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A MEMORANDUM ON THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mrs. GRIFFITHS. Mr. Speaker, it is with pleasure that I spread upon the RECORD a memorandum on the proposed Equal Rights Amendment to the U.S. Constitution as prepared by a study group of the Citizens' Advisory Council on the Status of Women.

THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION—A MEMORANDUM

(By the Citizens' Advisory Council on the Status of Women, Washington, D.C., March 1970)

This paper was presented to the Council by its study group on equal legal rights: Sarah Jane Cunningham, Chairman, Virginia R. Allan, Lorraine L. Blair, Rachel E. Scott, Irene Wischer; Mary Eastwood, Technical Staff.)

The proposed equal rights amendment to the U.S. Constitution would provide that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," and would authorize the Congress and the States to enforce the amendment by appropriate legislation.[1]

The purpose of the proposed amendment would be to provide constitutional protection against laws and official practices that treat men and women differently. At the present time, the extent to which women may invoke the protection of the Constitution against laws which discriminate on the basis of sex is unclear. The equal rights amendment would insure equal rights under the law for men and women and would secure the right of all persons to equal treatment under the laws and official practices without differentiation based on sex.

Joint resolutions proposing that the equal rights amendment be approved for submission to the States for ratification have been sponsored by 75 Senators and 225 Members of the House of Representatives in this (91st) Congress (as of March 11, 1970). Adoption of the amendments would require a ⅔ vote of both Houses of Congress and ratification by ¾ of the States. Thus there are already more than the necessary number of Senators who are committed to support the amendment for its approval by the Senate. These joint resolutions are currently pending in the respective Senate and House Judiciary Committees.

The Citizens' Advisory Council on the Status of Women, at its meeting February 7, 1970, endorsed the equal rights amendment, adopting the following resolution:

The Citizens' Advisory Council on the Status of Women endorses the proposed Equal Rights Amendment to the United States Constitution and recommends that the Interdepartmental Committee on the Status of Women urge the President to immediately request the passage of the proposed Equal Rights Amendment by the Congress of the United States.

The Council's recommendation was transmitted to the President on February 13, 1970.

HISTORY OF THE EQUAL RIGHTS AMENDMENT

Resolutions proposing an equal rights amendment have been introduced in every Congress since 1923. Hearings were held by the House and Senate Judiciary Committees in 1948 and 1956, respectively.[2] The amendment has been repeatedly reported favorably by the Senate Judiciary Committee, most recently in 1964 (S. Rept. No. 1558, 88th Cong., 2d Sess.), and has twice passed the Senate, in 1950 and 1953.

Both times it was passed, however, with the so-called "Hayden rider," which provided that the equal rights amendment "shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law, upon persons of the female sex."[3] Both times the rider accomplished its purpose of killing the proposed amendment since, as the Senate Judiciary Committee has noted, the rider's "qualification is not acceptable to women who want equal rights under the law. It is under the guise of so-called 'rights' or 'benefits' that women have been treated unequally and denied opportunities which are available to men." (S. Rept. No. 1558, *supra*)

Since the proposed equal rights amendment has failed to pass Congress for the past 47 years, it may appear to be a loser", although admittedly it took women more than 50 years to secure the adoption of the 19th amendment. However, a revival of the feminist movement has occured during the past four years and it is greatly increasing in momentum, especially among younger women. Thus the demand for equal rights and support for the amendment is becoming more widespread, with a corresponding increase in likelihood of early adoption of the amendment.

LAWS WHICH DISCRIMINATE ON THE BASIS OF SEX

A number of studies have been made in recent years by the President's Commission on the Status of Women, the Citizens' Advisory Council on the Status of Women, and State commissions on the status of women concerning the various types of laws which distinguish on the basis of sex.[4] Opposition to the equal rights amendment in the past has been based in part on "fear of the un-

Footnotes at end of article.

known," *i.e.*, lack of information concerning the types of laws which distinguish on the basis of sex and would therefore be affected by the amendment. Further delay in approving the amendment thus need not await any further study of the kinds of laws that discriminate on the basis of sex.

These studies have shown that numerous distinctions based on sex still exist in the law. For example:

1. State laws placing special restrictions on women with respect to hours of work and weightlifting on the job;
2. State law prohibiting women from working in certain occupations;
3. Laws and practices operating to exclude women from State colleges and universities (including higher standards required for women applicants to institutions of higher learning and in the administration of scholarship programs);
4. Discrimination in employment by State and local governments;
5. Dual pay schedules for men and women public school teachers;
6. State laws providing for alimony to be awarded, under certain circumstances, to ex-wives but not to ex-husbands;
7. State laws placing special restrictions on the legal capacity of married women or on their right to establish a legal domicile;
8. State laws that requires married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business.[5]
9. Social Security and other social benefits legislation which give greater benefits to one sex than to the other;
10. Discriminatory preferences, based on sex, in child custody cases;
11. State laws providing that the father is the natural guardian of the minor children; [6]
12. Different ages for males and females in (a) child labor laws, (b) age for marriage, (c) cutoff of the right to parental support, and (d) juvenile court jurisdiction;
13. Exclusion of women from the requirements of the Military Selective Service Act of 1967;
14. Special sex-based exemptions for women in selection of State juries;
15. Heavier criminal penalties for female offenders than for male offenders committing the same crime.

Although it is possible that these and other discriminations might eventually be corrected by legislation, legislative remedies are *not* adequate substitutes for fundamental constitutional protection against discrimination. Any class of persons (i.e., women) which cannot successfully invoke the protection of the Constitution against discriminatory treatment is by definition comprised of "second class citizens" and is inferior in the eyes of law.

THE POSITION OF WOMEN UNDER EXISTING CONSTITUTIONAL PROVISIONS

The Fourteenth Amendment to the U.S. Constitution provides that no State shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Federal government is similarly restricted from interfering with these individual rights, under the "due process clause" of the Fifth Amendment.

During the past century, women have been largely unsuccessful in seeking judicial relief from sex discrimination in cases challenging the constitutionality of discriminatory laws under these provisions. As the Committee on Civil and Political Rights, President's Commission on the Status of Women, noted in its 1963 Report,

> In no 14th amendment case alleging discrimination on account of sex has the United States Supreme Court held that a law classifying persons on the basis of sex is unreasonable and therefore unconstitutional.[7]

In 1874, the Supreme Court held that the privileges and immunities of citizens of the United States, protected from abridgment by the States under the Fourteenth Amendment, did not confer upon women the right to vote, although the Court conceded that women were persons and citizens within the meaning of the amendment.[8] Similarly, the privileges and immunities clause was held not to confer on women the right to practice law.[9]

The constitutionality of State laws regulating the employment of women (but not men) was upheld in a number of cases brought between 1908 and 1937: maximum hours laws,[10] laws prohibiting night work for women,[11] and laws requiring a minimum wage for women.[12] In 1948, the Court upheld a Michigan law prohibiting (with certain exceptions) the licensing of women as bartenders.[13]

A Florida law providing that women not be called for jury service unless she registers with the clerk of court her desire to serve was held not violative of the Fourteenth Amendment in 1961.[14] However, more recently, a three-judge Federal court in Alabama held that State's law excluding women from jury service violated the rights of women under the Fourteenth Amendmnet stating:

> The Constitution of the United States must be read as embodying general principles meant to govern society and the institutions of government as they evolve through time. It is therefore this Court's function to apply the Constitution as a living document to the legal cases and controversies of contemporary society.
>
> The Alabama statute that denies women the right to serve on juries . . . violates that provision of the Fourteenth Amendment to the Constitution of the United States that forbids any state to "deny to any person within its jurisdiction the equal protection of the laws." The plain effect of this constitutional provision is to prohibit prejudicial disparities before the law. This means prejudicial disparities for all citizens—including women. *White* v. *Crook*, 251 F. Supp. 401, 408 (M.D. Ala., 1969).

In *Abbot* v. *Mines*, 411 F. 2d 353 (C.A. 6, 1969) the Court reversed a case in which the trial judge had dismissed women jurors from the panel because the evidence in the case required testimony concerning cancer of the male genitals. The Court of Appeals stated:

> It is common knowledge that society no longer coddles women from the very real and sometimes brutal facts of life. Women, moreover, do not seek such oblivion.
>
> The District Judge's desire to avoid embarrassment to the women jurors is understandable and commendable but such sentiments must be subordinated to constitutional mandates. 411 F. 2d at 355.

As recently as ten years ago, the Supreme Court declined to hear a case in which the Texas Court of Civil Appeals had upheld the exclusion of women from a State college, Texas A & M.[15]

In February 1970 a three-judge Federal court dismissed as "moot" a class action in which women sought to desegregate various all male and all female public institutions of higher learning in the State of Virginia. However, the Court had previously ordered the University to consider without regard to sex the women plaintiffs' applications for admission to the University of Virginia at Charlottesville and to submit a three-year plan for desegregating the University at Charlottesville. *Kirstein et al.* v. *The Rector and Visitors of the University of Virginia, etc., et al.* (E.D. Va., Richmond Div. Civil No. 220–69–R).

Although there are very few female criminals as compared to male criminals, some laws provide for longer prison terms for women than for men committing the same crime. Such laws in Pennsylvania and Connecticut have been held to be inconsistent with the equal protection guarantees of the Fourteenth Amendment.[16]

Thus, in at least two areas—jury service and criminal penalties—women appear to have made progress in invoking the protection of the Fourteenth Amendment. Although jury service is important as a practical matter it is hardly central to the lives of women. Criminal penalties are of real significance to only a very few women. Moreover, the court decisions have not wiped out discrimination even in these areas. The *Kirstein* case noted above represents some progress in an area vital to women—education, but the extent to which women may insist on equal educational opportunities under the Constitution still remains unclear.

Different treatment of men and women for purposes of computing social security benefits has been held not to violate the right to due process and equal protection of the laws. *Gruenwald* v. *Gardner,* 390 F. 2d 591 (C.A. 2, 1968), cert. denied, 393 U.S. 982. The Court of Appeals stated that "the trend of authority makes it clear that the variation in amounts of retirement benefits based upon differences in the attributes of men and women is constitutionally valid." The Court also stated:

There is here a reasonable relationship between the objective sought by the classification, which is to reduce the disparity between the economic *and physical* capabilities of a man and a woman—and the means used to achieve that objective in affording to women more favorable benefit computations. There is, moreover, nothing arbitrary or unreasonable about the application of the principle underlying the statutory differences in the computations for men and women. Notwithstanding the favorable treatment granted to women in computing their benefits, the average monthly payments to men retiring at age 62 still exceeds those awarded women retiring at that age. 390 F. 2d at 592. (emphasis supplied)

In a case involving a violation of the Military Selective Service Act of 1967, the defendant raised the issue of sex discrimination, charging that since men but not women are compelled to serve in the Armed Forces, his rights to due process of law under the Fifth Amendment were violated. *United States* v. *St. Clair,* 291 F. Supp. 122 (S.D. N. Y., 1968). The Court stated:

In the Act and its predecessors, Congress made a legislative judgment that men should be subject to involuntary induction but that women, presumably because they are "still regarded as the center of home and family life" (*Hoyt* v *State of Florida,* . . .), should not. Women may constitutionally be afforded "special recognition" (cf. *Gruenwald* v. *Gardner,* . . .) particularly since women are not excluded from service in the Armed Forces.

In providing for involuntary service for men and voluntary service for women, Congress followed the teachings of history that if a nation is to survive, *men must provide the first line of defense while women keep the home fires burning.* 291 F. Supp. at 124–5. (Emphasis supplied)

In two recent cases, women sought to enjoin State officials from enforcing special restrictions on the hours of work of women on the ground that such laws violate their rights to due process and equal protection of the law under the Fourteenth Amendment. The three-judge Federal courts (convened pursuant to 28 U.S.C. 2281, 2284) held that the constitutional issue was insubstantial and that the three-judge court lacked jurisdiction.[17] The women argued that because of the State restrictive laws, they were deprived of opportunities for better paying jobs and overtime pay.

The President's Commission on the Status of Women stated in its 1963 report, *American Women,* that it was convinced that the U.S. Constitution now embodies equality of rights for men and women. . . . But judicial clarification is imperative in order that remaining ambiguities with respect to the constitutional protection of women's rights be eliminated. Early and definitive court pronouncement, particularly by the U.S. Supreme Court, is urgently needed with regard to the validity under the 5th and 14th amendments of laws and official practices discriminating against women, to the end that the principle of equality become firmly established in constitutional doctrine. (GPO, page 45).

The position of women under the Constitution remains ambiguous in 1970.

RELATIONSHIP BETWEEN THE EQUAL RIGHTS AMENDMENT AND EXISTING CONSTITUTIONAL PROVISIONS

It is, of course, possible that the 5th and 14th amendments will in the future be interpreted by the courts as prohibiting all sex distinctions in the law. Nothing in the proposed equal rights amendment would preclude this from occurring; the amendment would in no way cut back, modify, or qualify any protection against discrimination based on sex which may be afforded by the 5th and 14th amendments. As pointed out in Story, *Commentaries on the Constitution of the United States* (5th Edit. §§ 1938, 1939):

The securities of individual rights, it has often been observed, cannot be too frequently declared, nor in too many forms of words; nor is it possible to guard too vigilantly against the encroachments of power, nor to watch with too lively a suspicion the propensity of persons in authority to break through the "cobweb chains of paper constitution." . . .

Conceding, therefore, that if correctly construed, and applied according to their true intent and meaning, other constitutional provisions, State and national, might afford ample security for individual rights, we may nevertheless pardon the anxiety for further prohibitions, and concede that, even if wholly needless, the repetition of such securities may well be excused so long as the slightest doubt of their having been already sufficiently declared shall anywhere be found to exist.

The proposed amendment would secure the right of all persons to equal treatment under the law without any distinction as to sex. If the protection against sex discrimination provided by the equal rights amendment should prove to be duplicative of protections afforded by enlightened interpretations of the 5th and 14th amendments, no harm would be done.

Supporters of the equal rights amendment believe that the potential of the 14th amendment is too unclear and that women's constitutional rights to equality are too insecure to rely evclusively on the possibility of getting more enlightened court decisions under that amendment.

In a 1963 case, the Supreme Court stated:

"The Fifteenth Amendment prohibits a State from denying or abridging a Negro's right to vote. The Nineteenth Amendment does the same for women. . . . Once a geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex. . . . This is required by the Equal Protection Clause of the Fourteenth Amendment. *Gray* v. *Sanders,* 372 U.S. 368, 379."

This interpretation of the 14th amendment reinforced and made doubly secure the right to vote. There are numerous cases in which the Supreme Court has interpreted the 14th amendment to reinforce or to extend rights guaranteed by earlier or, as in the above case, later amendments to the Constitution. For example, the more general due process and equal protection concepts of the 5th and 14th amendments have been used to strengthen more specific rights of individuals to freedom of speech, assembly and religion guaranteed by the First Amendment; and the right to a speedy trial and the right to counsel guaranteed by the Sixth.

If the equal rights amendment is adopted, the courts might well subsequently interpret the Fourteenth Amendment as reinforcing constitutional equality for women. Certainly this possibility does not justify further delay in approving the amendment.

EFFECT THE EQUAL RIGHTS AMENDMENT WOULD HAVE ON LAWS DIFFERENTIATING ON THE BASIS OF SEX

Constitutional amendments, like statutes, are interpreted by the courts in the light of intent of Congress. Committee reports on a proposal are regarded by the courts as the most persuasive evidence of the intended meaning of a provision. Therefore, the probable meaning and effect of the equal rights amendment can be ascertained from the Senate Judiciary Committee reports (which have been the same in recent years):

1. The amendment would restrict only governmental action, and would not apply to purely private action. What constitutes "State action" would be the same as under the 14th amendment and as developed in 14th amendment litigation on other subjects.

2. Special restrictions on property rights of married women would be unconstitutional; married women could engage in business as freely as a member of the male sex; inheritance rights of widows would be same as for widowers.

3. Women would be equally subject to jury service and to military service, but women would not be required to serve (in the Armed Forces) where they are not fitted any more than men are required to so serve.

4. Restrictive work laws for women only would be unconstitutional (e.g. maximum hours, night work and weight-lifting restrictions on women).

5. Alimony laws would not favor women solely because of their sex, but a divorce decree could award support to a mother if she was granted custody of the children. Matters concerning custody and support of children would be determined in accordance with the welfare of the children and without favoring either parent because of sex.

6. Laws granting maternity benefits to mothers would not be affected by the amendment, nor would criminal laws governing sexual offenses become unconstitutional (e.g. rape, prostitution).

Although the proposed amendment would specifically authorize the Congress and the States to enact implementing legislation, the amendment would be largely self-operative. The amendment is patterned after the 15th and 19th amendments, which required equal voting rights for Negroes and women, respectively. The 15th and 19th amendments did not render unconstitutional all State voting laws; they simply required the extension of voting rights to Negroes and women. The equal rights amendment would simply require that men and women be treated the same under the law. In some instances, like the 15th and 19th amendments, the effect of the amendment would be to strike the words of sex identification in the law rather than render it unconstitutional, thereby extending the rights under the law to both sexes. In other cases, where the law serves only to restrict, deny or limit the freedoms or rights of one sex, such restrictions would not be extended to both sexes; the law would be rendered unconstitutional. In still other cases, the law is partially restrictive to persons of one sex in that age limitations are imposed differently on males and females.

Following is a five-point analysis of the impact the equal rights amendment will have on the various types of Federal and State laws which distinguish on the basis of sex:

1. *Strike the Words of Sex Identification and Apply the Law to Both Sexes.*

Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e. the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment, in the same way that laws pertaining to voting were extended to Negroes and women under the 15th and 19th amendments.

Examples of such laws include: laws which permit alimony to be awarded under certain circumstances to wives but not to husbands; social security and other social benefits legislation which give greater benefits to one sex than the other; exclusion of women from the requirements of the Military Selective Service Act of 1967 (i.e., women would be equally subject to military conscription).

Any expression of preference in the law for the mother in child custody cases would be extended to both parents (as against claims of third parties). Children are entitled to support from *both* parents under the existing laws of most States.[18] Child support laws would be affected only if they discriminate on the basis of sex. The amendment would not prohibit the requiring of one parent to provide financial support for children who are in the custody of the other.

2. *Laws Rendered Unconstitutional by the Amendment.*

Where a law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional.

Examples are: the exclusion of women from State universities or other public schools; State laws placing special restrictions on the hours of work for women or the weights women may lift on the job; laws prohibiting women from working in certain occupations, such as bartenders; laws placing special restrictions on the legal capacity of married women, such as making contracts or establishing a legal domicile.

3. *Removal of Age Distinctions Based on Sex.*

Some laws which apply to both sexes make an age distinction by sex and thereby discriminate as to persons between the ages specified for males and females. Under the foregoing analysis, the ages specified in such laws would be equalized by the amendment by extending the benefits, privileges or opportunities under the law to both sexes. This would mean that as to some such laws, the *lower* age would apply to both sexes. For example: a lower minimum age for marriage for women would apply to both sexes; a lower age for boys under child labor laws would apply to girls as well. In other words, the *privileges* of marrying or working would be *extended* and the sex discrimination removed.

As to other laws, the *higher* age would apply to both sexes. For example: a higher cut-off age for the right to paternal support for boys would apply to girls as well; a higher age for girls for juvenile court jurisdiction would apply also to boys. In these cases, the *benefits* of paternal support or juvenile court jurisdiction would be *extended* to both sexes.

Thus, the test in determining whether these laws are to be equalized by applying the lower age or by applying the higher age to both sexes is as follows:

If the age limitation restricts individual liberty and freedom the lower age applies; if the age limitation confers a right, benefit or privilege to the individuals concerned and does not limit individual freedom, the higher age applies.

4. *Laws Which Could Not Possibly Apply to Both Sexes Because of the Difference in Reproductive Capacity.*

Laws which, as a practical matter, can apply to only one sex no matter how they are phrased, such as laws providing maternity benefits and laws prohibiting rape, would not be affected by the amendment. The extension of these laws to both sexes

would be purely academic, since such laws would not apply differently if they were phrased in terms of both sexes. In these situations, the terminology of sex identification is of no consequence.[19]

5. *Separation of the Sexes.*

Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties.

For example, in our present culture the recognition of the right to privacy would justify separate restroom facilities in public buildings.

As shown above, the amendment would not change the substance of existing laws, except that those which restrict and deny opportunities to women would be rendered unconstitutional under the standard of point two of the analysis. In all other cases, the laws presently on the books would simply be equalized, and this includes the entire body of family law. Moreover, the amendment in no way would restrict the State legislature or the Congress in enacting legislation on any subject, since its only purpose and effect is to prohibit any distinction based on sex classification.

OBJECTIONS TO THE PROPOSED EQUAL RIGHTS AMENDMENT

Objection. The equal rights amendment is not needed because women already have equal rights under the 5th and 14th amendments.

Answer. The extent to which women may invoke the protection of the due process and equal protection guarantees of the 5th and 14th amendments is unclear. In fact, some recent court decisions have upheld sex distinctions in the law, in spite of these constitutional provisions. Even if the 5th and 14th amendments are in future cases construed so as to eliminate all sex distinctions in the law, the equal rights amendment would simply make the individual's right to equal treatment doubly secure.

Objection. If the amendment were adopted the courts would be flooded with litigation because the meaning of the amendment is not clear; e.g., what are the various "rights" that would be protected? What does "equality" mean?

Answer. The equal rights amendment would not cause excessive litigation unless there were massive resistance to compliance with the amendment's requirement of equal treatment of men and women. If that happened, it would only prove the great need for the amendment. The "right" protected by the amendment is the right to *equal treatment under the law,* whatever the subject of the law may be, without distinction based on sex.

Objection. The amendment would render unconstitutional a wide variety of State laws which now treat men and women differently.

Answer. Some State laws—those which *deny* rights or restrict freedoms of one sex—would be violative of the equal rights amendment and rendered unconstitutional. Laws which *confer* rights, benefits and privileges on one sex would have to apply to both sexes equally, but would not be rendered unconstitutional by the amendment.

Objection. The amendment would require sweeping changes in laws pertaining to the family.

Answer. The amendment would simply require equality. In States where the law provides for alimony only for wives, courts could award alimony to husbands as well, under the same conditions as apply with respect to wives. (More than ⅓ of the States now permit alimony to be awarded to either spouse.) Mothers and fathers would both be legally responsible for the support of their children, as is generally the case under existing law.

Objection. The amendment would nullify special State protective labor laws for women, such as those governing limitations on hours of work, weightlifting on the job, and prohibitions against night work, for women employees only.

Answer. This issue is fast becoming moot, because the Federal law (Title VII of the Civil Rights Act of 1964) prohibits sex discrimination in employment and requires employers covered by the Act to treat men and women equally. A number of States have already conceded that special restrictions on women may no longer be enforced.

Objection. Women would be equally subject to the draft.

Answer. This is true. Women do serve in the Armed Forces now, but on a volunteer basis. The amendment would also prohibit more stringent eligibility standards for women than for men volunteers.

Objection. The equal rights amendment would require equal rights and responsibilities for women under the law.

Answer. True.

FOOTNOTES

[1] See, e.g., S.J. Res. 61, 91st Cong., 1st Sess.

[2] Hearings on the Equal Rights Amendment to the Constitution and Commission on the Legal Status of Women, House Committee on the Judiciary, Subcommittee No. 1, 80th Cong., 2d Sess. (1948); Hearings on Equal Rights, Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, 84th Cong., 2d Sess. (1956).

[3] See 96 Cong. Rec. 872–3 (1950); 99 Cong. Rec. 8954–5 (1953).

[4] See especially, *Report of the Committee on Civil and Political Rights,* President's Commission on the Status of Women (GPO, 1963); *Report of the Task Force on Labor Standards,* Citizens' Advisory Council on the Status of Women (GPO, 1968); *Report of the Task Force on Family Law and Policy,* CACSW (GPO, 1968). See also, Kanowitz, *Women and the Law: The Unfinished Revolution,* U. of N.M. Press, 1969.

[5] See, e.g., Calif. Code Civ. Proc., §§ 1811-1819; Nev. Rev. Stats., §§ 124. 010—124. 050.

[6] See, e.g., Code of Ga. Annot., §§ 49–102—49–104; Okla. Stats. Annot., tit. 10, § 5.

[7] GPO, 1963, p. 34.

[8] *Minor* v. *Happersett,* 21 Wall. 162, 168.

[9] *Bradwell* v. *State,* 16 Wall. 130 (1872). *In re Lockwood,* 154 U.S 116 (1894).

[10] *Muller* v. *Oregon,* 208 U.S. 412 (1908); *Riley* v. *Massachusetts,* 232 U.S. 671 (1914); *Miller* v. *Wilson,* 236 U.S. 373 (1915); *Busley* v. *McLaughlin,* 236 U.S. 385 (1915).

[11] *Radice* v. *New York,* 264 U.S. 292 (1924).

[12] *West Coast Hotel Co.* v. *Parrish,* 300 U.S. 379 (1937), overruling *Adkins* v. *Children's Hospital,* 261 U.S. 525 (1923).

[13] *Goesaert* v. *Cleary,* 335 U.S. 464 (1948).

[14] *Hoyt* v. *Florida,* 368 U.S. 57 (1961).

[15] *Alfred* v. *Heaton,* 336 S.W. 2d 251 (1960), appeal dismissed and cert. denied, 364 U.S. 517, rehearing denied, 364 U.S. 944; see also *Heaton* v. *Bristol,* 317 S.W. 2d 86 (1958), appeal dismissed and cert. denied, 359 U.S. 230, rehearing denied, 359 U.S. 999.

[16] *Commonwealth* v. *Daniel,* 430 Pa. 642, 243 A. 2d 400 (1968); *U.S. ex rel. Robinson* v. *York,* 281 F. Supp. 8 (D. Conn., 1968).

[17] *Mengelkoch* v. *Industrial Welfare Commission,* 284 F. Supp. 950, 956 (C.D. Calif., 1968), three-judge order vacated, 393 U.S. 83, rehearing denied, 393 U.S. 993, appeal pending in the Ninth Circuit; *Ward* v. *Luttrell,* 292 F. Supp. 162, 165 (E. D. La. 1968).

[18] *Reciprocal State Legislation to Enforce the Support of Dependents,* Council of State Governments, 1964, page 20.

[19] See Murray and Eastwood, "Jane Crow and the Law: Sex Discrimination and Title VII" 34 G. W. L. Rev. 232, 240-241 (1965).

(NOTE.—Where the term GPO is mentioned in the text or in footnotes, the documents are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.)