s organizations including the Lincoln chapter of NOW, League of Women Voters, and the Nebraska Commission on the Status of Women.
Chapter Four ("Beware the Ides of March": Unreconciled Questions Lead to Another "Hasty" Decision) delves into the discord created by conflicting legal scholarship and enhanced by the rising conservative movement which led to the state-level confusion and eventual rescission in Nebraska. It shows how even those who were paid to interpret the law could not agree on the implications of the ERA at very basic levels. This confusion at the professional level bled into misgivings about state-level interpretations and fear of possible changes in gender roles and corruption of family values, ultimately dooming the ERA.

At the time of Nebraska’s resolution to rescind, 30 of the necessary 38 states had voted to ratify the ERA. However, once the Nebraska Unicameral voted to rescind its previous ratification efforts, the momentum of supporters drastically slowed, with only five additional states ratifying the amendment before the 1988 deadline. The results of Nebraska’s rescission efforts had significant effects on future actions of activists in Nebraska. This project demonstrates the importance of this single state in the national history of the ERA and the relative success of conservative activism within the state-level political stage. The pro-equality men and women of Nebraska took the initial failure and used what they learned through that process to initiate other legislative endeavors on behalf of women and children. Most want to be remembered for what they did accomplish, not for their failure to pass the ERA.
CHAPTER I

NEBRASKA STANDS OUT:
AN ATYPICAL STATE-LEVEL POLITICAL STRUCTURE CREATED DURING THE GREAT DEPRESSION INFLUENCES 1970s’ POLITICS

Nebraska’s political history during the twentieth century resulted in atypical legislative structures and imperatives which created a unique environment for the state-level ERA votes of 1972 and 1973. In 1972, Nebraska legislators wanted to ratify the newly approved national Equal Rights Amendment—and to be the first state to do so. It is evident from the transcripts of the legislative discussions on this subject that state senators believed being the first state to ratify the amendment would make a strong statement to the nation regarding Nebraska’s stance on women’s rights and offer proof that Nebraska valued women. Both Nebraska State Senator Fern Orme— in her proposal of the ratification of the ERA—and later Nebraska State Senator Richard Proud—in his proposal to rescind the ratification vote—were able to effect these changes based on legislative precedents and the expediting of votes. Indeed, the single-house system of Nebraska’s Unicameral permitted propositions to be brought forth more quickly and allowed less opportunity for the debate of both the original ratification and later rescission of the ERA. These unique circumstances inhibited serious analysis of the legislation; no inherent system of checks and balances existed in its structure that a typical bicameral house would have provided. In addition, the non-partisan structure of the Unicameral provided ample opportunity for contemporary liberal and conservative activists to state their causes without concern for stepping on party toes. Finally, because the salary for state senators within the Unicameral system was established in the 1935-1936 bicameral session and not sufficiently adjusted for inflation, Nebraska state senators
were often forced to maintain additional employment to be able to provide the necessary income to support their families. This economic need became important as an oppositional tactic in the Nebraska debates surrounding the Equal Rights Amendment; it led ERA activists to call into question the financial resources that fueled the forces against the amendment. To understand the ERA battles, therefore, it is necessary to understand the historical development of Nebraska’s Unicameral.

Nebraska is the only state in the United States since 1934 to have a Unicameral legislature. In this chapter, I analyze the financial and political factors that led to the 1934 vote to change Nebraska’s state-level government from a bicameral system to a Unicameral house. I also discuss some of the issues established in the creation of the Unicameral that later affected the outcome of Nebraska’s ERA debates, thereby making this type of legislature an indirect but significant factor in the national defeat of the ERA. By addressing this atypical political system, we can better understand the role Nebraska played as a stage for the national debates and as a door through which the modern conservative movement was able to gain a qualifying foothold in other legislatures to squelch the amendment.

Like other states in the union, Nebraska initially adopted a bicameral legislature for its state government in 1866. This, however, would change in 1934. As University of Nebraska, Lincoln, Professor of Law Lester B. Orfield explained shortly after the 1934

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35 Adam Carlyle Breckenridge, One House for Two: Nebraska’s Unicameral Legislature (Washington, DC: Public Affairs Press, 1957), 4; Lester B. Orfield, “The Unicameral Legislature in Nebraska,” Michigan Law Review 34, no. 1 (1935): 26-36. According to Law Professor Lester Orfield, Georgia and Pennsylvania also had unicamerals for short periods in the 18th century. Prior to Nebraska’s change in government, the last state to have a unicameral government was Vermont, until 1836. For the next 100 years, all state legislatures in the union were bicameral legislatures.

36 Frederick C. Luebke, Nebraska: An Illustrated History, Second Edition (Lincoln: University of Nebraska Press, 2005), 77. Nebraska became a territory in 1854 and a state thirteen years later in 1867; Breckenridge, 6.
elective decision, “this question whether the legislature shall consist of one or two houses has become the chief problem of legislative structure during recent years. The model state constitution drafted by the National Municipal League made the Unicameral chamber the most important feature of the legislative set-up.”37 Nebraska’s move to a one-house system influenced the rest of the nation in a significant way: after its changeover to a Unicameral, twenty-one other states also considered a change from a bicameral to a Unicameral system, but all eventually chose to remain bicameral legislatures.38 The sudden interest in Unicameral legislatures presumably centered around the expected financial savings that would have been urgently important during the desperate times of the Great Depression. However, while interest on this topic in most other states soon waned, Nebraska took an active role in its self-preservation by making this major change in its state legislature under the leadership of the charismatic U.S. Senator George W. Norris (R).39

Norris was an experienced legislator who had long been interested in a Unicameral system for Nebraska.40 He had served “seven years as a district judge in Nebraska, ten years in the national House of Representatives, and thirty [years] in the

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38 Orfield added, “In January 1935, Unicameral bills were offered in at least fourteen states: Delaware, Iowa, Kansas, Maine, Missouri, Montana, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming”, 29. Norris also spoke highly of the nationwide interest in Nebraska’s newly elected unicameral legislature in an article following the 1934 election: “Show Interest in Unicameral: Norris Receives Many Inquiries About Change in Nebraska,” *Lincoln Star*, December 31, 1934: 8.


Through his long political career he was well known and, for the most part, well respected by Nebraskans. Both his scholarly articles and his autobiography touched on his feelings of helplessness during the Great Depression, a time when Nebraskans in particular were vulnerable to the steep economic downturns that occurred. As an agrarian society, this decade-long lack of spending only compounded effects of the already unbearable drought that had settled on the state. Norris, during his tour of Nebraska for the Unicameral campaign, was dismayed to see animals that were starving to death and other gaunt livestock that were scarcely able to stand being herded for slaughter because the expense of feeding them would have been greater than they were worth. Empathizing with the desperate pleas of the Nebraskan public, including friends and family members, Norris wrote, “I am somewhat at a loss to know just what I can do to help you, inasmuch as this is something entirely outside my control or jurisdiction.” Fully aware of the dire straits Nebraskans were experiencing because of the Great Depression compounded by the severe drought, Senator Norris took initiative and sought a solution for his state.

The successful legislative switch in 1934 was not Nebraska’s first attempt to unify its bicameral. According to political scientist Adam C. Breckenridge, Nebraska legislators had taken considerable note of the discussions regarding state-level legislative reform at the turn of the twentieth century, and in 1915 a joint legislative committee “recommended to its members, without success, a constitutional amendment establishing

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43 Lowitt, 398.
The matter of a Unicameral legislature was introduced once more during Nebraska’s 1918 election—and was again defeated. However, in 1934, the cause of a Unicameral structure was aggressively taken up by Senator Norris. Norris’s opposition to a bicameral system was “consistent with his well-known views in favor of openness, simplicity, and independence of members of the legislative process.” He saw the bicameral system as redundant (two houses of legislators voting on the same legislation) and no longer a true representation of the state’s needs and opinions. Partially due to Norris’s doggedness, the adoption of a Unicameral system had been perennially introduced during each legislative session since 1915. Finally, together with the economic hardships associated with the Great Depression in the 1930s and the strong advocacy of Senator Norris, Nebraskan Unicameral supporters gained the support they needed in 1934.

During the depression of the 1930s, “western states, including Nebraska, experienced the greatest drops in farm income,” and by 1934 many Nebraskans were looking for a way to lower budgetary responsibilities. Generally, Nebraska scholars and residents would agree that many of the argued benefits of a single legislative body (simplification of the legislative process, greater responsibility to one’s constituents, less corruption due to more accountability, more capable legislators due to smaller legislatures, and more effective uses of extremely limited financial resources) came to fruition, but some would still argue its failure in other areas. In his 1934 campaign for

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44 Breckenridge, 6.
46 Fellman, 34.
47 Luebke, 231, and Breckenridge, 8.
the legislative change, Norris compared the Unicameral structure to a trial in which only one decision was made by a representative of peers and laws.\textsuperscript{49} Foreshadowing the 1972-1973 ERA legislation, opponents claimed that removing the second legislative house “would result in hasty and ill-considered legislation.”\textsuperscript{50} However, for the most part this factor was a moot point.

Nebraska was, and is, an agriculture-based state. The era’s decline in farm income had dire effects on the population, and the relief from federal aid under New Deal policies had not yet eased the burdens on Nebraska’s farm families. The 1930s provided fertile ground for approval of a Unicameral system because of the financial strife of the Great Depression nationally, but particularly at the state level. Obviously, farmers were not alone in their financial crisis. Throughout his campaign for a Unicameral legislature during 1934, Norris argued that by eliminating the second legislative house lawmakers would no longer be able “pass the buck” because of the more intimate representation.\textsuperscript{51} For example, Norris explained that each county would have only one representative instead of two to three representatives, thus eliminating the problem of shifting responsibility and instead reinforcing the sense of personal accountability to one’s constituents. His displeasure with the Nebraska legislators’ management of public money became apparent when he “compared the governor to a bank president and the legislature to a board of bank directors.”\textsuperscript{52} Nebraskans were becoming desperate to relieve their financial burdens, and— because of what the public perceived as a state-

\textsuperscript{52} “Sees Personal Opposition,” \textit{Lincoln Star}, October 14, 1934: 12.
level mismanagement of federal relief program monies—they saw governmental reform as a necessity. Norris firmly believed a Unicameral system would eliminate corruption at the state level by creating direct accountability to the public and significantly decreasing the state budget by eliminating half of legislative expenditures. As political scientist Roger Shumate would later write, “the Unicameral legislature has effected a saving of some $8,000 to $10,000 a biennium on general legislative expense—mileage for members, clerk hire, printing, stationery, postage, etc.”—and the figure cited did not account for the savings in salaries by eliminating a second house.53

Adding to the widespread disapproval of the state’s fiscal actions, the number of solvent banks in Nebraska plummeted between 1920 and 1935— from 1,012 in 1920 to 480 in 1932, and by 1935 there were only 297, leaving the majority of Nebraska towns without banking institutions. Often the entire town suffered from bankruptcy.54 Norris reassured Nebraskans that the federal government was doing all it could to solve temporary hardships and, in the meantime, Nebraskans should not wait for others to save them. He urged fellow Nebraskans to do something themselves by adopting a Unicameral system.55

Playing off Nebraskans distrust of urbanites and outsiders—a factor which would later be seen in the ERA debates—Norris argued that the American Revolution had not been a true rebellion because the American colonists still adopted a legislative system from the “mother country” that was ineffective. The two houses of Britain’s parliament

53 Roger V. Shumate, “The Nebraska Unicameral Legislature,” The Western Political Quarterly 5, no. 3 (1952): 507. According to the official website of the Nebraska Unicameral, representatives of the 2008 unicameral received only $12,000 per year.
54 Lowitt, 402.
obtained their offices through two separate sources: the House of Commons, elected by the people, and the House of Lords, appointed from the aristocracy by the monarch—which only deepened the divide between classes. In Great Britain, Norris wrote, the House of Lords “owed no responsibility to the people,” and therefore was ineffective representation. However, Norris explained that in 1911 “the House of Lords was shorn of practically all its legislative functions, and today [1935] Great Britain, for all practical purposes, is operating under a Unicameral or one-house legislature.”

Following Norris’s lead, both historian Lester Orfield and Dr. John P. Senning theorized that the Unicameral system was more democratic, because the bicameral system divided the population according to class and gave inadequate representation for all involved.

Nebraskans were convinced and, in light of the hardships they had faced in the drought, they hoped the new system would more accurately represent the general public financially and politically.

In the 1934 election, the Unicameral measure succeeded by a vote of 286,086 in favor to 193,152 against—a majority of nearly 60 percent. Article III, section 1 amended the Nebraska state constitution “to establish a Unicameral legislature, commencing January 5, 1937, to consist of not less than thirty and not more than fifty members nominated and elected in a nonpartisan manner.” In his 1952 article, “The Nebraska Unicameral Legislature,” political scientist Roger Shumate suggested a number

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56 U.S. Senator George W. Norris, “The One-House Legislature,” *Annals of the American Academy of Political and Social Science* 181, *The State Constitution of the Future* (1935): 51. Norris also noted that he was not arguing for the federal government to alter its current structure, acknowledging that it would be nearly impossible to convince enough of the population and representatives to acquire this change.


58 Shumate, 504.

of valid reasons for the 1934 success of the Unicameral proposal, including that the successful proposal was made at the lowest point of the national depression, had a strong proponent in Senator Norris, and was submitted with two other proposals that also had a strong following (specifically: a repeal of state-level prohibition and the legalization of pari-mutuel betting).\textsuperscript{60} Professor Orfield suggested it was all of the reasons mentioned by Shumate and added that 1934 “was the year of the first election since the New Deal experimentation was in the air.” In addition, the previous election had seen the appointment of a significant number of state senators without legislative experience and, as a result, “the long drawn out session and contentious spirit of its members led to popular disfavor.”\textsuperscript{61} Regardless of the reasons, the 1935-1937 bicameral was charged with the legislative creation and implementation of a replacement Unicameral.

Assessing the size of the future Unicameral, Norris concluded in his 1935 article summarizing the arguments for a Unicameral that “if every state is to be a business institution, if the evils of partisanship are to be eradicated from state governments, if the legislature is to be a real board of directors, if the people are to have an opportunity to know just what is being done by their public servants, then the legislature must not be so large in membership as to be unwieldy.”\textsuperscript{62} Furthermore, the delegate sample should be elected to act for a similar population in order to balance class differences within the state. In other words, it would not be fair to the urban residents to give each a single representative per county. Nor would it have been appropriate for the rural areas to

\textsuperscript{60} Shumate, 505. Pari-mutuel betting is the system used in horse and greyhound racing. This spelling is used in the various news articles discussing the 1934 election. For examples, please see, “Election Vote Set New High for All Time,” \textit{Lincoln Star}, November 24, 1934: 7; “Cochran Using Capitol Office: Governor-Elect Faces Work on Budget and Appointments,” \textit{Lincoln Star}, November 23, 1934: 4.

\textsuperscript{61} Orfield, 28.

\textsuperscript{62} Norris, 58.
receive multiple representatives in order to compensate the massive populations of the two counties in which major cities (Lincoln and Omaha) were located. Therefore, following guidelines set by the Unicameral amendment that no county could be divided in order to accommodate the population requirements, Nebraska was divided into 43 districts with approximately equal populations. Only the counties of Douglas and Lancaster met the requirements for multiple representatives. Breckenridge described the division of districts: “Two other counties, Gage and Scotts Bluff, are separate districts, but the rest of the state [was] arranged to include two or more counties as legislative districts.” Each legislator was responsible to an equal number of constituents, which legislators believed allowed equal representation in the Unicameral unlike the previous bicameral system.

This representative division was another reason for the non-partisanship of the Unicameral. Even though the urban-rural split was and continues to be a noteworthy issue within Nebraska’s state politics, the intentional division of representation was eased by the non-partisanship upon which Norris had insisted. Senator Norris and other supporters argued that representation in the new Unicameral must be non-partisan and based upon equal population sizes. Norris argued that the state government was limited to a single house, but that representatives should not be elected according to party. Political scientist David Fellman wrote that Norris believed the “parties [were] formed

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63 Shumate, 505. According to the official website of the Nebraska Unicameral, the state is now divided into 49 legislative districts, each home to approximately 35,000 people. In 2003, an amendment was passed which limited service by any individual to four terms in the unicameral. Prior to this, no term limitations had been in effect (http://nebraskalegislature.gov/senators/senators.php [accessed November 23, 2009]).
64 Breckenridge, 8.
around national and not state issues, and that [by adopting a non-partisan legislature] the legislature would thus be freed from the influence of political bosses and party machines.”67 This made the Unicameral, at least in theory, representative of the state and local issues and not simply an extension of the federal government. This desire was also reflected in later arguments by opponents of the ERA.

It was imperative to Norris, a progressive Republican, that the legislature “be elected on state issues, which may be entirely different from national issues which divide our political parties.”68 Norris clarified that “under present conditions we elect a member of the legislature because he [or she] bears that label of a national party, and those who vote their ‘ticket straight’ vote for members of the legislature on the same ticket, regardless of the fact that the voter may not agree with the candidate on any of the state issues over which the legislature will have jurisdiction.”69 However, on a non-partisan ballot, voters would be free to vote according to local opinion on issues unique to the state. In addition, candidates would “be free from the issues of national politics.… [T]hey would not be responsible to any party on a false issue, but would be responsible to their own people upon issues which have a direct bearing upon the official duties of the members of the legislature.”70 This interpretation, of course, only solidified Unicameral advocates’ cause in the pursuit of cost effectiveness and effective representation. It was, therefore, no surprise that under these circumstances the amendment for creating the Unicameral passed in the 1934 election.

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67 Fellman, 35.
69 Ibid.
70 Ibid.
Following Senator Norris’s suggestion, the last session of Nebraska’s bicameral in 1935-1936 decided that for the incoming Unicameral legislators, the “aggregate salaries of all the members shall be $37,500 per annum, divided equally among the members and payable in such manner and at such times as shall be provided by law.” This salary arrangement for the Unicameral, which employed 43 members, was on a whole significantly less than the salaries had been for the bicameral, which had employed 133 members in both houses combined. Some allowance for inflation has occurred since the initial decree in 1935-1936, but the Unicameral salary has never been enough to comfortably care for an average family. Breckenridge wrote that “in 1952 the people were asked to raise legislative pay to $1250 annually for each member, or $2500 for the term of two years. The Nebraska voters turned it down by a vote of 192,842 to 184,940.” The 1952 salary total was “fixed at $75,000 per biennium, whereas that of the bicameral legislature [of 1934] was $106,400.” Regardless, in the end, the senators’ salaries would not be enough to support a family. As Breckenridge argued, it was difficult for legislators to gain pay increases; the public had to vote for pay raises, and the precedent had been set to pay the state senators a very low salary. In addition, because the salary regulations for state senators were established in the 1935-1936 bicameral session and not sufficiently adjusted for inflation, state senators in 1972-1973 were often forced to seek additional employment to provide the necessary income to support their families. In the end, the good of saving the state so much money was pitted against the senators’ need to seek outside employment to supplement their governmental income,

72 Breckenridge, 12.
which created a situation in which the corruption Norris had railed against may have once again become an issue. The need for senators’ additional employment led to possible conflicts of interest during the ERA rescission debates.

One unforeseen and unexpected effect of the Unicameral’s non-partisanship concerns lobbying efforts. In 1971, political scientist Bernard Kolasa published his 1967 study of lobbying in a non-partisan environment, for which he used Nebraska as his case study. Kolasa had sent questionnaires to 182 lobbyists and 49 senators of the 1967 Nebraska legislature. He found that partisanship definitely affected lobbying efforts. On the national level, lobbyists tended to refrain from partisan activity or identifying with one party over the other for fear of alienating potential supporters of their cause. In an effort to win support, it was unwise as a lobbyist to risk alienating legislators by openly identifying with a political party instead of one’s cause. However, Kolasa found that “Nebraska lobbyists are politically more active than lobbyists on the national scene, though perhaps not as active as lobbyists in some of the strong one-party states.” He theorized that lobbyists were more likely to party-identify because the Unicameral was a nonpartisan legislature. Kolasa found that because party politics had little power in the Unicameral, Nebraska senators viewed the lobbyists in general to be helpful, despite any single lobbyist’s expression of clear party alliances. Furthermore, it was not unusual for a senator to use lobbyists as research aides. Unlike the national trend, many Nebraska legislators had become lobbyists after their term was complete, and vice versa. This

74 Bernard D. Kolasa, “Lobbying in the Nonpartisan Environment: The Case of Nebraska,” *Western Political Quarterly* 24, no. 1 (1971): 66. 118 lobbyists returned their questionnaire while 39 senators returned completed questionnaires. Through personal interviews, Kolasa was able to attain information for an additional 3.8 percent of lobbyists and all but one senator.
75 Ibid, 67.
76 Ibid, 70.
trend was particularly relevant with regard to the initiator of Nebraska’s rescission efforts, Senator Richard F. Proud, who had been a lobbyist for Mutual of Omaha prior to his successful election into the Unicameral on November 3, 1964.

Many of the same factors that were a part of the original conception of Nebraska’s Unicameral came into play in 1972-1973. In an act that brought to fruition the previous concern that the Unicameral house “would result in hasty and ill-considered legislation,” the decision to move forward and vote to ratify the Equal Rights Amendment was very quick and decisive.77 In an effort to expedite the process of ratification, State Senator Fern Orme requested a suspension of the typical twenty-four-hour waiting period, asking instead to immediately consider the motion, named Legislative Resolution 83 (LR83), to deliberate the resolution. The motion passed by a vote of 32 ayes, 3 nays, and 14 not voting.78 However, before the legislature could consider the amendment, Senator Claire Holmquist, a male senator from District 16, in Northeast Nebraska, then debated the correct process to ratify the ERA. Holmquist challenged the process—concerned about the legality of waiving the waiting period—but Orme insisted that her sources had assured her that the resolution she offered was legitimate, and, on the chance that it was not enough, she would make sure to follow up with the appropriate legislation. Senator John De Camp of District 40, in North-Central Nebraska, supported Senator Orme’s statement and reassured Holmquist that this expedited process was not without precedent. The Unicameral had followed the same amendment ratification process for the “question

78 Nebraska State Legislature. Floor debate on Legislative Resolution 83. 82nd Leg., 2nd Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska: 233. Typically the unicameral rules state that resolutions are to be held for 24 hours before action, but in the case of LR83 the rules were shelved in order to allow immediate acceptance. Lincoln (AP). “Unicam Ratifies Women’s Rights,” Kearney Hub, March 24, 1972, Sec. A, p. 1.
of the 18-year-old vote.”79 With that reassurance about process, Senator Orme urged the senators to show how important women’s rights were to Nebraskans and vote in favor of the ERA. Orme reasoned that if Nebraska was the first state to ratify, it would lead the rest of the country by example. The Unicameral voted on LR 83 that afternoon with a final vote of 38 ayes, 0 nays, and 11 not voting. Nebraska then became not the first but debatably the second state to ratify the ERA— debatably because Nebraska’s approval arrived on the same day as three other states and, because the first attempt to ratify was returned to the state in order for the second and third clauses to be approved as well, there was some controversy as to the actual ordinal placement of Nebraska’s ratification.80

The debate that would later emerge centered on the worry that the legislators had been rushed through the resolution and that the senators had not been given adequate time to review the issue. There were major flaws with this claim, however. First, no apparent controversy about the ERA existed in Nebraska at that time, even though the subject had been seriously considered on a national level by Congress since 1970.81 The ERA had been debated and introduced into the U.S. Congress every year since 1923. And because the ERA says rather plainly that the amendment would be passed simply to ensure the

79 Nebraska State Legislature. Floor debate on Legislative Resolution 83. 82nd Leg., 2nd Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska: 232. The “question of the 18-year-old vote” referred to the amendment that lowered the federal voting age to 18 years old.
80 Despite having a bicameral, Hawaii was technically the first to ratify the ERA, due to time zone differences. It should also be noted that Hawaii never reconsidered its ratification of the Equal Rights Amendment.
81 Nebraska newspapers did not indicate any controversy or concern of citizens about the seemingly hasty decision. The tone in most articles (such as the previously cited “Congress Approves Equality for Women,” Kearney Hub, March 23, 1972, Sec. A, p. 1) was positive and cheerful. U.S. Senator Orrin G. Hatch, The Equal Rights Amendment: Myths and Realities (Washington, DC: Conservative Press, 1983).
“equality of rights under the law,” its mission was consistent with the Nebraska state motto, which is and was, “Equality before the law.”

A second opportunity for debate was presented in Nebraska through unusual circumstances— another instance in which a second house vote could have addressed the validity of adopting an ERA. Due to an apparent clerical error, which likely would have been caught by a second house, the Equal Rights Amendment was sent back to the Unicameral for a more complete ratification after the initial expedited vote because only the first section of the proposed amendment had been up for consideration and ratified. Opponents of the Unicameral system might have argued that this glitch would not have occurred had there been a second house to check the legislation. Regardless, the full amendment, including sections 2 and 3, which gave Congress the power to implement and enforce the amendment, was presented as Legislative Resolution 86 (LR 86). On March 29, 1972, LR 86 was introduced to the Unicameral and the senators were given another opportunity to review the amendment. During this second vote, three additional senators voted for the amendment, which made the vote 42 ayes, 0 nays, and 6 abstentions. Still, no argument against ratification was raised at the time of either vote. This suggests that little discussion occurred and virtually no debate was heard over any concern of an ERA. It was not until shortly after the formation of renowned conservative Phyllis Schlafly’s STOP-ERA organization that public grumblings arose.

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82 Equal Rights Amendment, Nebraska State Symbols (http://www.50states.com/nebraska.htm [accessed November 23, 2009]).
83 This error gained minor mention in the Lincoln Star and Omaha Herald’s “Unicameral Notes” the day following the federal notification.
84 Nebraska State Legislature. Floor debate on Legislative Resolution 86. 82nd Leg., 2nd Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska: 239.
Similarly, the establishment of Nebraska’s Unicameral system in 1935-1937 created ideal circumstances for the controversial rescission vote in 1973. Much like the ERA ratification process, Nebraska state senators were able to quickly rescind Nebraska’s ratification in part because of the lack of a secondary house. While using this “unchecked” system to their advantage, opponents of the ERA would argue that they had not had adequate time to review the amendment and make an informed decision. The Unicameral system enabled a hasty consideration, debate, and decision of both the proposal to ratify (as seen in the inadvertent omission of the second and third sections of the amendment during the first vote to ratify) and the proposal to rescind its previous ratification vote. Had a second legislative house existed in Nebraska, there may have been more discussion prior to the ratification; and it is quite possible that a thorough discussion before ratification would have stemmed any misgivings by opponents, and thus it is possible that no attempt to rescind would have been brought forth. Furthermore, the inadequate salary of Nebraska senators served only to expand the tension established during the Great Depression between state legislators and the general public—building from the uncertain and distrustful emotions remaining from hardships experienced during the drought. As will be discussed in Chapter Two regarding the ERA debates, unresolved legislative concerns created a foothold for conservative activists to enter the dialogue and use the Unicameral house to their benefit, while also tearing apart the ERA proponents’ position.

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debate on Legislative Resolution 86. 82nd Leg., 2nd Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska: 239.
CHAPTER II

HALF A CENTURY IN THE MAKING: POLITICAL ADVERSARIES CONSTRUCT A SOLID FOUNDATION OPPOSING THE ERA

From its inception in the early decades of the twentieth century, the Equal Rights Amendment was surrounded by serious conflict and confusion—even among those who deeply supported equal rights for all. After the 1920 passage of the Nineteenth Amendment granting women the right to vote, women’s rights activists moved on to another area that they believed would be utmost importance: a provision granting women equal rights in all areas of life. Unfortunately, this subject would not be as easily agreed upon by activists, who soon split into two disparate groups: those who supported an ERA and those who supported protective labor legislation for women. Growing from this initial split, more issues arose that remained unresolved throughout the long debate of this proposed legislation, all of which contributed to the eventual demise of the ERA in 1988.

In the 1920s, protective labor activists like Ethel M. Smith—who had come from a rural, working-class background and spent many years laboring to support her family after her father’s death—saw protective labor legislation as the only possible option for providing better employment opportunities to women.86 They saw a need to establish laws to legally protect all women who were forced to or who chose to seek employment outside of the home. These activists worried that an equal rights amendment would simply cause confusion and nullify any gains, such as providing living wages, shorter

86 Amy E. Butler, Two Paths to Equality: Alice Paul and Ethel M. Smith in the ERA Debate, 1921-1929 (Albany: State University of New York Press, 2002), 7. While class division was common among the two groups, it was not exclusive. Advocates from both sides came from a variety of economic classifications, but throughout the debate between the causes a misunderstanding of the needs of the working class was often raised as a dividing argument between the groups.
hours, and better working conditions, that had already been achieved on behalf of women in the workplace. On the other hand, ERA activists like Alice Paul—who had been educated at Swarthmore College and lived comfortably on her family’s money—considered an amendment to the U.S. Constitution to be the only sensible option, as it would provide constitutional protection no matter where anyone lived or in what economic conditions. ERA-supporting activists argued that the recent efforts toward shortening workdays and workweeks could only be enhanced by an ERA, as it would benefit all workers—male or female. They viewed the amendment as all-encompassing, thus making protective labor legislation redundant and unnecessary.

This division among women’s rights advocates quickly proved harmful to both causes—but more so to that of the ERA. Some male legislators had become so comfortable with the perceived unity of women, as seen in the suffrage movement, that it was very difficult for them to understand that multiple and varying causes could all fall under the term women’s rights. For instance, one male legislator once chastised female

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88 Susan D. Becker, *The Origins of the Equal Rights Amendment: American Feminism Between the Wars* (Westport, CT: Greenwood Press, 1981); George and Margaret G. Klosko, *The Struggle for Women’s Rights: Theoretical and Historical Sources* (Upper Saddle River, NJ: Prentice-Hall, Inc., 1999), 7. Alice Paul (1885-1977) was well educated from her years at the renowned Swarthmore College, and well traveled, having studied in Great Britain. But many of her tactics during her suffrage activism, such as a public protest in front of the White House during World War I on behalf of women’s suffrage, were considered aggressive by many Americans, causing significant controversy and earning Paul the reputation of an irrational rebel. Nancy F. Cott, “Equal Rights and Economic Roles: The Conflict over the Equal Rights Amendment in the 1920s,” in *Women’s America: Refocusing the Past*, edited by Linda K. Kerber and Jane Sherron DeHart (New York: Oxford University Press, 2000), 382. Paul’s November 1923 version (which was introduced into Congress on December 10, 1923) read, “Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction.”
activists campaigning for protective labor laws and equal rights that they had to make up their minds before he could support them.  

Further interfering with women’s rights progress, Alice Paul’s reputation as an aggressive activist produced additional discord, in turn creating hard feelings and disenchantment that remained close to the surface. The National Woman’s Party (NWP) chose to provide undivided support and commitment to the ERA, thus dismissing the idea of a need for protective legislation, which caused irreparable damage to some previously deep friendships. Moreover, women’s rights (but in particular equal rights) activists were attempting to redefine gender roles—an action which was considered a public invasion of intimate relationships and, not insignificantly, a questioning of an already-threatened male authority.

In addition to confronting preconceived notions regarding women’s political value, women’s rights activists struggled with issues of race and class, none more so than the NWP. Paul and other members of the NWP appeared insensitive to the needs and concerns of working-class and African-American women. They did not adequately acknowledge the apprehension felt by those groups about the probable nullification of existing protective labor laws and possibly their newly achieved voting rights. These

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91 Robert H. Zieger, *America’s Great War: World War I and the American Experience* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2000), 136. Some of the more contentious actions and events that challenged male hegemony were organizing pickets of the White House and U.S. Congress, refusing to pay fines, serving jail time, and participating in hunger strikes—actions which, at the turn of the twentieth century, were considered unmentionable in polite company.
92 Butler, 58. Butler discussed in more details the fears of southern African-American women and the decided lack of enforcement by local officials of their suffrage rights. Given the resistance African-
influential leaders simply could not understand why these other women did not see how the ERA would solve not just the issues facing other classes and races but the problems facing all women.

In the 1921 convention to decide the future agendas for the former suffrage-oriented organization, NWP leaders did not deny that birth control and the defense of black women’s right to vote were vital causes. They simply had a narrow field of vision, which was focused on the ERA. Other concerns were not seen as feminist issues by NWP leaders because the causes affected only a limited number of women and not all women. The NWP neglected the causes of working-class women and southern black women’s voting rights not because they lacked empathy, but rather because they truly—although perhaps naively—believed that an equal rights amendment would satisfy and address all of these concerns. This significant gap in communication was, unfortunately, interpreted by both their contemporaries and some recent scholars as a disinterest in women of lower socioeconomic status by ERA activists.93 By Paul’s definition of feminism, it was not that black women were trying to stop progress toward women’s rights per se or that their concerns were invalid, but that a ratified equal rights amendment would solve their problems as well.

To ERA activists, it was the larger picture that was most important. They believed that the details would work themselves out once the ERA was in place. They also believed that a federal amendment was the only true path to “fully emancipate women by eradicating all political and legal discriminations based on sex.”94 As discovered by the

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93 Lunardini, 161.
94 Butler, 1.
legal teams of the NWP and the National Association of Women Lawyers (NAWL), the sex-based discrepancies in “state codes and legal practices” were so great “that only a constitutional amendment seemed effective to remove them.”

Burdened by this perceived disinterest for those women of lower and minority status, the NWP needlessly created antagonistic relationships by constructing a flawed campaign that limited its successes and the cooperative support received from other activists between 1923 and 1966.

Relationships that had developed during the campaign for women’s suffrage left lasting scars on the pursuit of the ERA as well. Ethel M. Smith, like Paul, was a former member of the National American Woman Suffrage Association (NAWSA), but Smith used a very different approach to advocate for women’s rights. Both Smith and Paul saw the legal system as the most blatant expression of women’s “subordination and inequality,” but their methodologies for change were seemingly incompatible. Smith and other protective-labor legislation advocates reflected suffrage practices in their approach by diligently chipping away at the brick wall of gender discrimination through state- and federal-level initiatives. Labor rights advocates believed that an equal rights amendment would invalidate sex-based labor legislation for issues such as living wages, shorter hours, and better working conditions. These important new laws had been no small victory to obtain. Labor rights activists believed that, were a national ERA ratified, the chaos that could be anticipated might be so devastating as to cause harm to women’s rights. Advocates expressed serious concern that men might argue the new legislation

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97 Butler, 73.
was unfair to male workers and demand an elimination of the legislation altogether, thus setting back the broader cause in a significant way.\footnote{Cott, “Equal Rights and Economic Roles,” 381. Cott noted that Kelley “had been part of the inner circle of NWP during the suffrage campaign, but on the question of protective labor laws her priorities diverged. She spent three decades trying to get state regulation of workers’ hours and conditions, and was not about to abandon the gains achieved for women.”}

Smith, in particular, saw little value in an equal rights amendment that did not reflect the differences in class within its wording, and she struggled to find a compromise with the NWP. She believed that women should be equal but saw that they, in fact, were not—partly because of their inherent reproductive responsibilities and social obligations to the family.\footnote{Butler, 14. While Smith and others were connected to neither Communism nor Socialism, this attitude of a tighter connection to people of one’s own class regardless of gender can also be seen in the writings of Socialist Clara Fraser, Communist Clara Zetkin, and Communist Alexandra Kollontai. Ironically, this argument for aligning with classes rather than with gender was adopted by conservatives who claimed protective legislation as the reason not to pass the ERA.} Furthermore, Smith saw a greater connection between men and women of the working class than between working-class and middle- or upper-class women.\footnote{Cott, “Equal Rights and Economic Roles,” 381.} This was a change in attitude from the previous positioning of women as a social group in suffrage rhetoric, which pitted men and women against each other. But because many of the NWP equalitarian feminists had never experienced working-class life, they had difficulty understanding the magnitude of importance of workers’ rights for working-class women. They also had difficulty conveying their cause in terms that appealed to working-class women, furthering the divide between the organizations, despite “great sentiment” within the NWP “that efforts at equal rights legislation should not impair existing sex-based protective labor legislation.” Thus a dichotomous and adversarial relationship between activists of protective labor laws and the ERA was created, one that would eventually prove insurmountable.\footnote{Butler, 13}
New Deal Legislation Created Further Oppositional Forces

The Great Depression during the 1930s further worsened the status of the proposed ERA, as protective-labor law advocates saw the established protective legislation—like the “passage of eight-hour, minimum wage, and health/hygiene laws to mitigate tenacious forms of gender-based exploitation that resulted in low wages, long hours, and limited job opportunities”—as even more important. As the 1930s began, women were seeking outside employment in increasing numbers, which further increased national interest in protective labor legislation. Women were often forced to take any job available to help support their struggling families, but protectionists, including Ethel M. Smith, insisted that this situation should not be used as an excuse to permit policies which took advantage of women workers. The American Federation of Labor (AFL) was critical of this new situation, stating that women weakened the U.S. workforce. The AFL noted that a stabilized economy was greatly anticipated, so that those women who had been forced out of their homes to seek employment could return to home life as soon as it became financially possible. Protective-labor advocates believed that labor laws were the best way to “equalize” women’s place in industry and counter the AFL’s criticism. Conversely, ERA supporters argued that protective legislation would prevent women from fairly competing for the few jobs that were available in the market.

Another political blow for the ERA occurred when Franklin Delano Roosevelt (FDR) was elected to office in 1932. Both the new president and his wife, Eleanor Roosevelt, had strong ties to labor legislation advocacy and felt equally strongly against

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102 Butler, 2.
an ERA. While governor of New York, FDR’s attempts to pass legislation on behalf of women and children were obstructed by the NWP. In essence, “FDR’s election to the presidency reinforced protective legislation in the United States in 1932.”

One significant piece of legislation introduced by the Roosevelt legislation that supported protective legislation was the Fair Labor Standards Act (FLSA), passed in 1938. The FLSA set a minimum wage of twenty-five cents per hour for American workers and maximum hours per workweek of forty-four, to be lowered to forty hours per workweek by 1940. This legislation was not gender specific, and because labor legislation—which included protection for male workers—was so slow to be approved, protectionists worried that the ERA would eliminate the existing protection labor legislation, thus creating another setback.

Like many women of the “New Deal network,” Eleanor Roosevelt ultimately saw herself as a social reformist in her role to further women’s rights. Because of Eleanor Roosevelt’s membership in and friendship with women in the League of Women Voters (LWV), the Women’s Trade Union League (WTUL), and the Federation of Women’s Clubs (FWC), Eleanor “threw major roadblocks in the path” of an ERA, even though she provided support for “women’s advancement in politics.” Paul acknowledged Eleanor Roosevelt’s influence in the field of women’s rights when she wrote to Jane Norman.

105 Becker, 79.
108 Parrish, 383.
109 Storrs, 240.
111 D’Itri, 152.
Smith, chairwoman of the NWP: “[A]s one observes her work in the White House one cannot but feel that she belongs with us and not against us.”¹¹² Until her death in 1962, Eleanor was very active in politics and firmly believed that women were not equal to men and “needed special treatment.”¹¹³ She would not, however, recognize the importance of the ERA until 1951, when—through a position in the United Nations—she became “sensitive to the international implications of constitutional equality for women.”¹¹⁴ Yet this seemingly obvious partnership would never truly manifest. Even though Eleanor had been an extremely active participant in the women’s division of the Democratic Party, she “tended to distrust women who were also members of the NWP.”¹¹⁵ It was not until 1944 that the Republican Party included the ERA in their party’s platform, and in 1972 the Democratic Party finally followed suit.

In an effort to relieve the economic stresses of the Great Depression, the Roosevelt administration introduced legislation which reformed business practices, created programs to relieve some economic hardship that had stemmed from high unemployment rates and an unexpected drought in the Midwest, and encouraged recovery of the U.S. economy under the label “New Deal.”¹¹⁶ These wide-ranging policies were divisive across party lines and forced many politicians and business owners to re-examine their value systems in relation to the political process. Similar to the hard feelings that had developed as a result of differing approaches to suffrage activism, the actions of New Deal politicians created deep divisions and discord. Businessmen like the du Pont

¹¹² Becker, 79.
¹¹³ D’Itri, 152.
¹¹⁴ Becker, 79.
¹¹⁵ D’Itri, 153.
brothers believed the federal government had overstepped its bounds and viewed the reform business policies as incredibly restrictive to their profit margins.\textsuperscript{117} Their substantial displeasure—and financial assets—would prove essential to the developing new conservative movement.

Growing political discontent was revealed in efforts to thwart new gender equity legislation. In 1947, composers of the Status Bill saw it as a compromise to eliminate “discrimination [against women] in the law without the supposedly deleterious effects of the ERA.”\textsuperscript{118} The Status Bill itself had two primary components: the first created a U.S. policy that acknowledged the need to enhance women’s autonomy and “to reaffirm their [women’s] connection to the family,” and the second created the Commission on the Legal Status of Women, which would be staffed by presidential appointees and was conceived to assess cases of legal discrimination based on sex within the United States and its territories.\textsuperscript{119} In conjunction with the Status Bill proposal, the National Committee to Defeat the UnEqual Rights Amendment changed its name to the less antagonistic and more upbeat National Committee on the Status of Women (NCSW)—not to be confused with the National Commission on the Status of Women, which would be established in 1960 and headed by none other than former First Lady Eleanor Roosevelt. The effort to create a more positive image through a change in the group’s name was dictated by the need for support to pass the bill. As the old adage goes, you can catch more flies with honey than with vinegar. The measure failed on all levels,

\textsuperscript{117} Phillips-Fein, 24-25.
\textsuperscript{119} Harrison, 27-28.
acquiring insufficient legislative support and failing as a compromise between pro- and anti-ERA forces.

Another failed effort to find common ground is evident in what has been dubbed the Hayden Amendment. In 1950, the Women’s Bureau guided Senator Carl Hayden, a Democrat representing Arizona, to propose the addition of a new section to the ERA, which in theory would satisfy both the equalitarians and protectionists. The new text specified that “the provisions of this article shall not be construed to impair any rights, benefits, or exemptions conferred by law upon persons of the female sex.”120 Inserted as a caveat to mollify advocates of protective legislature, the measure was ineffective and illogical. The ERA never passed with this addendum attached, as neither opponents nor supporters of the ERA found the attempt to compromise acceptable.

The changing political face prompted by Roosevelt’s far-reaching New Deal policies was reflected in the realm of women’s activism as well. Republican Club women began organizing and campaigning for their Party—not necessarily for its individual candidates—at a grassroots level in the early 1950s, and by the 1960s the Republican Party had come to depend on these loyal workers.121 Phyllis Schlafly, a Republican Club leader, campaigned on behalf of fellow conservative Barry Goldwater in his pursuit of a presidential nomination.122 Providing a voice for grassroots conservatives and the rising New Right, Schlafly pushed for a change in the Republican Party to reflect more conservative concerns. Schlafly’s insistence that just one person could make a difference, as well as her firmly expressed belief in conservatism, had created a huge

120 Harrison, 31.
122 Rymph, 165; Critchlow, 110-112.
following. However, the conservative Barry Goldwater campaign of 1958 caused Republican Party loyalty to weaken, with men and women alike, when Goldwater broke with the Eisenhower administration. Goldwater cited Eisenhower’s policies as being too similar to those of the Democratic Party as a primary reason for his split.\textsuperscript{123} This Republican Party division between progressives and conservatives, coupled with the upheaval of the social movements of the 1960s, created great concern about blind partisanship.

A sizable number of Republican Club women deserted their party loyalty in favor of advocating for specific individual causes. One such cause was the Equal Rights Amendment. Shortly after the 1972 congressional approval of the ERA, conservative women began to organize against the amendment. Leading a group called the Eagle Forum, Schlafly created STOP-ERA, an organization that allowed already-organized conservative women a base from which to campaign against the amendment. However, not all Republicans were conservative, and not all conservatives were Republican, as will be discussed in Chapter Three.

Taking advantage of this split in support—and feeling attacked by the many social movements of the 1960s that challenged their fundamental beliefs—the rising New Right entered the volatile political environment of the early 1970s through grassroots efforts. Once serious consideration of the amendment began during 1970 congressional sessions, so did the serious organization of a conservative opposition. Conservative women who had remained neutral on the issue of equal rights and/or had focused on other contemporary issues suddenly became involved and intent on defeating the ERA.

\textsuperscript{123} Rymph, 161; Critchlow, 110.
The Equal Rights Amendment had faced opposition from the beginning, as previously discussed, but previous opposition seemed minimal compared to the anti-ERA fervor that arose from the efforts of grassroots conservatives in the 1970s. Prior to this, general opposition was based on perceived differences in the goals of ERA activists in relation to the causes supported by protective-labor activists. Neither advocates nor opponents of the ERA could agree on the probable outcomes of the proposed amendment, and many challengers were concerned about potential changes to traditional gender roles that might occur with the amendment’s ratification. But once Congress passed the amendment and sent it on to the individual states for ratification in 1972, opposition aimed specifically against the ERA solidified and became undeniable.

Ironically, and perhaps too late, discrete feminist groups were inspired toward unification by the rise of modern conservative groups. At this point, the ratification of the ERA had become a tangible possibility rather than a theoretical debate of merits. In theory, most Americans were for equal rights, but when pressured to make a decision on something specific, for example, a constitutional amendment, many of those same voters balked. Differences between the sexes was cited as a benefit, something positive, in the confusion surrounding how the ERA would redefine gender roles, and often these discussions misinterpreted what pro-ERA activists had meant in using the term *equal*. To supporters of an ERA, *equal* did not mean *same* in the sense that ERA opponents heard; rather, they believed that an ERA would bring about equal pay, equal opportunities, and equal protection under the law.

It is also important to note that just because there was an absence of anti-ERA sentiment expressed in the early 1972 press coverage did not mean there was a lack of

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anti-ERA activism—as can be seen in the quick and zealous response from grassroots conservatives. This often underreported anti-ERA activism should also be considered when discussing the relative success or failure of the ERA. A significant issue that contributed to the eventual defeat of the ERA was the failure of its proponents to secure widespread support prior to lobbying the congressional houses for passage. Because there was discord—or at the very least a divided front—among women’s rights organizations, it was relatively easy for the rising, organized opposition to discredit the amendment and subvert attempts by proponents to gain strong support. For instance, the labor, class, race, and gender-role issues that had not been previously addressed provided prime fodder for the fight against the ERA.

The ERA debate was emotionally charged, with each side making passionate arguments for its cause. As U.S. Senator Orrin Hatch observed, it was personal and emotional on both sides of the debate.125 Often guided by these strong emotions, frustration was evident and often seen in the outrageous comments made by both supporters and opponents of the amendment. For example, pro-ERA activist Betty Friedan’s infamous 1973 exclamations, “I consider you a traitor to your sex” and “I’d like to burn you at the stake” to renowned anti-ERA activist Phyllis Schlafly invoked widespread criticism and backlash against the ERA. Likewise, a quote from a concerned mother writing to her congressman that he “must pass a law allowing parents to have girl children sterilized. This would be the only solution. Then women would not have to

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worry about or prevent pregnancy just like men. Everyone would be truly equal”¹²⁶ evinces the earnest yet ultimately misguided feelings that many of these individuals felt.

Some conservative groups viewed competition with men for employment as the equivalent of women’s desire to be men and/or turn into men.¹²⁷ The often strong religious backgrounds of anti-ERA activists surfaced in the logic they used to argue against the ERA. They often connected the perceived immoral behavior as an extension of the social movements of 1960s that became part of the basis for the ERA.¹²⁸ Feeling as though their religious beliefs were being attacked on all sides—through the issues of legalized abortion, sexual freedom, and banning prayer from schools—conservatives could no longer remain sedately in the background and soon began to organize reactive grassroots campaigns.¹²⁹

In the end, ERA proponents were simply unable to adequately address the concerns of the public and their well-organized opponents. The strained relationship initially experienced between the members of the NAWSA and the members of the NWP continued and expanded well beyond the life of those organizations. The unwillingness of ERA creators to address the multitude of concerns expressed by working-class and African-American women established insurmountable odds for equal rights advocates. The ever-changing political field, in particular the New Deal policies intended to improve American life, permitted the rise of a discontented conservative group. Ultimately, the


¹²⁸ Ibid, 45.

organizing done on behalf of the Republican Party in the 1940s and 1950s morphed into a 1970s and 1980s grassroots movement in opposition to the Equal Rights Amendment.
CHAPTER III

LINCOLN, WE HAVE A PROBLEM:

In January 1973, Nebraska’s populace exploded with sudden renewed interest in the previous year’s ratification of the Equal Rights Amendment. With hardly a word spoken or written for or against the ERA since its ratification in March 1972, the *Lincoln Journal* reported in early January 1973 that Nebraska state senators had been receiving letters “urging the Legislature to repeal its previous ratification of the equal rights amendment for women.”¹³⁰ This turnabout was especially surprising to supporters of the ERA because the topic of rescission, or even any sort of displeasure with the proposed amendment, appeared not to have been brought to the attention of the candidates for the 1972 midterm elections as a topic of concern. Senator Shirley Marsh stated in a January 11, 1973, article that “He (Proud) told me last night he intended to introduce this resolution, but I thought he was kidding.”¹³¹ The lack of vocal or visible activism against the ERA in Nebraska prior to December 1972 raised many questions. Those who did “protest” appeared to be seeking a straight answer from their senators. The answers they received only complicated their confusion. The widespread misinformation and rumors regarding what an enacted ERA would accomplish and what this new constitutional amendment would mean to the general public caused considerable disagreement and created an opportunity for growing opposition forces to increase their efforts to solidify

among Nebraska’s population the belief that the effects of the ERA would be more destructive than constructive.

This chapter discusses this apparent lack of concern expressed throughout the 1972 electoral process regarding Nebraska’s ratification of the ERA, and it analyzes the few documented letters concerning this subject, including those sent to the office of Nebraska Governor J. James Exon and those quoted in the Nebraska newspapers. It also places the events of Nebraska in context with the national history and analyzes the implications of the legislature’s inability to resolve the concerns of the public. The lack of attention to the seemingly undisputed issue of the ratified ERA during Nebraska’s 1972 elections was significant as it showed that the concern voiced in January 1973 was new. Although somewhat unexpected in Nebraska, as the state had seemingly laid to rest the argument once the ERA was ratified in 1972, the nation was dealing with the emergence of such anti-ERA organizations as STOP-ERA, Happiness of Motherhood Eternal (HOME), Women Who Want to Be Women (WWWW), American Women Against the Ratification of the ERA (AWARE), Females Opposed to Equality (FOE), and Concerned Women of America (CWA) as well as renewed interest in campaigning against the ERA by established conservative groups such as the John Birch Society, the Eagle Forum, and the Ku Klux Klan (KKK).132 Fortunately, 1972 was an election year for the Nebraska Unicameral, which in effect left in place a recorded timeline of the

emerging conservative concern in Nebraska over the amendment’s abilities or inabilities to provide effective legislation for women. By the time the election season concluded in November 1972, there still had been no mention of opposition to the ERA—from the entirety of the electoral campaign in statewide newspaper coverage to the lack of any mention in the League of Women Voters files.\footnote{3 “Active Women Campaign for 29th District Legislative Seat,” \textit{Omaha World Herald}, May 7, 1972; League of Women Voters Archival Collection (RG1987), boxes 1-12. Nebraska State Historical Society, Lincoln, Nebraska. The LWV collection includes personal correspondence between members, letters from the leadership to the membership, newsletters, minutes, summaries of upcoming legislative initiatives, etc. I also looked at the major Nebraska newspapers, including \textit{The Lincoln Star}, \textit{The Lincoln Journal}, \textit{The Omaha World Herald}, Kearney Hub, and the \textit{Columbus Telegram}. Particularly relevant for the future discussion of the ERA in Nebraska was the results for the 29th District seat, with Shirley Marsh’s win over incumbent Senator Fern Hubbard Orme. For a more detailed discussion of Orme’s introduction of the amendment to the unicameral for consideration, please refer to Chapter One and for a more detailed discussion of Shirley Marsh’s role in Nebraska’s ERA debates, please refer to Chapter Four.} The majority of attention, rather, was given to discussion of the role of Nebraska’s legislature in funding education, how to alleviate the financial burden on the elderly, and resolutions for managing the ever-growing prison populations.\footnote{3 “Active Women Campaign for 29th District Legislative Seat,” \textit{Omaha World Herald}, May 7, 1972.} It would appear that the Equal Rights Amendment was seen by the general public and by political candidates as a settled issue and, at best, a distant concern during the November 1972 elections.

The lack of discussion and/or protest in Nebraska during 1972 was surprising, though, in the larger scope of historical scholarship. In most states, conservative activists had already begun to organize and protest against an ERA.\footnote{Nancy Elizabeth Baker, “Too Much to Lose, Too Little to Gain: The Role of Rescission Movements in the Equal Rights Amendment Battle, 1972-1982.” Ph.D. diss., Harvard University, 2003.} Conservative groups—who had been bristling under the policies of the New Deal and Great Society (which they believed threatened American economic stability) and the social movements of the 1960s (which challenged their social and cultural norms)—had mobilized the grassroots
organizations begun in the 1950s in opposition to the ERA.\textsuperscript{136} In September 1972, Phyllis Schlafly organized STOP-ERA, which served as a headquarters for conservative women interested in halting the ratification of the amendment.\textsuperscript{137} As discussed in Chapter Two, Schlafly had gained popularity through her position with the Republican Club women and notoriety in her campaign on behalf of Barry Goldwater.\textsuperscript{138}

While anti-ERA forces were gaining strength, the pro-ERA forces were facing setbacks. Some groups within the feminist movement of the 1960s and 1970s, like the lesbians, African-American and/or lower income women, felt excluded in the mainstream message of the Women’s Movement. These groups believed that their needs and concerns were not given the same attention or validation as those they termed white, middle-class, and heterosexual.\textsuperscript{139} Using the fracturing women’s movement to their advantage, anti-ERA forces, such as Schlafly’s STOP-ERA, purposefully sowed confusion and misinformation, which then led to battles in various states—especially those states that had openly showed any wavering on the amendment. The antiratificationists created disagreement and distrust by purposefully making the issues surrounding the ERA cloudy and thus more threatening.

Yet, in Nebraska, no public protest took place until January 1973. During the first session of the new legislature on January 9, 1973, Senator and newly elected Speaker of


\textsuperscript{137} Critchlow, 217.

\textsuperscript{138} Rymph, 160-166; Critchlow, 111-117; McGirr, 133-136.

\textsuperscript{139} For a more in-depth discussion of the divisions arising in the 1970s women’s movement see: Rosen; Sara Evans, \textit{Tidal Wave: How Women Changed America at Century’s End} (New York: Free Press, 2003).
the Unicameral Richard F. Proud (District 12, Omaha) announced that Nebraskan women had overwhelmed his office with letters requesting an act of rescission. Purportedly as a direct response to these letters, Proud introduced legislation to rescind Nebraska’s ratification. His proposal brought forth an immediate reaction by both sides of this debate. The Nebraska newspapers regularly published letters to the editors and articles by staff reporters covering this controversial move. However, very little coverage was given to the initial volley of letters that motivated Proud’s action. As the motion to rescind was introduced so quickly—nearly as fast as the initial motion to ratify the ERA—several ERA supporters expressed feelings of being blindsided by this legislative action. For many involved, it seemed that there had been no notable public mention of discord on the ratified amendment, though the opportunities to present such a position seemed to have been numerous.

Newly elected state Senator Shirley Marsh spoke to newspapers following Sen. Proud’s resolution to rescind. She explained her confusion:

I feel I am speaking for the large majority of informed and concerned Nebraskan women when I say we thought the question of ratifying the Equal Rights Amendment (ERA) was completely settled last spring. We were proud to be the second state to do so.

In January 1973, several newspapers ran articles on the mail from constituents that was “flooding the senators’ offices” and thus raising concern over the ratification of the ERA. Many articles quoted heavily from the letters that requested a reconsideration of the

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proposed ERA—which the unicameral had passed twice in an overwhelming vote.\textsuperscript{143} The three major papers—\textit{Lincoln Journal}, \textit{Lincoln Star}, and \textit{Omaha World Herald}—all reported on the letters, but none could agree on when the letters began arriving in the senators’ offices, or on just how many letters the senators had been receiving.\textsuperscript{144} They used words ranging from “peppered” to “heavy dose” and “a number of letters.” This was the first public record of displeasure surrounding the ERA in Nebraska, as no prior mention can be found in the newspapers, meeting notes, voter information, or the like. Given the uniformity of the few letters recovered from archival resources, quoted in the newspapers, or submitted to the committee (which convened in February 1973 to debate the ERA), it would appear that outside conservative forces, such as Phyllis Schlafly’s STOP-ERA organization, had reached the rural populations of Nebraska through grassroots organizing. Furthermore, these opponents were not ignorant, as some scholars have implied, but were so confused about the implications of such an amendment that they began to look to their legislative representatives for clarification.

Nebraska newspapers ran summaries of letters sent to Nebraska legislators which questioned the effectiveness of the ERA and are no longer available through any other resource. The articles indicated that the majority of letters came from Northeast and Central Nebraska and, echoing that era’s grassroots conservative sentiment, argued that the ERA would “threaten family life, subject young women to the military draft and deny


women special privileges they now enjoy.”145 This wording was similar to that of Phyllis Schlafly’s *Eagle Forum* publications, in which she argued that women had special privileges and a right to support their families through homemaking, which would be taken away if the ERA passed.146 Many of the letters reportedly included nearly identical wording, “indicating that at least some of the mail is the result of an organized drive.”147 It was also important to note that many of the letters the Nebraska senators received were sent from outside their legislative districts, further suggesting that the letter campaign was organized by national anti-ERA groups.

Beyond wording, the conservative movement’s influence upon the letters was evident in other ways as well. The articles commonly reported that three women from Ravenna (a town of approximately 1,300 people in Central Nebraska) stated that the Equal Rights Amendment was “a subtle, sinister [,] communistic tactic to demoralize and destroy the family unit.”148 Other letters contained contradictory language—for example, the argument that women were already guaranteed equality with men often appeared in the same letter as an argument that women don’t want equality with men; they wanted


146 Phyllis Schlafly, “The Right to Be a Woman,” *The Phyllis Schlafly Report* 6, no. 4 (1972); Phyllis Schlafly, “The Precious Rights ERA Will Take Away from Wives,” *The Phyllis Schlafly Report* 7, no. 1 (1973), p. 2. “ERA would proclaim to all the world that the marriage contract no longer includes the obligation of a husband to support his wife. This would take away the most basic and precious legal right every wife now enjoys.” Phyllis Schlafly, “How ERA Would Change Federal Laws,” *The Phyllis Schlafly Report* 15, no. 4 (1981), p. 2. “The traditional family concept of husband as breadwinner and wife as homemaker [would] be eliminated [under the ERA]…. The role of motherhood [would] be restricted to the very few months in which a woman is pregnant and nursing her baby. Mothers are not entitled to any special benefits or protections for motherhood responsibilities beyond that [under the ERA].”


instead to maintain their “special rights.” This claim of special rights or special privilege was prevalent in five or six of the letters supporting rescission. Although it was not explained what was meant by the recurring phrase, these letter writers seemed to use it to echo Schlafly’s sentiment that being able to stay home and care for one’s family through housework, cooking, and child rearing was a special privilege afforded to only women. One letter argued that “men want a wife, a mother of their children and a homemaker—not an equal,” while another argued that the amendment would “nullify [the laws] which protect women from rape and it will make girls subject to the draft and to combat duty equally with men [sic]” or that the amendment “would mean that women could be drafted and that we could no longer have the right to keep our babies.” The issue of the female military draft was an emotional one which caused a great deal of panic among conservatives of all backgrounds, but had been building since the late 1960s with the increased protests of the Vietnam War.

Although the language found in the documented letters to the senators repeated the language used in STOP-ERA’s protest letters, no explicit memberships or associations to this group or similar groups were declared. A few weeks after the January 10, 1973, introduction of Legislative Resolution 9 (LR9) by Senator Richard F. Proud, letters to the editor provided some clarification as to the antiratificationists’ claims that the ERA would cause a loss of parental rights—which once again echoed the arguments

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149 Ibid. There was no explanation of why women believed their children would be taken away if they were drafted.
150 Beth Bailey, “The Army in the Marketplace: Recruiting an All-Volunteer Force,” *Journal of American History* 94, no.1 (2007): 47-74. Bailey discusses in detail the events which led to the U.S. military’s change from a “draft dependant to an all-volunteer military.” An all-volunteer army was not unprecedented in the United States as it had only used a draft since 1940, but a feeling of tradition had been established for most Americans in the draft dependant military and the change was intimidating. The move to an all-volunteer military combined with the social protests of the Vietnam War created a heightened sense of awareness and uncertainty for some Americans.
of Phyllis Schlafly. However, this letter writer argued that the ERA would not abolish child custody awarded to the mother. It would be incorrect, however, to assume that this was the only interpretation of that statement, or what would have led these women to believe that rape laws would no longer apply. The fear of the unknown became very powerful; no one really knew how an ERA might be implemented or what legal changes it might effect. In short, it was not entirely without merit to be concerned about the survival of rape laws or the persistence of the courts’ preference for the mother in child custody cases. These women were simply echoing the unresolved concerns of early protectionists, as discussed in the previous chapter.

During his January 1973 proposal to rescind Nebraska’s ratifying vote for the ERA, Senator Proud stated that the male members of the Unicameral had assumed Senator Orme, as a woman, had represented the best interests of all women when in the previous year she submitted the resolution to ratify the amendment. But after looking further at the document—and the letters of protest—Proud concluded that the amendment was “anti-woman.” Proud claimed he had come to this conclusion after receiving a great deal of support from women for his anti-ERA view and that, soon after the Nebraska Unicameral voted to ratify the ERA, he had received “many letters from Nebraska women” demanding a change. However, these anti-ERA letters from Nebraska women to Senator Proud are no longer a part of the public record. Proud does not possess the letters; like most Nebraska legislators, he did not place them in any archive; and they were not recorded into the legislative transcript. Therefore, it is difficult to

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153 Proud’s language in his proposal to rescind heavily echoed conservative rhetoric like that used by Schlafly’s STOP-ERA group.
ascertain the exact nature of those letters, whether there were as many as Proud indicated, whether those letters were as passionately against the ERA as Proud claimed, or how soon after Nebraska’s ratification of the ERA the letters began to arrive. As stated previously, the lack of the topic in the public forum of the 1972 Unicameral election created some skepticism about the timing of the ratification protests in Nebraska. Consequently, these letters of protest cannot be relied upon to accurately reflect the majority opinion of Nebraskans. There were, however, four letters sent to Governor Exon in December 1972 and deposited in his collection at the Nebraska Historical Society, as well as a number of letters to the editor published between January 1973 and March 1973, and these sources can be used to flesh out and extrapolate public opinion and supplement the official Unicameral records.

The first recorded letter against the ERA arrived in Governor Exon’s office in December 1972—shortly after the formation of Schlafly’s STOP-ERA organization.154 A citizen of rural Wayne, Nebraska, Mrs. Dale Lessmann, wrote, “I am writing to you [Gov. Exon] for advice on how Nebraska can repeal the Equal Rights Amendment which they ratified last March. This is definitely dangerous legislation and should never have been ratified.”155 Mrs. Lessmann did not elaborate on the reasons she wanted to repeal the amendment nine months after it passed and stated only that “we have [the] freedoms

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154 League of Women Voters Archival Collection (RG1987), boxes 1-12. Nebraska State Historical Society, Lincoln. I also looked at the major Nebraska newspapers, including The Lincoln Star, The Lincoln Journal, The Omaha World Herald, Kearney Hub, and the Columbus Telegram. Letter from Mrs. Dale Lessmann to Nebraska Governor J. James Exon, December 11, 1972. Governor J. James Exon papers. Nebraska State Historical Society, Box 74. Gov. Exon was commonly referred to by friends and colleagues as J.J. or Jim. What I mean here by “first recorded” is that prior to this letter there was no evidence in the newspapers voicing concern or displeasure regarding Nebraska’s ratification of the ERA. Furthermore, there are no letters in other collections (such as Senators Proud, DeCamp, or Marsh or the League of Women Voters, or National Organization of Women) dated earlier than this letter.
we want with the 5th and 14th Amendments but we do not want to be forced into things like this amendment will do.”156 Again, this letter’s language reflected the language commonly used by antiratificationists, indicating that by December 1972 the grassroots anti-ERA campaign had hit its stride, picking up followers in Nebraska. Lessmann asked why Exon had not vetoed the ratification and posed the question, “What are necessary steps to take to have Nebraska repeal it?”157

In his response on January 8, 1973, the administrative assistant to the governor, Norman A. Otto, explained to Mrs. Lessmann that the governor did not have the authority to veto “such a measure.”158 He then wrote that it was his “understanding that a number of the Senators have been getting mail indicating displeasure of the public with this Amendment. The way to get it repealed is to let enough Senators know about your displeasure and there is a very good chance they could take action after they assemble.”159 This response from the governor’s office neglected to broach whether the legal issues surrounding a possible rescission of the amendment had been investigated. For instance, after Sen. Proud announced his motion to rescind Nebraska’s ratification, Nebraska’s attorney general indicated that, according to legal precedent, the rescission would be invalid and therefore a waste of time.

The following day, another letter arrived in Exon’s office expressing concern over Nebraska’s ratification of the ERA. Mrs. Sylvia Yanda of Ravenna wondered “how any family man could vote for such a bill” and questioned whether the citizens of Nebraska

156 Ibid. The use of the 5th and 14th amendments as a counterargument was a common occurrence by conservative forces.
157 Ibid.
158 Letter from Norman A. Otto to Mrs. Dale Lessmann, Governor J. James Exon papers. Nebraska State Historical Society, Box 74.
159 Ibid. This was the first mention of the undocumented letters to the state senators. Unfortunately, there was nothing provided prior to this in Exon’s extensive collection.
had voted for the wrong people to represent them. The author implied that she was not going to vote for Governor Exon again unless something was done to nullify Nebraska’s ratification, as it did not adequately reflect her opinion. However, elections had just taken place and the concerns raised by Yanda and Lessmann had not been raised during these campaigns. Furthermore, throughout her letter Yanda used language that clearly separated herself from her subject of pro-ERA women. For example, Yanda wrote:

I worked with women for three years and most of them just cannot take it, if they wouldn’t have had help in some way, they wouldn’t of [sic] held they’re [sic] job a day. It was union or badges or friends, yet they received the same pay. They were great with their mouths, not muscles [sic].

No, no.

The language Yanda used to write about the other women at her place of employment does not account for her own position on the job and showed little to no respect for any of her female co-workers there. In using such polarizing language, Yanda reveals that she clearly considered the other women to be an inconvenience and a distraction, but did not explain why or if it was necessary for Yanda herself to be employed.

Yanda did provide a possible clue as to why the misinformation and ERA rumors may have been disturbing to her. She mentioned several times that “the radicals” were responsible for the amendment and that “the radicals” did not care for the young women of society. Once again echoing conservative values expressed by known anti-ERA activists, Yanda indicated that her major concern with the radicals rested in their

161 Ibid.
162 While there was no evidence to the contrary, Yanda’s language seemed to indicate a male author angry about women “taking” jobs from family men—as though women had no place in the workforce.
163 Yanda indicated that her major concern with the radicals’ lay in their challenges to the legality of a surname change after marriage or the birth of a child. She was also concerned that alimony would be available to either spouse, sex-segregated prisons would be eradicated, and that the ERA would require girls to register for the Selective Service. This also reflected the confusion over what the Women’s Movement wanted to accomplish as well as the development of what many Americans saw as radical women’s groups.
challenges to the legality of a surname change after marriage or after the birth of a child. She was also concerned that alimony would be available to either spouse, sex-segregated prisons would be eradicated, and that the ERA would require “girls” to register for the Selective Service. She then wrote that she respected “God’s divine plan, and family structure. Respect for human life whether of its age [sic]. Respect for every human being, regardless of color, race, or creed [sic]. You cannot legislate peoples [sic] feelings.” Yanda suggested that while she respected other races, she did not believe that she should be forced to do so, nor should she be forced to feel any particular way, especially for those she termed “radical.” This thought reflected much of the initial reaction of conservatives after Congress passed the amendment. She concluded that it was a “disgrace” to mankind and God’s plan for women to be obliged to serve in the military. She urged the “Preservation of family, Preservation of masculin [sic] role as guide, protector and provider and preservation of feminine role of wife, mother, and homemaker.”

In his response, Exon thanked Yanda for expressing her ideas but reminded her that the ERA had been ratified in the 1972 legislature. Exon concluded that while he was pleased that she respected “God’s divine plan” and agreed with her “that the family unit must be strengthened as it is the basis for a strong nation” he never actually stated what

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164 Ibid. Emphasis in the original letter. Conservative antiratificationists often used their strong religious connections in their arguments against the ERA.


his stance was on the issue of the ERA.\footnote{Ibid.} Remaining aloof yet friendly in his response, he wrote in conclusion that he valued her input and wished her a happy holiday season.

Some additional causes for concern regarding “God’s divine plan” were found in a December 23, 1972, letter from Mr. and Mrs. Herbert R. Haynes. In their letter to Exon, they wrote of several legislative concerns, but most important was their exploration of new legislation and women’s rights.\footnote{Letter from Mr. and Mrs. Herbert R. Haynes to Gov. Exon, dated December 23, 1972. Governor J. James Exon papers. Nebraska State Historical Society, Box 74.} They expressed doubts about women’s rights but not about the ERA specifically. They feared that the subject of promoting women’s rights “would cause more problems than it could solve.”\footnote{Ibid.} The Hayneses believed that women should vote and express themselves, and that education made them “better informed.” They also wrote that they were aware that some men took “unfair advantage” of women, but “women might take such advantage of men if women’s rights pass[ed].”\footnote{Ibid.}

The stance indicated that a possible threat to the power structure was a major concern for at least part of the Nebraska population, and any reorganization of such would not have been easily accepted. The Hayneses letter echoed Yanda’s concern that promoting women’s rights would eliminate separation of the sexes. They wrote that if women’s rights were successful, there would no longer be single-sex dressing rooms or restrooms. They were concerned that “[m]odest people would have no more privacy.”\footnote{Ibid.} These statements once again show that the public was confused about what exactly the ERA would allow, promote, or eliminate. As discussed in Chapter Two, these are many of the
same issues the founders of the ERA had failed to resolve in the rush to establish the ERA as valid legislation.

These letters and statements made against the ERA appeared to be influenced by Phyllis Schlafly and her followers—despite Schlafly’s failure to mention any activity in Nebraska in an interview featured in a January 1973 *Omaha World Herald* article.\(^{172}\) Often echoing Schlafly’s arguments against the ERA, those who pushed for the rescission resolution in Nebraska claimed that if the ERA were passed, women would lose their place on the pedestal and they liked treating women “special.”\(^{173}\) In a *Lincoln Journal-Star* article, “Unicam Speaker Proud Enjoys Position, Worries about Justice,” Proud was characterized in this way: “His own opinion is that women should not be drafted and should receive special protection through rape laws. He likes women on a pedestal and thinks men should bear the burden of women’s special privileges, he says.”\(^{174}\)

Another aspect of this controversy was fueled by Senator Proud’s supplemental employment beyond his Unicameral seat. Reflecting the severe salary problem in the Unicameral system, which was discussed in Chapter One, a question developed among pro-ERA activists as to whether the anti-ERA letters received by legislators had been actively petitioned through Senator Proud’s Senate office or through his Mutual of Omaha Insurance office following his decision to initiate the rescission of Nebraska’s ratification. According to the American Civil Liberties Union (ACLU), insurance

\(^{172}\) “Women’s Amendment No Longer Sure Thing,” *Omaha World Herald*, January 15, 1973, p. 19. In this article Schlafly states that her organization, STOP-ERA, is active in 26 states and particularly strong in Arizona, Florida, Illinois, Louisiana, Missouri, Ohio, Oklahoma, and Virginia.


companies had a financial stake in the failure of the ERA. It was explained that women paid more for pensions to receive the same coverage as their male counterparts or paid the same amount and received smaller benefits than men. They further stated that while the insurance industries had stopped using race and religion as classifications in determining rates, they still used gender, despite arousing similar issues of discrimination.175 The ACLU explained, “Women are also discriminated against in the sale of insurance…. [I]n New York State, women were charged between 150 and 200 percent more for coverage until age 65; women were offered only one, two or five years of benefits. For a man, disability was defined as the inability to perform the duties of his own occupation; for a woman to be disabled, she had to be unable to perform the duties of any occupation.”176 If this accurately reflected the insurance industry’s interest in the changes the ERA might bring about, the industry could stand to lose considerable amounts of money when insurance standards changed to reflect the new legislation.

The claim that Proud misused resources was almost certainly a pro-ERA tactic to discredit Senator Proud, but it appeared effective in drawing into question the motives of both the senator and the insurance company. If Senator Proud had been encouraged by Mutual of Omaha to take action against the previously passed amendment, it would have been likely that the senator might then use resources available through Mutual of Omaha to determine the amount of support his proposal would gain, as well as provide an established medium through which conservatives could work to reach their intended

175 “With Liberty and Justice for Women: The ACLU’s Contributions to Ten Years of Struggle for Equal Rights, 1982,” American Civil Liberties Union archives, 1950-1990. Wilmington, DE: Scholarly Resources, [2002?] Series 3, Roll 320, Folder 21, p. 11. This section is titled Discrimination in Pensions and Insurance. “In a random group of 1,000 men and 1,000 women at age 65, 84% of each group will match in death ages. Yet each individual male will pay less for annuities than each individual female.”
176 Ibid, 12.
audiences—giving the supporters of rescission a decided financial advantage. Ann Justice claimed in her report for the National Organization for Women that

Senator Richard F. Proud led Nebraska’s 1973 ERA rescission campaign in the Legislature and mailed out The Phyllis Schlafly Report “The Right to be a Woman” through his legislative office. (Reportedly, Mutual of Omaha had stacks of hundreds of Phyllis Schlafly reports in a room at their Omaha office.)

Regardless of the truth of this statement, the fact that Proud’s opponents brought up his Mutual of Omaha connection is significant. In a letter to the editor, Sharon Christie disparagingly called Proud a “tool of the insurance industry.” Christie does not clarify what she meant, but the connection to insurance companies had been clearly established, and a conflict of interest was probable in this situation.

These early letters showed that Nebraskans were receiving and believing mixed information. Under these circumstances, it was understandable that Nebraskans sought guidance their elected officials. These men and women looked to the Nebraska senators for reaffirmation and clarification but instead found uncertainty and further confusion. From this unstable footing, anti-ERA forces began to gain momentum in Nebraska.

This uncertainty was not only displayed the few surviving letters. As Speaker of the Unicameral, Senator Richard F. Proud’s announcement to initiate rescission legislation on January 9, 1973, sparked enormous controversy. For the first time since the initial reporting of the ratification, the Equal Rights Amendment received front-page exposure in Nebraska on January 10, 1973. Citing the numerous letters that legislators had reportedly received over the holiday break, Proud, endorsed by Sens. William Hasbroock of West Point and Irving Wiltse of Falls City, surprised many by introducing

\[^{177}\text{Justice, 15.}\]
\[^{179}\text{Walton.}\]
LR9, an effort to rescind Nebraska’s ratification of the Equal Rights Amendment, in the first session. Proud argued that the ERA was redundant because the U.S. Constitution already protected both sexes and because it would “deny the obvious fact that men and women are not the same.”

Reaction from ERA proponents was immediate. In the League of Women Voters of Nebraska (LWVN) January 9, 1973, Action Section Report, a call to action assigned a priority of action to opposition of the proposed rescission. It reported that state legislators had “received many letters opposing ERA. Mary Jane [Humphrey] to send Time for Action, to locals, units, and selected MALs; also prepare Fact Sheet for Senators to be distributed at proper time.” The “Post-Board Newsletter” also dated January 9, 1973, requested immediate action by members: “Equal rights for women amendment: This amendment passed by the Nebraska legislature in 1972 is now threatened by a concerted effort to repeal the action taken by the last legislature. Your letters to your Senator are needed urgently, NOW!, to keep this amendment on the books.” The LWVN went on to discuss preparations with known allies, such as the YWCA, Women’s Political Caucus, American Association of University Women (AAUW), National Organization for Women (NOW), Church Women United, Junior League, and the Methodists.

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At the same time that the letters opposing the ERA came to light, pro-ERA supporters were also making themselves heard.\textsuperscript{182} A sizable collection of correspondence derided the legislators’ decision to entertain the notion of rescission while acknowledging that the majority of the reported correspondence urged legislators to repeal. The Norfolk Area League of Women Voters (NALWV) declared its support for the ERA in a letter to the \textit{Wayne Herald} newspaper’s editor and attempted to disprove the myths surrounding the ERA. Citing the Congressional Senate Judiciary Committee Reports, NALWV explained that the amendment would affect only governmental actions (not private, personal relationships) and reminded readers that Congress already held the authority to begin drafting women—the amendment would not change that power. NALWV reiterated that equality under the law did not mean that men and women were exactly the same, but rather that men and women would be ensured the same opportunities.

The resolution to rescind inspired significant opposition by ratificationists outside organized women’s groups as well. In a letter to Sen. Proud, one Omaha woman criticized his decision to place his attention on the ERA rather than “something useful, like getting our crime rate down or ridding our country of dangerous drugs.”\textsuperscript{183} Others against LR9 suggested that “Proud should be shot,” and still others pledged to haunt him the rest of his life.\textsuperscript{184} The importance of these letters has been lost over the years and, unfortunately, all of these letters have been lost in their original form. Thus, the full


extent of their message and language—and fervor within them—will never be truly known.

Yet Proud remained unconvinced by ratificationists’ letters. During his campaign against the ERA, Proud often made remarks about the inability of women to appreciate the special place they had in society, and that he believed that an ERA would force women into extreme positions in order to achieve equality. The possibility of women being subject to the draft was prevalent in the Nebraska rescission debates, as it would be in national debates. The antiratificationists suggested the inappropriateness of a female soldier, while ratificationists responded that, although the army was about to become an all-volunteer organization, there was nothing stopping the government from drafting women even without an ERA in place.185

Further showing the conflict involved with the decision to initiate rescission, Dick Herman, the staff reporter assigned to the Unicameral by the Lincoln Star, wrote about a telephone conversation between Speaker Proud and Republican National Committeewoman Pat Smith after Proud had announced his intention to rescind the ERA ratification.186 Smith reportedly called Proud to admonish him for wanting to rescind. After allegedly taunting Smith about the Republican Party’s apparent lack of a stance on issues prior to rescission, Proud asked if Smith was in favor of placing pregnant women “equally” into front-line combat. Smith retorted “no more than sending men with prostate trouble.”187 These statements demonstrate the high level of emotion behind the

187 Herman, “Statehouse Letter.”
legislative actions and that the RNC was not yet beholden to conservative grassroots operatives.

At the moment of debate, senators could not agree on what the public truly wanted. Senator John Cavanaugh stated the mail he received was three to one in favor of the ERA, while Sens. William Hasebroock and Richard Proud said their mail was two to one against the ERA. Sen. Shirley Marsh characterized her mail as evenly split. Furthermore, the senators could not agree on the types of letters received. Proud claimed that those supporting a rescission were writing their own letters and not sending form letters, while pro-ERA Senator Ernest Chambers stated the opposite was true. However, the language used and the consistency among letters cited suggested there was a unifying influence at work. These letters echoed the concerns raised by protectionists, and they indicated that a great deal of confusion and disagreement existed concerning what the amendment could or would do for and against women.188

The lack of activism against the ERA in Nebraska prior to December 1972 raised many questions. Those who did voice their concerns appeared to be seeking a straight answer from their senators, which ultimately led to more confusion as the responses from the elected officials were halfhearted and vague. Furthermore, the written concerns available for consideration indicated a strong conservative influence in the choice of words and arguments. The rampant confusion regarding what the ERA would accomplish and what that would mean to the public caused considerable discord and

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opened a sizable opportunity for opposition forces to reinforce beliefs that the ERA would be more destructive than constructive. Oppositional forces purposefully created fear and confusion over the effects of the ERA as a way to depopularize and eventually kill it.
CHAPTER IV

“BEWARE THE IDES OF MARCH”: UNRECONCILED QUESTIONS LEAD TO ANOTHER “HASTY” DECISION

To say that Nebraska’s rescission debates were significant to the national movement is an understatement. At the time of Nebraska’s decision to rescind, 30 of the necessary 38 states had voted to ratify the Equal Rights Amendment in a scant twelve-month period. Once the Nebraska Unicameral voted to rescind its ratification efforts, however, momentum drastically slowed; only five additional states ratified the amendment over the next four years.\footnote{Jane J. Mansbridge, \textit{Why We Lost the ERA} (Chicago, IL: University of Chicago Press, 1986), 13.} The importance of Nebraska as a battleground state was evinced by the number of people from other states who attended Nebraska’s committee hearing debates in order to argue against the ERA and by the statements made by Nebraska State Senator Richard F. Proud (District 12, Omaha) reminding the Nebraska Committee on Government, Military, and Veterans’ Affairs that “the eyes of the nation are on” Nebraska to see what the Unicameral would do.\footnote{Nebraska State Legislature. Government, Military, and Veteran’s Affairs Committee. Hearing on LR 9. 83rd'Leg., 1st Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska, 4.} Although the same unresolved issues of the nullification of protective legislation and changing gender roles were debated by both sides, how the opposing parties argued their cases in the committee hearing and who testified for those parties were both areas of note. The modern conservative movement had arrived in Nebraska.

When Proud introduced Legislative Resolution 9 (LR9) on January 9, 1973, it was decided by the legislators to forward the resolution to the Committee on Government, Military, and Veterans’ Affairs for further consideration and debate. On January 15,
1973, the committee moved to postpone a hearing until February 22, 1973, to provide an opportunity for the public to consider and discuss the resolution. After much public debate, LR9 went before the Committee on Government, Military, and Veterans’ Affairs in an atmosphere of considerable emotion.¹⁹¹

Leading up to the debate, both sides had relied upon longstanding arguments to either support or oppose the amendment. For example, those who were against the ERA used the traditional conservative arguments, which focused on family values and probable gender-role changes, and argued that the new ERA would require women to register for the military draft; force women to forfeit any right to their husband’s pension money in the event of his death; prevent legal recourse against rape; diminish family values by forcing women to work outside the home; and eliminate all protective-labor laws. Those who supported the ERA argued that although it was true that women would be required to register with the Selective Service, the ERA would have little bearing on the military draft for two reasons: the U.S. military was becoming an all-volunteer military and the government already held the power to legally draft women, even without an ERA in place. They also argued that the ERA would allow either spouse to claim the deceased spouse’s pension, support legal recourse against rape (regardless of gender), strengthen family values by permitting wives to contribute financially to the family and allowing both parents more time with the family, and create a more balanced workplace by providing protective legislature to both men and women. However, intentional or not,

¹⁹¹ Nebraska State Legislature. Floor debate on Legislative Resolution 9. 83rd Leg., 1st Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska; “Equal Rights Airing Delayed One Month,” Lincoln Journal, January 15, 1973, p. 4. Although Sen. Proud put forth the statement of purpose to rescind the ratifying vote on January 10, 1973, it was not debated within the Committee on Government, Military and Veterans’ Affairs until February 22, 1973, chaired by Senator Ernest W. Chambers (District 11, Omaha). This would have left approximately six weeks for the public to become “more informed” and debate the issues.
the effects of the fracturing façade of the Women’s Movement also had effects on garnering support. And Nebraskan senators voiced concerns of the influence of the “radicals.”

The testimonies before the committee indicated that support for rescission came primarily from outside the state, whereas the opposition to rescission came from within. While opponents used non-Nebraskans or Nebraskans speaking for a national organization based in another state to provide testimony before the committee hearings, those speaking on behalf of the ERA were exclusively Nebraskans from Nebraskan organizations. Nebraskan proponents of the ERA, both female and male, were so abundant at the hearing that many did not have an opportunity to speak and were obliged to submit their testimony in written form. This was significant because the transcripts showed a clear imbalance of support in favor of pro-ERA activism. Anti-ERA testimonies numbered only nine written and spoken, while pro-ERA advocates numbered twenty-eight. In addition, Nebraskan proponents argued the merit of the amendment, while opponents primarily debated whether the legislature should once again revisit its decision on the ERA— not explicitly discussing the merits of the ERA. Many Nebraskans hoped the committee hearings would lead to a public vote to decide the fate of the ERA in Nebraska.

Political scientist Jane Mansbridge argued that the Equal Rights Amendment was defeated nationally, in part, because the opposition “shifted the debate away from equal

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192 See Proud’s discussion of Millett on pages 85-87.
193 Nebraska State Legislature. Government, Military, and Veteran’s Affairs Committee. Hearing on LR 9. 83rd Leg., 1st Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska. This was particularly important as antiratificationists would push for a vote to rescind instead of another consideration a mere two weeks later.
194 Letter from Mrs. J. W. Mellor (Irene) to Nebraska Governor J. James Exon, February 9, 1973. Governor J. James Exon papers. Nebraska State Historical Society, Box 74, folder “ERA.”
rights and focused it on the possibility that the ERA might bring substantive changes in women’s roles and behavior.” This was particularly the case in the February 22, 1973, committee hearing. The contention that substantive changes in the roles of women as a result of the passage of the ERA was strategically genius in Nebraska, where women helped their families in the home and in the field. Many residents held conservative beliefs about gender roles and family life. Women were expected to do the cooking and cleaning—traditionally seen as women’s work. It appeared that the threat of equality might mean altered roles for farming women or, perhaps even more alarming, forcing women to serve in the military, which would place them in close quarters with male soldiers—thus increasing the risks of rape and abuse. Furthermore, by possibly not receiving their husband’s Social Security benefits after his death, some Nebraskan women felt their work on the family farm would go unappreciated. Even more threatening, since many of these women had not worked outside of the home, they feared that upon their husband’s death all income would stop if the farm could no longer function.

Opponents of the ERA, including Phyllis Schlafly’s STOP-ERA organization, could take a firm hold in Nebraska with arguments that raised anxiety about the unknown and insinuated a trivialization of women’s efforts on the homefront by the ERA.

Mansbridge states that

[a] high-ranking insurance executive [from Nebraska] sent to all state legislators a piece of literature that declared: “Under the proposed Equal Rights Amendment, wherever males are accustomed to appear in public, nude above the waist, equal rights are absolutely guaranteed to

195 Mansbridge, 20.
females. Such places would most certainly include swimming pools, tennis courts and drive-in theatres.197

The probable dissolution of moral modesty and decorum in public locations was used time and again in the arguments by ERA opponents.

The Nebraska Unicameral had been packed with an interesting mixture of both supporters and opponents of the ERA on February 22, 1973, for the committee hearing in response to LR9. Janet Stewart, who had attended the Unicameral debates as a University of Nebraska, Lincoln, law student, recalled the diversity of those in the gallery.198 She also remembered that she had not realized the impact of the Supreme Court’s Roe vs. Wade decision on Nebraska until she entered the gallery to hear the debates. There was a woman in the chamber audience with a big poster containing pictures of the woman’s two children and underneath was written “save these precious jewels” in sparkling letters. Stewart was taken aback by the message. She remembered feeling as though the woman believed that the ERA, in conjunction with the Roe vs. Wade decision, would somehow lead to her losing her children.199

The issue of abortion was a particularly polarizing issue for women’s rights advocates. The rising New Right used the recent legislation on abortion to further misunderstandings about the ERA and reinforced their argument that pro-ERA advocates had no family values. Roe vs. Wade had been argued in 1971 and 1972, but the decision was given on January 22, 1973—just one month prior to the committee debates. Further

197 Mansbridge, 144. As a reminder, the insurance industry was still using gender as a classification and charged women more in premiums in order for the women to receive the same benefits as male counterparts and, therefore, stood to lose considerable money with the ratification of an ERA.
198 Janet Stewart, interviewed by author, Omaha, NE, July 22, 2005. Stewart was licensed by the state of Nebraska to practice law, but at the time of the interview was employed by an insurance company. Stewart contacted me after I had requested information from the Nebraska Commission on the Status of Women, of which she was a member. The NCSW dissolved in 2007.
199 Stewart interview, July 22, 2005.
contributing to the confusion, pro-ERA leaders did not seem to agree on what stand they wanted to take on abortion. Realizing the divisiveness of the subject, some ratificationist leaders wanted to separate the ERA from reproductive rights. Still others, such as the National Organization of Women and ACLU, “tried to further reproductive rights by bringing suit under state ERA laws.”

Legal scholar Reva B. Siegel seemed to support the possibility that women saw both *Roe v. Wade* and the possibility of awarding child custody to fathers as threats to motherhood and a direct result of the ERA in her work “Abortion As a Sex Equality Right: Its Basis in Feminist Theory.” In her discussion of antiabortion sentiments as antifeminism, Siegel wrote, “Physicians suggested that women’s interest in controlling birth was incited by feminist advocacy, and depicted abortion and contraception as an expression of women’s resistance to marital and maternal obligations.” If this interpretation truly represented Nebraska conservatives, it reflected the conservative claim that women in favor of an ERA were opposed to family values, which was also reiterated by Proud when he closed his testimony against the ERA with “Well Mr. Chairman, members of the committee, you have heard from all the liberals. You have heard from all the people who believe in abortion.”

The fear of losing one’s children played a recurrent and prominent role in the debates and was also voiced in the January 1973 articles and letters to the editor, as discussed in Chapter Three. It was these fears of unknown outcomes that ERA

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202 Ibid.

opponents used to their advantage. Echoing Schlafly and STOP-ERA’s language, Proud claimed that women had all of the benefits of citizenship without the major obligations—namely women were not subject to the draft. It was this worry of women being included in the draft, being forced to work outside the home whether they wanted to or not, and the legalization of abortion by the Supreme Court ruling—a ruling they feared would take their own children away—which eventually created an incendiary, reactionary, anti-ERA atmosphere not just in Nebraska but throughout the United States.204

Senator Proud argued that the male members of the Unicameral had been deceived by Senator Fern Orme’s rush to ratify.205 However, the newly elected Senator Shirley Marsh (District 29, Lincoln) defended the ERA when she took office in 1973 and argued that Sen. Proud’s introduction of LR9 was illegal as it violated previously established precedents regarding a state’s ability to rescind a ratifying vote and would have been nullified had the legality of rescission ever faced the Supreme Court.206

Demonstrating the importance he placed on his actions in rescinding Nebraska’s ratification vote, Sen. Proud published a novel in 1988 titled Portrait of a Legislature. The ERA ranked high enough for him to include a major portion about it in this book. However, while it was sold as a fictional tale, it should be noted that there are several similarities between the book and his life. For instance, the main character, Henry Candlewaite, bears an uncanny resemblance to Proud himself, making what many would consider derogatory remarks about the women with whom the character comes into contact. Both author and character began their careers as attorneys in their father’s law

204 This can be seen in the remarks made by both sides of the debate at the national level, but particularly in Betty Friedan’s exclamations to Phyllis Schlafly as referenced in Chapter Two.
205 Ibid, pp. 3 and 45.
office; both had a wife and a daughter; both entered legislative careers in a Unicameral legislature; and both attempted to rescind previous ratifications of an ERA. Yet the key element that connects the fictional character and author was one in which Henry Candlewaite literally arm-wrestled a woman in defense of his decision to rescind the ERA. Candlewaite won the event—just barely. Proud admitted in 2005 that this was a situation he had personally experienced. Proud was quite pleased with himself to have won the arm-wrestling contest with the woman, recalling that it would have been terribly detrimental to his motion had he lost the bet.

Though as the speaker of the Unicameral he was not to introduce legislation or take an active part in the proceedings, Proud’s role was clear from the beginning of the debate on rescission. In the beginning moments of the hearing before the Committee on Government, Military, and Veterans’ Affairs, Sen. Proud took the lead and worked to negotiate additional time for testimonies. At that time, though, cheers erupted as Vice-Chairman of the Committee Senator Wally Barnett Jr. (District 26, Lincoln) announced that he had just been informed that President Richard Nixon had endorsed the Equal Rights Amendment. Sen. Proud suggested that the reporters in the chamber should take note of the audience composition. It was not recorded into the logs or newspaper logs.

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208 Richard Proud, personal phone call with author, Kearney, NE, July 23, 2005. Indeed, Proud was not re-elected in 1974 and many considered his failure to be re-elected a direct result of his campaign to void Nebraska’s ratification vote.  
209 Nebraska State Legislature. Government, Military, and Veteran’s Affairs Committee. Hearing on LR 9, 83rd Leg., 1st Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska. It was ultimately decided that each side would have 90 minutes to present their witnesses and another 40 minutes for rebuttals.
accounts what those counts were, but it took some time for Senator Wally Barnett Jr. to settle the audience again after the announcement of Nixon’s support.\footnote{Ibid. Transcripts read: “We’re going to have to stop the outbreaks. All right, could I have your attention? I’m going to caution you right now that if we have (END OF BELT 1) anymore outbursts from either side, we will have to clear this room. I want that understood. This is to be a hearing and there would be a lot of opportunity for applause, I am sure. To be fair to both sides, I will not allow anymore outbursts.”}

In response to the audience’s raucousness upon hearing of Nixon’s endorsement, Sen. Proud replied,

\[\text{It is quite obvious that the President of the United States is out of touch with the grass roots of this country. And we here in Nebraska aren’t going to let, in all due respect, we’re not going to let Richard Nixon or any other politician tell us what to do.}\] \footnote{Nebraska State Legislature. Government, Military, and Veteran’s Affairs Committee. Hearing on LR 9. 83rd Leg., 1st Sess. Nebraska State Legislature, Legislative Records. Lincoln, Nebraska, 2.}

Strongly defending anti-ERA rhetoric, Proud suggested that the ERA should be called “Equal Obligation” because women would be obliged to be citizens in the same sense that men had been. He further explained that it had been “necessary to name it Equal Rights to fool the State Legislators … [and] the Congress.”\footnote{Ibid, 2.} By claiming that the Equal Rights Amendment should be called Equal Obligations, he placed women again on that proverbial pedestal, as he had done many times in newspaper articles since his proposal of LR9, by arguing that women should not be obligated to sully themselves with what he saw as male responsibilities.\footnote{Kandra Hahn, “Unicam Speaker Proud Enjoys Position, Worries About Justice,” \textit{Lincoln Journal-Star} January 21, 1973, p. 1B. “[Proud] likes women on a pedestal and thinks men should bear the burden of women’s special privileges, he says.”} He also stoked the apparent fears of rural women—fears that had been intentionally exacerbated by conservative activists. Following anti-ERA strategies, he reinforced the confusion over what this amendment may or may not accomplish with emotionally based arguments.

One example of Proud’s attitude can be found in a story he told about a meeting with a representative of the League of Women Voters of Nebraska (LWVN). Senator
Proud chuckled as he recalled asking her how she felt about being subject to the military draft; she reportedly replied that there would be no more wars. Proud used this statement against the credibility of the LWVN and asserted, “This is how uninformed some of the League is.” Continuing, Proud criticized the LWVN for placing a statement of support in association with the National Ladies Auxiliary of the Veterans of Foreign Wars (NLAVFW) in the *Lincoln Journal*, claiming, “that’s not true; that’s just not true at all.” While admitting that he was unsure of where the Women’s Christian Temperance Union (WCTU) stood nationally, he doubted that the Nebraska chapter supported the ERA. Furthermore, insinuating a strong connection between immorality and the supporters of the ERA, Proud estimated the National Organization of Women (NOW) as the largest supporter of the ERA and continued that NOW “also back[ed] unrestricted abortion, marriage of homosexuals, [and] all that type of thing” — including an insinuated connection to the previously mentioned *Roe v. Wade*.

As part of his argument, Proud also sought to demonstrate the unreliability of the feminist movement’s philosophers and theorists. To do so, Proud listed a number of

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214 Ibid, 3. In this testimony, Proud neglects to mention the falling out he had had with LWVN the previous month over the ERA. Evidence in the LWVN archival collection indicates that Proud had worked closely with LWVN members on a number of legislative projects (letter dated November 3, 1971) until two days prior to these hearings in February 1973 when Proud perceived a comment made in the newspapers by the LWVN president to have “viciously and unwarrantedly besmirched my character.” League of Women Voters Nebraska Archival Collection (RG1987), box 3, folder 3. Nebraska State Historical Society, Lincoln.

215 Ibid, 4. This further contributed to the confusion surrounding the ERA. The NLAVFW had publicly declared itself in favor of the ERA, but here was Proud—an elected official—telling the public that it shouldn’t trust what appeared in the media.

216 Proud also submitted no proof of this claim. It was somewhat suspect as two days before these hearings (on February 20, 1973) the ERA Task Force had taken out quarter-page ads in *The Lincoln Star*, *The Lincoln Journal*, *The Omaha World Herald*, and the *Kearney Hub* listing the Nebraska-based supporters. Included in this list was the Women’s Christian Temperance Union, United Methodist Church—Women’s Division, Omaha Archdiocese—Council of Women Religious, Omaha Province—School Sisters of Saint Francis, National Coalition of American Nuns, Council for Christian Social Action—United Church of Christ, Church Women United, American Jewish Congress, and the American Association of Women Ministers. League of Women Voters Nebraska Archival Collection (RG1987), box 6, folder 2-1. Nebraska State Historical Society, Lincoln.

217 Ibid, 4.
books commonly associated with the feminist movement hoping to shock the committee and audience members with sordid material. However, Proud did not make his purpose very clear. He chose only to elaborate upon Kate Millett or, more accurately, a paragraph she had quoted. Sen. Proud admitted only reading “parts of most of them [the books],” but he did note that the first paragraph was from Henry Miller’s book. Millett began her 1969 *Sexual Politics* with a paragraph from Miller’s *Sexus*. The paragraph read:

I would ask her to prepare the bath for me. She would pretend to demur but she would do it just the same. One day, while I was seated in the tub soaping myself, I noticed that she had forgotten the towels. “Ida,” I called, “bring me some towels!” She walked into the bathroom and handed me them. She had on a silk bathrobe and a pair of silk hose. As she stooped over the tub to put the towels on the rack her bathrobe slid open. I slid to my knees and buried my head in her muff. It happened so quickly that she didn’t have time to rebel or even to pretend to rebel. In a moment I had her in the tub, stockings and all. I slipped the bathrobe off and threw it on the floor. I left the stockings on – it made her more lascivious looking, more the Cranach type. I lay back and pulled her on top of me. She was just like a bitch in heat, biting me all over, panting, gasping, wriggling like a worm on the hook. As we were drying ourselves, she bent over and began nibbling my prick. I sat on the edge of the tub and she kneeled at my feet gobbling it. After a while I made her stand up, bend over; then I let her have it from the rear. She had a small juicy cunt, which fitted me like a glove. I bit the nape of her neck, the lobes of her ears, the sensitive spot on her shoulder, and as I pulled away I left the mark of my teeth on her beautiful white ass. Not a word was spoken.

It was not clear as to why he would have the committee members read the Miller paragraph and not any portion of what Millett herself wrote other than to invoke a scandalous feeling because, despite the potentially shocking title and introductory paragraph, Millett’s book was a relatively tame analysis of inequities in a “complacent

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221 Miller, 180; Millett, 1.
However, the result of this introduction was attention misdirection in keeping with conservative strategies. Yes, the paragraph mentioned was in the book—but as an example of what women wanted to eliminate, not perpetuate.

Proud was judging Millett not on her own analysis but on the writing of a male author. Using the male author’s words, Proud transferred a sentiment of immorality upon Millett’s work that did not exist. Given Millett’s reputation as a radical feminist, it was surprising that Proud did not base his dismissal upon that reputation. He only briefly touched on her activist reputation—specifically her support of “radical lesbians,” the paragraph in which she quoted Miller, and a very tame biographical paragraph. It appeared that Proud had brought Millett to the attention of the committee primarily because Millett’s sister, Sally Rau, had “been designated apparently as the leading spokesman in Nebraska for the ERA.” He wanted to shock the audience and rattle any presumed supporter of the ERA by introducing misleading radical and anti-family values as belonging to pro-ERA activists.

Proud’s opening statement was clearly an attempt to discredit his opponents in rescinding the ratifying vote for the ERA in Nebraska and to confuse anyone still undecided by drawing a connecting line between supporters of the ERA and radical feminism, which further threatened family values. This opening statement, though, did

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222 Millett’s own writing began, “This colorful descriptive prose is taken from Henry Miller’s celebrated Sexus, first published in Paris in the forties but outlawed from the sanitary shores of his native America until the Grove Press edition of 1965. Miller, alias Val, is recounting his seduction of Ida Verlaine, the wife of his friend Bill Woodruff. As an account of sexual passage, the excerpt has much in it of note beyond that merely biological activity which the narrator would call ‘fucking.’ Indeed, it is just this other content which gives the representation of the incident its value and character.” Millett, 1-2.


not go without opposition. Senator Richard M. Fellman (District 4, Omaha) asked for clarification of Sen. Proud’s testimony. Fellman asked if Proud’s position was “primarily based on what you’ve told us, primarily based on who supports it and who’s against it?” Proud replied he was simply trying to point out the moral values behind the supporting leadership of the ERA. Sen. Fellman suggested that Proud was equating the “radical libbers” with those supporting the ERA and by stating that anyone voting for the amendment had been “infiltrated and led around by the nose.” Fellman then drew an equally direct correlation between the questionable groups that supported Sen. Proud’s side. Fellman stated that the Ku Klux Klan and John Birch Society both supported Proud’s proposal and implied that if Proud felt it important to point out the proponents of the ERA, it should also be pointed out who opposed the ERA. Sen. Proud stated he did not mind extreme right-wing support, going as far as to say that he did not care who voted for him, as long as they voted for him.

Further contributing to the misunderstandings and rumors surrounding what an enacted ERA would do for and/or to women, some of the individuals who gave testimony before the Nebraska Committee on Government, Military, and Veterans’ Affairs were unclear in identifying for whom they spoke. For instance, some witnesses claimed to speak for Nebraska women, but they themselves had never lived in Nebraska, had only recently moved to Nebraska, or were speaking on behalf of a major organization headquartered in another state. Bernice Johnson, reported chairwoman of Women of Industry of Nebraska, spoke on behalf of Women of Industry–Ohio. She wrote, “This is

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226 Ibid.
227 Ibid, 7.
why we are glad to have the protective labor legislation to protect us from being forced by our employers to do man’s work. We don’t want to give up these protections.”

Johnson illuminated the fears of many—that protective-labor legislation could be eliminated with the ratification of the ERA.

The testimony in favor of rescission was extensively provided by outside sources of anti-ERA sentiments, such as those of Schlafly, and Women of Industry–Ohio. Lana Tyree, an attorney for Standard Life and Accident Insurance Company, “traveled across the country introducing testimony and her legal brief against ERA in numerous state legislatures.”

Tyree spoke after Proud against the ERA in the committee hearing, stating that she had been “contacted by Senator Richard Proud … who heard of her through Phyllis Schlafly.” Utilizing a popular conservative tactic and driving pro-ERA advocates crazy in the process, Tyree was very effective in playing off the male senators’ expectations of a lady. Tyree introduced herself and immediately made a reference to Nebraska football, which, as anyone from the Midwest knows, was, and remains, very close to the heart of many Nebraskans. Tyree said:

I come to you number one as an Oky [sic]. I’m very proud to be here among the other Big Red or the second Big Red in the United States. I hope the Legislature of the state of Nebraska will show

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228 Nebraska State Legislature. Government, Military, and Veteran’s Affairs Committee. Hearing on LR 9, 83rd Leg., 1st Sess. Nebraska State Legislature, Legislative Records, Lincoln., “Exhibit 2 submitted by Bernadine Johnson.” It was not uncommon for activists for and against to use the blanket statement “protective labor legislation” and Ms. Johnson did not elaborate which protections she was most concerned about. However, it can be presumed that in this instance Ms. Johnson was concerned with the restrictions on weight requirements and the Fair Standards Act at the very least.

229 Justice, 12, 8.


231 Critchlow, 223. Critchlow discusses in detail the conservative women’s attempts to emphasize their femininity. He wrote: “What they brought to the anti-ERA movement was an ability to talk to state legislators, many of whom they knew as neighbors or as members of their congregations, without appearing threatening. These were women who would send a thank-you card to their legislators for voting ‘No’ on ERA with a drawing of an adoring woman with her head tilted and her laced fingers under her chin, surrounded by floating hearts with a caption reading, ‘For Recognizing the Difference, You are Terrific, Fantastic, and Marvelous.’”
the same courage as the football team from the state of Nebraska, with which we are very well familiar incidently [sic].\textsuperscript{232}

By using this reference to football, Tyree had made a subtle connection to the senators, one that said that she could be trusted because of her understanding of Nebraska history and love of football, even though she was from a rival sports state. Like Schlafly and Proud, Tyree exploited traditional gender roles and drew a direct correlation between the male senators and the masculinity of football. In this quote, Tyree implied that the ERA, by eliminating any difference between men and women, would undermine Nebraska’s courage displayed in football, and developed a sense of camaraderie through the relationship of college football. By implying that the senators’ strength was in danger through the example of college football, Tyree had used a corollary argument to Phyllis Schlafly’s insistence that women must be protected by men and placed that relationship in danger as well.

Phyllis Schlafly, one of the biggest opponents of the ERA on a national level, worked extensively with Richard Proud after he introduced the rescinding action in Nebraska. After successfully defeating the ERA in Nebraska, Proud traveled to other states on behalf of STOP-ERA to speak against the ERA to the legislatures of states that had been waffling in their decision.\textsuperscript{233} Despite the fact that Schlafly was a mother, wife, and—by the late 1970s—lawyer, she spoke against the amendment that would have given more women similar opportunities to explore career and family. Schlafly argued that women would lose their benefits of womanhood such as being able to raise their own children, cook for their husbands, and create a happy home. She claimed that equality


\textsuperscript{233} Richard Proud, phone call with author, Kearney, NE, July 15, 2005.
would mean losing these “privileges.” Though Schlafly spoke to several legislatures, there is some disagreement regarding Schlafly’s direct role in Nebraska’s debates. Though her presence in Nebraska has been disputed, Schlafly did indeed visit Nebraska. Schlafly hosted a breakfast in February 1973 for the Nebraska legislators. During this breakfast Schlafly reiterated that one of the “rights” which would be withdrawn by the passage of the ERA was the “right to have [her] husband financially support women [sic].” This would have been particularly distressing for rural Nebraska women who relied upon their husband’s income in the survival of the family farm.

Schlafly often drew on the idea that the ERA would “destroy a woman’s right to stay home.” But as pro-ERA activist Justice pointed out, “despite her ‘homebody’ rhetoric, Phyllis Schlafly is constantly on the road and on the airwaves, away from home and family.” The breakfast was held at a private location that would allow Schlafly to speak with Nebraska legislators and impress upon them her concerns. However, because the breakfast was held outside the Capitol building, no official transcript was taken. But there is evidence that she visited Nebraska at least twice—once for the breakfast and once for a television interview in Omaha.

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235 I first discovered this breakfast through a personal phone call with former Senator Shirley Marsh; however, through the course of my research, I also found evidence in several newspaper articles. Lincoln (AP) “ERA ‘Would Erode Women’s Rights,’” Lincoln Star, February 16, 1973, p. 4.
237 Justice, 28.
238 Justice, 28.
239 Not even Critchlow mentions Schlafly’s numerous visits to Nebraska in an effort to rescind the ERA. However, it was alluded to in some newspaper coverage and the committee testimony of James L. Hanry, director of the Omaha Housing Authority: “I want to mention the plight of women including those who live in our public housing. They are among the poorest women in Nebraska. They are light years apart from Mrs. Phyllis Schlafly, the darling of the John Birchers who appeared recently on an Omaha television station with her frozen smile and bent and twisted the truth to try to scare Nebraska women into believing that in gaining rights under the ERA they would be forced into various bad circumstances. All of the arguments and scare tactics of this Illinois import were completely absurd.”
The testimony of James L. Hanry, executive director of the Omaha Housing Authority, provides the necessary link between Schlafly and her televised interview in Nebraska. In addition, Hanry’s testimony illustrates the disconnect between the working-class and farming women of Nebraska and the figurehead of STOP-ERA. He wrote: “While the wealthy Mrs. Schlafly can hire maids to take care of her household and children, the majority of [Nebraska] mothers in public housing can scarcely afford to pay babysitters in order to go to their low-income jobs. Nobody in his or her right mind deprecates the housewife and mother who can and does stay home. However, today many American women work. Many of them work because they are very poor and have no choices; others work because they choose to do so.”

Speaking on behalf of those who opposed the rescission, Sen. Marsh opened her testimony by reminding the committee and the chamber audience of the long history of the ERA. Sen. Marsh, successor of Sen. Fern Orme, did not expect to have to speak up on behalf of the ERA when she took office; it seemed to be settled before her elected term began. Still, when her term began in January 1973 and Sen. Proud introduced his bill to rescind Nebraska’s ratifying vote, Sen. Marsh knew that she had to speak on behalf of the ERA. Referring to the immediate and extensive media coverage following the proposal to rescind, Marsh stated, “Why then is the Equal Rights Amendment an issue in Nebraska today? Clearly because of misunderstanding. We welcome therefore the

opportunity to demonstrate by testimony that the Equal Rights Amendment is necessary.  

Sen. Marsh was clear when she spoke, making unmistakable connections between the examples she provided and the expressed fears about the ERA. Drawing on Nebraska history, she said, “Our state was settled by men and women who endured the hardships of pioneering, equally. For them there were no pedestals. For us we ask only equality of rights before the law.” By tying the debate to their strong past, Marsh suggested the ERA would bring continuity to women’s rights and the strong place women occupied in Nebraska. In closing, Sen. Marsh said, “I would like to make a comment that all of the persons testifying on this side [against rescission] here today are Nebraskans.” With this statement, she reminded the committee members that the majority of testimony from opposing forces was either from non-Nebraskans or by individuals representing national organizations.

Senator Harold D. Simpson (District 46, Lincoln) also spoke on behalf of the ERA. Simpson stated that he felt the ERA was an emotional issue. When Sen. Decamp asked if he had thought there was “some confusion in the minds of a lot of people and to what the effect of the Equal Rights Amendment would be,” Sen. Simpson answered that he was not sure that he felt they were confused. Expanding that he explained, “I think that there has been many issues brought out which are not pertinent to the amendment as

242 Ibid, 32.
243 Ibid, 32.
244 For instance, those assembled by Sen. Proud and Tyron Grothe included Mrs. John Flynn of Omaha, speaking on behalf of the Omaha Archdiocese Council of Catholic Women (whose position was negated in later testimony by Sister Mary Gabriel); Lana Tyree, an attorney from Oklahoma; Bernadine Johnson, chairwoman of Women of Industry, Nebraska branch; Mary Bryl, who submitted a letter from the AFL-CIO; Elina Wiedurvilt, – a former Cuban national; and Jackie Davison, the president of Happiness of Womanhood League of Housewives in San Diego, CA.
Both Sen. Simpson and former Sen. Orme declared that the hearing before the committee was a waste of everyone’s time, and if the committee brought LR9 before the legislature for further debate it would only continue to waste valuable legislative time. Many proponents expressed the opinion that since the Unicameral met for only ninety days during the year, for so much of that time to be devoted to previously decided legislature was useless—particularly when Nebraska’s attorney general and other legal minds had declared rescission of a ratifying vote an illegal action.\(^\text{246}\)

Though support for the ERA was strong in Nebraska, the conservative, anti-ERA tactics were more effective in persuading the legislators to their side. On March 15, 1973, the Ides of March, Proud pushed the Nebraska Unicameral to vote on LR9 without further discussion. The \textit{Lincoln Star}\(^\text{247}\) described Proud’s action: “Thursday’s vote came after a brief debate when Proud unexpectedly raised the issue from far down on the legislative floor calendar for immediate consideration.” The senators voted to nullify their earlier ratification vote with a final vote of 31 ayes, 17 nays, and 1 not voting.\(^\text{248}\) This meant that thirty-one senators voted to rescind Nebraska’s ratifying vote, including Sen. John Decamp who had introduced the ERA to the Unicameral alongside Sen. Orme, which was one fewer than the original thirty-two who voted to ratify the ERA. Senator Decamp was recorded in the legislative transcripts as changing his vote from against the

resolution to for the resolution in order to potentially reintroduce the amendment at a later date. 249 There is no record that Decamp ever did so.

A byproduct of the Unicameral system, the hasty decision to vote on rescission and the suspension of rules (in order to immediately consider the motion) mirrored the efforts of Senator Orme to ratify the ERA just twelve months prior to the 1973 rescission. One of Proud’s major arguments for rescinding was that the male senators had been forced to vote (twice) without serious consideration of the facts. When the Committee on Government, Military, and Veterans’ Affairs adjourned after brief deliberations following the hearing on LR9, they had decided to bring it before the Unicameral once again to discuss and clarify many of the points made in the testimonies. 250 This indicated that the senators may have expected the topic on the calendar to be a discussion and not a vote. Senator Ralph Kelly of Grand Island “objected to the manner in which the resolution was considered with adoption in a single vote after suspension of legislative rules.” 251 Senator Harold Simpson echoed Kelly’s claim, arguing that the Unicameral had violated its rules by “adopting a correctional amendment to the resolution after further debate had been foreclosed by a motion to halt discussion.” 252 Those statements by senators voting for the ERA seemed to indicate a resistance by some senators to rush into another decision.

Effective in halting the momentum for the ERA by successfully rescinding, Nebraska influenced those states which had not yet voted. For example, proponents had declared that if the ERA were not ratified in 1973, it would never ratify given a distinct

249 Ibid.
252 Ibid.
loss of momentum. Martha Gadberry was working for the Arkansas Commission on the Status of Women in 1973 when Nebraska passed LR9. She recalled that Nebraska’s rescission created a backlash in Arkansas’s effort to ratify. As Gadberry remembered,

\[\text{Opponents cited NE as the ones who “saw the light” and decided to try to rescind their decision. … Heavy public campaigning by both groups, Anti's used the church network, cause there are a lot of “obey your husbands” advocates in the state. NE's rescinding simply reinforced their arguments that it was not the right thing to do.}^{255}\]

Schlafly would later claim that Nebraska’s rescission of its vote to ratify the ERA was the first major victory for STOP-ERA. Schlafly’s fervent opposition to the ERA—and her claim that the defeat of the ERA in Nebraska was the first major victory—encouraged Senator Proud to speak to other states about the ERA and its future uncertainties. As a result, Proud went to at least four other states, including Tennessee and Utah, to effectively speak to their legislatures against the ERA.

The pro-ERA opinions of the Nebraskan general public were not accurately reflected in the actions of the Unicameral, given the testimony before the Committee on Government, Military, and Veterans’ Affairs. But the senators opposing the ERA employed confusing tactics to overthrow a decision threatening their own conservative nature. Indeed, the anti-ERA forces were ultimately successful in defeating the pro-ERA arguments—strategies they used and refined in subsequent attempts to defeat the ERA at the state level. The anti-ERA movement came to Nebraska to defeat the already-ratified Equal Rights Amendment, and it succeeded.

\[\text{254 Martha Gadberry, “Arkansas,” e-mail message with author, Kearney, NE, July 11, 2005.}\]
\[\text{255 Martha Gadberry, “RE: Arkansas,” e-mail message with author, Kearney, NE, August 2, 2005.}\]
CONCLUSION

The Equal Rights Amendment (ERA) began in 1923 as an attempt to provide equal rights in all areas of life to all women and men. Momentum from the successful ratification of the Nineteenth Amendment seemed to increase over time, with a successful ratification of the ERA assumed by many to be inevitable in eventuality. However, the proposed ERA was mired by misunderstandings in the general population as well as serious conflict between the two factions that might have united and been its most effective supporters. Agreement on the probable outcomes of the proposed amendment was never reached, and a great number of men and women both were concerned about potential changes to traditional gender roles that this new amendment could effect. To date, scholars have placed the blame for the failure of the ERA with each side—those states which favored ratification, and those which did not—but few have analyzed the political controversies within rescinding states or the significant factors that allowed anti-ERA conservatives to gain the upper hand. Policies that stemmed from New Deal and Great Society politics as well as the looming memories of the sometimes shocking liberal social movements of the 1960s, set the stage for the rise of the modern conservative movement in the 1970s and 1980s and the eventual defeat of the ERA. The unexpected divisions that challenged the members within liberal organizations, while generating a weakness in their own united fronts, unintentionally also strengthened the conservatives and pushed them toward victories.\footnote{Bruce J. Schulman and Julian E. Zelizer, eds., \textit{Rightward Bound: Making America Conservative in the 1970s} (Cambridge, MA: Harvard University Press, 2008), 9.} In this environment of uncertainty the modern conservative movement took advantage of an opportunity in Nebraska politics to gain support, strength, and credibility through a wider national audience. Although its content
seemed simple and direct enough, the Equal Rights Amendment was truly complex and held no easy answers for those who questioned its purpose and potential effects.

The lengthy history of the ERA has often been neglected in analysis of pivotal events of the 1970s. Early ERA activists set the stage for the eventual national defeat of the ERA; many of the concerns surrounding what the amendment could do for and against women’s rights had never been adequately answered. Disagreements on the most effective approach to achieve equal rights were never truly resolved which weakened pro-ERA advocacy and, as a result, created a situation in which the amendment had no serious opportunity at full approval. Many Americans held valid concerns that an enacted ERA could nullify or reverse the already-established protective-labor laws; concerns also arose about potentially changing gender roles, which some associated with the feminist movement of the 1960s and 1970s. These concerns boosted the standing of the opponents of the amendment and created a major obstacle for the proponents, as it left reasonable doubt in the minds of lawmakers—as seen in the testimonies given to the Committee on Government, Military, and Veterans’ Affairs. Furthermore, concern regarding the stability of protective-labor legislation after ERA ratification was used to weaken and eventually stall the momentum of the ratification process.

The history of Nebraska’s rescission was further complicated by the unique circumstances of its Unicameral. Since 1934, Nebraska has been the only state to have a Unicameral government structure. Furthermore, the single-house system of Nebraska’s Unicameral permitted propositions to be ratified more quickly and provided less opportunity for debate for both the original ERA ratification and later rescission. These unique legislative circumstances inhibited serious analysis of the proposals; no automatic
system of checks and balances existed to slow the process and allow equal considerations of both sides of an argument—something that a bicameral house would have provided. Had a second legislative house existed in Nebraska, there may have been more discussion prior to the ratification, and it is quite possible that a thorough discussion before ratification would have stemmed any misgivings by the general public. Thus, it is also possible that either the ratification would not have occurred in 1972 or no attempt to rescind would have been brought forth. Both Senator Orme in her proposal of the ERA and Senator Proud in his proposal to rescind the ratification vote were able to suspend normal regulations and push a vote through without a checks-and-balances system to slow the process and force deeper investigation and consideration before any vote could take place. In addition, the non-partisan structure of the Unicameral provided ample opportunity for both the liberal and conservative activists to state their causes without concern of stepping on party toes.

Salary allowances for members of the Nebraska Unicameral were quite inadequate for the cost of living in the 1970s, and therefore Nebraska state senators were usually forced to maintain additional employment in order to provide enough income to support their families, which brought into question the loyalties of some legislators. (In their elected positions, did these individuals represent their Nebraskan constituents or their outside employer’s interests?) This need for additional financial support became very important regarding the public’s perception of Senator Proud’s employment with to Mutual of Omaha and the possible conflict-of-interest situation in which the insurance company may have funded Phyllis Schlafly’s STOP-ERA mailings to the Nebraskan constituents under Senator Proud.
Conservatives sowed confusion surrounding what exactly the ERA would legally require of women and businesses, and this tactic was very successful in sending the amendment toward defeat. Initially, opponents of the ERA feared the nullification of protective-labor laws with a ratification of the ERA, and it was precisely these uncertain outcomes which threatened the status quo and allowed grassroots conservative activists to establish a strong following which disassembled the liberal activists’ arguments. The inability of the proponents of the ERA to define the amendment’s potential effects only increased what was expressed in the debates as a huge fear.

The lack of visible public activism against the ERA in Nebraska prior to December 1972 raised many questions. Those who did voice concerns appeared to simply be seeking clarifications from their senators, which led to more disillusionment when their concerns were dismissed or only vaguely addressed. The disagreement about the ERA’s expected impact caused considerable uncertainty and allowed opposition forces to reinforce fear-based beliefs that an enacted ERA would be more destructive than constructive. The concerns voiced in starting in January 1973 were unexpected and relatively new in the state. Although Nebraska seemed to have laid the ERA vote to rest with its ratification in 1972, the United States was dealing with the emergence of newly evolving anti-ERA organizations, as well as renewed interest in an anti-ERA campaign by established conservative groups.²⁵⁸ By late 1973, these organizations had reached a

pinnacle of influence and had converted Nebraskan conservatives; soon thereafter
Senator Proud introduced LR9, a move to rescind Nebraska’s ratification of the ERA.

Grassroots conservatism established by Schlafly played a major role in
Nebraska’s rescission and the eventual defeat of the ERA nationally. The
antiratificationists created regional and national disagreement by purposefully making the
issues surrounding the ERA cloudy and, thus, more threatening. Conservatives “cut their
teeth” in the Nebraska debates. The lessons they learned and the tactics they honed in
this state were used widely in future state-level campaigns. They took their cue from their
success in Nebraska and focused on states that were outwardly undecided on their ERA
vote. In those waffling states, they drove home the same fear, misunderstandings, and
confusion that had worked so well in Nebraska.

This thesis contends that many of Nebraska’s citizens were not accurately
represented by the actions of a few senators, and that those few influential and powerful
individuals capitalized upon the confusion surrounding the ERA in order to rush through
their rescinding legislation. In addition, those who sought counsel from state
representatives did not have their questions and concerns accurately or effectively
addressed. Outsiders (activists from other states) were significantly more important to the
rescission than has been previously analyzed in scholarship and inspired doubt in what
the true impact of the ERA would be—from effects on the family to effects on the
national job market, even to effects on cultural mores and social standards. The
representation of ERA opposition before the Committee on Government, Military, and
Veterans’ Affairs’ hearing was almost exclusively provided by non-Nebraskans;
conversely, the testimony in favor of the amendment was presented entirely by
Nebraskans. By making the argument about what women might lose, and not about what they could gain, opposition senators were successful in arguing against legislation which theoretically threatened their own conservative nature and their own personal and political interests.

Effective in halting the momentum for the ERA by successfully rescinding, Nebraska also influenced those states which had not yet voted to ratify. At the time of Nebraska’s decision to rescind, 30 of the necessary 38 states had voted to ratify the Equal Rights Amendment; however, once the Nebraska Unicameral voted to rescind its previous ratification, the momentum of supporters drastically slowed. Only five additional states ratified the amendment before the time limit elapsed missing the necessary 38 states by only three. The emotional investment of both sides was high (those against the ERA were often fearful and/or confused while those for the amendment were frequently angry and/or frustrated) and all involved saw the state as an important example for their cause. As U.S. Senator Orrin Hatch would later write, “On both sides of this issue, debate has often been characterized by more heat than light, with frequent reliance on distortion, simplistic appeal, hyperbole, and emotional, rather than rational argument.”

Nebraska’s rescission was controversial for several reasons. First, there was no agreement within the legal community as to the legality of rescission. While most legal scholars agreed that rescinding a state ratification of a national constitutional amendment was illegal, there are still legal scholars who claim it was a legal action, including that of

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In January 1973, Nebraska’s attorney general declared rescission of a vote ratifying a national constitutional amendment unconstitutional. Despite this frequently reported opinion appearing in various Nebraskan newspapers, the rescission process still went forward. However, when the same question arose in a state that had previously ratified—and encouraged by conservative activists—states began to question and more fully scrutinize what the amendment would mean and most erred on the side of caution. Even though many other states created state-level legislation as an alternative to a national ERA, in 2009 Nebraska still has no state-level ERA and is considered one of the most conservative states regarding women’s rights.

What should be remembered as a result of this research on Nebraska is that a single state can change the entire nation. Despite the negative taste some still experience when discussing Nebraska’s reversal of its ERA vote, the rescission process accomplished several things. It halted the momentum of a nation, and it also provided important experiences and lessons for all factions of women’s rights activists—especially for those conservative activists who perfected their antiratificationists strategies in this key state.261


261 One lobbyist I interviewed stressed the importance to her of being remembered not for the loss of the ERA but for the lessons learned in order to be triumphant in other areas of legislation. Many of the pro-ERA activists who campaigned in Nebraska later went on to successfully campaign in Nebraska for domestic violence legislation, child protective legislation, and seat belt safety legislation.
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