League of Women Voters of Minnesota Records

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Version 3
August 20, 2018

CATHOLIC WOMEN
FOR THE
E.R.A.

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CATHOLIC WOMEN FOR THE E.R.A.

THE WOMAN'S PROCLAMATION

WHEREAS Christ treated women with equal dignity and humanity; and

WHEREAS the Sacred Scripture states, "There is neither Jew nor Greek, there is neither slave nor freeman, there is neither male nor female, For you are all one in Jesus Christ." (Galatians, 3,17-23); and

WHEREAS all the women of venerable memory—Judith, Esther, Deborah, Ruth, Sarah, Rebecca, Rachel, Mary Magdalene, Lucy, Paula, Helen, Bridget, Priscilla, Justina, Joan of Arc, Catherine of Siena, Hedwig, Elizabeth, Teresa of Avila, Angela and Frances Cabrini—are equal in the eyes of God; and

WHEREAS Paul the VI proclaimed that Mary of Nazareth, while completely devoted to the will of God, was far from being a timidly submissive woman or one whose piety was repellent to others; on the contrary, she was a woman who did not hesitate to proclaim that God vindicates the humble and the oppressed, and removes the powerful people of this world from the privileged position (Apostolic Exhortation Marialis Cultus); and

WHEREAS the Vatican Council states that "every type of discrimination whether social or cultural, whether based on sex, race, color ... is to be overcome and eradicated as contrary to God's intent." and

WHEREAS today is Aug. 26, 1974, Woman's Equality Day:

WE, CATHOLIC WOMEN, proclaim that the 27th amendment, the Equal Rights Amendment, will further full dignity and equality for women and therefore call upon the National Council of Catholic Bishops and each Bishop in his (sic) own diocese, the National Council of Catholic Laity and the Catholic Community at large to be consistent with the Christian tradition and actively support the Equal Rights Amendment.

Signed: Catholic Women for the Equal Rights Amendment.

ERA

Posted on Church Doors in the U.S.
August 26, 1974 Women's Equality Day

CATHOLIC WOMEN FOR THE E.R.A.

Equality of rights shall not be denied or abridged by the United States or by any state on account of sex.

In 1648 Margaret Brent stood before the all-male House of Delegates in Maryland and made the first formal petition for women's rights in a developing new country. She asked for "place and voyce". Amid great opposition and after a long and arduous struggle women finally won the vote, but in the United States women still do not have "place", i.e., women do not have the constitutional guarantee of legal equality.

Margaret Brent was a Catholic woman. She saw then what some seem unable to see today: that equality under the law for women and men is in accord with authentic religious faith. Margaret Brent knew that both women and men are created in the image and likeness of God and that true religion should foster the full human development of all persons.

The liberation of the oppressed has always been a major precept of the Judeo-Christian religion. Now, for the first time, this concept explicitly includes women and as our understanding deepens, we have come to realize that all discrimination, including discrimination based on sex, is morally wrong and not consistent with our belief in the God-given freedom and equality due all persons.

Jesus himself set the example of treating women with the dignity of full personhood with full legal and social responsibilities and rights. Although the milieu of Jesus was markedly anti-woman, in extraordinary ways Jesus contravened the laws and customs of his time concerning women. For example, he spoke to women in public. He taught the Sacred Scriptures to women and, in an act with great legal significance, Jesus entrusted the first witness of his resurrection to women.

Obviously, Jesus did not believe that women should be limited or restricted to a subservient nor an inferior status. And neither do we.

Catholic Women for the E.R.A. challenge those who oppose the Equal Rights Amendment on the grounds, gratuitously asserted, that it will adversely affect the family. The legislative history of the Amendment clearly shows that the E.R.A. will deal primarily with the public, not the private sphere. We disagree also with the idea that marriage must be based on economic dependence rather than on love or that marriage will survive at the expense of women. Rather, we agree with St. Thomas Aquinas that true love is possible only between equal persons and therefore we hold that the E.R.A. will indirectly strengthen the family by enabling women and men to relate to each other in the equality of full personhood.

As Christian women and as Americans we believe in liberty and justice for all, including women. At this time of the bicentennial of our country we call for the statement of a constitutional principle of equality for women, a guarantee of the full protection of law. Since women have not as yet gained equality we see that Margaret Brent was right so long ago in her courageous demand for justice. Today countless women proclaim the Equal Rights Amendment the best way to attain this great goal.

The Organization

Catholic Women for the E.R.A. is a new national organization of Catholic women who believe that gaining full legal equality for women is an expression of our commitment to full human dignity for all persons.

Catholic Women for the E.R.A. was formed for the sole purpose of securing ratification of the Equal Rights Amendment. The organization will disband when this is accomplished.

Members of Catholic Women for the E.R.A. are encouraged to support the E.R.A. by writing and lobbying the legislators of unratified states and by contacting established Catholic groups in ratified and unratified states and urging them to speak up for the Amendment. Members will be kept informed about the status of the E.R.A.

Be a part of history. Let your voice be heard. Help ratify the E.R.A. by joining Catholic Women for the Equal Rights Amendment. Your financial contribution is support.

NATIONAL HEADQUARTERS

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What About Family Relationships?

ERA would apply only to governmental action. It would not affect private action or the purely social relationships between men and women. Domestic relations and community property laws, however, would have to be based on individual circumstances and needs, and not on sexual stereotypes.

Alimony laws would continue in effect under ERA. Continued support of one spouse by the other after divorce or separation, if based on actual economic dependency or relative ability to provide family support, would be permitted.

. . . the Equal Rights Amendment would not deprive women of any enforceable rights of support and it would not weaken the father's obligation to support the family.

—Citizens' Advisory Council on the Status of Women

The Amendment would bar a state from imposing a greater liability on one spouse than on the other merely because of sex. It is clear that the Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. The support obligation of each spouse would be defined in functional terms based, for example, on each spouse's earning power, current resources and nonmonetary contributions to the family welfare . . . where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties.

—Association of the Bar of the City of New York

Would Maternity Legislation be Affected?

Legislation allowing maternity benefits would not be prohibited by the Amendment because it is based on a function unique to one sex. "Equality" does not mean "sameness".

So long as the characteristic is found in all women and no men, or in all men and no women, the law does not violate the basic principle of the Equal Rights Amendment; for it raises no problem of ignoring individual characteristics in favor of a prevailing group characteristic or average.

—Professor Thomas I. Emerson, Yale Law School

What About Women Who Choose Homemaking as a Career?

ERA would not take women out of the home. It definitely would not require both the husband and wife to become wage earners. Rather than downgrading the roles of mother and housewife, the Amendment would give new dignity to these important roles.

By confirming woman's equality under the law, by upholding woman's right to choose her place in society, the Equal Rights Amendment can only enhance the status of traditional women's occupations. For these would become positions accepted by women as equals, not roles imposed on them as inferiors.

—Representative Florence P. Dwyer (R-New Jersey)

How Would ERA Affect Criminal Laws?

State laws which provide greater penalties for female law violators than for male violators committing the same crime would be nullified by ERA. But the Amendment will not invalidate laws which punish rape.

Rape laws . . . are perfectly constitutional, for both the group which is protected; namely, women, and the group which can be punished; namely, men, have unique physical characteristics which are directly related to the crime, to the act for which an individual is punished.

—Senator Birch Bayh (D-Indiana)

How Would Property Rights Be Affected?

State laws which place special restrictions on the property rights of married women would be nullified. A married woman would be permitted to manage or own separate property in the same manner as her husband. She would also be able to enter into contracts or run her own business as freely as a member of the male sex.

Would Jury Laws Be Affected?

The Equal Rights Amendment would make women eligible for jury service on the same basis as men. Any state laws "relieving" only women from jury duty simply because they are women, or requiring them to register for jury duty only if they are interested in serving, would be invalid.

☆☆☆

How and Why to Ratify
THE EQUAL RIGHTS AMENDMENT

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Why the Equal Rights Amendment?

The Equal Rights Amendment, or ERA, would amend the United States Constitution to insure that men and women have the same rights and responsibilities under the law.

The Amendment would be a major step toward assuring first class citizenship for women, toward their assumption of fuller responsibilities, and toward bringing women into the mainstream of American life. A century ago Susan B. Anthony remarked: "Men their rights and nothing more. Women their rights and nothing less" . . . Passage of this Amendment would eliminate impediments to women's rights and enable women to share with men the responsibilities of family, community, and Nation.

—Virginia R. Allan, former Chairman of the President's Task Force on Women's Rights and Responsibilities

How Will ERA Become Law?

Three-fourths of the state legislatures (38 states) must ratify ERA within seven years of March 1972 before it becomes the 27th Amendment to the Constitution. Following that, states have two years in which to review and revise their laws, regulations, and practices to bring them into compliance with the Amendment.

What is ERA?

Simply stated, the Amendment provides that sex should not be a factor in determining the legal rights of men and women. It thus recognizes the fundamental dignity and individuality of each human being. ERA will affect only governmental action; the private relationships of men and women are unaffected. The Amendment does not require any state or the federal government to establish quotas. It does require equal treatment of individuals.

Who Supports ERA?

ERA has received the endorsement of Presidents of the United States, including Presidents Eisenhower, Kennedy, Johnson, and Nixon, and has been repeatedly supported on the national party platforms of the major political parties. The House of Representatives approved the Amendment by a vote of 354 to 23 on October 12, 1971. The Senate passed the Amendment on March 22, 1972, by a vote of 84 to eight. In both houses, efforts to amend ERA were defeated by substantial margins.

In addition, an impressive list of women's groups, labor unions, and religious and professional organizations have recorded their support of ERA. Both the Citizens' Advisory Council on the Status of Women, created by President Kennedy, and the President's Task Force on Women's Rights and Responsibilities, created by President Nixon, have recommended in strongest terms approval of the Amendment.

Is the Equal Rights Amendment Really Needed?

There has been some progress toward equal legal rights for men and women in recent years. However, the fact that persistent patterns of sex discrimination continue to permeate our social, cultural, and economic life has been thoroughly documented in the many Congressional committee hearings held during the past years, and extensively over the last three years.

On the whole, sex discrimination is still much more the rule than the exception. Much of this discrimination is directly attributable to governmental action both in maintaining archaic discriminatory laws and in perpetuating discriminatory practices in employment, education, and other areas. The social and economic cost to our society, as well as the individual psychological impact of sex discrimination, are immeasurable. That a majority of our population should be subjected to the indignities and limitations of second class citizenship is a fundamental affront to personal human liberty.

—Report No. 92-689, Senate Judiciary Committee

Don't Women Have Equal Rights Under the Constitution Now?

The only right women gained under the Suffrage Amendment was the right to vote—their civil rights were unaffected. Although the Fourteenth Amendment, which was made part of the Constitution in 1868, guarantees "equal protection of the laws", not until 1971 did the Supreme Court strike down a law which discriminated against women. The Court invalidated an Idaho law which arbitrarily favored men over women as administrators of estates (*Reed* v. *Reed*), but it did not overrule earlier decisions upholding sex discrimination cases in other laws, and it did not hold that sex discrimination is "suspect" under the Fourteenth Amendment.

The Court left the burden on every woman plaintiff to prove that governmental action perpetuating sex discrimina-

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tion is "unreasonable". As the Association of the Bar of the City of New York pointed out in its report, "the 1971 *Reed* case indicated no substantial change in judicial attitude."

Under ERA, the burden will not be on each woman plaintiff to show that sex discrimination is "unreasonable". Instead, all men and women will be assured the right to be free from discrimination based on sex.

Why Not Change Specific Laws Instead?

There are many uncertainties and practical difficulties connected with attempting to change every law which discriminates on the basis of sex. It is time-consuming and expensive; and specific legislation can deal only with specific problems. A constitutional amendment is the only realistic way to insure equal treatment of the sexes before the law.

It would be possible for Congress and each State to revise their laws and eliminate those which discriminate on the basis of sex. But without the impetus of the Equal Rights Amendment, that process would be far too haphazard and much too slow to be acceptable, especially in light of the fact that the Equal Rights Amendment was first introduced 49 years ago.

. . . we cannot overlook the immense, symbolic importance of the Equal Rights Amendment. The women of our country must have tangible evidence of our commitment to guarantee equal treatment under the law. An amendment to the Constitution has great moral and persuasive value. Every citizen recognizes the importance of a constitutional amendment, for the Constitution declares the most basic policies of our Nation as well as the supreme law of the land.

—Senator Birch Bayh (D-Indiana)

How Will the Amendment Affect Existing Laws?

Essentially, the Amendment requires the federal government and all state and local governments to treat each person, man and woman, as an individual. State legislatures have the primary responsibility for revising those laws which are in conflict with the Amendment. The effective date of ERA has been delayed for two years after ratification to give states time to do this.

In cases where the states have failed to act, these issues can easily be resolved, with the guidance of well-established precedents, by the courts. The legislative history of the Amendment indicates that Congress expects any law which is truly beneficial to be extended to protect both sexes, while laws which are truly restrictive and discriminatory would become null and void. In a great many instances, the problem can be solved simply by changing the laws to read "persons" instead of "male" or "female".

Where a statute is defective because of underinclusion there exist two remedial alternatives: a court may either declare it a nullity and order that its benefits not extend to the class that the legislature intended to benefit, or it may extend the coverage of the statute to include those who are aggrieved by exclusion.

—Mr. Justice Harlan, concurring in *Welsh* v. *United States*

Would Women Be Drafted Under the Equal Rights Amendment?

Congress now possesses the power to include women in any military conscription. ERA would not limit that power of Congress. However, under the Military Selective Service Act of 1967, only male citizens must register for the draft. The Amendment would require that this law, or any subsequent law concerning military and/or alternative national service, be extended to women equally.

Women would be allowed to volunteer for military service on the same basis as men: those who are physically and otherwise qualified under neutral standards could not be prohibited from joining solely because of their sex. With respect to the draft—if there is one at all—both men and women who meet the physical and other requirements and who are not exempt or deferred would be subject to conscription.

Of course, the ERA will not require that all women serve in the military any more than all men are now required to serve. Those women who are physically or mentally unqualified, or who are conscientious objectors, or who are exempt because of their responsibilities (e.g., certain public officials; or those with dependents) will not have to serve, just as men who are unqualified or exempt do not serve today. Thus the fear that mothers will be conscripted from their children into military services if the Equal Rights Amendment is ratified is totally and completely unfounded. Congress will retain ample power to create legitimate sex-neutral exemptions from compulsory service. For example, Congress might well decide to exempt all parents of children under 18 from the draft.

—Report No. 92-689, Senate Judiciary Committee

Under ERA, women would also be entitled, as men now are, to reap the benefits which flow from military service. These include, for example, educational benefits of the GI bill; medical care in the service and through veterans' hospitals; job preferences in government and out; and the training, maturity, and leadership provided by service in the military itself.

Does This Mean Women Would Be Assigned to Combat Duty?

Once in the service, women, like men, would be assigned to various duties by their commanders, depending on their qualifications and the service's needs. Only those persons — men or women — who can meet the very high physcial demands which combat duty imposes would be eligible for such assignments. Today, less than 1 percent of those men eligible for the draft are assigned to combat units. Studies have shown that almost nine out of 10 jobs done in the service are non combat jobs.

There are now, of course, a considerable number of women serving with distinction in the military services, and many of them are serving in combat zones and receiving combat pay. Then, too, as Senator Marlow Cook (R-Kentucky) has pointed out, "Combat today may be a lady sitting at a computer at a missile site in North Dakota."

What About State "Protective" Labor Laws?

Almost every state has some kind of so-called "protective" legislation which applies only to women. It may restrict the number of hours they work, set limits on the pounds they can lift, restrict night work, provide for special seating arrangements, or prohibit their employment in certain occupations. While these laws were originally enacted to prevent women from being exploited, they now serve to restrict employment opportunities by keeping women out of some jobs which offer higher pay or advancement. To the extent these laws provide meaningful protections, men are today arbitrarily denied benefits they need and deserve. Many of these state "protective" laws are being struck down because of their incompatibility with Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment where sex is not a "bona fide occupational qualification".

The Commission believes that such state laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferences and abilities of individual females and tend to discriminate rather than protect.

—Equal Employment Opportunity Commission Guidelines, August 19, 1969

Women today work for the same reasons as men—namely, to support themselves, their families, and other dependents. And increasingly, working women are testing the validity of state "protective" laws.

The truth, more abundantly clear with each passing week, is that "real" working women in the factories of the land, with or without the support of their unions, have been making a charge at the discriminatory practices authorized or not prevented by the state protective laws, and have been challenging the validity of these laws with considerable success. Not professional nor business women but women who work for wages have brought most of the suits, or had the most suits filed in their behalf, charging the state protective laws with discrimination based on sex.

—Olga Madar, Vice President, United Auto Workers

How Would ERA Apply to Schools?

Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community.

—A Ford Foundation Report On Higher Education

Under the Equal Rights Amendment, state supported schools at all levels would have to make certain that admissions and the distribution of scholarship funds were on the basis of ability or other relevant characteristics, not on the basis of sex. In like manner, employment and promotion in public schools and colleges would have to be free of sex discrimination. The Amendment would not require the setting of quotas for men and women, nor would it require that schools accurately reflect the sex distribution of the population. State schools and colleges currently limited to one sex would have to allow both sexes to attend.

What Would ERA do to Relationships Between Men and Women?

ERA applies only to government action and legal rights, not to social customs. The question of who pays the dinner check, opens the door, or pulls out a chair has nothing to do with equal legal rights. Social customs and personal relationships between men and women would be decided by the individuals involved.

It is important to note that the only kind of sex discrimination which [ERA] would forbid is that which exists in law. Interpersonal relationships and customs of chivalry will, of course, remain as they always have been, a matter of individual choice. The passage of this Amendment will neither make a man a gentleman nor will it require him to stop being one.

—Senator Marlow Cook (R-Kentucky)

Does the Right to Privacy Conflict With ERA?

"Equality under the law" does not mean that the sexes must be regarded as identical, and it does not prohibit states from requiring that there be a reasonable separation of the sexes under some circumstances. States would continue to have the power to require segregation of the sexes for regulatory purposes with respect to such facilities as sleeping quarters at coeducational colleges, prison dormitories, and military barracks.

In addition, the right to privacy under the Constitution would also permit a separation of the sexes with respect to such places as public toilets and sleeping quarters of public institutions.

. . . the right to be free of sex discrimination would have to harmonize with other constitutional rights, such as the right to privacy recognized by the Supreme Court in Griswold *v.* Connecticut. *Therefore, the Equal Rights Amendment most certainly would not abolish the practice of providing separate restrooms for boys and girls in public schools. The right to privacy would justify some segregation by sex in the military, as well as in prisons and other public institutions.*

—Representative Martha Griffiths (D-Michigan)

Court of Appeals decision is allowed to stand, the vague and general directions which it gave the Charlotte school board to replace the District Court's plan with a "reasonable" plan would give other school districts an excuse (unreasonableness) not to comply with their court-ordered desegregation plans. The League is hopeful that the Supreme Court will once again rule, as it did last October, that there is no time left for delay and that now is the time for desegregation in all school districts.

Among the other groups joining this amicus curiae brief are the National Urban Coalition, the Washington Research Project, the United Negro College Fund, the Harvard Center for Law and Education and the Mississippi Educational Resources Center.

The brief describes the commitment which unites these organizations petitioning the Supreme Court to hear this case:

> Each of the movant organizations consists of black and white citizens. While their activities vary, all are bound together by a common commitment to strengthen public education in this country and to work for an end to racial segregation in the schools. All of the movant organizations, moreover, share a common commitment to the maintenance of the Rule of Law in this nation. They believe that the Rule of Law is threatened by continuing violations of the rights of Negro school children declared by this Court in 1954.

The brief then summarizes the need for prompt action:

> Prompt action is needed in this case if irreparable harm is not to be inflicted on petitioners and thousands of other black children. The decision below cannot stand because it allows school boards to continue to segregate schools merely because an effective remedy might cause some burden or inconvenience.
>
> It would be tragic irony if, after years of massive resistance, evasion, and delay the rights of black children were now denied or delayed on grounds that ending segregation is "unreasonable".... Only a prompt decision of this case on the merits can avert harm to thousands of black children in other districts....

Clarification of League Position Re. Women's Rights. The 1970 Convention did not change the stance which the League has had vis-a-vis women's rights since the adoption of the Human Resources item in 1964, i.e., concern for the status of women in poverty, leaving to others the concern for women's rights in general.

Delegates rejected both a not-recommended item on the status of women and a motion to include in the Human Resources item language which would have made explicit the League's opposition to discrimination based on sex.

Although the stance of the League regarding women's rights remains unchanged, questions which were raised before, during and after the Convention indicate the need for clarification of the question: How far does the Human Resources

position go in authorizing support of women's rights? It is hoped that the paragraphs that follow will clarify the League position.

Is Sex Discrimination Covered by the Human Resources Position? Can the League participate in Commissions on the Status of Women? Can we support amendments to broaden the coverage of state civil rights legislation to include the category of sex? Several inquiries of this nature from state and local Leagues have been answered within the past several years. The basic question in these inquiries was: Does the national Human Resources position cover discrimination based on sex? The answer, which is relevant for League action at all levels, is a qualified yes. The explanation and qualifications are as follows:

> The language of the Human Resources position speaks in terms of equality of opportunity for all persons. Thus, a case could be made for the proposition that League action should oppose discrimination based on sex in the same fashion that the League opposes discrimination based on race, religion and natural origin. But the Human Resources study, consensus and subsequent action at the national level has focused primarily on equal opportunity for poor people and for minority groups. When viewed as a whole this study, consensus and action helps to define the intent of the position. And, in deciding whether proposed action relative to discrimination based on sex falls within the position, one needs to ask whether or not such action is consistent not only with the language but also with the intent of the position. For example, would proposed action against sex discrimination especially benefit poor people and members of minority groups? If so, it would implement the intent of the national position. But if not, it might be classified as action dealing mainly with the broad aspects of equal rights for women, and this kind of broad action is not the focus of intent of the Human Resources item.

Choices for action should be consistent with League priorities. Within the Human Resources study and positions, women's rights in the broad sense of that term are not high-priority issues. Our advice is to adhere as much as possible to the high priority issues lest we drain League resources away from the intended focus of the position.

Does the League support the Equal Rights Amendment? (S.J. Res. 61 and others)* Hearings on S.J. Res. 61 by now have been concluded in both houses of Congress, but in the Senate they coincided with the League's 50th Anniversary Convention in Washington, and -- along with women's rights advocates in other organizations

*There have been numerous resolutions introduced in both House and Senate. The language of S.J. Res. 61, introduced February 28, 1969 by 43 Senators, proposing an amendment to the Constitution of the United States relative to equal rights for men and women is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

(continued on next page)

-- some League members wanted the League to testify in support of the resolution. And so the question was posed: What is the position of the League on the Equal Rights Amendment? The answer is that the League has no position. The background is as follows:

The League opposed the passage of an equal rights amendment from 1923 until 1954 when, in the process of shortening League program, the position of opposition was dropped. Since 1954, the League has had no position on equal rights for women. League members interested in justifying League support for the amendment in 1970 suggest that the Human Resources position could authorize League action, but actually this suggestion is not well founded because the amendment is much broader in scope than the Human Resources study or position.

Among the 15 existing legal distinctions based on sex in state and federal law, several significant ones are clearly beyond the scope of the Human Resources position. For example:*

-- State laws providing for alimony to be awarded, under certain circumstances, to ex-wives but not to ex-husbands

-- State laws placing special restrictions on the legal capacity of married women or on their right to establish a legal domicile

-- discriminatory preferences, based on sex, in child-custody cases

-- State laws providing that the father is the natural guardian of minor children

-- exclusion of women from the requirements of the Military Selective Service Act of 1967.

League opposition to the Equal Rights Amendment from 1923 to 1954 was based on the supposition that such an Amendment would have the effect of throwing into the courts all legislation enacted for the protection of women and that it would create chaos in the courts until every such

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SECTION I. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.
SECTION II. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States.
SECTION III. This amendment shall take effect one year after the date of ratification.

*From an excellent background paper on the Equal Rights Amendment, the March 1970 memorandum prepared by the Citizens Advisory Council on the Status of Women, which was introduced into the Congressional Record on March 25 by Rep. Martha W. Griffiths (D., Mich.).

law could be re-examined through test cases. In the opinion of leading constitutional authorities, the Amendment would either wipe out this body of law or cast doubt upon its legality until the courts could rule.

State Leagues had worked over the years for legal protections for women and against sex discrimination. They did not want to see these measures jeopardized. League members also were agreed that amending the Constitution was an unsure method of righting inequities in the treatment of women, and that the preferable approach was through legislation in the states.

It is interesting to note that simultaneous with its opposition to the Equal Rights Amendment prior to 1954, LWVUS was among the national organizations which supported the principle of equal pay for equal work. Some people still believe that the League supports this principle even though as a matter of fact the League has had no position on equal pay since 1954, for it dropped this support position at the same time it dropped the position opposing the Equal Rights Amendment. /The Women's Bureau in the Wage and Labor Standards Administration of the U.S. Department of Labor still lists LWVUS among the women's and civic organizations supporting equal pay in its February 1970 brochure EQUAL PAY FACTS./

What kinds of action does the League recommend within the Human Resources position re. the status of women? The League's concern about status of women revolves around our concern for women in poverty who, incidentally, comprise a disproportionate fraction of all poor adults (almost two-thirds). To the extent that the League supports measures for the economic advancement of women in poverty, we are working toward our stated goal of combatting poverty. Such measures may include, for example: minimum wage coverage and better pay for employment categories in which a high percentage of the "under-employed" are women; adequate day-care facilities and services so that mothers in poverty may choose to avail themselves of training and employment opportunities; League participation in Commissions on Status of Women in order to focus priority attention within these commissions to the problems of women in poverty, etc.

Decisions on action are the responsibility of League Boards at each level, under Guidelines for League Action Under the National Human Resources Position (Leaders Guide, August 1969, Publication No. 359). Accordingly, local and state Boards have wide latitude in the choices of measures through which to work toward our equal opportunity goals. One of the three questions League Boards are advised to consider in deciding on action relates to the intent of the position. The paragraphs above should help clarify the intent of the Human Resources position with respect to the status of women.

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NOTE: On June 29, the Supreme Court agreed to hear the case, but adjourned for the summer without setting a date for the review.

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COOL FACTS FOR THE HOT-HEADED OPPOSITION

What the ERA is and what it says

The ERA is the proposed 27th Amendment to the United States Constitution. It says, in three simple statements, "equality of rights under the law shall not be abridged by the United States or by any State on account of sex. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. This amendment shall take effect two years after the date of ratification."

What the ERA will do

It will create a greater range of opportunities for both men and women. It will stop federal and state sanction of discrimination against men and women on the basis of sex.

Specifically, it will:

-- create equal educational opportunities in publicly supported schools for both men and women students and strengthen laws against sex discrimination in education

-- strengthen laws against sex discrimination in employment so that workers will be hired and judged on the basis of individual merit

-- make all credit backed by federal funds or insurance available on the basis of ability to pay, not on the basis of sex

-- provide equal access to military service for men and women and guarantee equal eligibility for benefits

-- insure that men and women get the same social security benefits

-- erase laws that prohibit women from controlling property, mortagages, or insurance.

Why the ERA is necessary

Overwhelming evidence (thoroughly documented by congressional hearings) shows that sex discrimination under the law exists, particularly in areas of legal rights, education and employment. Discrimination in the area of legal rights is disturbing because it restricts basic rights and responsibilities of our democratic system. However, sex discrimination in education and employment is even more disturbing, because it affects the majority of women in this country and because these detrimental effects last for a lifetime.

On the subject of women's "privileges"...

THE OPPOSITION CLAIMS that women's "privileges" will be taken away.

WE SAY that no one group speaks for all women--neither the League of Women Voters nor the ERA apposition. But it is clear that nothing is being taken away from women; rather, opportunities are being opened up in education, in the military services, and in the free enterprise system.

These opportunities are badly needed by women. Forty-four percent of all women work; 8-1/2 million women work because they have to. So-called protective labor laws have been designed so that they have excluded women from higher paying jobs they were willing and able to do. Discrimination in educational institutions has left many women less prepared for the future than their male counterparts.

Poor women have suffered the most. Of adults in poverty, 61 percent are women. The median income of

working women who have not finished high school is less than $5000. Men with the same educational background earn over $7000. Discriminatory laws adversely affect poor women more than poor men.

Too far-reaching?

THE OPPOSITION CLAIMS that the ERA is unnecessary--that eliminating sex discrimination with a constitutional amendment is "trying to kill a fly with a sledge hammer."

WE SAY that flyswatters haven't been working very well. American women have been trying to knock out sex discrimination through individual court cases and single-law reforms for 350 years, but sex discrimination is still flagrant. Short of a comprehensive constitutional amendment, progress will follow the pattern of the past, a pattern that's too slow and that unfairly puts on individuals the burden of establishing the rights of half the human race.

Some specifics

.....The Supreme Court got around to affirming in 1874 (Minor v. Happersett) that women are persons. What they gave with one hand they took away with the other: in the same decision, the Court prohibited women as a class from voting! It took the 19th amendment to clear that up. This constitutional amendment would put an end to the business of treating women as a class, any area of life in which sex is an irrelevant criterion.

.....This very minute, women are being forced to fight one by one for the right to be judged as individuals, instead of being treated as a class, when it comes to getting credit, getting mortgages, getting housing, getting jobs, getting insurance, getting into professional schools, ad infinitum. Case-by-case redress is painfully slow and piecemeal. We haven't time, as we move into the last quarter of the 20th century, to build basic, self-evident human rights bit by bit, like a Byzantine mosaic. The ERA would forbid discrimination against women as a group or class.

Only a psychological prop?

THE OPPOSITION CLAIMS that ERA does very little. They say that the arguments in favor of the ERA boil down to the fact that women--not many, just a few--need the amendment for "psychological and symbolic reasons."

WE SAY that we're not sneering at the psychological and symbolic value of the ERA. Who says psychological support isn't important? But to say that they're the only point of the ERA and to say that only a few women have problems about discrimination is to pretend that an overwhelming body of evidence doesn't exist.

Some specifics

.....When the ERA supports women's right to equal pay for equal work, that's not just a psychological or symbolic benefit. That's an economic benefit--the dollars and cents to support herself and her family, as 8.5 million American women are now trying to do under unfair handicaps. To cite a single example: Stewardesses certainly haven't been in the forefront of the pro-ERA movement. But they've recently gone to court to assert the right not to be bypassed by a new echelon of male "flight attendants." It's ridiculous to have to argue in court about such an evident injustice.

.....It isn't just equal pay for equal work that's at stake. It's access to educational opportunities, access to jobs without sex labels, the right to control the money one earns or inherits. Not

to have these rights is to be deprived--deprived psychologically but also deprived of bread and butter, deprived of the right to full development as a person, deprived of the right to choose how to contribute to community life.

.....If the benefits of the ERA were only psychological and symbolic, individuals and groups as diverse as the President, the AFL-CIO, the AAUW and the National Council of Churches wouldn't be agreeing that it's sorely needed.

On the subject of wives' right to support...

THE OPPOSITION CLAIMS that the ERA would take away the "right of the wife to be in the home as a full-time wife and mother" because the ERA would invalidate "every one of the state laws which require the husband to support his wife."

WE SAY that this argument plays on fears by pointing at a needle of truth in a haystack of half-truths and distortions.

First, the ERA is in the business of establishing rights, not taking them away. It would affirm rights for women (and for men) that they do not now fully enjoy. Among those rights is the right to choose how to live one's life. That most emphatically includes the right to choose "to be in the home as a full-time wife and mother." ERA would have little or no impact on people who make this choice, for the simple reason that the ERA would not alter the institution of marriage in any direction.

Second, the state laws to which the opposition refers are a fragile prop at best. Yes, they're on the books, all right. But state supreme courts have ruled that ongoing marriages are out of bounds for the courts--so all those laws mean nothing, if a wife in an ongoing marriage seeks their protection through court action. McGuire v. McGuire is a case in point. The wife worked the fields, cared for the house, sold chickens and eggs, but her husband refused to buy on credit, to let her buy on credit, or to provide her with a bathroom, a kitchen sink or money for clothing. The Nebraska Supreme Court denied the wife any recompense because "to maintain an action such as the one at bar the parties must be separated or living apart from each other." The practical fact is that it's only when a separation or divorce proceeding is brought that the issue of support comes before a court and the question of the legal right to support arises.

Third, the court cases which the opposition cites, in trying to demonstrate that husbands at present must support their wives, actually demonstrate quite another point. In one such case, a husband was required to pay a department store for a fur coat charged by his wife. The principle here is that a man is responsible for debts incurred in his name; not, please note, by his wife, but in his name. Though Phyllis Schlafly and others have been getting a lot of mileage out of what's come to be known vaguely as "the mink coat case," there's considerable irony in their choice of example. The elementary fact is that the wife could not have got credit from the store in the first place without her husband's signature. If that husband, or any husband of a nonworking wife, refuses to sign a credit application, his wife has no recourse. Some protection of a wife's rights! The case may have determined that a creditor can demand payment from a husband for a purchase made on credit established by a husband's signature. It emphatically did not say anything reassuring about a wife's right to ongoing support.

Fourth, there's a subtle threat buried in this opposition argument: that somehow the ERA will turn the tables overnight and force a wife who is not working, who may never have worked, to begin to support herself-- and maybe her husband to boot. Simply not so. The ERA will require that support laws be written in sex-neutral language, but it will not require any changes in judicial enforcement of support laws. If that kind of change comes, it won't be the ERA that brings it.

On the subjects of alimony and child support...

THE OPPOSITION SAYS that under the ERA women who were divorced or separated would be in big trouble. They call the ERA a "take-away" that will "do away with a woman's right to alimony" and child support.

THE FACT IS that the ERA will have little or no effect on existing arrangements about alimony and child support. True, the language of the laws will have to become sex-neutral. But after ERA, just as now, divorce settlements will be based on fault and on need. The spouse with the greater financial capacity will be required to contribute to the support of the spouse in need. Just as now, every case will be settled individually. All that will change after ERA is that more women might be in the now rare position of having a stronger financial base or greater earning power than her spouse. Child custody and child support would be determined, after ERA, just as it is now--on the basis of who can better meet the needs of the children.

Incidentally, statistics indicate that alimony and child support are rights more honored in the breach than in the observance. The Citizens' Advisory Council on the Status of Women cites one study which shows that one year after divorce 2 fathers in 5 (42%) had made no support payment at all; by the tenth year, 4 out of 5 (79%) were making no payments. These figures are particularly disturbing when one realizes that most support awards meet less than half the actual cost of supporting a child, to begin with.

<u>On the subject of "protective" labor laws</u>...

THE OPPOSITION CLAIMS that the ERA would take away labor laws that protect women.

WE SAY:

1. Most protective labor legislation was instituted in another era and under different conditions.

2. Title VII of the Civil Rights Act, administered by the Equal Employment Opportunity Commission, has already invalidated that earlier legislation.

3. The dreadful consequences prophesied as a result of eliminating those "protective" labor laws have not come true.

4. The best evidence of the hollowness of this argument is the number of unions that support ratification of the ERA, including the AFL-CIO, the American Federation of Teachers, the Communications Workers of America, the Newspaper Guild, the Teamsters, the International Union of Electrical Workers and the United Auto Workers.

Some specifics

-- In Ohio, a woman cannot be a gas or electric meter reader or a section hand. The ERA would put a stop to that.

-- Section 293.060 of the revised statutes of Missouri, 1969, states that "no female shall be employed in or about mines except in an office in a clerical capacity." It's an interesting example of a "protective" labor law that excludes women from earning higher pay. Not only does it exclude her from mine <u>labor</u>; it simultaneously excludes her from mine <u>management</u>, even though a mine management job is unlikely to be detrimental to a woman's physical well-being. The existence of this kind of law offers a clear example of the need for the ERA. If this law had not been challenged meanwhile under Title VII of the Civil Rights Act, it would have to be brought into conformity with the ERA within two years of ratification.

<u>On the subject of the draft</u>...

THE OPPOSITION CLAIMS that under the ERA women would be drafted and have to serve in combat equally with men.

WE SAY that's another of those needle and haystack arguments. The needle of truth is that under the

ERA the country's claim on citizens' military service would apply equally to women and men. But--

1. To begin with, there is no draft today.

2. Drafting women is not a novel idea. During World War II (June 1, 1944) Rep. Emanuel Celler introduced a bill to draft single women between ages 20 and 35. In 1948, General Eisenhower said, "I am convinced that in another war they (women) have got to be drafted just like the men."

3. All women would not serve in combat any more than all men do. In 1971, only 5 percent of eligible men were drafted and only 1 percent ever served in combat. There are physical requirements for combat; for instance, men with flat feet have never been eligible to fight. Presumably, whatever a particular woman was physically unable to do she would be exempt from doing--just as men now are.

4. Family situations have always been a basis for draft classification. Men with children were exempted in the Korean and Vietnam wars.

5. It should be pointed out that the armed forces also provide benefits that would become available to many more women than at present.

<u>On the subject of states' rights</u>...

THE OPPOSITION CLAIMS that Section 2 of the ERA, which grants enforcement power to the Congress, makes the amendment "a grab for power at the federal level."

THE FACT IS that the power the ERA gives to Congress is no more and no less than that given by other constitutional amendments. The language of this section is similar to that in the 13th, 14th and 15th Amendments. Since the very point of a constitutional amendment is to state a <u>national</u> principle, it must, for consistency, be enforceable nationally. But states constitutionally retain all powers not delegated to the federal government. And since the ERA does not grant the federal government <u>exclusive</u> enforcement powers, states retain their authority to implement the ERA's provisions.

It's interesting to note that at one point, before the amendment's passage by the Congress, the enforcement section of the ERA gave authority to the Congress and the states "within their respective jurisdictions." It was the interpretation of Paul Freund of the Harvard Law School that such delegation of authority was more restrictive than that found in any of the other amendments.

Additionally, once ERA's ratified, the states will have two years to review their laws and bring them into conformity.

<u>On the subject of rape laws</u>...

THE OPPOSITION **CLAIMS** that the ERA will"knock out present laws protecting women from sex crimes such as statutory rape."

THE FACT IS, that's not true. Rape laws are based on real physical differences between men and women. Sexual assault laws will be extended to cover both sexes and statutory rape laws will be extended to cover statutory sexual assault on minors by both sexes.

<u>On the subject of sleeping quarters and restrooms</u>...

THE OPPOSITION CLAIMS that womem and men will be forced to share sleeping quarters and restrooms under the ERA.

WE SAY to that, Senator Marlowe Cook (R. Ky.) calls this argument the "potty excuse."

The ERA will not interfere with the constitutional right of privacy. The right of privacy, as defined in the Supreme Court case, Griswold v. Connecticut, is the result of a combination of the specific rights guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments. Because each citizen possesses these rights, i.e., freedom of speech and religion, freedom from search and seizure, freedom from self-incrimination, we possess the consequent right of privacy.

The same case clearly established that the right to privacy covers sexual relations. Because our society interprets disrobing and bodily functions to be sex related, it is clear that the ERA would not require coeducational restrooms or sleeping quarters.

On the subject of private schools...

THE OPPOSITION CLAIMS the ERA will force single-sex private schools to become coeducational.

THE FACT IS that the ERA affects only state and federal laws and institutions. Its ratification will not require single-sex private schools to become coed.

It is possible that a future Supreme Court ruling may require those private schools that accept federal funding to open their doors to both sexes. If so, the ruling would flow from a judgement about the legal effect of accepting federal funds.(The 1972 Education Amendments, prohibit sex discrimination in public schools under certain circumstances). It would be derived not from the ERA.

[1973]

The Need for the Equal Rights Amendment

by Ruth Bader Ginsburg

In spite of a recent start in the direction of legislative change, it is unlikely that there will be a major overhaul of laws that differentiate on the basis of sex unless the proposed equal rights amendment is ratified. The "horribles" raised by opponents of the

ment was ratified, according to female citizens the right to vote. The most vigorous proponents of that amendment saw it as a beginning, not as a terminal point. Three years after the ratification of the Nineteenth Amendment, the National Women's Party succeeded in

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Version 3
March 18, 2019

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

memorandum

The League of Women Voters of the United States

This is going on
Duplicate Presidents Mailing

September 21, 1973

TO: State and Local League Presidents

FROM: Lucy Wilson Benson

This is our formal announcement to all of you about the first part of the League's national ERA ratification campaign.

We have decided to sell an Equal Rights Amendment bracelet as our initial activity. The purpose of the bracelet is to raise money to augment the $10,000 allocated during our Council meeting in May for ERA ratification activities in target states. It will also create continuing awareness of the issue.

We plan to announce the bracelet campaign on October 10th at a press briefing in Washington. It will involve an announcement of overall ERA strategies and presentation of bracelets to members of Congress. I mention this now because on the attached list of local promotion ideas, we are suggesting you plan a similar launching in your community.

The bracelet has been designed solely for this campaign. It is neither masculine nor feminine in design so that men can wear it as well as women. It is a band of nickel silver with the letters "E.R.A." pierced into it. You can get an idea of what it looks like from the attached flyer.

We plan to sell the bracelet for $3.00 each by direct mail through magazine shopping columns, organization newsletters, college newspapers and as much general newspaper, radio and television exposure as we can get. Profits (about $1.50 on individual sales) will go directly into our special ERA fund.

However, it is our League project and we know that most sales will be generated by your interest and enthusiasm.

If you want to adopt your own ERA fund raising project you can order the bracelets in quantity for $2.50 per bracelet and sell them for $3.00. This will give you a 50 cent profit on each bracelet. This $2.50 price per bracelet for quantity orders is being made only to Leagues. Quantity orders must also be paid for in advance.

For all quantity orders, you must use your League letterhead. If your League does not have letterhead be sure to make it clear when you order that it is a League order. Type the name and address of your League on the order and have it signed by an officer. This is the only way we shall know that it is a group order for a local or state fund raising effort. If the order does not come on your League letterhead, we shall assume it is an individual order and we shall not be able to give you the discount.

If you do not feel that your League can commit itself to bulk sales, please use all means at your disposal to promote individual bracelet sales. Use your bulletin for announcements, talk about the bracelet at unit meetings, get to other organizations, to your own membership, friends, acquaintances and relatives. Urge everybody you know to buy the bracelet. It will make a good Christmas gift.

OVER

To help you in your efforts you will find a series of supportive materials attached. They include a flyer which is camera ready copy. It contains a drawing of the bracelet with description and purchase information. This can be reproduced for use by other organizations, for mass distribution, in newsletters and newspapers.

There is also a list of promotion suggestions which will detail some of the items mentioned above; information on how to order the bracelet; and alternative draft press releases.

Remember, the more media coverage we can get -- nationally, locally, statewide; in daily, weekly and monthly press, radio and television -- the more the issue will be kept in the public eye and mind. It will help us sell the bracelet, add money to our ERA coffers, and prepare the way for our ratification action campaign.

Even though the bracelet will not be available until the end of October, if you order now, we shall be able to fill your order as soon as the bracelets arrive. This will also give you time to plan your announcement campaign. Don't forget that if you want to launch the campaign by presenting the bracelet to a person of your choice, you will have to wait until after you receive them.

If you have any questions, please contact Julia Kirn, our Public Relations Staff Director.

We are very enthusiastic about the bracelet and we know you will be too.

Meanwhile, go to it -- and good luck.

# # #

ERA BRACELET PROMOTION IDEAS

Before going into specific suggestions for your promotion of the bracelet, we'd like to alert you to what you will find in national magazines in the next few months, so that you can exploit the ideas for your own promotion efforts -- on displays or as a talking point when dealing with the press.

For those of you who receive "Parade" with your local Sunday papers, on September 30th you will find an item on the bracelet. In their November issues, which reach the newsstands in late October, you will find a paragraph in the "Gazette" section of MS, and in the shopping columns of McCall's, House Beautiful, and Mademoiselle. December will find a letter about the bracelet in the "News Forum" section of Playboy and in the shopping columns of Woman's Day, and Glamour magazine.

Keep your eyes open for the bracelet promotion in organization newsletters of which you are a member or to which you subscribe. College newspapers are also being contacted. We are also working on some television and radio coverage.

As mentioned in Mrs. Benson's memo, the campaign will be officially announced in Washington on October 10th.

You will find listed below some suggested ideas for local publicity and a description of the materials enclosed to help you implement those ideas. How you adapt these ideas and materials will depend to a certain extent on whether you decide to promote the bracelet for national sales only or as a fund raising project for your League.

1. Plan a bracelet launching ceremony with media coverage to be announced through a press conference. Present the bracelet to the mayor, a state legislator (male or female), or a person who has visibly and actively worked for ERA ratification. The bracelet should be presented as a tribute to his or her efforts. We have included alternative draft press releases for this occasion -- one if your state has ratified; one if it has not. REMEMBER, if you decide to do this, you will have to allow for receipt of the bracelet in late October or early November.

2. If you would rather not go the presentation way, you can simply announce the campaign through a local press release along the lines of the one enclosed and add something about the Amendment situation locally or statewide.

3. If you have a local morning show with a co-anchorwoman/man team, try to arrange either for a League member to present a bracelet to each, or for the woman to present one to the man. Be sure to check on the equal time issue. Some stations may say that if they do this, they will have to give time to the opponents. Others will not.

4. If you have a local Sunday magazine section in your Sunday paper, see if there is a column suitable for mention of the item with a photograph (see materials below).

5. Get to women's pages in your daily, weekly, community and denominational newspapers. Remember Christmas shopping guides.

6. Get other organizations to sell the bracelet. Remember they cannot get the discount rates.

7. Reproduce the attached camera-ready flyer and distribute it to other organizations or wherever you can set up a display.

8. See if you can get local stores, banks or libraries to display the flyer and the bracelet and set up a sales table.

OVER

9. If there are any local or state arts or folk festivals arrange to set up a booth to sell the bracelet.

10. Promote the bracelet as a Christmas gift.

Materials

1. The camera ready copy attached can be reproduced and distributed to organizations, churches, in schools, etc. It can also be reproduced in newsletters and newspapers. You can use the copy about the bracelet from the flyer for your bulletin.

2. Press releases -- there are two of them. They should be adapted according to the ratification situation in your state and to the type of campaign announcement you decide to undertake. The releases are (a) a general announcement for states where the Amendment has not been ratified; and (b) a general announcement for ratified states.

Each press release states that bracelets are to be ordered directly from the Maryland address. If you decide to order in quantity and use this as a fund raising project, remember to change the address to your local one.

3. Order information -- please read this carefully again. All bulk orders must be sent in on your League letterhead and must be prepaid. If your League does not have letterhead be sure to make it clear when you order that it is a League order. Type the name and address of your League on the order and have it signed by an officer.

# # #

ERA BRACELET -- HOW TO ORDER

Bracelets will be available after October 20th

1. All orders must be prepaid, whether individual or in quantity. Postage is included in the cost of the bracelet.

2. Send all orders to: The League of Women Voters
   11313 Frederick Avenue
   Beltsville, Maryland 20705

3. Allow 2 to 3 weeks for delivery.

4. If you are a Maryland resident add 4 percent sales tax.

5. Be sure to type or print your name, address, number of bracelets and total amount of money enclosed.

6. Only send checks or money orders.

7. Do not send requests for any other materials. The above address is our fulfillment house for the bracelets. Keep all other League business separate.

8. To reorder also allow 2 to 3 weeks for delivery.

9. Remember, on bulk or quantity orders be sure to send them in on your League letterhead. You will not receive the bulk rate discount otherwise. If your League does not have letterhead be sure to make it clear when you order that it is a League order. Type the name and address of your League on the order and have it signed by an officer.

# # #

GENERAL ANNOUNCEMENT FOR NON-RATIFIED STATES

NOTE: To League P.R. Chairmen: If your League has decided to use the bracelet for an ERA fund raising campaign and plans to order bracelets in quantity for this purpose, substitute your local address.

The League of Women Voters of _____ today launched an Equal Rights Amendment bracelet campaign. The purpose of the campaign is to raise additional monies for ERA ratification activities in non-ratified states.

The sale of the bracelet is one activity in a national campaign by Leagues throughout the country towards getting the Amendment ratified. Ratification by eight more states is needed before the Amendment can become law.

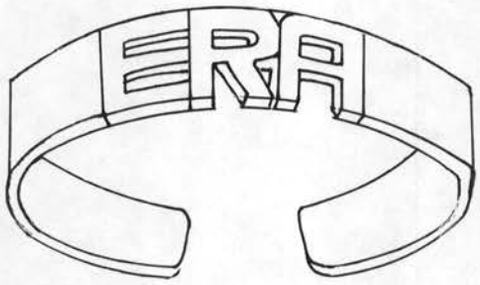
In _____, (fill in situation in your state) _____, President of _____ League said.

"We shall work with other Leagues in _____, other women's groups, labor unions, citizens groups and individuals to develop public support for the Amendment. We shall also mount an extensive lobbying campaign for ratification so that when the issue comes before our legislature again in _____, passage will be assured."

The bracelet is a band of nickel silver with the letters "E.R.A." pierced into it. It is purposely neutral in design so that it can be worn by both men and women. It costs $3.00 and can be purchased by writing to: The League of Women Voters, 11313 Frederick Avenue, Beltsville, Maryland 20705. All orders must be prepaid.

# # #

Equal Rights Amendment Bracelet



Show your support for ratification of the Equal Rights Amendment by buying and wearing the ERA bracelet. Made of nickel silver--with the letters E.R.A. pierced into it--the bracelet can be worn by both men and women. It will also make a nice Christmas gift.

Proceeds from the sale of the bracelets will go toward getting the Amendment ratified.

COST: $3.00 prepaid, including postage

ORDER FROM: League of Women Voters
11313 Frederick Avenue
Beltsville, Md. 20705

Maryland residents, add 4 percent sales tax

the league of women voters of the united states
1730 M STREET NW, WASHINGTON, D.C. 20036 TEL. (202) 296-1770

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

memorandum

The League of Women Voters of the United States

September 25, 1973

TO: State and Local League Presidents

FROM: Ruth Clusen, Public Relations Chairman

Subject to last minute change, Lucy Wilson Benson is scheduled to discuss the Equal Rights Amendment with Phyllis Schlafly on the "Today Show" (NBC), Thursday, October 18, 1973.

# # #

No

St. Paul League of Women Voters, Central Manor, 26 E. Exchange, St. Paul, Mn. 55101

October, 1973

UPDATE - EQUAL RIGHTS AMENDMENT
"ERA"

So much has happened in the past year to encourage and ensure women that an honest and fair opportunity will be theirs in the future. People will be saying,-- 'Since Billy Jean and the ERA---', Because of Billy Jean and the ERA---', Thanks to Billy Jean and the ERA- -'!!! We in Minnesota can be proud of the fact that our state had the foresight to be among the first to pass the ERA. At the same time we females can be proud of Billy Jean!!! Right?

Seriously, we need to be aware of the contents of the ERA and be able to carry out intelligent conversations regarding it.

The Twenty-seventh Amendment to the United States Constitution reads as follows:

> SECTION ONE: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
>
> SECTION TWO: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
>
> SECTION THREE: This amendment shall take effect two years after the date of ratification.

To be effective the article must be ratified by the legislature of three-fourths of the states within seven years from the date of its submission by Congress. To date thirty states have passed it. Some states have it on the 1974 agenda. If eight pass it, the necessary number to ratify will be reached.

What we have known as sex discrimination has been tolerated for ages. Not until Congresswoman Chisholm stated - "I have been far oftener discriminated against because I am a woman than because I am black." were we forced to think about the seriousness of sex discrimination again.

Some of the fears of opponents to the ERA are sometimes based on personal insecurities in their roles as men or women. I can clear up only a few expressed fears in this article but perhaps it will enlighten you so your information will be broadened. The first, and uppermost fear, is in the area of the draft. Under ERA - If a draft exists in the country, women and men who meet the physical and other requirements, and those not deferred by law, will be subject to conscription. Once in the service, women like men would be assigned to various duties by their commanders, depending on their qualifications and the service's needs. Of course women, like men, would be exempt if they have dependents to care for, or other exemptions curently valid. The draft is equal but once in the Army, they tell you where to serve. Of course as a result women will receive the same benefits as males in the service, and after.

Another fear is the effect on some state legislation in employment restrictions. Some states have laws which were set up years ago to protect women from unfair employers. Now proponents feel it is discriminatory because of certain jobs which prohibit women; such as bartending; or a job which requires the person to lift certain weight objects, the number of hours to work, thus sometimes preventing promotions. Opponents fear women will be exploited in employment and if allowed to work longer hours the home and family life will deteriorate.

With the ratification of the ERA the wording of some laws will have to be extended to include male, or female, or be considered null and dropped from the books. There are some states which have laws stating a man may be jailed for thirty days if convicted of habitual drunkedness but a woman three years for the same offense.

The laws governing prostitution are only for women, and not men.

Another law change would be the name change in marriage. The couple could choose the man or woman's name as the family name. State schools which allow only male or female students would have to change admission policies.

The amendment would not require that dorms or bathrooms be shared by both male and female since this would be an invasion of privacy.

Briefly touching the area of alimony payment and child support covered by the ERA. I will state that it would not be automatic that the male be responsible to the female and the children. It provides for alimony or maintenance for either spouse and child support by either or both spouses, by defining all duties neutrally in terms of function and needs of people involved, rather than in terms of sex.

The expanded Minnesota Human Rights Act passed in August, 1973, enlarges the ERA in our state. It states that there shall be no sex discrimination in public housing, owning real property, sex in education, and right to obtain credit. This makes Minnesota the most progressive state in the field of equality for all.

The League of Women Voters has a strong support position concerning the ERA. Let us be more vocal about it!!!!!!

Virginia Wise
Human Resources Chairman

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA, ST. PAUL, MINNESOTA 55102

Copies to: Gloria, Liz,
Helene, files

February 4, 1974

over file Letter this responds to.

To the Editor
Minneapolis TRIBUNE
425 Portland Avenue
Minneapolis, MN 55415

Dear Sir:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

Maine and Montana join Minnesota and thirty other states who affirm this statement by ratifying the 27th Amendment (Equal Rights Amendment: ERA). Six more states are needed to ratify this Amendment in the next five years to make ERA part of our Constitution.

Opponents are attempting to undo the thoughtful work of legislators who in 1973 voted our state's support for ERA. Three now familiar myths were repeated in your Letters to the Editor column February 2nd. We wish to remind your readers of the following facts:

Financial support? The Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage; where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of his or her duties.

Women in the military? ERA will not require all women to serve in the military any more than all men were required to serve; in fact, we now have an all voluntary army - the draft was abolished in June 1973.

Legalize rape? Assaulting people (men or women) is a criminal offense and cannot be changed by ERA.

Do you favor ending discriminatory laws and practices? If your answer is yes, speak out and write your legislators to resist attempts to turn aside their previous decision on ERA. In the words of Cicely Tyson, "In a democracy all mankind should be guaranteed equality under the law. I am a human being and think it is ridiculous that there is still a question about this and that we still have to discuss equality of rights for human beings."

Sincerely,

Mary Ann McCoy, President
League of Women Voters of Minnesota

TELEPHONE 224-5445

Why ERA opposed

A bill to rescind the Equal Rights Amendment is under way in the state Legislature. Those of us who oppose this amendment have good reasons for doing so. Both proponents and opponents agree on the technical, legal interpretation of the amendment: i.e., that absolutely all legal distinctions between the sexes will have to be abolished. Unfortunately, this is not equivalent to preventing sex discrimination.

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Family Circle®

MAY 1974

10 MYTHS ABOUT THE EQUAL RIGHTS AMENDMENT

There's a lot of misinformation being passed around by opponents of the Equal Rights Amendment. Here are 10 of the most common myths about it, and the actual facts in each instance

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1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

memorandum

The League of Women Voters of the United States

This is going on
Duplicate Presidents Mailing

September 25, 1974

TO: State and Local League Presidents

FROM: Carol Toussaint, Public Relations Chairman
Keller Bumgardner, ERA Coordinator

Attached you will find a copy of "Women in the 70's; Black Women and the Equal Rights Amendment." The text is a composite of excerpts from a speech by Frankie M. Freeman, the only woman and black commissioner on the U.S. Commission on Civil Rights delivered at the Delta Sigma Theta, Inc. convention last year.

This publication fills a long standing need in ERA ratification campaigns for a strong definitive piece explaining why black women should support the Equal Rights Amendment.

We hope you will use it yourselves and also let other organizations know of its availability. As you will see, its cost in minimal -- 100 for $3.00. Bulk prices on request.

# # #

(1974?)

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Create a STAMPEDE toward ratification !

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- -

O R D E R B L A N K

League of Women Voters of North Carolina
2637 McDowell St.
Durham, NC 27705

Please send me _____ "Ratify the ERA" rubber stamps. Check enclosed for $_____.

Name _____

League _____

Address _____

City _____ State _____ Zip _____

(1974)

The Equal Rights Amendment--

Senator Ervin's Minority Report and the Yale Law Journal

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN
Room 1336, Department of Labor Building
Washington, D. C. 20210

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN
Washington, D. C. 20210

Honorable Jacqueline G. Gutwillig, Chairman

Miss Virginia R. Allan
Deputy Assistant Secretary of State
for Public Affairs
Department of State

Miss Nola Allen
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Dr. Margaret Long Arnold
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Federation of Women's Clubs

Mrs. Diana G. Bethel, Executive Asst.
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of Jewish Women

Mrs. Irene Wischer, President
Paladin Pipeline Co.
Sr. Director & Executive Officer
Panhandle Producing Co.

Staff

Mrs. Catherine East
Executive Secretary

Mrs. Bertha H. Whittaker
Management Assistant

* Does not endorse the Equal
Rights Amendment.

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[1974?]

FILE COPY

The Proposed Equal Rights Amendment:

A Brief in Support of Its Ratification

Prepared for the LEAGUE OF WOMEN VOTERS OF THE U.S.
By BELLAMY BLANK GOODMAN KELLY ROSS & STANLEY
36 West 44th Street
New York, N. Y. 10036

The Proposed Equal Rights Amendment:
A Brief in Support of Its Ratification

INTRODUCTION

Sex discrimination is deeply ingrained in our society, and generation on generation of American women have suffered as a result. Historically, women have been injured by law as well as by custom. By the turn of this century, the courts had held that women could not make or enforce contracts.[1] They could not sue in their own names[2] or serve on juries.[3] They could not enter into a business partnership,[4] keep the earnings of their labor,[5] or retain their own names.[6] Everywhere the law told women they were "different" and subjected them to crippling restrictions.

Unfortunately, things are not too different for women today. States still may make it more difficult for women to serve on juries than men.[7] Married women still may be prohibited from engaging in their own businesses without their husbands' consent.[8] In community property states, a married woman's earnings go into a community fund which her husband may control.[9] And, according to recent Supreme Court decisions, a married woman is still not entitled to retain her own name,[10] and places of public accommodation can offer services to men and deny them to women.[11]

The law treats women differently from men in other key areas. (See the Appendix for a full list of these areas.) Alimony, child custody and support laws are administered unequally, depending on the sex of the parties. Public educational institutions discriminate against women in admission and other areas. Many states still have labor legislation on the books which, though theoretically designed to "protect" women, really does little more than deny them the opportunity to work in high-paying jobs. And the government also deprives women of a wide range of veterans benefits and job training opportunities because it exempts them from most types of military service.

This kind of discrimination is a fact of life for all who are female. And it is the kind of discrimination -- embedded in the most basic rules of our society, sanctioned by the law -- which is particularly difficult to change. Our experience with another form of discrimination, race discrimination, has given us some insight. We know now that we cannot eliminate deeply-entrenched prejudices of this kind without making a national commitment to do so.

With this in mind, in 1972 Congress adopted a proposed amendment to the Constitution of the United States, prohibiting sex-based discrimination under the law. The Equal Rights Amendment* has since been approved by 32 states. We believe it should be ratified by all states. This testimony sets forth our reasons and responds to the arguments raised by the Amendment's opponents.

The Equal Rights Amendment should be ratified because it is the necessary moral and legal response to the problem of sex-based discrimination. This problem is one of national dimension, transcending states or localities, and thus requires a national commitment to eliminate it. A constitutional amendment is a most appropriate embodiment of such a commitment. One could hardly confuse the need for such an Amendment with the need for a mere slogan - at least not without reducing our Bill of Rights to a bumper sticker! For in fact, much of our Constitution is composed of commitments to important moral and social principles - our rights to free speech and free press, to freedom of religion and of assembly, to equal protection and due process of law. And thus a moral commitment to the principle of equality between women and men properly belongs there.

The proposed Equal Rights Amendment constitutes a unified, immediate and unequivocal response to sex-based discrimination. With the growing realization that such discrimination will not simply "go away" and is increasingly unacceptable in our society, the desirable course for legislators is not the longer and darker road - piecemeal efforts without the help of a constitutional amendment - but the Equal Rights Amendment which sets the nation on the right course.

HOW THE EQUAL RIGHTS AMENDMENT WILL WORK

The Amendment reflects two fundamental propositions: first, that women are not inferior to men because of their sex, and second, that women vary as individuals - in body structure, physical strength, intellectual and emotional capacities, aspirations and expectations - just as men do.

---

* The Equal Rights Amendment reads as follows:

> Sec. 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.
>
> Sec. 2. Congress shall have the power to enforce by appropriate legislation the provisions of this Article.
>
> Sec. 3. This Amendment shall take effect two years after the date of ratification.

Treats People As Individuals

Some people have expressed fears that the Amendment will result in a sexless society or will prevent people from choosing traditional lifestyles. These fears are unfounded. The Equal Rights Amendment will not create a society where all roles are simply reversed - where, for example, all women have careers and all men are househusbands. And, even more importantly, it will not compel women to abandon traditional roles. Rather, the Amendment will prohibit laws which allocate one role to all women and another role to all men, or which treat women differently from men just because of their sex. The Amendment will make it necessary for laws to treat people as individuals and not as stereotypes or statistics, so that Mary Jones can become a housewife if she chooses and Mary Smith can become an engineer if she chooses. By the same token, John Brown can become a doctor or a househusband.

Nor will the Amendment create a unisex society; many men and women enjoy and choose to empahsize the unique sexual identities they perceive as part of their personality, and the Amendment will not prevent or impede their preferences. In short, the Amendment will foster a society in which there may well be differences in the social identities and the societal positions of women and men, but these differences will reflect free choice rather than social compulsion rooted in legal restraints based solely on sex.

As for those who assert that the Amendment will somehow erode certain values, such as a special sense of respect for and protection of women - their fears are misplaced, and should instead be focused upon some of the real causes of the erosion of such values: pornography, violence, the commercial use of sex for advertising and the double standard regarding sex prevalent in our social mores and laws. Indeed, the Amendment may have the effect of extending to women the kind of "protection" which they really need: the legal guarantee of first-class citizenry under the law.

Prohibits Discriminatory Laws

The Amendment will prohibit different legal treatment based solely upon one's sex, and will require that legal classifications of persons, where necessary for legislation, be made on the basis of traits which are sex-neutral and which are found in both sexes (such as reading ability or eyesight). Or, laws can be enacted on a functional basis related to the types of activity involved. Thus, laws regarding education, domestic relations, property ownership and management, crime, jury duty, employment, the military, governmental benefits, age of majority, name change, domicile, housing and public accommodations - will concern the standards or requirements or prerequisites which must be spelled out to achieve the legislative purpose involved. For example, domicile and voting laws would be based on where one actually resides, and not upon where one's husband resides. The age of majority would be the same, whether one was male or female.[12] Laws could not premise obligations or benefits or rights upon whether a person is male or female.

Certain laws which make sex-based distinctions - such as sperm banks and wet nurses - will be permissible because, by definition, they apply only to one sex or to the other. But these exceptions will be limited and will not always permit disparate treatment because of a condition unique to one sex; for example an employer will not be able to treat pregnancy one way and all other disabilities another way.[13]

Prohibits Public Discrimination

The Equal Rights Amendment prohibits public discrimination, that is, it expressly binds Congress and the states. The effects of this broad prohibition will be widespread since the concept of "state action" which has been utilized by courts to determine the scope of similar constitutional provisions such as in the Fifth and Fourteenth Amendments, will be applied to this Amendment as well. Opponents of the Amendment have been critical of the fact that it will not reach private discrimination, but this argument is meaningless because the Fourteenth Amendment - which they advocate instead - also does not reach private discrimination. Further, even though the Amendment will not directly affect sex-based discrimination in the private sector, the states always can enact their own legislation pursuant to their police powers encompassing prohibitions against sex discrimination in the private sector, just as states can and have enacted such legislation to prohibit private discrimination on the basis of race, religion, color or national origin.

The Breadth of the Amendment

Not every legal consequence of the Amendment can be predicted in advance of its passage. And it is no more realistic to expect a ready blueprint for anticipating its every legal consequence than for all the ramifications of other basic constitutional principles such as equal protection or due process.

The Amendment contains broad language and deliberately so, just as the Fifth and Fourteenth Amendments contain such language in the concepts of due process and equal protection. The need for permanence of our constitutional doctrines, as well as continued application to future societal problems, requires such breadth.

Lays the Foundation for Comprehensive Review of Present Laws

There is a real and critical difference between adopting the Amendment and assuming that lawmakers will act without the Amendment as if it existed. Without the Amendment there is no legal impetus for states to do an in-depth review and study of the myriad laws and various legal areas to indicate the problems of discrimination and to set forth non-discriminatory solutions. Without a constitutional declaration of principle, each new piece of legislation or each litigations about discrimination would raise anew the issue of the desirability

of equality between the sexes. This would assure long and protracted battles. It would place an onerous burden of advocacy on those who believe in the principle embodied in the Amendment, and it would deny women the certainty of any legal consensus favoring their equality. With the Amendment, every jurisdiction will have a final resolution of this initial and fundamental policy question, and thus be provided with the critical framework necessary for a review of laws in the affected areas.

THE FOURTEENTH AMENDMENT IS INADEQUATE

A central thesis of Amendment opponents is that, for constitutional remedies for sex-based discrimination, the Fourteenth Amendment suffices. Yet, a closer look belies this conclusion. This position leaves unresolved the obvious inadequacy of a general declaration of equality which requires a judicial determination that sex-based distinctions are unlawful (the Fourteenth Amendment), as compared to a declaration which unequivocally establishes ab initio for the legal system the general principle of sex equality (the Equal Rights Amendment). Finally, there is no reason why women cannot be afforded the protection of both amendments.

A look at the Supreme Court's record should dispel any illusions about the Fourteenth Amendment as a substitute for the Equal Rights Amendment. From the beginning of our Constitution up until 1972, the Supreme Court never once held a sex-based legislative classification to be violative of the Fourteenth Amendment. Moreover, in a long series of fateful decisions for women, all of which were characterized by a strong belief that women are not equal to men and by a markedly casual judicial consideration of civil rights for women, the Supreme Court denied women the constitutional guarantee of several basic rights: voting,[14] equal employment opportunities,[15] admission to the bar to practice law[16] and jury service.[17] One case alone, Muller v. Oregon,[18] spawned a myriad of lower court decisions, dominating the first half of this century, holding that women should be treated differently because they are inferior. And the Supreme Court has not expressly overturned many of these precedents.

At this point in time, there are only two Supreme Court cases - Reed v. Reed[19] and Frontiero v. Richardson,[20] - holding that the Fourteenth Amendment equal protection clause protects women from discrimination in certain limited instances. Such precedent, while welcome, hardly meets the need for the Equal Rights Amendment. First, as both the Reed and Frontiero decisions illustrate, even where the Supreme Court strikes down a statute as discriminatory under the equal protection clause, the facts of the case may be sufficiently unusual and the decision so narrow that its impact will be uncertain or diluted.

Second, these two decisions leave open the critical issue of which standard of judicial review is to be applied - the looser "rational relationship" test was applied in Reed and the stricter

"suspect classification" test was applied by a minority of the Justices in Frontiero.[21] The less strict standard of review may allow substantial discretion, and thus opportunity for considerable disparity, in the treatment of civil rights for women. And even if the strict scrutiny standard were adopted, that would not force the full-scale and in-depth review and study of existing laws, and provide the impetus for recommendations for reform. The Equal Rights Amendment is needed as a catalyst to inspire the nation to undertake this reform.

Third, no matter which judicial standard of review is used under the equal protection principle, there are classifications - that would otherwise be eliminated by the Equal Rights Amendment - that would remain intact. Recent Supreme Court decisions regarding sex-based discrimination in education,[22] name change,[23] and public accommodations,[24] bear out this proposition and demonstrate that the Supreme Court, as the final arbiter of constitutional jurisprudence, has failed to strike down any significant discrimination on the basis of sex under the Fourteenth Amendment.[25]

Oddly, the same groups favoring use of the Fourteenth Amendment as the legal basis for eradicating sex discrimination have opposed the Equal Rights Amendment on the grounds that its Section 2 will permit Congress to somehow encroach upon state's rights or will confer upon Congress powers now vested in the states. Yet, Section 2, which is nothing more than the customary legislative enabling clause, parallels the very language contained in Section 5 of the Fourteenth Amendment! Further, even if Congress were to take any step in the direction of encroaching upon states' rights under Section 2 of the Equal Rights Amendment, the Supreme Court in a recent decision interpreting the scope of power granted in Section 5 of the Fourteenth Amendment, suggested that that language may not authorize legislation in areas traditionally reserved to the states without specific direction.[26]

In the long run, the Fourteenth Amendment, with its attendant uncertainties about the standard of review, protracted delay in widespread application and possibility of complete judicial reversal, make it a secondary instrument for sex equality. With the passage of the Equal Rights Amendment there is no reason why the courts cannot find that discriminatory statutes and practices violate the Fourteenth Amendment as well and, given the superiority of the Equal Rights Amendment over the Fourteenth Amendment as a definitive constitutional declaration of equality, there is no reason for advocates of equal rights to spurn it.

THE AMENDMENT'S EFFECTS IN PARTICULAR AREAS

The Amendment's effects in certain areas have engendered much discussion and commentary, and are particularly treated below:

Family Support and Alimony

Critics of the Amendment claim that its passage would result in a loss of support for wife and children and of alimony for women, or that it would force women to go to work to support their husbands. Concern about the problems of support and alimony is certainly warranted in today's society. But the real culprit is the dependent economic position which married women occupy in our society coupled with the inadequacy of the existing state of the law. The public deserves a more candid explanation from such critics about how inadequate such laws truly are. And, far from taking away presently existing rights to support or alimony, the Amendment lays the groundwork for more tenable solutions.

At this point in time, women have very little real protection, and few rights, in this area. While all states make husbands primarily liable for the support of their wives and children, any "right" to support which women have under such laws does not even arise until the marriage breaks down. Thus, up to the point of such a breakdown, however marginal the marriage may be, courts leave it to the husband to determine how much or how little of his income or earnings he wishes to bestow on his wife, and as long as he provides the barest necessities, a court will refuse to interfere and enter a support decree for the wife.[27] The wife is not entitled, as of right, in an ongoing marriage to a part of the marital property, and she has no right to income or earnings being brought into the family by her husband. Even in the states which espouse community property concepts, the husband may be entitled to manage and to control the income.[28] Only when there is a breakdown in the marriage does the wife's right to support arise.

Even when the right to support can be exercised, it brings insuperable problems to women who try to assert it. Scores of women have learned how difficult it is to obtain support: often they have been left with children and bills without any income or job or sufficient assets, without any legal counsel or experience or familiarity with courts and legal procedures. To compound this difficulty, even when their right to support results in the issuance of a judicial order of support, many women have discovered that the civil enforcement mechanisms to compel compliance when the husband refuses to pay are woefully inadequate and that the criminal penalties for non-support, already widely considered inappropriate remedies, are not utilized. Thus, the present state of the law masks a cruel reality: that is, that the right of support is wholly inadequate - it arises too late and accomplishes too little.

Alimony presents similar difficulties for women: judicial enforcement of alimony provisions, where there has been non-compliance, is the woman's burden and is often ineffective. And alimony

is not an automatic statutory right, once there has been a divorce; it is often granted at judicial discretion.

The Equal Rights Amendment certainly will not put women in a more precarious or primitive position than they now occupy when they seek support or alimony. The Equal Rights Amendment, instead, paves the way for the wife to have a vested right during the ongoing marriage in the marital property, including the husband's income or earnings for the contribution she has made to the marriage.

Moreover, in this area, as in others, the Amendment seeks what is equitable, not what is punitive. Thus, its passage will not result in taking away the existing rights of alimony or support, or forcing women to go out to work to support their husbands. It would simply require the law to impose such benefits and obligations on a basis other than sex.[29] Such laws might well provide that the spouse who is able to pay (whether husband or wife) is obligated to provide alimony or support to the spouse who needs it (whether husband or wife).[30] Thus, women, who are the majority of divorced and separated spouses in need, would continue to be entitled to receive such alimony or support from their husbands or ex-husbands. And, as a practical matter, few men would be in a position to seek support or alimony since they usually are employed or employable and are thus capable of supporting themselves. Under the Amendment, where both parties are employed, the duty of spousal support may be apportioned more equitably between husband and wife. In those more exceptional instances where the husband relies upon his wife's income or earnings for his support, or needs alimony, and the wife is capable of providing it, he will be entitled to seek it. No one can deny that this is fair - that the duty of support should be undertaken by the one who can do so.

In the area of child support, the Equal Rights Amendment would provide no basis for altering the father's legal responsibility to support his children. Again, the laws regarding such support obligations would have to be sex-neutral, and speak of "parent" instead of "father." The Amendment might pave the way for more shared support by both parents where both work. And in those unusual cases where the mother is economically capable of supporting her children, and the father is not at all - just as in those few instances where the husband needs support or alimony and the wife is able to provide it - the Equal Rights Amendment would support this assumption of responsibility without regard to sex.

There is little doubt that the family as a social institution has undergone profound changes in the last few years, and that some changes, such as more frequent and readily obtainable no-fault divorces, and a rise in the number of female heads of households, have been particularly hard on women. But it is pointless to blame this Amendment, which is not even yet in effect, for

problems that already exist and that have roots in many other causes. In fact, concern for the financial plight of the non-working wife or the divorced or separated or widowed wife or mother, should lead to its support, for the Amendment paves the way for more realistic and viable solutions for these wives and mothers - for economic equality in the job market, and a right to share in the marital property - without taking away any "rights" women now have for support or alimony.

Military Obligations

Under the Equal Rights Amendment, women will definitely be subject to military obligations - as well as exemptions and deferments - as are men, and they will be entitled to military benefits on the same basis as men.

The concept of women in combat duty has evoked much horror, and opposition to the Amendment's ratification. Putting the notion of combat duty in military service in perspective, however, makes it plain this is a distortion. First, combat soldiers make up only a small percentage of military personnel. Second, of those military personnel assigned to combat zones, many perform technical, administrative, logistical and medical duties - which are no different than the work performed in non-combat zones. Thus, the numbers of women actually required to engage in combat would be very small, just as are the numbers of men.

Third, there is no basis in fact to conclude that women as a class lack the physical capabilities to perform many of the jobs involved in combat - such as driving a truck or tank or other military vehicle, piloting a plane, firing a gun or other artillery, operating a radio or other communications equipment. In most ground combat, the effectiveness of the modern-day soldier is due to skills, training and equipment rather than brute strength. It must be remembered that there have always been some men who were incapable, physically or psychologically, of performing the tasks required of a combat soldier, and we can expect that in the future there will be individual men and women unsuited to these tasks. The Amendment would do no more than require the armed services to take those of both sexes who are qualified and capable, and to screen out those of both sexes who are not.

Fourth, the fact that combat duty may mean risk to or loss of life is no more reason to keep women out of the military than to keep out men. It is fundamental that human life is invaluable, regardless of one's sex, and that combat casualties - be they men or women - are equally tragic. Those truly concerned about the dangerous consequences of combat or who object to combat as a matter of principle pursue an inappropriate solution in opposing the Equal Rights Amendment; their concern is with other laws and other

institutions and unless that concern embraces men as well as women, it appears only as a sham to deny women the benefits of this Amendment.

Women have always been in military service, and, to some extent, exposed to combat dangers. But they have been permitted only in limited numbers and in certain female-stereotyped divisions, the Women's Army Corps and the Army Nurse Corps.[31] They have not been assigned to the many broad areas available - administration, intelligence, training, tactics, supply or combat. And they have largely been deprived of the vast panoply of training, of skills development, of education and of other benefits - including scholarships and loans and insurance and employment preference and pensions and health care - which are afforded as a matter of course to men in military service.

Ultimately, while some aspects of military service may be considered distasteful, and some aspects are dangerous, it is only fair that all capable and qualified members of the community be required to serve regardless of their sex, and that both women and men be afforded the opportunity to partake of the extensive benefits incidental to such service.[32] Some women might prefer not to incur military obligations, but this is hardly reason for opting against the Amendment; there are men who do not like military service too. The concept of national military service may not be premised upon such preferences, but upon what is equitable - the extension of obligations and benefits of military service to women, in recognition of their full and equal citizenship.

Labor Legislation

It has been suggested that the Amendment will remove certain labor "benefits" afforded to females, such as restricting the number of hours they may work and the kinds of employment they may engage in. However, the recent evidence in cases and studies, and the rulings of administrative agencies which deal with employment discrimination, have challenged this and have shown that, far from affording women workers genuine protection, the present impact of such legislation has been to discriminate against them and to decrease their employment opportunities. Because of this, federal courts and EEOC have unanimously agreed in striking down under Title VII of the Civil Rights Act of 1964, such laws as maximum hours laws, weight limitations laws, overtime and nighttime limitations laws and statutory prohibitions against women holding jobs such as bartenders.[33] State attorneys general have reached similar conclusions.

The AFL-CIO, long an opponent of the Equal Rights Amendment, because of its concern with labor benefits for women, has recently become an advocate of the Amendment - a switch that certainly signals the death of this particular objection to its passage.

In fact, the most prevalent difficulty which working women face is that, because of past discrimination, they lack the necessary education, training and skills which would enable them to compete in the marketplace on an equal basis with men. The solution to this problem lies in supporting the Amendment, not in approving "protective" legislation which keeps women as a group removed from the harsh realities of modern life, and which in fact discriminates against working women.

Rest Rooms and Similar Facilities

The "bathroom" argument has generated much needless commentary against the Amendment. Any notion that the Equal Rights Amendment would make mandatory sex-integrated rest rooms or similar facilities is unwarranted nonsense. The Amendment, on its face, clearly does not condone any intrusion or jeopardizing of the already established constitutional right of privacy, a right which would clearly sanction separate male and female facilities for activities involving disrobing, sleeping and personal body functions.[34] The basic principle of constitutional law - that the Constitution be interpreted as an integrated whole - would bar any such result.

Nor is there any basis for assuming that the courts would interpret the Amendment as requiring that such facilities in places of public accommodation or in schools or military facilities be "integrated." Not a single organization or association or group or leader or report or article which has endorsed the Amendment or urged its passage has ever cited this as a reason for, or as a desirable consequence of, its passage. And no court has ever ordered such a resolution to a controversy.[35] The bathroom argument is nothing more than a false issue; it presents no obstacles to the passage of this Amendment.

CONCLUSION

Equal rights for women is long overdue, and the passage of the Equal Rights Amendment is the most feasible and effective means of accomplishing the changes which are necessary in our legal structure to guarantee equality between the sexes. Those who laud this goal but oppose the Amendment are, in the last analysis, truly not committed to the concept of equality between the sexes: they stress that sweeping changes will be made in our society as a result of the Amendment (an implicit admission of the widespread and deep effects of sex-based discrimination) and then inconsistently assert that the Amendment does not go far enough because it does not reach "private" sex discrimination. They insist that "equality between the sexes" does not belong in the Constitution and then inconsistently assert that it is already there in the Fourteenth Amendment. They catalogue an eclectic series of undesirable social situations such as integrated bathrooms and dis-integrated Boy Scout Troops, and - without logic or reason - tag those situations as inevitable consequences of the Amendment. Ultimately, their position is nothing more than "status quo" - a position which falls far short of a commitment to equality.

No one piece of legislation can do more (and in fact any other piece of legislation would inevitably do less) to eradicate sex-based discrimination than this simple but profound constitutional amendment. It is time to adopt it and to declare that our female citizens are, finally at last, created equal under the law.

FOOTNOTES

[1]Bradwell v. Illinois, 83 U.S. 130, 141 (1872).

[2]Mathewson v. Mathewson, 70 Conn. 23, 27, 63 A. 285, 287 (1906).

[3]Women were totally excluded from juries until the early twentieth century. See Fay v. New York, 332 U.S. 261, 289-90 (1947).

[4]E.g., Gwyn v. Gwyn, 27 S.C. 525, 4 S.E. 229 (1887).

[5]Seitz v. Mitchell, 94 U.S. 580, 584-85 (1876).

[6]E.g., Chapman v. Phoenix National Bank, 85 N.Y. 437, 449 (1881); Freeman v. Hawkins, 77 Tex. 498, 500, 14 S.W. 364, 365 (1890).

[7]Hoyt v. Florida, 368 U.S. 47 (1961); Alexander v. Louisiana, 405 U.S. 625 (1972).

[8]E.g., FLA. STAT. ANN. S62.021 (1969).

[9]See, Report of the Task Force on Family Law and Policy to the Citizens' Advisory Council on the Status of Women 2 (1968).

[10]Forbush v. Wallace, 405 U.S. 970, aff'g 341 F. Supp. 217 (D. Ala. 1971).

[11]Millenson v. New Hotel Monteleone, Inc. 475 F. 2d 736 (5th Cir.), cert. denied, 38 L. Ed. 2d 250 (1973).

[12]To illustrate further, laws regarding jury service will no longer be able to exempt women from such service as a class simply because of their sex. But if the legislators feel that an exemption is needed for those who must stay home and care for infants, such an exemption could be enacted to include a potential juror of either sex, man or woman, who may be caring for infants. Thus, even when members of one sex may appear to perform a function not performed as frequently by members of the other sex, laws will not constitutionally be able to fix legal rights on the basis of membership in one sex or the other.

[13]29 C.F.R. SS1604.9, 1604.10 (1972).

[14]Minor v. Hapersett, 88 U.S. (21 Wall.) 162 (1874).

[15]Goesaert v. Cleary, 335 U.S. 464 (1948);
West Coast Hotel v. Parrish, 300 U.S. 379 (1937);
Radice v. New York, 269 U.S. 292 (1924);
Muller v. Oregon, 208 U.S. 412 (1908).

[16]In Re Lockwood, 154 U.S. (16 Wall.) 116 (1894); Bradwell v. Illinois, 83 U.S. (16 Wall.) 130 (1872).

[17]Strauder v. West Virginia, 100 U.S. 303, 310 (1880) (dictum).

[18]208 U.S. 412 (1908). There are over 90 cases reported in Shepard's citations which cite Muller as a basis for taking judicial notice of "female physical characteristics" to support separate and different treatment for women.

[19]Reed v. Reed, 404 U.S. 71 (1971).

[20]Frontiero v. Richardson, 41 U.S.L.W. 4609 (May 14, 1973).

[21]A third test, the "fundamental interest" test has been used by the Supreme Court, but this has been held to apply only where the particular right claimed to be infringed is a "fundamental" one, and the Court has disagreed about what kinds of rights and interests come within the scope of "fundamental." See e.g., Wyman v. James, 400 U.S. 309, 338 (1971) (Marshall, J., dissenting); Dandridge v. Williams, 397 U.S. 471, 508 (1920) (Marshall, J., dissenting); Kramer v. Union Free School District, 395 U.S. 621, 634 (1969) (Stewart, J., dissenting); Shapiro v. Thompson, 394 U.S. 618, 655 (1969) (Harlan, J., dissenting). There is thus little hope that this test would be of significant assistance to women as a standard of review in sex-based discrimination.

[22]Williams v. McNair, 401 U.S. 951 (1971).

[23]Forbush v. Wallace, 405 U.S. 970, aff'g 341 (Supp.). 217 (D. Ala. 1971).

[24]Millenson v. New Hotel Monteleone, Inc., 475 F. 2d 736 (5th Cir.), cert. denied, 38 L. Ed. 2d 250 (1973).

[25]By contrast, any presumptions about the reasonableness of state legislation which treats other groups in our society as a class has been discarded. See, e.g., Brown v. Board of Education, 347 U.S. 483 (1954); Korematsu v. United States, 323 U.S. 214 (1944); Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942).

[26]Oregon v. Mitchell, 400 U.S. 112 (1970).

[27]H. Clarke, Domestic Relations 195-96 (1968).

[28]See note 9, supra.

[29]Similarly, laws regarding penalties for non-support would apply to either sex. It is likely that the criminal penalties, already in wide disrepute, would be dropped entirely. This has long

been the recommendation of lawmakers (see Model Penal Code S230.5 Proposed Official Draft, 1962).

[30]Models for such laws have already been suggested. See, e.g., Uniform Marriage and Divorce Act SS 308(a) and (b); See also, Brown, Emerson, Falk & Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, 80 Yale L.J. 871, 945, 046, 952 (1971).

[31]At present, the Women's Army Corps ("WAC"s) is limited to two percent of the full strength of the services. 10 U.S.C. S 3209(b) (Supp. IV, 1967); 32 C.F.R. S 580 (1971). While women are assigned to the Nurse Corps on the basis of function, they are assigned to the WAC's only because they are female. Men, on the other hand, are assigned to one of five broad areas of duty: administration, intelligence, training and tactics, supply or combat. The Amendment will require that the Army and all of its divisions and corps be integrated.

[32]As for the case of a husband and wife who might both be in the military service, legislators can make appropriate legislative provisions, e.g., drafting a sex-neutral exemption for one parent to remain at home in such an event, so that children could be cared for.

[33]80 Yale L.J. at 922-36 (supra note 30); Ross, Sex Discrimination and "Protective" Labor Legislation, 1970 Hearings Before Senate Judiciary Committee on the Equal Rights Amendment at 210.

[34]See, e.g., York v. Story, 324 F.2d 450 (9th Cir. 1963), cert. denied, 376 U.S. 939 (1964), wherein the Court applied the constitutional right of privacy to a situation where police searches involve the removal of clothing. The Supreme Court has recognized the concept of a constitutional right of privacy: Griswold v. Connecticut, 381 U.S. 479 (1965).

[35]In fact, both EEOC in its guidelines and courts have made it clear that the "bathroom" argument cannot be used to avoid legal responsibilities. In Cheatwood v. South Central Bell Tel. & Tel. Co., 303 F. Supp. 754 (M.D. Ala. 1969), the court held that, under EEOC guidelines, the employer's protest about a lack of female rest room facilities as a rationale for not hiring women was a sham. Far from causing fake problems such as integrated bathrooms, it may well be that the Amendment will compel other institutions, such as universities - who deny women participation in sports because there are no bathroom facilities for women - to build women's lockers and restrooms so that sports activities will be available to women as well as to men.

APPENDIX

Some of the areas of the law in which ratification of the Equal Rights Amendment will have a significant impact and on which state legislatures will have to focus their attention, in order to bring the laws of their respective states into compliance with the Amendment, include the following:

Adultery. Any criminal statute that defines adultery as sexual intercourse between a married woman and an unmarried man, but not between a married man and an unmarried woman, must either be repealed or extended to apply equally to men and women. See Brown, Emerson, Falk & Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, 80 Yale L.J. 871, 961-62 (1971) [hereinafter cited as Yale L.J.] for particular statutes.

Age of Majority. State statutes which define the age of majority differently for men and women will have to be amended so that whatever age is chosen will be the same for both sexes.

Alimony. State statutes which permit alimony to be awarded to the wife only will be unconstitutional. Alimony will have to be available to either husband or wife on the basis of functional factors such as need, length of time a spouse has been out of the labor market making a non-compensated contribution to the family, age, health, whether the spouse has custody of young children or children with special needs (which may make it more difficult or impossible for him or her to obtain lucrative employment), and a spouse's ability to pay. Yale L.J. at 951-53.

Business. Laws which require a woman to meet special qualifications in order for her to engage in business, such as requiring her husband's permission or court approval, must be invalidated.

Child Custody. Any statutory or common law presumption that the mother automatically should be awarded custody of children instead of the father (or vice versa) will be invalidated. The standard instead might be "the best interests of the child." Yale L.J. at 953.

Child Labor Laws. These will have to apply to both sexes up to the same age.

Community Property. Any community property state that allows the husband the power of management and control over the jointly owned property, favors the husband as manager in any way, or allows the husband to assign, encumber or convey such property without

the wife's consent, will have to revise its laws. See discussion of further discriminatory aspects of community property law and how to relegislate in a non-discriminatory manner in Yale L.J. at 946-48.

Disability Insurance. To the extent government-sponsored disability insurance programs exclude the disabilities of pregnancy, childbirth, abortion or miscarriage, or place special limitations on benefits that will be paid for such disabilities, these programs will be unconstitutional. See Hayden, Punishing Pregnancy: Discrimination in Education, Employment and Credit, ACLU Reports 46-52 (1973) [hereinafter cited as ACLU Reports], which includes some financial data on the cost of extending these benefits to cover pregnancy and related disabilities; and Yale L.J. at 929 n. 113.

Domicile. State laws which define a married woman's domicile as that of her husband will be invalid. Married women must have the same independent choice of domicile as married men now have. Likewise, the traditional rule that the domicile of legitimate children is automatically the same as that of their father will no longer be constitutional. Yale L.J. at 941-43.

Education. The impact of the Equal Rights Amendment in the area of education will be extensive. For example, women will have to be considered on an equal basis with men for admission to state schools. All-male or all-female public schools will have to be sex-integrated. Discriminatory "tracking" of girls and boys (e.g. home economics for girls and mechanics for boys) will be prohibited; such courses will have to be available to both sexes. Varsity sports programs for boys and men only in public schools or state universities will be unconstitutional under the Equal Rights Amendment. Rules which forbid pregnant students from attending public school will be unconstitutional under the Equal Rights Amendment. See ACLU Reports at 4-16 for an in-depth presentation of this problem, and Yale L.J. at 893-96 for an analysis of how such rules would be found unconstitutional under the Amendment.

The Amendment's effect on private schools is uncertain; it might not reach them as they fall within the private sector. States, through their police powers, and Congress could prohibit discrimination in this area through specific legislation. In fact, Congress passed a limited bill in 1972, prohibiting discrimination against women in higher education (i.e., graduate schools, private undergraduate schools are exempt). 42 U.S.C. S 2000c et seg., as amended ("The Higher Education Act;" Title IX of the Civil Rights Act of 1964).

Grounds for Divorce. State laws which allow grounds for divorce to be applicable only to one sex will be invalid; such grounds, if they are to be continued, will have to apply to both sexes. The most common of these discriminatory grounds are nonsupport of the wife by the husband and sexual misconduct of the wife.

Less common discriminatory grounds are non-age (where the age of consent for men and women is different), alcoholism of the husband where accompanied by a wasting of his estate to the detriment of his wife and children, a wife's absence from the state for a specified period of time without her husband's consent, a wife's refusal to move with her husband without reasonable cause, the fact that a wife was a prostitute before marriage, a husband's drug addiction, indignities by the husband to the wife's person, and willful neglect of the wife by the husband. Yale L.J. at 949-51.

Indeterminate Sentencing. Any state which has special sentencing provisions for convicted women (but not men) such that the length of a woman's sentence is determined by correctional authorities within the limits set by statute, while the length of a man's sentence is set by the sentencing judge under the substantive statute, will be unconstitutional. Yale L.J. at 965; Ross, The Rights of Women (ACLU Handbook) 165-68 (1973) [hereinafter cited as Ross].

Inheritance. Laws which give a wife, but not a husband, a forced share in her spouse's estate should be extended to apply to men. Yale L.J. at 948-49.

Jury Duty. States which excuse women as a class from jury duty on the assumption that women have family responsibilities not shared by men must amend their laws. If the legislature feels an exemption is needed for those with family responsibilities, it can enact an exemption for those (male or female) who must remain at home to care for dependents.

Juvenile Delinquency. To the extent that state laws hold girls culpable for particular non-criminal behavior (such as running away from home) until a later age than boys, or to the extent that girls may be convicted for acts for which boys may not be punished at all (such as a girl being in manifest danger of falling into habits of vice), they will be unconstitutional. Such provisions will have to apply to both or be eliminated. Ross at 168-70.

Licenses. States will no longer be able to exclude women, nor will they be able to have more stringent requirements for women than for men, from obtaining any type of state license such as liquor licenses, sports (wrestling, boxing judge, baseball referee) licenses, etc.

Name Change. The Equal Rights Amendment will not permit a legal requirement or even a legal presumption that a wife takes her husband's name at marriage. Therefore, any state which prohibits a married woman (but not a married man) from using that state's formal name-change procedure will have to amend its laws. See Ross at 239-55

and Appendix Chart C for an exhaustive discussion of name change and a chart of the name change laws and their characteristics for each of the 50 states. See also Yale L.J. at 940.

Protective Labor Laws. Although Title VII of the 1964 Civil Rights Act has accomplished sweeping reforms in this area, any protective labor legislation pertaining to women only which lingers on the books of any state will be unconstitutional. To the extent such legislation confers a benefit only on women (such as mandatory rest periods or minimum wage) these laws should be extended to cover men; to the extent such legislation imposes a burden only on women, it should be repealed. See Yale L.J. at 922-36 for an exhaustive discussion of protective labor legislation and a chart of the various state laws.

Prostitution. State laws which penalize only women (but not men) for selling their bodies, or which penalize only the female prostitute and not the male patron, or which treat such offenses in a disparate manner, will be unconstitutional. Likewise, to the federal Mann Act, designed to protect women from being forced into prostitution, should be extended to cover men. Yale L.J. at 962-65; Ross at 176-79.

Sexual Assault. Criminal laws which prohibit certain types of sexual activity by only one sex when the activity could be performed by members of either sex will be unconstitutional; for example, laws prohibiting men (but not women) from having sexual intercourse with their female wards, patients or students, or laws prohibiting men from obtaining a woman's consent to sexual intercourse through misrepresentation, deception or fraud. Second, laws which protect only one sex from certain types of sexual assault when either sex could be a victim will be unconstitutional; for example, seduction laws which protect only women or sodomy laws which protect only men. These laws either will be extended to cover both sexes or repealed. Yale L.J. at 955-62.

Support Laws. Legislatures will have to redefine on a functional basis the obligation of support between husband and wife, rather than having a husband be liable for his wife's support regardless of the parties' relative resources. In line with this change in the civil law, criminal laws which make a husband liable for the support of his wife should probably be repealed rather than extended to cover women because of their inefficacy. Yale L.J. at 944.

Unemployment Compensation. In a majority of the states unemployment compensation is specifically denied to pregnant women, even though such women fulfill all the other conditions for collection of benefits. These laws will be unconstitutional. See ACLU Reports at 43 & n.9.

Welfare. Statutes or regulations which give training preference to males over females or state vocational training programs which funnel women as a class into stereotypically female jobs such as beautician, while funneling males into stereotypically male jobs such as mechanic, will have to be changed.

In addition to amending statutes of the types outlined above, legislatures should consider enacting laws to combat private discrimination pursuant to the enabling clause of the Equal Rights Amendment. The following areas are of particular concern to women:

Public Accommodations. Those legislatures which have not already done so should enact laws prohibiting discrimination against women by public hotels, restaurants and bars. See Ross at 259 and Chart B of the Appendix.

Housing. Legislatures should enact statutes forbidding landlords from discriminating against women in the sale or rental of housing accommodations. Landlords frequently refuse outright to rent to single or divorced women or insist that a woman's father or former husband co-sign her lease. These practices should be outlawed. See Ross at 260 & Chart B of appendix in Ross.

Credit. Married women have particular difficulty obtaining credit cards in their own names. Also common is the refusal of banks to count a woman's income in granting a mortgage or other laon, particularly if she is of child-bearing age, on the ground that she is an unreliable income producer. A number of states have not yet enacted laws to prohibit such discrimination, and very few have developed any effective enforcement machinery to prevent this kind of discrimination against women.

Homosexuality: The Amendment will have no direct effect on homosexuality. Although the question of the rights of homosexuals has arisen, it comes up because of a misunderstanding of the word "sex" in the text of the Amendment. For the legislative history of the Amendment shows that the word "sex" in the Amendment connotes gender--male or female; it does not connote sexual behavior patterns. Thus, since the Amendment requires equality between males and females, the Amendment will require, in this area, that whatever the law may be as to homosexual conduct (whether it is prohibited or protected)--male homosexuals may not be treated differently than female homosexuals. The Congressional history, prior to its passage by the United States Senate, illustrates just this point in noting that "if a State legislature makes a judgment that it is wrong for a man to marry a man, then it must say that it is wrong for a woman to marry a woman." (118 Cong. Rec. S 4389, March 21, 1972.)

(1974)

Catholics and the Equal Rights Amendment

Pope John XIII noted in *Pacem in Terris* that "women are now taking a part in public life" and that "since women are becoming more conscious of their dignity, they will not tolerate being treated as mere material instruments, but demand rights befitting a human person both in domestic and in public life."

In this context, the many Catholics who support the Equal Rights Amendment want to clarify their positions for citizens and legislators in states that have not yet ratified the amendment.

No official Catholic position exists on the ERA.

Individual Catholics and some Catholic organizations have taken a broad range of positions on the ERA.

This brochure represents the views of the growing number of Catholics who support passage of the EQUAL RIGHTS AMENDMENT.

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March 18, 2019

[1974]

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THE EQUAL RIGHTS AMENDMENT AND HOMOSEXUAL MARRIAGES

The Supreme Court of the State of Washington held unanimously on May 20, 1974, that an equal rights amendment to its Constitution did not invalidate a State law prohibiting same-sex marriages. Singer v. Hara, 11 Wash. App. 247, 522 P.2d 1187.

The State of Washington on December 7, 1972, amended its Constitution to include an equal rights amendment reading as follows:

> Equality of rights and responsibilities under the law shall not be denied or abridged on account of sex.

Following are relevant excerpts from the opinion:

> ...appellants' second assignment of error ... is directed to the proposition that the state prohibition of same-sex marriages violates the ERA which recently became part of our state constitution. The question thus presented is a matter of first impression in this state and, to our knowledge, no court in the nation has ruled upon the legality of same-sex marriage in light of an equal rights amendment....
>
> . . . .
>
> In seeking the protection of the ERA appellants argue that the language of the amendment itself leaves no question of interpretation and that the essential thrust of the ERA is to make sex an impermissable legal classification. Therefore, they argue to construe state law to permit a man to marry a woman but at the same time to deny him the right to marry another man is to construct an unconstitutional classification 'on account of sex.' In response government 'could not treat persons differently because they are of one sex or the other.' In other words, as we discuss in the body of this opinion, to be entitled to relief under the ERA, appellants must make a showing that they are somehow being treated differently by the government than they would be if they were females.
>
> . . . .

....to appellants' contention, the state points out that all same-sex marriages are deemed illegal by the state, and therefore argues that there is no violation of the ERA so long as marriage licenses are denied equally to both male and female pairs. In other words, the state suggests that appellants are not entitled to relief under the ERA because they have failed to make a showing that they are somehow being treated differently by the state than they would be if they were females. Appellants suggest, however, that the holdings in Loving v. Virginia, 388 U.S. 1, 9, 87 S. Ct. 1817, 18 L. Ed. 2d 1010 (1967); Perez v. Lippold, 32 Cal. 2d 711, 198 P. 2d 17 (1948), and J.S.K. Enterprises, Inc. v. City of Lacey, 6 Wash. App. 43, 492 P. 2d 600 (1971), are contrary to the position taken by the state. We disagree.

. . . .

Although appellants suggest an analogy between the racial classification involved in Loving and Perez and the alleged sexual classification involved in the case at bar, we do not find such an analogy. The operative distinction lies in the relationship which is described by the term 'marriage' itself, and that relationship is the legal union of one man and one woman. Washington statutes, specifically those relating to marriage (RCW 26.04) and marital (community) property (RCW 26.16), are clearly founded upon the presumption that marriage, as a legal relationship, may exist only between one man and one woman who are otherwise qualified to enter that relationship.

. . . .

Given the definition of marriage which we have enunciated, the distinction between the case presented by appellants and those presented in Loving and Perez is apparent. In Loving and Perez, the parties were barred from entering into the marriage relationship because of the impermissible racial classification. There is no analogous sexual classification involved in the instant case because appellants are not being denied entry into the marriage relationship because of their sex; rather, they are being denied entry into the marriage relationship because of the recognized definition of that relationship as one which may be entered into only by two persons who are members of the opposite sex.

. . . .

Appellants apparently argue, however, that ...the absolute language of the ERA requires the conclusion that the prohibition against same-sex marriages in unconstitutional. In this context, appellants argue that definition of marriage, as the legal union of one man and one woman, in and of itself, when applied to appellants, constitutes a violation of the ERA. Therefore, appellants contend, persons of the same sex must be presumed to have the constitutional right to marry one another in the absence of a countervailing interest or clear exception to the ERA.

Appellants cite no case law in support of their position, but direct our attention to the analysis set forth in Note, The Legality of Homosexual Marriage, 82 Yale L. J. 573 (1973), and in Brown, Emerson, Falk & Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, 80 Yale L. J. 871 (1971). The latter article, however, is clearly written in the context of the impact of the ERA upon the rights of women and men as individuals and the authors make no suggestion that the ERA requires a change in the definition of marriage to include same-sex relationships. The authors suggest that the ERA prohibition of sex discrimination is 'absolute,' meaning that one person may not be favored over another where sex is the only distinguishing factor between the two. In that context, the authors state at 892:

> From this analysis it follows that the constitutional mandate must be absolute. The issue under the Equal Rights Amendment cannot be different but equal, reasonable or unreasonable classification, suspect classification, fundamental interest, or the demands of administrative expediency. Equality of rights menas that sex is not a factor. This at least is the premise of the Equal Rights Amendment.

The author of the note, The Legality of Homosexual Marriage, supra, applies, the aforementioned analysis of the ERA in the totally different context of same-sex relationships and thus concludes that the ERA requires that such relationships be accommodated by state marriage laws. We are not persuaded by such reasoning. We do not believe that approval of the ERA by the people of this state reflects any intention upon their part to offer couples involved in same-sex relationships the protection of our marriage laws. A consideration of the basic purpose of the ERA makes it apparent why that amendment does not support appellants' claim of discrimination. The primary purpose of the ERA is to overcome discriminatory legal treatment as between men and women 'on account of sex.' The popular slogan, 'Equal pay for equal work,' particularly expresses the rejection of the notion that merely because a person is a woman, rather than a man, she is to be treated differently than a man with qualifications equal to her own.

Prior to adoption of the ERA, the proposition that women were to be accorded a position in the law inferior to that of men had a long history. Thus, in that context, the purpose of the ERA is to provide the legal protection, as between men and women, that apparently is missing from the state and federal Bills of Rights, and it is in light of that purpose that the languate of the ERA must be construed. To accept the appellants' contention that the ERA must be interpreted to prohibit statutes which refuse to permit same-sex marriages would be to subvert the purpose for which the ERA was enacted by expanding its scope beyond that which was undoubtedly intended by the majority of the citizens of this state who voted for the amendment.

We are of the opinion that a common-sense reading of the language of the ERA indicates that an individual is afforded no protection under the ERA unless he or she first demonstrates that a right or responsibility has been denied solely because of that individual's sex. Appellants are unable to make such a showing because the right or responsibility they seek does not exist. The ERA does not create any new rights or responsibilities, such as the conceivable right of persons of the same sex to marry one another; rather, it merely insures that existing rights and responsibilities, or such rights and responsibilities as may be created in the future, which previously might have been wholly or partially denied to one sex or to the other, will be equally available to members of either sex. The form of discrimination or difference in legal treatment which comes within the prohibition of the ERA necessarily is of an invidious character because it is discrimination based upon the fortuitous circumstance of one's membership in a particular sex per se. This is not to say, however, that ERA prohibits all legal differentiations which might be made among males and females. A generally recognized 'corollary' or exception to even an 'absolute' interpretation of the ERA is the proposition that laws which didderentiate between the sexes are permissible as long as they are based upon the unique physical characteristics of a particular sex rather than upon a person's membership in a particular sex per se. See Brown, Emerson, Falk & Freedman, The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women, supra at 893-96.

. . . .

Therefore, the definition of marriage as the legal union of one man and one woman is permissible as applied to appellants, notwithstanding the prohibition contained in the ERA, because it is founded upon the unique physical characteristics of the sexes and appellants are not being discriminated against because of their status as males per se. In short, we hold the ERA does not require the state to authorize same-sex marriage.

. . . .

> Thus, for the reasons stated in this opinion, we hold that the trial court correctly concluded that the state's denial of a marriage license to appellants is required by our state statutes and permitted by both the state and federal constitutions.

Footnote 8 at page 1192 is also enlightening:

> Appellants argue that Loving and Perez are analogous to the case at bar notwithstanding what might be the 'definition' of marriage. They argue that at the time Loving and Perez were decided, marriage by definition barred interracial marriages and that the Loving and Perez courts changed that definition through their interpretation of the Fourteenth Amendment. Appellants suggest that the ERA operates in a manner analogous to the Fourteenth Amendment to require us to change the definition of marriage to include same-sex marriages. We disagree. The Loving and Perez courts did not change the basic definition of marriage as the legal union of one man and one woman: rather, they merely held that the race of the man or woman desiring to enter that relationship could not be considered by the state in granting a marriage license. In other words, contrary to appellants' contention, the Fourteenth Amendment did not require any change in the definition of marriage and, as we hold today, neither does the ERA.
>
> To further illustrate our view, we suggest two examples of a situation which, contrary to the situation presented in the case at bar would raise questions of possible sexual discrimination prohibited by the ERA. First is the anti-miscegenation statutes involved in Loving and Perez had permitted white males to marry black females but prohibited white females from marrying black males, then it is arguable that the statutes would be involved not only because of an impermissible racial classification under the Fourteenth Amendment but also because of an impermissible sexual classification under the ERA. Second if the state legislature were to change the definition of marriage to include the legal union of members of the same sex but also provide that marriage licenses and the accompanying protections of the marriage laws could only be extended to male couples then it is likely that the state marriage laws would be in conflict with the ERA for failure to provide equal benefits to female couples.

The legislative history of the Federal equal rights amendment clearly indicates that the ERA would not invalidate laws restricting marriage to different-sex partners. Senator Bayh, floor leader in the Senate, stated in debate on March 21, 1972 (118 Cong. Rec. S. 4389):

> The equal rights amendment would not prohibit a State from saying that the institution of marriage would be prohibited to men partners. It would not prohibit a State from saying the institution of marriage would be prohibited from two women partners. All it says is that if a State legislature makes a judgment that it is wrong for a man to marry a man, then it must say it is wrong for a woman to marry a woman--or if a State says it is wrong for a woman to marry a woman, then it must say that it is wrong for a man to marry a man.

This interpretation is underscored by Mary Eastwood, an outstanding authority on the ERA and constitutional rights of women, in "The Double Standard of Justice: Women's Rights Under the Constitution," in the Valparaiso University Law Review, vol. 5 no. 2:

> ...The amendment would affect only laws in which the difference in treatment is based on sex and not those where the difference is based on sexuality. It would not affect laws distinguishing as between homosexuality and heterosexuality. It would, however, require that male and female homosexuals be treated the same and that male and female heterosexuals be treated the same.
>
> Although the issue is not relevant to the amendment, the interest of the state in recognizing heterosexual marriages is their capacity for reproduction and child raising. This element is not present in homosexuals and homosexuals would have to be brought under the fourteenth amendment.

(1974)

THE HOMEMAKER AND THE EQUAL RIGHTS AMENDMENT

By
Marguerite Rawalt, Attorney
Former President, National Association of Women Lawyers
1600 South Joyce Street, Arlington, Virginia 22202

The HOMEMAKER, the woman who works in the home without salary, more than other classes of women, is in need of the Equal Rights Amendment. She is the "forgotten woman" under the Constitution and state laws of today. Her "career" would gain recognition under the ERA.

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What About Family Relationships?

ERA would apply only to governmental action. It would not affect private action or the purely social relationships between men and women. Domestic relations and community property laws, however, would have to be based on individual circumstances and needs, and not on sexual stereotypes.

Alimony laws would continue in effect under ERA. Continued support of one spouse by the other after divorce or separation, if based on actual economic dependency or relative ability to provide family support, would be permitted.

. . . the Equal Rights Amendment would not deprive women of any enforceable rights of support and it would not weaken the father's obligation to support the family.

–Citizens' Advisory Council
on the Status of Women

The Amendment would bar a state from imposing a greater liability on one spouse than on the other merely because of sex. It is clear that the Amendment would not require both a husband and wife to contribute identical amounts of money to a marriage. The support obligation of each spouse would be defined in functional terms based, for example, on each spouse's earning power, current resources and nonmonetary contributions to the family welfare . . . where one spouse is the primary wage earner and the other runs the home, the wage earner would have a duty to support the spouse who stays at home in compensation for the performance of her or his duties.

–Association of the Bar
of the City of New York

Would Maternity Legislation be Affected?

Legislation allowing maternity benefits would not be prohibited by the Amendment because it is based on a function unique to one sex. "Equality" does not mean "sameness".

So long as the characteristic is found in all women and no men, or in all men and no women, the law does not violate the basic principle of the Equal Rights Amendment; for it raises no problem of ignoring individual characteristics in favor of a prevailing group characteristic or average.

–Professor Thomas I. Emerson,
Yale Law School

What About Women Who Choose Homemaking as a Career?

ERA would not take women out of the home. It definitely would not require both the husband and wife to become wage earners. Rather than downgrading the roles of mother and housewife, the Amendment would give new dignity to these important roles.

By confirming woman's equality under the law, by upholding woman's right to choose her place in society, the Equal Rights Amendment can only enhance the status of traditional women's occupations. For these would become positions accepted by women as equals, not roles imposed on them as inferiors.

–Representative Florence P. Dwyer (R-New Jersey)

How Would ERA Affect Criminal Laws?

State laws which provide greater penalties for female law violators than for male violators committing the same crime would be nullified by ERA. But the Amendment will not invalidate laws which punish rape.

Rape laws . . . are perfectly constitutional, for both the group which is protected; namely, women, and the group which can be punished; namely, men, have unique physical characteristics which are directly related to the crime, to the act for which an individual is punished.

–Senator Birch Bayh (D-Indiana)

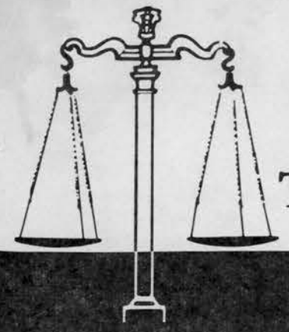
How Would Property Rights Be Affected?

State laws which place special restrictions on the property rights of married women would be nullified. A married woman would be permitted to manage or own separate property in the same manner as her husband. She would also be able to enter into contracts or run her own business as freely as a member of the male sex.

Would Jury Laws Be Affected?

The Equal Rights Amendment would make women eligible for jury service on the same basis as men. Any state laws "relieving" only women from jury duty simply because they are women, or requiring them to register for jury duty only if they are interested in serving, would be invalid.

☆☆☆



Attention Minnesota Voters !!!
Mail Inquiries to -
Minnesota Coalition to Ratify The Equal Rights Amendment
Room 100 Y W C A 1130 Nicollet Ave. Minneapolis, Minn.
Telephone - 920 3364

How and Why to Ratify

THE EQUAL RIGHTS AMENDMENT

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Why the Equal Rights Amendment?

The Equal Rights Amendment, or ERA, would amend the United States Constitution to insure that men and women have the same rights and responsibilities under the law.

The Amendment would be a major step toward assuring first class citizenship for women, toward their assumption of fuller responsibilities, and toward bringing women into the mainstream of American life. A century ago Susan B. Anthony remarked: "Men their rights and nothing more. Women their rights and nothing less" . . . Passage of this Amendment would eliminate impediments to women's rights and enable women to share with men the responsibilities of family, community, and Nation.

–Virginia R. Allan, former Chairman of the
President's Task Force on Women's Rights
and Responsibilities

How Will ERA Become Law?

Three-fourths of the state legislatures (38 states) must ratify ERA within seven years of March 1972 before it becomes the 27th Amendment to the Constitution. Following that, states have two years in which to review and revise their laws, regulations, and practices to bring them into compliance with the Amendment.

What is ERA?

Simply stated, the Amendment provides that sex should not be a factor in determining the legal rights of men and women. It thus recognizes the fundamental dignity and individuality of each human being. ERA will affect only governmental action; the private relationships of men and women are unaffected. The Amendment does not require any state or the federal government to establish quotas. It does require equal treatment of individuals.

Who Supports ERA?

ERA has received the endorsement of Presidents of the United States, including Presidents Eisenhower, Kennedy, Johnson, and Nixon, and has been repeatedly supported on the national party platforms of the major political parties. The House of Representatives approved the Amendment by a vote of 354 to 23 on October 12, 1971. The Senate passed the Amendment on March 22, 1972, by a vote of 84 to eight. In both houses, efforts to amend ERA were defeated by substantial margins.

In addition, an impressive list of women's groups, labor unions, and religious and professional organizations have recorded their support of ERA. Both the Citizens' Advisory Council on the Status of Women, created by President Kennedy, and the President's Task Force on Women's Rights and Responsibilities, created by President Nixon, have recommended in strongest terms approval of the Amendment.

Is the Equal Rights Amendment Really Needed?

There has been some progress toward equal legal rights for men and women in recent years. However, the fact that persistent patterns of sex discrimination continue to permeate our social, cultural, and economic life has been thoroughly documented in the many Congressional committee hearings held during the past years, and extensively over the last three years.

On the whole, sex discrimination is still much more the rule than the exception. Much of this discrimination is directly attributable to governmental action both in maintaining archaic discriminatory laws and in perpetuating discriminatory practices in employment, education, and other areas. The social and economic cost to our society, as well as the individual psychological impact of sex discrimination, are immeasurable. That a majority of our population should be subjected to the indignities and limitations of second class citizenship is a fundamental affront to personal human liberty.

–Report No. 92-689, Senate Judiciary Committee

Don't Women Have Equal Rights Under the Constitution Now?

The only right women gained under the Suffrage Amendment was the right to vote–their civil rights were unaffected. Although the Fourteenth Amendment, which was made part of the Constitution in 1868, guarantees "equal protection of the laws", not until 1971 did the Supreme Court strike down a law which discriminated against women. The Court invalidated an Idaho law which arbitrarily favored men over women as administrators of estates (*Reed* v. *Reed*), but it did not overrule earlier decisions upholding sex discrimination cases in other laws, and it did not hold that sex discrimination is "suspect" under the Fourteenth Amendment.

The Court left the burden on every woman plaintiff to prove that governmental action perpetuating sex discrimina-

The National Federation of Business and Professional Women's Club, Inc. • 2012 Massachusetts Avenue, Northwest, Washington, D.C. 20036

tion is "unreasonable". As the Association of the Bar of the City of New York pointed out in its report, "the 1971 *Reed* case indicated no substantial change in judicial attitude."

Under ERA, the burden will not be on each woman plaintiff to show that sex discrimination is "unreasonable". Instead, all men and women will be assured the right to be free from discrimination based on sex.

Why Not Change Specific Laws Instead?

There are many uncertainties and practical difficulties connected with attempting to change every law which discriminates on the basis of sex. It is time-consuming and expensive; and specific legislation can deal only with specific problems. A constitutional amendment is the only realistic way to insure equal treatment of the sexes before the law.

It would be possible for Congress and each State to revise their laws and eliminate those which discriminate on the basis of sex. But without the impetus of the Equal Rights Amendment, that process would be far too haphazard and much too slow to be acceptable, especially in light of the fact that the Equal Rights Amendment was first introduced 49 years ago.

. . . we cannot overlook the immense, symbolic importance of the Equal Rights Amendment. The women of our country must have tangible evidence of our commitment to guarantee equal treatment under the law. An amendment to the Constitution has great moral and persuasive value. Every citizen recognizes the importance of a constitutional amendment, for the Constitution declares the most basic policies of our Nation as well as the supreme law of the land.

–Senator Birch Bayh (D-Indiana)

How Will the Amendment Affect Existing Laws?

Essentially, the Amendment requires the federal government and all state and local governments to treat each person, man and woman, as an individual. State legislatures have the primary responsibility for revising those laws which are in conflict with the Amendment. The effective date of ERA has been delayed for two years after ratification to give states time to do this.

In cases where the states have failed to act, these issues can easily be resolved, with the guidance of well-established precedents, by the courts. The legislative history of the Amendment indicates that Congress expects any law which is truly beneficial to be extended to protect both sexes, while laws which are truly restrictive and discriminatory would become null and void. In a great many instances, the problem can be solved simply by changing the laws to read "persons" instead of "male" or "female".

Where a statute is defective because of underinclusion there exist two remedial alternatives: a court may either declare it a nullity and order that its benefits not extend to the class that the legislature intended to benefit, or it may extend the coverage of the statute to include those who are aggrieved by exclusion.

–Mr. Justice Harlan, concurring in *Welsh* v. *United States*

Would Women Be Drafted Under the Equal Rights Amendment?

Congress now possesses the power to include women in any military conscription. ERA would not limit that power of Congress. However, under the Military Selective Service Act of 1967, only male citizens must register for the draft. The Amendment would require that this law, or any subsequent law concerning military and/or alternative national service, be extended to women equally.

Women would be allowed to volunteer for military service on the same basis as men: those who are physically and otherwise qualified under neutral standards could not be prohibited from joining solely because of their sex. With respect to the draft–if there is one at all–both men and women who meet the physical and other requirements and who are not exempt or deferred would be subject to conscription.

Of course, the ERA will not require that all women serve in the military any more than all men are now required to serve. Those women who are physically or mentally unqualified, or who are conscientious objectors, or who are exempt because of their responsibilities (e.g., certain public officials; or those with dependents) will not have to serve, just as men who are unqualified or exempt do not serve today. Thus the fear that mothers will be conscripted from their children into military services if the Equal Rights Amendment is ratified is totally and completely unfounded. Congress will retain ample power to create legitimate sex-neutral exemptions from compulsory service. For example, Congress might well decide to exempt all parents of children under 18 from the draft.

–Report No. 92-689, Senate Judiciary Committee

Under ERA, women would also be entitled, as men now are, to reap the benefits which flow from military service. These include, for example, educational benefits of the GI bill; medical care in the service and through veterans' hospitals; job preferences in government and out; and the training, maturity, and leadership provided by service in the military itself.

Does This Mean Women Would Be Assigned to Combat Duty?

Once in the service, women, like men, would be assigned to various duties by their commanders, depending on their qualifications and the service's needs. Only those persons – men or women – who can meet the very high physcial demands which combat duty imposes would be eligible for such assignments. Today, less than 1 percent of those men eligible for the draft are assigned to combat units. Studies have shown that almost nine out of 10 jobs done in the service are non combat jobs.

There are now, of course, a considerable number of women serving with distinction in the military services, and many of them are serving in combat zones and receiving combat pay. Then, too, as Senator Marlow Cook (R-Kentucky) has pointed out, "Combat today may be a lady sitting at a computer at a missile site in North Dakota."

What About State "Protective" Labor Laws?

Almost every state has some kind of so-called "protective" legislation which applies only to women. It may restrict the number of hours they work, set limits on the pounds they can lift, restrict night work, provide for special seating arrangements, or prohibit their employment in certain occupations. While these laws were originally enacted to prevent women from being exploited, they now serve to restrict employment opportunities by keeping women out of some jobs which offer higher pay or advancement. To the extent these laws provide meaningful protections, men are today arbitrarily denied benefits they need and deserve. Many of these state "protective" laws are being struck down because of their incompatibility with Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment where sex is not a "bona fide occupational qualification".

The Commission believes that such state laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferences and abilities of individual females and tend to discriminate rather than protect.

–Equal Employment Opportunity Commission Guidelines, August 19, 1969

Women today work for the same reasons as men–namely, to support themselves, their families, and other dependents. And increasingly, working women are testing the validity of state "protective" laws.

The truth, more abundantly clear with each passing week, is that "real" working women in the factories of the land, with or without the support of their unions, have been making a charge at the discriminatory practices authorized or not prevented by the state protective laws, and have been challenging the validity of these laws with considerable success. Not professional nor business women but women who work for wages have brought most of the suits, or had the most suits filed in their behalf, charging the state protective laws with discrimination based on sex.

–Olga Madar, Vice President, United Auto Workers

How Would ERA Apply to Schools?

Discrimination against women, in contrast to that against minorities, is still overt and socially acceptable within the academic community.

–A Ford Foundation Report On Higher Education

Under the Equal Rights Amendment, state supported schools at all levels would have to make certain that admissions and the distribution of scholarship funds were on the basis of ability or other relevant characteristics, not on the basis of sex. In like manner, employment and promotion in public schools and colleges would have to be free of sex discrimination. The Amendment would not require the setting of quotas for men and women, nor would it require that schools accurately reflect the sex distribution of the population. State schools and colleges currently limited to one sex would have to allow both sexes to attend.

What Would ERA do to Relationships Between Men and Women?

ERA applies only to government action and legal rights, not to social customs. The question of who pays the dinner check, opens the door, or pulls out a chair has nothing to do with equal legal rights. Social customs and personal relationships between men and women would be decided by the individuals involved.

It is important to note that the only kind of sex discrimination which [ERA] would forbid is that which exists in law. Interpersonal relationships and customs of chivalry will, of course, remain as they always have been, a matter of individual choice. The passage of this Amendment will neither make a man a gentleman nor will it require him to stop being one.

–Senator Marlow Cook (R-Kentucky)

Does the Right to Privacy Conflict With ERA?

"Equality under the law" does not mean that the sexes must be regarded as identical, and it does not prohibit states from requiring that there be a reasonable separation of the sexes under some circumstances. States would continue to have the power to require segregation of the sexes for regulatory purposes with respect to such facilities as sleeping quarters at coeducational colleges, prison dormitories, and military barracks.

In addition, the right to privacy under the Constitution would also permit a separation of the sexes with respect to such places as public toilets and sleeping quarters of public institutions.

. . . the right to be free of sex discrimination would have to harmonize with other constitutional rights, such as the right to privacy recognized by the Supreme Court in Griswold *v.* Connecticut. *Therefore, the Equal Rights Amendment most certainly would not abolish the practice of providing separate restrooms for boys and girls in public schools. The right to privacy would justify some segregation by sex in the military, as well as in prisons and other public institutions.*

–Representative Martha Griffiths (D-Michigan)

AUG 2 1974 Helene B.

Return to: League of Women Voters of the U.S.
ERA Office
1730 M Street, N.W.
Washington, DC 20036

(Please fill out and return no later than July 24, 1974.)

RESCISSION REPORT

State League: Minnesota

Name of Person Reporting: Gloria Phillips

Address: 543 Quixote Av. N. Lakeland, Mn 55043

I. Has your state experienced a rescission attempt since ratification? Has any rescission legislation been introduced since ratification? Have any state organizations passed rescission resolutions? During the 1974 legislative session a bill was introduced in the House by an outstate legislator(who has now filed for the U.S. House) to recind the ERA. There has been an increase in the number of articles in newspapers, both pro and con about the ERA since the legislative session ended.

In June the state Republican party voted at the state convention to support recission. Two years ago they voted in support of the ERA. The Catholic Archdiocesan Council of Women also oppose the ERA

II. If your state has had any experience with rescission efforts, did ERA supporters anticipate this action? Were ERA supporters organized to lobby against the rescission effort?

The ERA supporters realized legislation would be introduced to rescind, but the Democratic, Farmer La or party and the Governor are firm backers of the EPA. Many ERA lobbyist were at the capitol following bills that would remove sex discrimination from state laws.

The Repbulican support for recission was somewhat of a surpreise, however, the State Chairman is very anti-abortion and does not support the ERA.

III. Are any plans being made or action taken by your state League with respect to possible rescission attempts in your state in 1975?

The state league will organizing to take action

IV. **Is there someone in or out of your state League whom we could contact on a continuing basis for up-to-date reports on possible rescission activities in your state?**

Name: Gloria Phillips

Address: 543 Quixote Ave. N

Lakeland, Mn 55043

Phone: 612-436-8888

V. **Additional comments not covered by the above questions.**

Please attach extra pages if you need them.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - October 1974

Memo to Local Leagues

From: Helene Borg, Action Chairman, LWVMN

Re: ERA Support: BACKGROUND

October 18, 1974

A new League Year - new members, new Board portfolio assignments - Time for a "catch up" on a Key Action Target for Leagues in every state: Ratification and implementation of the Equal Rights Amendment to the U. S. Constitution.

The following information will help orient new members, spread the word among other organizations and reach concerned individuals in your community.

* add your own local facts
* attach this to your next bulletin
* prepare as an informational piece for distribution in your area.

LWV - and ERA? YES!

How come the League of Women Voters is supporting the Equal Rights Amendment anyway? Did we ever study it? Did we reach consensus?

Many Leagues are hearing these questions and are not sure of the answer, so here is a little background.

In 1949 the League of Women Voters of Minnesota began a study of civil rights and by the early '60s Minnesota had started studying discrimination. We now have a consensus that includes "support of policies to ensure equality of opportunity in employment, real property, public accommodations, education, and other public services for all persons; support of administrative enforcement of antidiscrimination laws; support of the principle that the state is responsible for all its citizens on an equal basis and should work to ensure equal treatment for all citizens by all levels of government." (The underlining has been added.)

At the national level, the League of Women Voters began its work in Human Resources in 1964. In 1972 our support position specifically included the word "sex" in case there was any confusion on what was meant by "equal rights for all." The 1972 Convention, by motion, authorized the support of the Equal Rights Amendment and action at the state and local level in opposition to discriminatory practices against women. Leagues could have supported the ERA without this motion and could have worked to stop discrimination against women, but, because we have been hesitant to work specifically for ourselves, this provided the extra impetus.

The sale of the ERA bracelet has provided funds to support the ERA campaign. This campaign for ratification was reviewed at the 1973 LWV Council and at the 1974 LWV Convention, so it has been thoroughly supported all along the way. Bracelet sales have totaled over $70,000.

If you think of women as people under our various human rights programs, our support of the ERA is obvious. We would do as much for any human group.

In Minnesota the changes will be few, after ratification, because we have already passed good equal rights legislation, but in many states women have appallingly few rights. If you have questions on the ramifications of this amendment, call the state League office.

The Equal Rights Amendment states:

> "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of Sex."

It says nothing about personal relationships or any of the other complicated reservations people keep raising in opposition.

1730 M STREET, N.W., WASHINGTON, D.C. 20036 • TEL. (202) 296-1770

memorandum

The League of Women Voters of the United States

This is going on
Duplicate Presidents Mailing
October 1, 1974

TO: All State and Local Leagues

FROM: Carol Toussaint, Public Relations Chairman

RE: ERA Bracelet Campaign

The League's ERA bracelet has now been on the market for almost a year, and has proven its effectiveness both as a fund-raiser and consciousness-raiser for the Equal Rights Amendment. Over 82,000 bracelets have been sold to date, and more than $30,000 has been distributed to fund ERA campaigns in the unratified states. Leagues -- both state and local -- have purchased well over 38,000 bracelets, realizing a direct profit of nearly $20,000. In short, the bracelet campaign is working locally, statewide and nationally to support League ERA ratification efforts.

This is an excellent time to begin planning promotion for Christmas sales of the bracelet or to think about using it at other League events. People know about the bracelet and what it means; your publicity could now be geared toward reminding and reawakening your community to the importance of the coming year for the ERA -- the need to achieve our goal of "Five in '75". As you plan your promotional campaign, be sure to allow sufficient time for your orders to be received for Christmas giving. (Orders are being filled promptly in Beltsville, but we have no controls over the postal service.) If you need promotional material (camera ready copy of the bracelet design, text of the amendment, etc.), please contact the LWVUS public relations department.

As some of you know, because of the importance of getting the ERA ratified in 1975, we have lowered the cost of the bracelet to Leagues in unratified states. Leagues in the unratified states can now retain a $1.00 profit on each bracelet (prices for League orders of 2 or more bracelets: $2.00 each for unratified states, $2.50 for others). Prepaid orders should be sent on League letterhead to:

League of Women Voters
11313 Frederick Avenue
Beltsville, MD 20705

Best of luck for a successful campaign.

Memo to Helene Borg (copies to Liz and Gloria)
From Mary Ann Mc Coy
10-4-74
re: Request for background on our support of ERA

Pat Llona (Edina pres.) called to ask a review of just how LWVUS reached its strng support position on ERA. She had been asked same question by a 15-yr veteral LWV member in Edina and felt she could not respond, from info she has at hand.

We reviewed our MN anti-discrimination positions (and when, how reached); went on to the HR study, itspositions on anti-discrim.; reviewed delegate action at 1972 Atlanta Convention specifically adding LWVUS support to ERA itself and committing us to a campaign for ratification; went over 1973 Council action to take $10,000 "seed money" to support this campaign; brought us up to date with report at 1974 Convention that over $70,000 raised in sale of bracelets and adoption of the HR item with ERA included which continues our support--to say nothing of the rally there, the continuing summer memos, etc. from LWVUS action.

I suggest you consider doing a short piece to go out with the October Board Memo mailing that could be attached to or included in local League bulletins that would summarize this matter of how we got to support ERA--andwould help shore up local members who are really getting some strong questions from church groups and others (as we know) about just how we came to support ERA if and when "no one studied" it, per se, in unit meetings and reached consensus on ERA specifically.

We need tobe aware of the more than 1/3 annual turnover in membership in local Leagues--and the fact that local Boarders, too, have relatively short membership tenure--and, remember, if a gal joins in 1974, fall--her unit leader and Board members may well have joined just a year or two before--like 1973 or 1972 . . . and all I've cited in the second paragraph dates from early '60s (in MN) and from mid-'60s in LWVUS. . .and ERA itself as a support from 1972 . . .3 years ago!! Time flies. . .and I feel we need to do all we can to catch these new presidents and members up on how we got where we are!!

LEAGUE of WOMEN VOTERS of WINONA

WINONA, MINNESOTA 55987
Route 2
Fountain City, WI 54629

NOV 1 1974

MEMO

October 28, 1974

TO: Helene Borg, Action Chairman, LWVMN

RE: ERA and
Action Workshop

ERA--could you please answer two questions for me?

1. I have read that the ERA contains two other parts in addition to that quoted in your recent BACKGROUND, those parts pertaining to implementation, and I have been questioned on this. Could you clarify this?

2. In defending the ERA against such charges that men and women will have to share public bathrooms or that women could be forced to contribute to half the family's support, the League has refered to past court rulings which establish, for example, the "right to privacy." Yet couldn't the precedence of these rulings be seriously weakened with the passage of a Constitutional Amendment?

Action Workshop--I would like to apologize for the fact that Winona had no representatives at the Action Workshops. Another board member and I had planned to go until she caught a bad cold and my two preschoolers both came down with the flu. Could you please mail us any materials that were passed out at the workshop? Thank you.

Robin Grawe

Robin Grawe, President
LWV Winona

LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA, ST. PAUL, MINNESOTA 55102

November 4, 1974

Robin Grawe
Route 2
Fountain City, WI 54629
League of Women Voters of Winona

Dear Robin,

The Twenty-seventh Amendment to the United States Constitution reads as follows:

Section one: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section two: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section three: This amendment shall take effect two years after the date of ratification.

No amendment to the Constitution nullifies any part of the Constitution unless it specifically repeals a previous amendment. No law can be passed that is contrary to the meaning of the Constitution. In the event that such a law is attempted it is quickly tried in the courts and is declared un-Constitutional. The "right to privacy" is in the Bill of Rights and thus in the Constitution. This "right" will remain.

Now as to laws - with the passage and ratification of the ERA all laws will have to be extended to include both men and women. However, this means that protective legislation will also apply to both. It does not mean that protective legislation is wiped out. Certainly some laws will be found to be ridiculous when they must be applied to men too and will undoubtedly be eliminated. But that's the idea. We don't want ridiculous restrictions on anyway. As to your specific question on family support - we have no laws compelling anyone to work, so no woman will have to go out and get a job when this amendment becomes law. However, if a woman had as good an income as her husband it would not be automatic that he must support her. Men and women would share equally in opportunities and responsibilities. The family organization will remain a personal matter to be worked out on an individual basis. We already have laws in Minnesota covering this. Alimony payments and child support are ~~worked out in terms~~ of ability to contribute. In fact the ERA would make fewer changes in Minnesota law than in most states, because we have already passed so much equal rights legislation.

Through the ERA we are extending human rights not eliminating rights. Both men and women will benefit. Most of the scare arguements being expressed are due to inadequate understanding of the amendment. Some are the kind that always arise when there is any suggested change in the status quo.

We pointed out at the Action Workshops that the best way to combat the objections to the ERA is to keep stating the facts, avoid arguements based on emotions and just remember that women are people.

Sincerely,

TELEPHONE 224-5445

November 4, 1974

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Route 2
Fountain City, WI 54629
League of Women Voters of Winona

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Sincerely,

Guide To Resources

Commission on the Status of Women, Report on the Twenty-Fifth Session, 1974. United Nations, $5.00.

Declaration on the Elimination of Discrimination Against Women. UN Office of Public Information, New York.

Background Papers, Equal Rights for Women, International Women's Year 1975. No. 518, UN Office of Public Information, New York.

Declaration of the Rights of the Child, 1967. UN Office of Public Information, New York.

Human Rights, A Compilation of International Instruments of the United Nations, 1973. United Nations, New York, $3.00.

Education and the Advancement of Women, 1970. UNESCO, UNIPUB, P.O. Box 433, Murray Hill Station, New York 10016, $3.00.

Family Planning: Improving Opportunities for Women, 1974. The Victor-Bostrom Fund Committee, 1835 K Street, N.W., Washington, D.C.

Smaller Families Through Social and Economic Progress, Monograph No. 7, 1973. William Rich, Overseas Development Council, Washington, D.C. $2.00.

In The Human Interest, 1974. Lester R. Brown, Norton, New York, $6.95.

The Situation of Women in the United Nations, 1973. Alexander Szalai, UNITAR Research Report No. 18, United Nations Institute for Training and Research, New York, $2.50.

Emancipation of Turkish Women, 1962. UNESCO, UNIPUB (see above). $1.25.

Our Soviet Sister, 1973. George St. George, McKay, New York, $7.95.

Women and Work—An International Comparison, 1973. Marjorie Galenson, Cornell University, $3.25.

Women's Role In Economic Development, 1970. Ester Boserup, St. Martin's Press, New York, $9.95.

The American Woman—Her Changing Social, Economic and Political Role, 1972. William H. Chafe, Oxford University Press, Fairlawn, N.J. $7.95.

Films — *Women Up In Arms* — 28½ min., black & white, 1966, United Nations, from McGraw Hill Films.

Fear Woman — 28½ min., color, 1971, United Nations, from McGraw Hill Films.

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345 East 46th Street
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in cooperation with
U.S. National Commission for UNESCO
Washington, D.C. 20520

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United Methodist Department of Population Problems
United Methodist Office for the United Nations
United States Committee for UNICEF
Women's International League for Peace and Freedom
Women's League for Conservative Judaism
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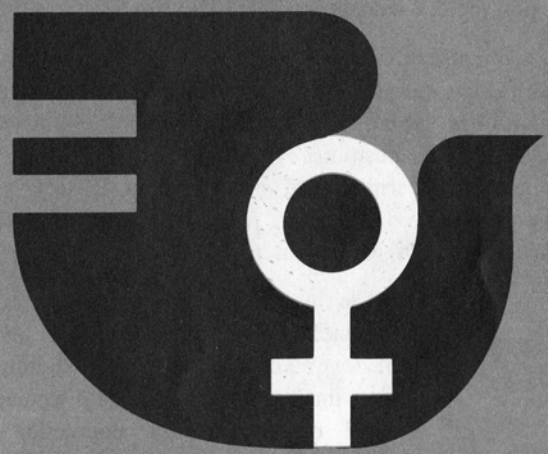
equal partners



INTERNATIONAL WOMEN'S YEAR 1975

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Version 3
March 18, 2019

"One of the major problems of the country over the past decade has been its divisiveness. We need to learn to cooperate and work together. The ERA will have a tremendous positive effect on the emotional and physical health of men. When men begin to deal honestly with themselves, they recognize the unfairness of their biased attitudes toward other human beings."

Jack Hughes
Florida Men for the ERA

"Under current laws, men as widowers are entitled to less money in social security benefits than their female counterparts. A man's financial situation can be as difficult as a woman's when he is the sole supporter of a family and no longer able to work to his full capacity. With regard to child custody in divorce cases, there have been many instances in which the husband desired and rightfully deserved to be entrusted with the care of the child, but was denied custody. Both parents ought to have this option; it should not be assumed that the mother is by nature a better parent. Furthermore, protective labor laws should be extended to workers of both sexes. And a man can certainly sympathize with the need to abolish discrimination in higher education when his daughter is denied admittance to the school of her choice in favor of a less-qualified male applicant."

Jordan Miller
Illinois Men for the ERA

NOW
NATIONAL ORGANIZATION FOR WOMEN

For Membership Information:
NOW NATIONAL OFFICE
5 South Wabash, Suite 1615, Chicago, Ill. 60603

For Lobbying and Legislative Information:
NOW LEGISLATIVE OFFICE
1266 National Press Building, Washington, D.C. 20004

For copies of this brochure and other ERA materials:
NOW PUBLIC INFORMATION OFFICE
527 Madison Avenue, New York, New York 10022

THE EQUAL RIGHTS AMENDMENT

WHAT DOES IT MEAN TO YOU?

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

The Equal Rights Amendment, first introduced into Congress over 50 years ago, passed by an almost unanimous vote of Congress in March of 1972. As of Fall, 1974, 33 states have ratified, with only five more states needed for the ERA to become the 27th Amendment to the U.S. Constitution.

The brief amendment will have far-reaching effects on the everyday lives of all Americans. What it means, essentially, is that federal, state and local governments must treat each person, regardless of sex, as an individual. The significant phrase "under the law" means that the amendment will affect many laws, but will not interfere in personal relationships or private activities.

Laws which presently bestow privileges, responsibilities or benefits on one sex will be extended to include the other sex. This same principle applied when the 15th and 19th Amendments extended the right to vote to Blacks and Women. Similarly, the ERA would, for example, make it possible for widowers to receive the same Social Security benefits now received by widows; alimony would be awarded according to ability to pay (thus making it possible for men as well as women to receive alimony); women would be able to obtain credit, sign mortgages and execute contracts as individuals.

The fact is that women are not legally persons under the Constitution and will not be until the ERA becomes part of it.

The Equal Rights Amendment is supported by a long and impressive lists of persons and organizations, including both the Democratic and Republican Parties; Presidents Eisenhower, Kennedy, Johnson, Nixon and Ford; the AFL-CIO; UAW; the National Organization for Women (NOW); National Women's Political Caucus; American Association of University Women; Women's Christian Temperance Union; National Education Association; the League of Women Voters; Common Cause; Church Women United; Jewish Council of Women; National Secretaries Association.

The ERA is for everyone . . .

In employment, the ERA

*Will extend to both sexes those protective labor laws which are truly beneficial to the worker.

*Will expand opportunities for military careers to women. Congress already has the power to draft women, even without the ERA. We now have a volunteer military. Women, as well as men, need to be able to choose a career in the military with equal pay and other benefits.

*Will enhance women's freedom to choose a career whether inside or outside the home.

In personal and private relationships, the ERA

*Will provide a legal basis making a case that the courts must require divorced spouses to contribute in a fashion that would not leave the spouse with children in a worse financial situation than the spouse without them.

*Will cause alimony to be awarded on the basis of ability to pay. However, alimony is more myth than reality; in 90% of all divorce cases in the United States, wives don't even ask for alimony. Child support, often mistaken for alimony, is actually only half of the real cost of a child's expenses. Furthermore, alimony and child support awards are the least complied with and the least enforced of all cases outside small claims.

*Will not eliminate women and children's right to support by the husband and father. A married woman living with her husband can, in practice, get only what he chooses to give her. If he fails to provide her with the necessities of life, she will find that the courts are reluctant to interfere in an ongoing marriage.

In criminal law, the ERA

*Will prevent a state from giving different punishments to men and women convicted of the same crime—frequently in the past, in many states, women have received more severe sentences then men convicted of the same crime.

*Will expand laws that punish rapists by defining sexual assault on males as rape and protect men and boys equally with women.

The ERA is for everyone:
Minority Women

Statistics released through the Women's Bureau of the U.S. Department of Labor show that 57% of nonwhite women between the ages of 25 and 34 are in the work force; the percentage rises to 60% in the 45-54 age bracket. Absent the clear mandate which would be provided by the passage of the ERA, these women are very vulnerable to the discriminatory practices still prevalent in the job market.

"We will have succeeded in our work when skin color and skin shape are no longer viewed as virtual disqualifications for sharing power in the society and working to assure its healthy growth and development. We're fighting to make this a better world, not only for women, but for all human beings, and passage of the Equal Rights Amendment is a necessity if we are ever to win that fight."

Aileen Hernandez
Co-Coordinator, NOW Minority Women & Women's Rights Task Force
Past President, National Organization for Women (NOW)

The ERA is for everyone:
Men

"Any man who notices the fine nuances raising a daughter has got to be for it. I'm less concerned about my daughter being drafted or operating a jack hammer or using a coeducational john than being a second class citizen all her life . . . Why should my daughter be treated differently under the law than my son?"

from an editorial by
Frosty Troy, Editor
THE OKLAHOMA OBSERVER