

EQUAL RIGHTS--PRESENT
December 10, 1972
Thyra Thomson, Secretary of State

I have been asked to speak on the subject of Equal Rights at the present.

We've come a long way since the God-like Odysseus, upon his return from the wars with Troy, hung a dozen slave girls from a single rope because he suspected them of wrongdoing. No one objected. They were his property.

We've come a long way since the men of Wyoming, to their everlasting credit, in 1869 gave women the right to vote and hold office, which sparked the gaining of legal and economic rights as well. At that time women couldn't own property in their own names, act as guardians of their own children or even be paid directly for their own work.

But do men and women have equal rights now? Do men and women have equal rights under the law? Do men and women have equal rights in actual practice? It is altogether fitting that we speak to these questions on Wyoming Day, and we are indebted to the Equal Rights Coalition headed by Julia Yelvington for arranging this program.

On the eve of the convening of the 43rd Wyoming Legislature, which will have the opportunity to vote on the ratification of the Equal Rights Amendment to the United States Constitution, where are we? We are astride a very emotional issue. All of us are more comfortable with the status quo and resist change, but more^y especially emotional because the change effects our traditional concepts of the man-woman relationship.

Judging from my mail--

--There are those who recognize the inequality of the status of women and wonder why anyone would want it otherwise.

--There are those who view the Equal Rights Amendment as a conspiracy, a communist plot.

--There are those, sadly, who are paranoid in their dire predictions about the possible consequences.

--There are those who think of this amendment as giving equal rights to all persons, as banning discrimination against both men and women; they believe persons should have the freedom to choose their own roles.

Assigning women motherhood and household roles and assigning men the role of breadwinner is ingrained in our culture. In reality men and women's roles have merged. The Equal Rights Amendment proposes to bring the law into accord with reality.

Let's look at facts:

--1/3 of the jobs in the nation are held by women.

--2/3 of the women who work are married.

--Married or not, 8 out of 10 women today spend 25 years out of their homes in gainful employment.

--Size of average family has dropped to slightly more than two children-- mothers and fathers are just replacing themselves.

--Because of small families and labor-saving devices, homemaking is no longer a full time job.

--Outside the home, the trend is to a shorter and shorter work week. Some contracts are for a 3 and 4 day work week now.

--Only 1/5 of the jobs in this nation are industrial. In this age of automation and computerization, brawn is no longer a requirement.

--Women work for the same reason men do--to support themselves and their

dependents. Recently 6 boys were at our house visiting my son. Of the 7, five came from homes where the mother provided the major support.

Women's contribution to the family perhaps is best illustrated by a man trying to delineate for his friend the difference between a recession, a depression and a panic. He said, "If your neighbor loses his job, that's a recession. If you lose your job, that's a depression. If your wife loses hers, that's panic."

Are present Wyoming statutes in accord with these changes? A University of Women law student, Leslie Lawson, recently published a paper 17 pages long entitled "Inequality of the Sexes Under the Laws of the Equality State." A study by the Wyoming Labor Department details discrimination in the pay and promotion of women faculty members at our institutions of higher learning. Discriminatory statutes are too numerous to detail here.

Generally, the state statutes were designed as protective legislation. They provided for certain working conditions, restricted women to certain occupations and limited their hours of work. It is interesting to note that protective legislation in some states originally applied to both men and women, but the U. S. Supreme Court held that such legislation violated men's constitutional rights of personal liberty. The Court did not hold that women had such rights.

Today some opponents of the Equal Rights Amendment ask why advocates are opposed to protective legislation for women. The answer is that such legislation limits opportunities and places obstacles in the paths of those it seeks to protect and locks women into inferior, low-paying jobs. The Wyoming Labor Department has found that "when a law is applied unequally to either of the sexes, it creates an adverse condition for the sex to which it applies."

In 1961 John F. Kennedy signed an executive order establishing the President's Commission on the Status of Women. Though there is some evidence it was only intended to placate advocates of equal rights, it made recommendations that resulted in the Congress passing legislation which supposedly assured everyone, including minorities and women, against discrimination.

The Equal Pay Act of 1963 was the first piece of federal legislation prohibiting discrimination by sex. As written there were no exemptions, but when it passed as an amendment to the Fair Labor Standards Act, it acquired that Act's exemptions, so that equal pay provisions did not apply to executive, professional and administrative employees. Originally, compliance was to be voluntary.

As first drawn the Civil Rights Act of 1964 said nothing about sex discrimination in employment. It was added by a southern Congressman hoping to kill the bill. Surprisingly, it passed, and the Equal Economic Opportunity Commission was set up to administer Title VII of the Civil Rights Act, which outlaws sex discrimination in employment. The law exempt from its provisions employees of federal, state and local governments. The EEOC does not have cease and desist power. The Commission recognizes "bona fide occupational differences."

In 1967 executive orders by President Johnson prohibited sex discrimination by federal contractors and subcontractors and by the federal government. However, strict guidelines and timetables for compliance such as had been set up to protect against racial discrimination were not provided. Finally, in 1970 weak guidelines were issued. In July of 1970 the Secretary of Labor made his famous remark "he had no intention of applying literally exactly the same approach for women in carrying out the executive order as had been applied to eliminate discrimination against minority groups." Finally,

in December of 1971 a revised Executive Order No. 4 was issued calling for analyzing factors of sex discrimination and stating specific goals and timetables.

The Civil Rights Commission set up the Federal Women's Program to enforce the ban against sex discrimination in federal employment and to recruit and promote women. Little more than lip service was paid to this program.

In 1970 President Nixons' Task Force on Women's Rights and Responsibilities interpreted Title VII of the Civil Rights Act to supersede most state protective legislation and to ban discrimination on the basis of sex.

The courts themselves in interpreting laws against discrimination have not to date treated women equally. In applying the Civil Rights Act to cases involving minority persons, the U. S. Supreme Court said "discrimination is suspect." It did not apply the same reasoning in cases dealing with sex discrimination. If a Chicano or a Black claims he was denied equal opportunity in employment, the employer must show non-discrimination. But if a woman claims she was denied equal opportunity, the burden of proof rests on the woman. As a class, women alone have had the burden of proof placed upon them by the courts.

In 1972 the Congress of the United States passed legislation proposing the Equal Rights Amendment to the Constitution.

Every step of the legal revolution has been a hard one, accomplished only through insistent and continuous demand. A century after the 14th Amendment and 8 years after Congress enacted Title VII, women are still being forced to push every step of the way down the road to equality in employment.

Still, we know it is easier to change the laws than it is to change the subtle discriminations and cultural barriers which deny women equal access to prepare for and

enter employment of their choice. Less than 5% of those admitted to medical schools are women. Enlisted women need a high school diploma to enter the Air Force--men don't. Women must make a higher score on tests than men do for commissioning. If a married woman in the services chooses to live with her husband off the base, she forfeits her housing allowance--men don't. A woman land lease broker commissioned as a notary was, after marriage, denied the right to continue to use the name on her commission by which she was generally known in her profession.

The possibility of maternity is often used as an excuse for not promoting women to management levels. Yet the fact is that the average woman has had her last baby by the time she is 26, and the average life span for women is 75. Why should men bear all the burdens of solving social and economic problems and have all the heart attacks? Must a woman be denied promotion and be locked in low pay scales during the last 30 years of her life because she is female?

The EEOC has recently declared that pregnancy, childbirth and recovery are "temporary disabilities and should be treated as such." Pregnancy isn't a valid reason for refusing to hire, discharging, or denying promotions to women. To provide for disability payments for a male leg broken in a skiing accident while denying them to a temporarily disabled pregnant woman is absurd and unfair, according to the EEOC.

The fact that men earn more than women is one of the best established facts of the labor market.

And there are as many subtle discriminations placing undue burdens upon men . The best approach would seem to be to consider the purpose of each law and either abolish it or apply it equally to both sexes. There must be an honest effort to recognize discriminatory practices and to institute effective equal rights and responsibilities.

Congresswoman Patsy Mink says that the Equal Rights Amendment will recognize women as people. It will not result in drastic changes in social customs. It will not rule out bona fide occupational qualifications. Both men and women will have the opportunity to enter those occupations for which they are qualified. Neither men or women will be forced into employment not of their choice.

England, from which the United States derived most of its common law, now seeks United States guidance in one legislative area--equal rights for women. The House of Lords is presently considering passage of an equal rights law.

I tend to agree with those who hold that when the Equal Rights Amendment frees women from a life of personal service, it will free men from the yoke and usher in an era of mutual trust, respect and love.