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AMERICAN CIVIL LIBERTIES UNION

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WASHINGTON, D.C., October 2, 1970 ... The American Civil Liberties Union announced today its support of the Equal Rights Amendment and urged all Senators to back the proposal which would prohibit sex discrimination.

The ACLU stand was announced by Aryeh Neier, Executive Director, and Marvin M. Karpatkin, Chairman of the organization's Equality Committee.

The ACLU is pressing its position in letters addressed to all United States Senators. The Senate is expected to begin debate on the Amendment early next week. The Amendment has already passed the House of Representatives.

According to the ACLU, the Equal Rights Amendment is necessary to assure that the 14th Amendment guarantee of "equal protection" to all persons is applied to women. The United States Supreme Court has refused to apply the 14th Amendment against sex discrimination because it has interpreted the Amendment in light of conditions prevailing at the time of its adoption. In 1868, women were not "persons" in the legal sense.

The ACLU's statement calls the Equal Rights Amendment "essential now as a proclamation of the principle of full equality of all individuals, on which rests the entire democratic experiment."

The policy was adopted by the ACLU Board of Directors September 27. The organization had previously opposed enactment of a special amendment to assure equal rights for women. In a policy adopted in 1963, the ACLU said that state laws providing special protections to women were necessary, and the Equal Rights Amendment would strike down such laws. In reversing its position, the ACLU stated that women would not necessarily lose any important protections if the Equal Rights Amendment was adopted.

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The full text of the ACLU's policy statement is attached. NYP1-5DCP134WL

STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION
SUPPORTING ADOPTION OF THE EQUAL RIGHTS AMENDMENT

The central concept of civil liberties is that all individuals have the fundamental right to be judged on the basis of their individual characteristics and capabilities, not the characteristics and capabilities that are supposedly shared by any group or class to which they might belong. This fundamental right is the premise of the 14th Amendment to the U.S. Constitution, which guarantees the equal protection of the laws to all individuals.

The 14th Amendment has proved an effective tool for combating discrimination against members of certain groups, notably racial minorities. However, the U.S. Supreme Court has not seen fit to use this tool to combat sex discrimination, i.e. discrimination against members of the class that includes the majority of Americans -- women.

Though the 14th Amendment covers all "persons," when it was adopted, in 1868, women were not "persons" in the legal sense. The Supreme Court has interpreted the 14th Amendment in light of conditions prevailing at the time of its adoption. The U.S. Court of Appeals for the Fifth Circuit in the 1965 case White v. Crook declared that the 14th Amendment applies to women, but the decision never was challenged before the Supreme Court by the ACLU's opponents in the case.

Since the 14th Amendment has been available to the Supreme Court for 102 years and still has not been applied against sex discrimination, the ACLU believes it is time to fashion a new method. The new method should be designed specifically to end discrimination against women in order to reinforce the 14th Amendment guarantee of equal protection to all persons.

The Equal Rights Amendment is such a method. It is needed to end gross inequities in our legal system and to complete the job of making women full citizens under the U.S. Constitution.

It is wrong to suggest that we should not act because passage of the Amendment would cause some uncertainty and require legislation and, possibly, litigation to clarify its specific meanings. The same could be said of every section of the Constitution.

It is wrong also, to assume that passage of the Equal Rights Amendment will invalidate any of the necessary protections and benefits that have been extended to women by statute. Rather, analysis of state laws that apply exclusively to women does not establish that they protect women in any important way. In fact, these laws do not protect women in the one area applicable exclusively to women -- maternity benefits and job security. They are ineffective in dealing with the exploitation of women through lower pay than men. And they are used to discriminate against women in job and promotion opportunities.

As for the effective benefits that are now afforded women by statute, if the Amendment is ratified, these benefits can be extended equally to men, rather than taken away from women.

Because of sex differentiation in the American legal system, the sex that has been permitted to wield the greater influence in formulating the law has used its power to entrench its position at the expense of the other sex. That is why the Equal Rights Amendment is essential now as a proclamation of the principle of full equality to all individuals on which rests the entire democratic experiment.