KEEP

In pursuit of equal rights: women in the seventies

The Equal Rights Amendment

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 within seven years from the date of its submission by the Congress:

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.

League of Women Voters of the United States

Contents

The League and the ERA

In May of 1972, only weeks after congressional passage of the ERA, delegates to the League's national convention overwhelmingly approved equal rights for all, regardless of sex, as part of the Human Resources position. At the same convention, delegates voted to support the Equal Rights Amendment as one of the major ways to take action in support of the HR position. With this decisive action the League, as a lineal descendant of the original women's movement, came full circle to give priority support to equal rights for men and women.

When the ERA was first introduced in Congress in 1923 by the National Women's Party, it received little support from women's organizations such as the League, the American Association of University Women, the National Federation of Business and Professional Women's Clubs, the National Consumer's League, and the National Women's Trade Union Leagues. Even though it had "no quarrel with the object of the bill," the League of Women Voters actively opposed the amendment in the 1920s fearing that it was too radical and would endanger hard-won protective labor legislation for women. In fact, "much of the ERA controversy during this period was over the question of whether protective labor legislation aided or hindered working women! ...By the end of the 1920s the amendment was beginning to attract more support from business and professional women, but most organized women and progressive reformers still opposed it. In 1937, the National Federation of Business and Professional Women's Clubs was the first major organization to break the freeze and endorse the amendment. By this time, the issue of protective laws for women was becoming less sensitive and controversial. New Deal labor reforms and increased unionization of women workers were slowly extending legislative protection to male and female workers alike " (Women Together).

The League supported the step-by-step approach to equality of rights throughout the 1940s; the national program included "removal of legal and administrative discriminations against women," but a position in opposition to an ERA remained on the record until 1954. In that year the national program was restructured and the long dormant anti-ERA statement was dropped.

Times change, but events have a way of repeating themselves. More than a century after the abolition fight, the civil rights struggle of the 1960s helped respark the women's rights movement. As the League became active in seeking civil rights for blacks, League members became more acutely aware of the parallels between the status of women and that of minorities. Many state and local Leagues pursued women's issues in their own programs, and a strong push for equal opportunity for women culminated in the national convention action of 1972.

Since 1972, Leagues at all levels have helped to coordinate and organize state lobbying efforts in support of ratification. Leagues have raised money, produced and distributed educational material, set up candidate forums, arranged public meetings, lobbied legislators and candidates for the legislature, secured community leader and editorial support, and organized state and local coalitions to direct and coordinate endorsing organization activities. In short, Leagues have been involved in every aspect of the campaign to ratify ERA, with the exception of candidate support. League members, as individuals and as ERA coordinators, have been leaders in the effort to ratify and prevent rescission in every state. By July 31, 1976, the national League, with the help of state and local Leagues, had raised ERA campaign funds totaling $269,437, with the major amount going back to the states in the form of direct cash grants to state Leagues to aid ratification and prevent rescission. □

Citations for all references appear in the bibliography.

Editor/Writer: Mary E. Brooks; Contributing Writer: Susan Tenebaum

Bold words . . . strong women

Resolved, that all laws which prevent women occupying a station in society as her conscience shall dictate, or which place her in a position inferior to that of man, are contrary to the great precept of nature, and therefore of no force or authority.

•••

Resolved, that we deplore the apathy and indifference of women in regard to her rights, thus restricting her to an inferior position in social, religious, and political life, and we urge her to claim an equal right to act on all subjects that interest the human family.

•••

Resolved, that the universal doctrine of the inferiority of women has ever caused her to distrust her own powers, and paralyzed her energies, and placed her in that degraded position from which the most strenuous and unremitting effort can alone redeem her. Only by faithful perseverance in the practical exercise of those talents, so long "wrapped in a napkin and buried under the earth" will she regain her long-lost equality with man.

•••

Resolved, that all men and women are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness.

Bold words, waiting to be translated into reality. Waiting 125 years. Those resolutions were passed at the first two women's rights conventions, held in 1848 in Seneca Falls and Rochester, New York. Note well that they were rooted in the basic issue of human rights--not surprising, since the women's movement was stimulated in part by women's work in the abolition movement.

The unequivocal acknowledgement of women's equality before the law has been, from the start, what the women's movement is all about. Our foremothers--Lucretia Mott, Martha C. Wrights, Jane Hunt, Elizabeth Cady Stanton, Mary Ann McClinton, organizers of those first conventions--knew it in the 1840s. Carrie Chapman Catt and Alice Paul knew it in the 1900s. We know it now.

Other resolutions at those first gatherings dealt with specific discriminations. And during the last quarter of the 19th century and the first quarter of the 20th, women's rights advocates homed in on one of these rights--the right to vote--as the key that would unlock the door to all the others.

The moment that the suffrage amendment was passed in 1920, the leaders in that fight moved on to other parts of the women's rights agenda. The National Woman's Party wrote the first Equal Rights Amendment to be introduced in Congress, in 1923. Some (among them, those who founded the League of Women Voters) made a difficult policy choice: not to back an ERA but instead to opt for support of the protective legislation so recently placed on the books in many states, which gave the many women in unskilled, nonunion jobs their first leverage for decent job conditions. Some (again including the League of Women Voters) decided to campaign over the years for successive pieces of legislation--to wrest, law by law, some concessions to the principle of equality before the law.

Session after session, since 1923, there has been a bill before Congress calling for an ERA. That first version said: "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction." In 1943 it was modified to its present wording: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

But equal rights still had a way to go. ERA "resolutions were reported favorably by the Committee on the Judiciary in the 80th, 81st, 82nd, 83rd, 84th, 86th, 87th, and 88th Congresses. In the 81st and again in the 83rd Congresses, resolutions passed the Senate with a floor amendment," but in both instances, the House did not act. This floor amendment, commonly referred to as the Hayden Amendment, provided that the amendment "shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law upon members of the female sex." Proponents objected to this addition because it diluted equality of rights and responsibilities among men and women, which is the amendment's goal. After extensive hearings and debate, the House on October 12, 1971 approved the ERA resolution in its original form, 354 to 23, and sent it to the Senate. After rejecting several amendments to the original language, the Senate Judiciary Committee reported ERA to the Senate floor unamended. On March 22, 1972, the U.S. Senate approved the Equal Rights Amendment 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 within seven years from the date of its submission by the Congress:

Article --

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.

In 1972, 22 states ratified the amendment; in 1973, 8 states ratified; in 1974, 3 states ratified and in 1975, 1 state ratified--a total of 34. Sixteen

states remain unratified, of which four must ratify before March 22, 1979, for the Equal Rights Amendment to become law. All 16 states can consider the ERA in their 1977 state legislative sessions. These unratified states include Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Missouri, Mississippi, Nevada, North Carolina, Oklahoma, South Carolina, Utah and Virginia.

Ratification and rescission: what they mean

There is more than one way to adopt a constitutional amendment: through ratification "by the legislatures of three-fourths of the several states or by convention in three-fourths thereof." The ERA is travelling the more common route: approval by two-thirds of both houses of Congress and confirmation (ratification) by the legislatures of three-fourths of the states (Article V, U.S. Constitution). No action by the President is required.

Until recently, no time limit was placed on the ratifying process, but Congress set a limit of seven years for ratification of the Equal Rights Amendment by the required 38 states. Congress has final power to impose requirements for ratification resolutions and to determine the sufficiency of a state's ratification, since the decision in Coleman v. Miller [307 U.S. 433 (1939)] decided that questions relating to the ratification of amendments were "political questions," not subject to judicial review, and that determinations thereon were to be made by Congress.

Three procedural questions have arisen over the ratification process that are not definitively answered by Article V of the Constitution and give rise to debate.

1. May a state require other procedures, such as a popular referendum before voting on ratification?

No state has been allowed to "impede the amending process" by referendum or other means [Hawk v. Smith 253 U.S. 221 (1920)]. In 1974, the Montana Supreme Court ruled against an attempt to submit the question of rescission of Montana's ERA ratification to popular referendum.

2. If a state first rejects the amendment, then accepts it, is its ratification legal?

There is ample historical precedent for allowing a state to first reject, then ratify an amendment. This occurred during ratification of the 14th, 15th and 16th Amendments to the Constitution. In no case was the validity of such ratification overturned.

3. If a state first approves (ratifies) the amendment, then rejects (rescinds) its approval, which action counts?

"The prevailing view seems to be that a rejection is not final, whereas ratification probably is final [Orfield, Amending the Federal Constitution, the University of Michigan Press, Ann Arbor (1942) p.73]."

In the Coleman case just mentioned, the Court held that the "question of the effect to be given to reversals of action as to ratification by state legislatures was a "political" one to be decided on by the Congress under its powers to implement Article V." This question has been addressed by Congress in the past. In 1868, after three-fourths of the states had ratified the 14th Amendment, the Secretary of State posed to Congress for resolution the question of the effect of the actions of Ohio and New Jersey in ratifying and subsequently rejecting the Amendment. Congress responded with a concurrent resolution declaring Ohio and New Jersey in the list of ratified states.

"The question was again posed to Congress in the case of the 15th Amendment two years later. The legislature of New York ratified the 15th Amendment on April 14, 1869, and withdrew its ratification on January 5, 1870. The proclamation of March 30, 1870 included New York in the list of ratifying states."

Since two states, Nebraska and Tennessee have ratified and subsequently rescinded the Equal Rights Amendment, it is possible that after 38 states have ratified the Equal Rights Amendment, the question of the validity of the Nebraska and Tennessee ratifications may ultimately have to be resolved by Congress.
(Direct quotations from February 1973 letter from J. William Heckman.)

How the ERA will be implemented and interpreted

In a presentation at the National Press Club in April 1976, Susan Deller Ross, clinical director of the American Civil Liberties Union's Women's Rights Project, gave a step-by-step rundown on how laws and practices would be changed by state legislatures and the courts to conform to the ERA. The following is a report on her talk adapted from the summer 1976 issue of The National VOTER.

"The day the ERA is finally ratified by all 38 states, all sex discriminatory laws are not suddenly and magically rewritten by some unknown presence. Instead, the initiative will pass once more to the states. ERA will take effect two years after ratification, to allow state legislatures to examine and rewrite their laws."

Then, explains Ms. Ross, "When the state legislature acts to correct its sex-discriminatory laws, it is, of course, subject to the normal political process. Let's take some examples from the area of family law. Opponents of the ERA have created much fear around family law issues. Now I leave it up to you. Do you know of a single state legislature in the country likely to pass a law saying husbands don't have to support wives, or that wives have to contribute 50 percent of the money to their households, or that senior women will lose their right to be provided with a home?"

"Obviously, state legislators are not going to

OHIO: A CASE IN POINT

After ratification of the federal ERA in Ohio, the Governor issued an executive order creating the Ohio Task Force for the Implementation of the Equal Rights Amendment. On July 1, 1975, the Task Force issued its report on recommended changes of Ohio statutes. The following is an excerpt from a letter of acknowledgement from Ohio's Attorney General William J. Brown: "Your report effectively and graphically demonstrates the need for revisions of laws which discriminate against citizens on the basis of their sex. The impact of your work will undoubtedly be felt throughout the state of Ohio and the nation. The report will serve as an example and model for other states which aspire to the goal of true equality for their own citizens."

commit political suicide en masse. Instead, states will have choices. By rewriting laws in terms of function instead of sex, they can pass a wide variety of politically acceptable ones which both conform to the ERA and provide protection to dependent women."

Anti-ERA stalwarts have also confused citizens about how the courts are likely to interpret ERA. Ross explained that the process is not as whimsical as opponents would have the public believe. When faced with challenges to discriminatory laws, "courts will have basic choices. They can avoid the issue by saying that the challenger is not the proper party to raise the question. They can conclude that the law does not violate the ERA. If they find the law does violate the ERA, they have two more choices: strike it down entirely or extend its reach to cover the excluded sex."

Ross drove her point home with two examples: "Assume a state has a law saying women only are entitled to alimony, which the legislature refuses to change during the two-year grace period. A couple of cases raising the issue come to the courts. A man says that his wealthy wife has deserted him, leaving him to raise their two children alone, and that he is handicapped and can't get a job. He asks the court to give him alimony by extending the state law to benefit men under the ERA. In another case, a male lawyer is being sued for alimony by his wife, who has a baby and a three-year-old to take care of. He attacks the alimony law as violating the ERA, and asks that it be invalidated.

"Is there any way to predict which choice the courts will make? The answer is yes. Whenever a statute or constitutional amendment does not give judges a precise answer to a question, they turn to legislative history to see what Congress intended in passing that measure. And we are fortunate indeed that the ERA has just such a legislative history--answering the very questions I have just posed. Guided by that legislative history, the court would award alimony to the deserted and dependent husband, since he has less earning power and current resources than his wife and is caring for the children. That is, the court would find the single-sex alimony law unconstitutional under the ERA, but rather than say that women cannot get alimony, it would extend the benefits to genuinely dependent men, since it is clear that Congress intended that result. In the case of the husband who is trying to avoid support obligations, the court would simply say that the man has no standing to raise the issue, because he's not interested in extending the law as Congress intended."

(For additional information on court interpretation, see the Section on The Need for the ERA.)

OHIO: A CASE IN POINT

The Ohio Task Force recommended that (statute) "§ 3103.03 should be amended to provide that it is the mutual obligation of each spouse in a marriage to support the other spouse to the extent possible considering the ability and property of each, and that both spouses bear the responsibility of support for their children. The statute should set forth the factors to be considered by the court in ruling on a petition for support; for example, age, education, job skills, custody of children (if any), contributions of a homemaking spouse, physical or mental disability and financial resources of both parties. The third party's right to recover for necessaries furnished to a dependent spouse should be made applicable to either spouse."

The courts and "legislative history"

In the absence of legal precedent, the courts will turn to "legislative history" to determine the intent of Congress in passage of the ERA. Two major sources for this determination will be: Equal Rights for Men and Women, U.S. Senate Report No. 92-689, 92d Cong., 2d Session, and "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," [80 Yale L.J. 871 (1971)].

The Senate Report reviews the inadequacy of present laws and court decisions and outlines the effect on military service, labor legislation, criminal and family law, and education. The expectation is that "laws which are discriminatory and restrictive will be stricken entirely" while "laws which provide a meaningful protection would be expanded to include both men and women" (Senate Report p. 15). Copies of this report are available from the Senate Documents Room, The Capitol, Washington, D.C. 20510. Please include a self-addressed mailing label.

The Yale Law Journal article (placed in the Congressional Record by sponsor Sen. Birch Bayh and distributed to all respresentatives by sponsor Rep. Martha Griffiths) was mentioned repeatedly during congressional debate and also can be used as a guide to the intent of the Equal Rights Amendment as expressed by Congress.

Like the Senate report, this article reviews present and existing laws; considers the status of laws dealing with physical characteristics unique to one

sex; privacy; separate-but-equal doctrine; benign quotas; compensatory aid; and state action under the ERA. It also explains how the amendment is likely to operate in the areas of protective labor legislation, criminal and family law, and the military. Currently out of print, the article can be found in large public, university and law libraries. Additional "legislative history," for judicial reference, can be found in the House and Senate floor debates as recorded in the Congressional Record for 1971-72 and hearings before both the House and Senate Judiciary Committees.

The status of women in the seventies

EMPLOYMENT

The history of mankind is a history of repeated injuries and usurpations on the part of man toward women . . . . He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but scanty remuneration. (Declaration of Sentiments, Seneca Falls Convention 1848)

Most women work for the same reason most men do: to earn a living. Approximately three-quarters of the 38.5 million women in the labor force are single, separated, divorced, widowed or have husbands who earn less than $10,000 per year.

But employed women today are still heavily concentrated in the low-paid occupations that they have traditionally held. Three-quarters of all working women are nurses, household workers, elementary school teachers, clerical workers (who averaged $6,500 per year in 1973) or nonhousehold service employees (who averaged $4,100 per year in 1973, for full-time work)--all five fields characterized by lower-than-average earnings.

Over the last 25 years, unemployment has averaged 30 percent higher for women than for men. Among minority women over this period, recorded unemployment was 78 percent higher than it was among white women. Minority teenage unemployment was 32.9 percent in 1974--more than double the rate of white teenagers. But the unemployment rate of female black teenagers has averaged 25 percent higher than for nonwhite boys in the last 25 years.

Government-sponsored jobs programs have not improved this picture (see Education section). Women predominate in lower-paid clerical, sales and service jobs, while men fill the higher-paid jobs in machine trades and structural work. Work programs for welfare recipients give preference to teenage boys and men, despite the fact that over 98 percent of heads of households receiving Aid to Families with Dependent Children are women. When jobs are found for former recipients, those for males of any age average 50¢ per hour more than those for women (1976 Employment and Training Report of the President).

The lack of pregnancy leave and disability arrangements, added to the unavailability of decent child care, immeasurably complicates employment problems of the 13 1/2 million mothers presently in the work force--especially the 5 million working mothers with children under six years.

At present, there are three federal laws designed specifically to protect women's employment rights.

☐ The Equal Pay Act of 1963 "was the first federal law against sex discrimination in employment." It "prohibits employers from paying employees of one sex less than employees of the other sex are paid for equal work on jobs that require equal skill, effort and responsibility and that are performed under similar working conditions . . . . The Wage and Hour Division of the Department of Labor administers and enforces the equal pay law."

☐ Title VII of the Civil Rights Act of 1964 "prohibits discrimination based on sex as well as race, color, religion and national origin in all terms, conditions, or privileges of employment." Title VII is administered by the Equal Employment Opportunity Commission (EEOC), whose five members are appointed by the President.

☐ Executive Order 11246 "as amended by Executive Order 11375, effective October 14, 1968, to cover sex, sets forth the Federal program to eliminate discrimination by Government contractors . . . for contracts exceeding $10,000." The Secretary of Labor has general enforcement responsibility with compliance responsibility delegated to the Office of Federal Contract Compliance."

One way to assess the impact of these laws is to look at whether or not women's wages, expressed as a percentage of men's, are going up. The figures are discouraging: women who worked full time in 1956 averaged 63 percent of men's wages; in 1973 they averaged only 57 percent of men's earnings. (1975 Handbook on Women Workers)

A July 1975 report prepared by the U.S. Commission on Civil Rights for the President and Congress summarized the problem:

"We have concluded in this report that although there has been progress in the last decade the Federal effort to end employment discrimination based on sex, race and ethnicity is fundamentally inadequate. If suffers from . . . lack of overall leadership and direction . . . diffusion of responsibility . . . and the existence of inconsistent policies and standards . . ." (To Eliminate Discrimination)

IMPACT OF ERA

The statistics demonstrating the inequity in earnings for men and women in the marketplace may not be disturbing to women who feel they are financially secure in their homes. They may not be disturbing to men who still feel that American women are well "taken care of" and really shouldn't be competing with men for jobs. But the 12 percent of all families headed by women should be concerned. The 43 percent of all married women (and their

What You Should Know About Women [1]

Labor Force Participation Rates, Age 16–64, 1975 [2]

(Percentage of the Population in or Seeking Paid Employment)

White men	86.8	White women	53.3
Black men	76.8	Black women	53.9

Percentage of Workers Full-Time, Age 16 and Over, 1975 [3]

White men	91.8	White women	74.9
Minority men	91.5	Minority women	81.7

Median Earnings Year Round, Full-Time Workers, Age 14 and Over, 1974 [4]

White men	$12,104	White women	$6,823
Black men	8,524	Black women	6,258

Weekly Earnings, Full-Time Workers, May 1974 [5]

White men	$209	White women	$125
Minority men	160	Minority women	117

Unemployment Rates, 1975 [6]

(Percentage of persons in the labor force who are unemployed)

White men	7.2	White women	8.6
Black men	14.7	Black women	14.8
Teenage white men	18.3	Teenage white women	17.4
Teenage black men	38.1	Teenage black women	41.0

[1] Comparable figures are not available for Spanish origin, Asian-American, and American Indian women. Sections on each of these groups follow using available data. See Part V for recommendation of Commission on collection of data.

Where available, data for black women and men are included in the first sections. In some cases, only figures for all minorities are available and are used, (blacks constitute 89 percent of minorities).

[2] U.S. Department of Labor, Employment and Earnings, Jan. 1976, table 1 and unpublished data.

[3] *Ibid.*, table 1 and 5.

[4] U.S. Department of Commerce, Bureau of the Census, "Money Income in 1974 of Families and Persons in the United States," Current Population Reports, Series P–60, No. 101, Jan. 1976, table 67.

[5] Department of Labor, Women's Bureau, *Handbook on Women Workers, 1975*, table 51.

[6] U.S. Department of Labor, Employment and Earnings, Jan. 1976, table 1 and unpublished data.

[7] U.S. Department of Commerce, Bureau of the Census, "The Social and Economic Status of the Black Population in the United States," 1974, Special Studies, Series P–23, No. 54, tables 48, 49.

[8] Department of Labor, Women's Bureau, *Handbook on Women Workers, 1975*, chart L.

Occupations of Employed Men and Women by Race, 1974 [7]

	White		*Minority*	
	Men	*Women*	*Men*	*Women*
Total employed—thousands	47,340	29,280	5,179	4,136
Percent	100	100	100	100
Professional & technical	15	15	9	12
Managers & administrators	15	5	5	2
Sales workers	6	7	2	3
Clerical workers	6	36	7	25
Blue-collar workers	46	15	57	20
Service workers	7	19	15	37
Farm workers	5	2	4	1

Why Women Work [8]

In 1973

23 percent were single;

19 percent widowed, divorced, or separated; and

29 percent had husbands earning less than $10,000.

Working Mothers and Their Children, March 1974 [9]

43 percent of all married women (husbands present) were working.

46 percent of all women with children under 18 were working.

63 percent of all working mothers have children between 6–17 years.

19 percent of all working mothers have children under 3 years.

62 percent of mothers without husbands were working.

6.8 million families, 12 percent of all families, were headed by women in 1974 (between 1970 and 1974, the number increased by over 1 million).

Children of Working Mothers, March 1974 [10]

5.1 million women in the labor force in March of 1974 had children under 6 years of age.

26.8 million children had working mothers.

6.1 million children with working mothers were under the age of 6.

4.6 million children had working mothers who were heads of households.

913,000 of the 4.6 million children whose working mothers were heads of households were under 6 years of age.

The estimated number of day care slots in 1972 was 1 million.

[9] Department of Labor, Women's Bureau, *Handbook on Women Workers, 1975*, pp. 3, 20, 25, 26.

[10] *Ibid.*, pp. 4, 30, 35.

Source: "...To Form a More Perfect Union..." Justice for American Women. Report of the National Commission on the Observance of International Women's Year, 1976

husbands) who work to help support the family, should be concerned, and every individual woman who wants to be assured of an equal opportunity to pursue her own talents in the marketplace should be concerned.

The Equal Rights Amendment will not markedly expand the protections afforded by these piecemeal federal laws, but it will provide needed national impetus for the recognition of women as individuals in the marketplace. It will provide a permanent, accessible, and well-known legal alternative to the limitations imposed by the present patchwork approach.

(Statistics in this section are drawn, unless otherwise noted, from a 1975 address by Mary Dublin Keyserling.)

The history of mankind is a history of repeated injuries and usurpations on the part of man toward women . . . . He closes against her all the avenues of wealth and distinction which he considers most honorable to himself. As a teacher of theology, medicine, or law, she is not known. He has denied her the facilities for obtaining a thorough education . . . . (Declaration of Sentiments Seneca Falls Convention 1848)

How much have things changed since 1848? Education is still thought of as a route for personal advancement; yet the percentage of women in the professions today is lower than at the turn of the century. In some professions (college teaching, for one) not only the precentage but the actual number of women has decreased. Though women are 50 percent of high school graduates and 44 percent of those receiving bachelor's degrees, they hold only 13 percent of doctorates. Though in 1974 they constituted 19 percent of college and university faculties, they are only 8.6 percent of full professors. Ours is still an educational system that casts women in supporting roles--both as purveyors and as consumers of education. This generalization applies not only to the professions but also to other kinds of vocational training. Females continue to move into educational programs that either do not prepare them for paid employment or prepare them only for work in lower-paying "female" jobs. For example, women account for half of all vocational education students; of that half, three-quarters either are enrolled in nongainful home economics courses or are being trained for clerical work. They are still grossly underrepresented in training programs in the high-paying trades, including those funded by the federal government. In fiscal year 1971 (the last year for which data are available) most of the women enrolled in programs administered by the U.S. Department of Labor were training for work in "women's fields": clerical, sales, cosmetology, practical nursing, nurses' aide and health attendant. In 1973, men completing the department's programs earned $3.05 an hour compared to a $2.36 average for women (1975 Handbook on Women Workers).

TITLE IX:

Adapted from Winter 1976 National VOTER

HEW's new regulations implementing Title IX of the Education Amendments of 1972 provide fresh ammunition for the battle against sex bias in education. Effective July 12, 1975, they prohibit sex discrimination against students and employees by educational institutions that get federal aid.

Which schools are covered?

Virtually all: 16,000 public school systems (elementary and secondary schools); nearly 27,000 post-secondary institutions; noneducational institutions receiving federal money for educational programs. Two exceptions: religious schools may apply for exemption to specific sections of the regulations that conflict with their tenets; military schools are entirely exempt.

How will Title IX affect school policies?

Title IX forbids discrimination in a wide range of areas, including financial aid, counseling, courses, extra-curricular activities and health care. Some other, more specific examples:

Admissions Title IX covers: vocational, professional, graduate schools and public undergraduate schools. Exempt: private undergraduate schools; single-sex public undergraduate schools (for admission purposes only) (e.g., state colleges); preschools, and nonvocational elementary or secondary schools (which rarely have admissions requirements).

Housing Primarily concerns post-secondary schools. Colleges and universities affected are not required to have coed facilities; they are required to equalize other housing policies. Forbidden are such discriminatory practices as: allowing one sex, but not the other, to live off-campus; charging unequal dorm fees; offering different roommate selection procedures; and posting registries of off-campus housing that are discriminatory.

A new, comprehensive federal law, "Title IX" (of the Education Amendments of 1972), removes some of the barriers to women's progress through the educational system. It provides that no person shall, because of sex, "be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program" receiving federal money. With some public pressure, good regulations, and vigorous enforcement, Title IX could really make a difference.

Title IX does not tackle (hence, cannot change) all the other subtle ways in which the educational system grooves women to settle for less. Though attitude formation is an avowed component of the educational system, that system is not geared to change women's--or men's--attitudes and assumptions. And without this change, the rate of all change may be in doubt. A case in point is the image of

WHAT IT DOES

Employment A university's placement service cannot, for example, allow recruiters on campus who refuse to interview women, nor can it list jobs that specify sex. Title IX covers employees, too, including wages, recruitment, hiring, classification and most fringe benefits. Pregnancy, childbirth and termination of pregnancy must be treated the same as any other temporary disability.

Are such groups as the Boy Scouts covered?

No. A 1974 amendment exempts single-sex voluntary youth service organizations--Boy Scouts, Campfire Girls, etc. Further, a 1976 amendment exempts the American Legion's Boys State and Girls State, and school-sponsored activities for fathers and sons or mothers and daughters. Title IX also exempts college social fraternities and sororities. Honorary or professional fraternities and sororities and such recreational groups as the Little League are covered, if they get federal funds or significant help from a funded institution.

To what extent are athletics covered:

Affected schools must offer coed gym classes, but the sexes may be separated for contact sports. Sex discrimination in any official, club or intramural athletics is forbidden. The regulations allow separate teams for contact sports or games where competitive skills are required. For non-contact sports where only one team exists, both sexes must be allowed to try out. In evaluating a school, HEW will consider game and practice schedules, per diem and travel allowances, housing and dining facilities, equipment and supplies. Schools are not required to make equal expenditures in these categories.

Where can I get a copy of the regulations?

Write to the Office of Public Affairs, Office for Civil Rights, Dept. of HEW, 330 Independence Avenue, S.W., Washington, D.C. 20201

women that most school books project. In children's books there are far fewer adult women than men; those who do appear are seen in few roles and are usually passive observers. The parallel with earlier textbook treatment of minorities leaps to the mind. But HEW has ruled that any attempt on its part to dictate textbook content would violate First Amendment rights.

WHAT COULD AN ERA DO THAT TITLE IX CANNOT?

There is, first of all, that "federal-aid" hooker in the present statute; so institutions not using federal monies need not conform. Title IX is "enforced" by the Department of Health, Education and Welfare, whose chief enforcement weapon, if it finds sex discrimination, is the right to cut off that federal money. Though many complaints have been filed, HEW has never cut off federal funds under Title IX, and the backlog of unresolved complaints is substantial. Enforcement of the ERA, which will be implemented through legislatures and the courts, will be less dependent on the attitudes of the moment in a single administrative agency.

FAMILY LAW

The legal marriage contract is unlike most contracts: its provisions are unwritten, unspecified and typically unknown to the contracting parties. (Drake Law Review) The legal status of most married women in the United States today has its origins in English common law. In 1775 the renowned English jurist, William Blackstone, summarized that condition:

By marriage, the husband and wife are one person in law. . . the very being or legal existence of the woman is suspended during the marriage. . . . For this reason a man cannot grant anything to his wife, or enter into covenant with her, for the grant would be to suppose her separate existence, and to covenant with her would be only to covenant with himself.

Blackstone lives on. The Ohio Supreme Court decided in 1970 that a wife was "at most a superior servant to her husband . . . only chattel with no personality, no property, and no legally recognized feelings or rights." Clouston v. Remlinger 22 Ohio St. 2d 65, 72-74, 258 N.E. 2d 230) Georgia restated this doctrine in a law declaring, "The husband is the head of the family and the wife is subject to him; her legal existence is merged in the husband, except so far as the law recognizes her separately, either for her own protection, or for her benefit, or for the preservation of the public order." [Georgia Code Ann. Sec. 53-501 (1974)]

MARITAL PROPERTY

The marital property law of the state in which she resides will have a major and far-reaching impact upon the financial situation of a woman from the day she marries until the marriage is dissolved either by the death of one spouse or by divorce. It will affect her financial rights and responsibilities during marriage, her ability to inherit property if she outlives her husband, her right to will property if she dies first, and her right to ownership of marital property if the marriage should end in divorce.

☐ Separate Property Forty-two states and the District of Columbia have derived their laws of marital property from English Common law. Under this theory, the earnings of each spouse are the separate property of the earning spouse, which the earner has the sole right to manage and control. The same is true of property brought to the marriage or inherited during it. (Equal Rights Amendment Project)

☐ Community Property Eight states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington) have derived their marital property laws from the quite different European (primarily French and Spanish) civil law. Under it, each

spouse has a one-half (joint) ownership interest in the earnings of either spouse, though each retains the right to own and control separately any property brought to the marriage or inherited during it. However, until 1972 these states did not allow a wife to manage this community personal property equally with her husband, although some did allow her to manage her own wages. Since 1972 five of the eight have given the wife by statute the "equal right." Texas has extended the wife the right to joint control. Nevada and Louisiana have made no changes. Yet unless ownership is coupled with control, community property means little, especially to the nonearning homemaker. (Drake Law Review)

THE "RIGHT" TO SUPPORT IN AN ONGOING MARRIAGE

Many women place a high value on the "right" to remain in their homes, supported by their husbands. This presumed right, when put to the test, however, proves to be unenforceable, because courts have consistently refused to interfere in an ongoing relationship. It is more accurate to say that a wife has a right to be supported by the husband in the fashion and manner he chooses. Nor can a wife contract for a certain level of support, according to The Supreme Court [Maynard v. Hill, 125 U.S. 190, 211 (1888)]. Some states go so far as to say, a la Blackstone, that a husband and wife can't enter into a contract because she has no legal existence [Sodowsky v. Sodowsky, 152 p. 390 Okla. (1915)].

1888 and 1915 are a long time ago, but these decisions are still in effect.

DISSOLUTION OF MARRIAGE

All marriages end--either by divorce or by death of one of the spouses. However and whenever a marriage ends, the emotional and economic hardships it can bring are severely worsened by present law:

When a Marriage Ends in Divorce

Presently, there are many sex-based legal presumptions and statutory rights involved in the process and outcome of a divorce. They range from statutory grounds for divorce available to only one sex in some states to the presumption of the wage earner's (husband's) property ownership and the presumption of the mother's fitness for child custody in many states. The major areas of sex discrimination in divorce are treated individually:

Division of Marital Property In the 43 separate-property states, as the earlier outline would suggest, women have no right of ownership in any assets acquired through the husband's earnings during the marriage. Half these states have mitigated the harshness of these laws by statutes that direct the courts to divide the property "owned" by husbands alone "equitably" between husband and wife. Even in community property states (except for Louisiana and California), the wife's right to half the marital property is not absolute, but subject to statutes directing the courts to make an "equitable" division between the spouses.

Alimony Marriage usually places women at a financial disadvantage. Most women do not get enough training, education or job experience before marriage to maximize their wage-earning capacity. During childrearing years, the stay-at-home wife loses work experience and often her self-confidence. Even when wives do work during marriage, their choices and their chances for advanced training are typically sacrificed to the husband's career goals. When a woman is divorced, she has lost her "job" as surely as a man who has been fired from his (Women's Servitude Under Law).

Alimony (literally, "nourishment or sustenance") is one way of compensating a woman for the financial disabilities incurred through marriage (The Rights of Women).

But it is not a mode of support on which divorced women in general can realistically rely. The only nationwide study of alimony indicates that alimony awards were part of the final judgment in only 2 percent of divorce cases; they were awarded temporarily in 10 percent of the cases, in order to allow the wife an opportunity to find paid employment (ABA Monograph). Even when alimony is awarded, only 46 percent of these former wives collect. Some states do not even allow permanent alimony (Drake Law Review).

In most states with "no-fault" divorce laws, alimony is available to either husband or wife, depending on need and ability to pay. Some states, however, continue to allow alimony only to the wife. Under the ERA, alimony--when available at all-would be available to the dependent spouse, regardless of sex.

Child Custody In most states, in child custody cases there is no statute preferring one parent above the other, but judges prefer mothers for girls and young children and fathers for older boys. Under the ERA, the presumption about which parent is the proper quardian would be dropped in favor of a requirement that the child's welfare come first.

Child Support In divorce or separation involving children, most states place the responsibility for support, at least in theory, with a man (women are only responsible if the father refuses to provide support). But payments are generally less than enough to furnish half the support of the children, so the mother who is given custody must provide over half the support (Drake Law Review).

With passage of the ERA, according to the Senate report, "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."

It should be noted that the duty of support has to date been largely unenforceable, both in and after marriage. In 1976, only 44 percent of divorced mothers were awarded child support, and only 47 percent of these collected regularly (". . . In Order to Form a More Perfect Union . . ." Justice for American Women). The ERA will not affect the problem of collection--one of the most severe faced by divorced homemakers.

When A Marriage Ends with the Death of One Spouse

The status of women upon the death of their husband depends heavily on their state of residence. If she lives in one of the eight "community property" states, she will inherit one-half of the property acquired during her marriage, regardless of any will her husband may or may not have left. This is an absolute interest, and she may, in turn, will it to whomever she pleases. Wives dying before their husbands in these eight states, may will half the community property to whomever they wish.

Women in the 43 separate-property jurisdictions are not so fortunate. Even if the marital property is "jointly owned," it is part of the husband's estate. Though this harsh law is modified somewhat by provisions for a widow to acquire from a third to a half of the husband's property upon his death, this is not necessarily an absolute interest, so she may not be able to will it to whomever she chooses. In some states she is not entitled to any share of his estate, unless he chooses to give it to her. Women dying before their husbands in the separate property states, die with no marital property whatsoever to leave to children, parents or others for whom they might wish to provide.

IMPACT OF THE ERA

"The reluctance of courts to interfere directly in an ongoing marriage is a standard tenet of American jurisprudence. As a result, legal elaboration of the duties husbands and wives owe one another has taken place almost entirely in the context of the breakdown of the marriage . . ." (Yale Law Journal) The Equal Rights Amendment will not change this.

The Equal Rights Amendment will have the effect of removing the double standard from marital law. It will remove legal discrimination in choice of name, domicile and grounds for divorce. In addition, the experience in states with state ERAs (such as Pennsylvania, Montana and New Mexico) suggests that ratification of the ERA could lead to increased financial security for the divorced or widowed woman, by encouraging a trend toward reform of the state marital property laws (see section on State ERAs).

CREDIT

Access to credit is second only to employment in determining the standard of living of most Americans. (1975 Handbook on Women Workers)

Women have historically had more difficulty than men in obtaining credit. What are the types of discrimination women have traditionally encountered in obtaining credit? A 1973 report of the D.C. Commission on the Status of Women drew the following conclusions as a result of a survey of lending institutions in the Washington Metropolitan Area:

☐Often the salary of a working wife is discounted in whole or in part when a couple is being considered for a mortgage loan;

☐Banks often refuse to consider alimony and child support payments, regardless of their reliability, for women seeking mortgage loans;

☐Some lending institutions draw a distinction between "professional" and "nonprofessional" women in terms of what percentage of their income they count in evaluating the ability of a family to carry a loan.

In testimony presented to the National Commission on Consumer Finance in May 1972, the following problems were disclosed:

☐Single women have more difficulty than single men in obtaining credit, especially for mortgage loans. In addition even though a woman has a sufficient income she is often told she needs a man to cosign.

☐Normally creditors require a woman to reapply for credit in her husband's name when she marries. This is not asked of men.

☐Married women experience difficulty in obtaining credit in their own names.

☐Divorced or widowed women have difficulty reestablishing credit. This is the case even though before their marriage they established a credit record and continued to work throughout the marriage.

Many problems confronting women in securing credit stem from myths and assumptions about the reasons women work (i.e. that women work for pin money or only until they marry or have children) and the way women handle money (i.e. that women are bad credit risks). However, the hard facts and statistics belie those myths and assumptions. There is no evidence that women are poorer credit risks than men.

STATE PROPERTY LAWS

As discussed in the Family Law Section, there are basically two types of state systems for ownership, control and management of property: community property and separate property.

In separate property states and in community property states that do not allow a wife coequal

SUMMARY OF MAJOR SECTIONS OF THE EQUAL CREDIT OPPORTUNITY ACT AND IMPLEMENTING REGULATIONS CURRENTLY IN EFFECT

☐ A creditor may not request information about a woman's birth control practices, her intentions concerning the bearing or rearing of children or her capability to bear children;

☐ A creditor cannot require a woman who has a credit account and who has had a change of marital status or name to reapply, terminate the account or change the terms of the account;

☐ A creditor may not require a woman to list alimony or child support or maintenance payments;

☐ A creditor may not prohibit an applicant from opening or maintaining an account in a birth-given surname or a combined surname;

☐ A creditor must notify a woman as to whether or not she received the requested credit. If the action by the creditor is adverse she is entitled to know why credit was denied;

☐ A creditor must list on the application form the name of the appropriate federal agency where a woman can complain if she feels she has been discriminated against on the basis of sex or marital status.

☐ A creditor who fails to comply with the act may be liable for punitive damages in addition to actual damages if the aggrieved applicant prevails in court.

management and control of marital property, a woman must rely on her own income to secure credit. The fact that women earn less in the marketplace means that women, on the average, obtain less credit. If a married woman lives in one of these states and has no income of her own she probably will be unable to secure credit without her husband's consent.

THE EQUAL CREDIT OPPORTUNITY ACT

In October, 1975 the Equal Credit Opportunity Act became effective. It requires "that financial institutions and other firms engaged in the extension of credit make credit equally available to all credit-worthy customers without regard to sex or marital status." The effect of this law has not yet been documented.

What about the ERA and credit for women? In one sense, public debate and support for the Equal Rights Amendment has already had an impact on credit for women. It has helped create the political climate necessary for passage of the Equal Credit Opportunity Act. Final ratification of the ERA would undoubtedly permanently reinforce this positive political climate. However, it is not clear whether ERA will have a direct impact on credit for women. The ERA does not prohibit private discrimination. It affects governmental action only. Ultimately, it will be up to the courts to determine whether the government's regulation of financial institutions is sufficient to warrant application of the ERA.

SOCIAL SECURITY

In 1974, 13.5 million women were beneficiaries of Social Security--4.2 million more women than men. In light of existing discriminations against women in education, employment, credit and management of property, federal agencies and women's organizations have begun to examine and challenge the effectiveness of Social Security as a social insurance program for women. Clearly, as the beneficiary figures indicate, a very large number of women depend on it (Women and Social Security: Adapting to a New Era).

Social Security presents two different kinds of questions that are of major concern to women. The first is, "Are there any inequities in existing Social Security provisions that discriminate against women solely on the basis of sex?" The second question is, "How well does Social Security serve the insurance and retirement needs of women in general?" For the purposes of this report, these two questions are treated separately because while the Equal Rights Amendment will directly affect the problems implicit in the first question, it is unlikely to produce solutions to many of the problems raised by the second.

Are there inequities in existing Social Security provisions which discriminate against women solely on the basis of sex?

Yes, but in order to understand the existence of these inequities it is important to understand the original intent of Congress in passing the Social Security Act in 1935.

The 1935 act was designed to provide social insurance protection for workers in private industry. It covered only wage and salary workers in industry and commerce, and benefits were limited to loss of earnings at age 65 or later. In 1939, it was amended to provide benefits for the dependents and survivors of insured workers. Social Security was, and is, funded by the payroll taxes (FICA taxes) of insured employees, their employers and the self-employed. Consequently, it is considered an "earned right." But in practice this "earned right" has been more the wage-earning husband's right than the wage-earning wife's right.

In the thirties only one out of every seven workers was a woman. In 1939, when coverage was extended to dependents of the insured worker, "in order to avoid detailed investigations of family relationships," dependency determinations were based on the presumption that the man is the wage-earner and his wife and children dependents. On the other hand, because the wage-earning wife's income was considered "marginal" or for use as pin-money, the wage-

earning husband had to prove that he was dependent on his wife's income before he could collect benefits derived from her wages.

Changing social conditions and the increased participation of women in the labor force over the last forty years raise serious questions about the validity of this dependency presumption. "During 1973 in just over half of all husband-wife families (husband aged 23-64), both members worked." (Women and Social Security: Adapting to a New Era) A 1975 report from the Advisory Council on Social Security states, "Looking back at the history of the Social Security Act, and for that matter, the Internal Revenue Act, and other laws that are so important to our society, we find that they were most certainly designed around a host of stereotypes of the worker, the family, the breadwinner, the male and the female . . . . Even at the time of enactment, many of these stereotypes may not have matched reality, and the changes in society that have occurred since then may have taken them even further from reality." The effect has been to treat the earnings of the husband as always vital to the support of the family while the earnings of the wife never are.

The most significant and successful challenge to this presumption came in 1975 [Weinberger v. Wiesenfeld; 420 U.S. 636, 95 S. Ct. 1225, 43 L.Ed. 2d 514 (1975)] when the Supreme Court "struck down as unconstitutional a provision of the Social Security Act because it provided less protection for the survivors of female wage earners. . . . In this case Paula Wiesenfeld had provided most of the support for her family and paid Social Security taxes before her death in 1972. Under the Social Security Act, her child was entitled to benefits until maturity but her spouse, because he was male, was entitled to nothing. If the situation had been reversed--if he had been the wage earner who died--his spouse, because she was female, would have been entitled to benefits under certain conditions until the child grew up." (Washington Post, Mar. 26, 1975)

A Christian Science Monitor editorial (March 31, 1975) called this decision "the most decisive to date on the issue of gender-based discrimination" and stated that while "some critics of the Equal Rights Amendment might argue that the court's new ruling . . . shows that the intent of the amendment can be achieved without its passage . . . supporters could well reply that the new ruling does not so much obviate the need for an ERA as give the amendment added standing."

Gender-based inequities continue to exist in Social Security law. They are primarily based on the lack of recognition of the wage-earning wife's contribution to the financial well-being of the family. Proposals to resolve these inequities have been presented to Congress and the executive branch. Recommendations have been made by the Social Security Advisory Council, the Citizen's Advisory Council on the Status of Women and the International Women's Year Commission. In general, the recommendations agree that "the requirements for entitlement to dependents' and survivors' benefits that apply to women should apply equally to men; that is, benefits should be provided for fathers and divorced men as they are for mothers and divorced women and benefits for husbands and widowers should be provided without a support test as are benefits for wives and widows." (Women in 1975)

Adoption of the Equal Rights Amendment would raise doubts as to the constitutionality of any provisions in the Social Security law that are different for men and women wage earners.

How well does Social Security serve the insurance and retirement needs of women in general?

The answer lies in the fact that the Social Security Act was never really designed to respond to the needs or take into account the financial contributions of women. Because it was never designed with women in mind and because benefits are derived directly from payroll taxes, there are some gaping holes in the protection afforded women under Social Security.

Some of the problems outlined by a 1975 report prepared by the Task Force on Women and Social Security, for use by the Special Committee on Aging, United States Senate, are listed here:

Problem: No coverage for a widow under the age of 60 who is neither disabled nor has dependent or disabled children in her care. . . .

Problem: The limited 5-year dropout allowance in computing benefits can create hardships for women workers with interrupted work patterns. . . .

Problem: No coverage for a person who remains in the home performing homemaker and child-rearing services. Example: A woman who has worked in the home for her entire marriage has no earnings coverage of her own and must depend entirely on the coverage that her spouse has earned. Threats to her economic security arise when she is widowed early in life or is divorced before the marriage lasted 20 years, since she has no earnings record of her own to qualify for retirement benefits.

Problem: The earnings limitation frequently places many young widows in a dilemma: (1) They can work and lose their survivors benefits, or (2) they can receive benefits inadequate to exist comfortably and to support children. . . .

. . . corrective action on major problems would increase Social Security costs, even though several specific proposals made in this report call for surprisingly modest expenditures.
It could be argued that the Social Security system faces financing problems in the fairly immediate and long-range future and therefore should not be called upon to make substantial and expensive alterations in the present benefit structure.

But two points must be considered: (1) The Congress can and will deal with financing problems and will

certainly keep the system sound, and (2) in the course of taking this required action, the Congress must also reevaluate the entire system in terms of adequacy and equity, if it is accurately to measure the total demands upon that system. Treatment of women clearly must be part of that reevaluation.

INSURANCE

Numerous sex-related discriminatory practices against women are found in the insurance industry. Insurance poses a unique problem however, because classification (grouping people according to actuarial risk) is one of the bases of the industry. This fact seems on the surface to make the insurance industry an exception in a society in which classification by sex is otherwise becoming increasingly suspect and in which federal legislation has made such distinctions illegal in employment, education and credit. In point of fact, the McCarran-Ferguson Act of 1945 specifically exempts the insurance industry from federal law and leaves regulation entirely to the states. Nor has changing public opinion had much effect in keeping insurance companies from categorizing women separately. That the motive is economic, not social, does not alter its impact.

A brief summary of discriminatory insurance practices follows:

Life Insurance

☐To justify classifying policy holders by sex, insurance companies often cite the fact that life insurance rates for women are lower than for men because women live longer. The implication of this kind of argument is that women should welcome discrimination if on rare occasion it works to their financial benefit. (However, though women live six to nine years longer than men, their rates are discounted only by three years.) In some states, the three-year discount is limited by law. A survey of application forms for life insurance on file with the Iowa Insurance Department reveals that it is common practice to include questions for "Females Only" in the medical history sections. These questions relate to past disorders of menstruation, pregnancy, and female organs. A comparable category of questions relating to "Males Only" was not found.

☐A common practice in the selling of life insurance is to assume that there is little or no need to insure the life of a married woman. Not only does this custom impose a considerable economic burden for the remaining members of a family where the mother dies, it presents particular problems in the case of divorce. A woman who has contributed to the premiums on a husband's policies throughout marriage may be left without insurance on her own life after divorce. The practice of some companies of automatically cancelling a divorced or widowed woman's coverage exacerbates the problem.

Disability Income Insurance

☐Disability insurance is economic protection against income loss resulting from illness or injury. The assumptions that men are the primary breadwinners and that women work for convenience have made this kind of insurance difficult and costly for women to obtain. The facts don't square with those assumptions.

--In 1972 one-half the working women in the U.S. were heads of households or married to men earning less than $3,000 annually.

--Though women are thought to be temporary labor-force participants, the average married woman has a worklife of 25 years.

--Single women average 45 years in the labor force. The worklife expectancy of the average male worker is 43 years. (The Myth and the Reality)

The insurance industry operates on another premise not borne out by the facts: that higher rates for women's disability insurance are justified by industry experience.

☐The Public Health Service reports that men and women lose almost the same amount of time from work because of disability. Furthermore, those statistics included the work time lost by women for childbirth and complications of pregnancy. (Economic Problems of Women)

☐Finally, pregnancy-related disabilities are routinely excluded from coverage by most insurance companies, a practice that the Supreme Court upheld in 1974 [Geduldig v. Aiello, 417 U.S. 484 (1974)].

☐Disability insurance is particularly difficult for homemakers to obtain. For disability--and indeed most insurance--purposes, homemaking is apparently not considered an occupation.

Health Insurance

☐Whereas most health insurance plans provide full coverage for men, including coverage related to reproductive capacity, they do not provide corresponding coverage for women. To be fully covered for costs incurred during pre- and post-natal care plus confinement usually entails payment of a significant extra premium.

☐Women, because of their biological function in the reproductive process, bear the medical costs of that function. But maternity coverage is virtually unavailable to single women without paying a family rate, and maternity coverage, where it exists, is extremely limited.

☐Coverage is usually limited to a flat maximum amount or a specified length of time, both a fraction of the real costs or time limit of pregnancy and delivery. Prenatal and post-partum coverage is not generally available.

Abortion coverage is even more limited.

(Information in this section is drawn, unless otherwise noted, from A Study of Insurance Practices That Affect Women.)

The Effect of the Equal Rights Amendment

Since it applies only to government action, it is not clear that the insurance industry will be affected by Equal Rights Amendment. To date, the courts have been reluctant to hold that governmental regulation of insurance company activity constitutes "state action" though cases have been brought under the philosophy that state regulation of insurance companies renders states "significantly involved" with operations of the companies. However, under the ERA, discrimination in government insurance programs could be challenged and the case for state involvement in private insurance might be strengthened.

THE MILITARY

The early feminists' reactions to the outbreak of the Civil War are described by Katherine Anthony in Susan B. Anthony, Her Personal History and Her Era: "Mary Livermore was one of the most active of the war heroines of the age. She nursed in hospitals from Cairo to New Orleans . . . . Mrs. Livermore met Lincoln scores of times and conferred with Grant over and over. A leader of the Sanitary Commission, she organized a soldier's fair in Chicago which raised a hundred thousand dollars. *A still greater heroine, whose name, though less known, should outshine them all, was Anna Ella Carrol, Miss Carroll devised the military plan which General Grant followed in his Tennessee River Campaign--the strategy which enabled the North for the first time to gain the upper hand and ultimately to win the victory. Only Lincoln and his cabinet knew that Anna Carroll was the author of Grant's winning strategy . . . . They kept it [the secret] so well that history is still uninformed on the subject* (emphasis added).

IN DEFENSE OF OUR COUNTRY

"Women in the armed services of the United States are an integral part of the nation's Armed Services. The successful utilization of the capabilities of women in uniform during World War II resulted in the Women's Armed Forces Integration Act of 1948, which authorized the four branches of service to enlist and commission women as integrated members of the regular and reserve forces . . . . Women's peak participation in the Armed Forces was reached in May 1945 when a total of 226,000 women were in the four military services . . . .

"In 1973 enlisted women were in a wide variety of occupational areas, with the concentration of enlisted women in personnel, administration, and management (25 percent); medical (16 percent); and intelligence, communications and photography (12 percent). . . . .

The Air Force has assigned women as electricians, electronic computer repairers, and flight similator specialists." (1975 Handbook of Women Workers)

"The services in the past had been quite restricted on the number of occupations open to enlisted women. However, recently each of the services has effectively opened up all occupations except those categorized as combat or combat related . . . . The services have taken action in recent years to assign women to fields newly open to them. The Army, for example, is assigning women to occupations dealing with air defense missiles, precision devices, automotive maintenance, and motor transport operations. The Navy has sent women to school to learn quartermaster, boiler and signal work.

In 1975 publicly supported military service academies opened their doors to women and a Supreme Court decision (Frontiero v Richardson) in 1973 set the stage for equalizing dpendency benefits for men and women in the Armed Forces. The military has long provided men with invaluable career opportunities, training and education. In the last few years, it has taken important steps toward extending these opportunities to women.

ADVANCE AND RETREAT

But "despite these advances, differential enlistment standards and quotas still hinder career opportunities for women in the military." The Army continues to maintain higher enlistment and test score standards for women. In a challenging suit, which is pending, the Army defends its position as a matter of "military necessity." In addition, all of the Armed Services maintain quotas which limit the number of women allowed to hold jobs in the military. The percentage for women, projected for 1978 ranges from 1.6 percent in the Marines to 8.5 percent in the Air Force.

"The Army argues that it uses the following factors in limiting the number of women: (a) the number of 'combat' and 'close combat support' positions, which can be filled only by men; (b) privacy of the sexes; (c) promotion opportunity and stateside rotation equity; (d) 'the management factor, which is used to assure, 'for sake of fairness and more,' that men are guaranteed a certain number of jobs considered by the Army to be most desirable; and (e) the requirement that 'a balanced mix of men and women' be maintained in certain units. (Quotes and statistics taken from " . . . To Form a More Perfect Union . . ." Justice for American Women).

WHAT EVER HAPPENED TO ANNA ELLA CARROLL?

The Equal Rights Amendment would require that women be allowed to participate in the Armed Services on the same basis as men. The question of equal participation in the military is often obscured by irrelevant emotional issues. The issue is not whether war is desirable--it clearly isn't. The issue isn't the draft--there isn't one. The issue isn't whether men are more capable than women--because it varies

from individual to individual. The issue isn't whether the life of a woman is more important than that of a man--that's indefensible on its face. The fact is that "true equality does require that all persons accept the duties and responsibilities as well as the rights of citizenship" (Drake Law Review). Nowhere are both the benefits and the responsibilities of full citizenship so sharply demonstrable as in the military.

The opposition

WHERE THEY'RE COMING FROM

Appended to the Senate ERA Report--as is customary on all major legislation--is a section for the views of members of Congress who opposed the Equal Rights Amendment. The "Minority Views of Mr. Ervin" (Senator Sam Ervin of North Carolina, an opponent to the ERA) has been a major source of material for those who oppose the amendment's ratification.

Though statements of opponents are not considered reliable legislative history (The Rights of Women), Ervin's views are extensively quoted by many opponents and provide ideas for the other major source of opposition material, The Phyllis Schlafly Report. This report, published once a month by the best-known ratification opponent, deals with various aspects of ERA she thinks will harm women. Her objections, Senator Ervin's, and those of other opponents of the amendment fall into three general areas:

1. *Uncertainty about what the amendment would do, and how it would be interpreted.*

The precise impact of an amendment whose implementation depends on state legislatures and court decisions cannot be known in advance. Differences between ERA supporters and opponents arise in predictions of the amendment's interpretation. Opponents feel, as Sen. Ervin does, that the ERA will strike down all distinctions between the sexes, "however reasonable such distinction might be in particular cases."

Proponents, on the other hand, feel that the need has been clearly stated, the intent outlined, and that the courts and state legislatures will act responsibly in accordance with the public interest and congressional intent.

2. *Disagreement over the present role of women.*

Opponents of the ERA believe that women now have the best of all possible worlds; that a change in status can only hurt them. They frequently cite a homemaker's "right to support," and the special protections available to widows under the law.

The problems women face in trying to enforce support orders or in getting a job or an education are rarely mentioned by opponents. And when exploitation of women is raised as an issue, they tend to focus solely on sexual exploitation, seldom on economic disadvantages.

For example, in her November 1972 newsletter, Schlafly asks, "Are Women Exploited by Men?" "Yes, some women are, and we should wipe out such exploitation. We should demand strong enforcement of the laws against procurers, the Mann Act and the laws against statutory rape." She goes on to mention pornography and Parisian fashion (dominated by a "Queer breed of...Parisian women-haters") as other areas that exploit women. The fear insistently expressed (despite evidence to the contrary in states with ERAs) that under the ERA a woman's privacy will be invaded in bathrooms and dormitories perhaps relates to this focus on sexual exploitation as the chief problem that women experience.

3. *Disagreement over what the role of women should be.*

Beliefs about what the role of women should be are deeply held and often change only through traumatic personal experience. For example, opponents of the ERA deplore the opening of roles for women in the military, because to them it is an area inimical to an ideal of womanhood. The fact that women could avail themselves of training opportunities in the service cuts no ice with someone whose basic belief is that the field is inappropriate for women.

Similarly, ERA opponents usually feel that the status of married women--and men--is exactly what it should be; hence, Sen. Ervin's objection that under the ERA married women would no longer be required to take their husband's name or accept his legal residence as her own. Hence, his refusal to consider making work leave for childbearing available to either parent. His feelings about women are summed up in his use of an ancient Yiddish proverb in his minority remarks attached to the Senate Report: "God could not be everywhere, so He made mothers." Ervin and other ERA opponents feel that the institution of marriage is presently as God intended and that we should not weaken the legal underpinnings with which we mere mortals have propped up the heavenly plan.

Opposition to the ERA has been frustratingly resistant to rational argument, partly because most proponents have been careful to distinguish between what is firmly predictable and what can only be claimed as probable, a cautiousness not much observed by less inhibited opponents.

Opponents claim . . . that the ERA will mean loss of privacy

Sexual equality in this country need not be obtained at the expense of individual privacy. The ERA is intended to break down legal barriers between the sexes in their rights and responsibilities as citizens, not to turn the tables on accepted standards of decency. The ERA will fit not only into the framework of existing constitutional structure but into our set of social mores as well.

The Senate Report notes that "the Amendment would

not require that dormitories or bathrooms be shared by men and women." This "legislative history," the Supreme Court's reliance on the right of privacy in abortion and birth control cases, and common social mores and standards make this widely used opposition argument a distraction from the real issues.

The ERA requires only that the concept of privacy not be used as an excuse for denying women equal access to opportunities now enjoyed by men (Ten Things the ERA Won't Do For You).

Opponents claim . . . that the ERA will constitutionalize abortion

Phyllis Schlafly has charged that the ERA will "constitutionalize" the Supreme Court's decisions on abortion. Her December 1974 newsletter is dedicated to this proposition, but she doesn't present one legal argument to back up her pronouncement. The reason is clear--there aren't any.

The Supreme Court's abortion decisions [Roe v. Wade, 410 U.S. 113 (1973) and Doe v. Bolton, 410 U.S. 179 (1973)] are based exclusively on the privacy principle derived from the due process clause of the 14th Amendment. The right of privacy was first recognized by the Supreme Court in Griswold v. Connecticut, [381 U.S. 479 (1965)]. In the Griswold case, "the Court held that a couple's right of privacy in the marital relationship prevented the State of Connecticut from imposing laws concerning their use of contraceptive devices."

"The Equal Rights Amendment . . . has nothing to do with privacy or the Due Process Clause, rather it is concerned with equal protection of the laws. It provides simply that government may not in its laws or in its official actions discriminate on the basis of sex. Since abortion by its nature only concerns women, sex discrimination in this area is a biological impossibility. The proposed Twenty-seventh Amendment, if ratified, therefore, would have no applicability whatsoever to the question of abortion." (February 1974 letter from J. William Heckman, Jr.)

Opponents claim . . . that the ERA will undercut protective labor legislation

Historically, one of the major objections to the Equal Rights Amendment was the threat it posed to "protective" labor laws applying to women only. Though legislative history on the ERA indicated that beneficial laws applying to one sex would be broadened to include workers of both sexes, not withdrawn from the one sex, this did not satisfy critics of the ERA who felt that protective labor legislation for women was a hard-fought and genuine reform of the early 1900s that should not be jeopardized.

The Senate Report called attention to the fact that many of the laws that claim to protect women in actuality have had a far different effect: They protect "men's jobs from women and make women workers unable to compete with male coworkers because of legal restrictions." This conclusion was also reached by major labor unions like the AFL-CIO, which by 1973 turned from opposition to the amendment to active support. Such "protective" laws fail to take into consideration the economic circumstances, physical capacities and preferences of individual women, treating them instead as a homogeneous class.

The California Supreme Court stated in 1971 that, "Laws which disable women from full participation in the political, business and economic arenas are often characterized as 'protective' and beneficial. Those same laws applied to racial or ethnic minorities would readily be recognized as invidious and impermissible. The pedestal upon which women have been placed has all to often, upon closer inspection, been revealed as a cage" [Sailer Inn Inc. v Kirby 95 Cal. Rptr. 329, 485 P. 2d 259 (1971)].

Finally, the dispute over "protection" laws is moot: Title VII of the Civil Rights Act of 1964 bars sex discrimination in employment, and in cases brought under it, courts have uniformly held that so-called "protective" labor legislation be stricken and/or rewritten to be fair to both sexes.

Opponents claim . . . that the ERA will legalize homosexual marriage

Some ERA opponents have argued that the Equal Rights Amendment will mean legalization of homosexual marriage. This argument stems from a misunderstanding of the word "sex" in the amendment. While ERA refers to gender discrimination, it does not address sexual behavior. Senate debate clearly states that the amendment would not interfere with a state prohibiting marriage between two people of the same sex, so long as rules applying to men also apply to women. In Washington state, which has a state ERA, the Supreme Court held that the state amendment did not invalidate Washington's law prohibiting homosexual marriages [Singer v. Hara, 11 Wash. App. 247, 522 Pd 1187 (1974)].

Opponents claim . . . that the ERA will mean loss of support

The opposition has often charged in its ads and printed material that a homemaker, under the ERA, will be obligated to provide 50 percent of the financial support of the family in an ongoing marriage.

Responding to a February 1976 letter requesting information on any possible loss of rights for women under Washington state's ERA, Governor Daniel J. Evans stated, "I am aware of no classification of 'privileges' which a woman has lost because of adoption of ERA . . . . A woman has not lost her right to be supported by her husband; rather she never had such a right. Support within a marriage has been a matter of custom and has never been guaranteed by law."

Although several states have marital support laws that will undoubtedly be rewritten under the ERA, on the basis of function rather than sex, the

courts have always been reluctant to become involved in an ongoing marriage. The Equal Rights Amendment will not change this. When marital laws are rewritten along functional lines under ERA, the revised laws will not erode homemakers' rights; on the contrary, they will give added legal recognition to the function of homemaking, at the same time the government will get out of the business of prescribing roles for married couples.

In the event of divorce, the ERA would require that arrangements for alimony and child support be written in a sex-neutral fashion, i.e. so that support flows from the spouse able to give it to the spouse who needs it. It would prohibit automatic assignment of children to a parent on the basis of sex alone, requiring that custody arrangements serve the best interests of the child.

The ERA would not change the "right" of a homemaker in an ongoing marriage to be supported by a wage-earning spouse, and may strengthen that right in some cases. (See Family Law Section for a more complete discussion)

Opponents claim . . . that the ERA will affect church practices

Opposition to the Equal Rights Amendment has charged that the ERA will require churches to accept women into the ministry on the same basis as men (Phyllis Schlafy Report). A June, 1975 opinion letter from Columbia Law School professor, Ruth Bader Ginsberg, responds:

. . . Legal precedent directly in point is McClure v. Salvation Army 460 F. 2d 553 (5th cir. 1972), cert. denied, 409 U.S. 896 (1973). McClure was a Title VII action instituted by a female minister. The church had no dogma assigning women a lesser role, but McClure alleged she received less salary and fewer fringe benefits than male ministers with the same rank and responsibilities. The court said that a literal reading of Title VII could lead to the conclusion that McClure's employment was covered by the statute's antidiscrimination ban. However, it then explained that such a reading would bring the statute into conflict with the First amendment. Observing that [t]he relationship between an organized church and its ministers is its lifeblood," the court reasoned that any application of Title VII in this sphere "would intrude upon matters of church administration . . . matters of a singular ecclesiastical concern." Interjecting the state into the church-minister relationship, the court declared, "could only produce by its coercive effect the very opposite of that separation of Church and State contemplated in the First Amendment." The opinion concludes that a church-minister exemption must be deemed implicit in Title VII to prevent "encroachment by the State into an area of religious freedom which it is forbidden to enter . . .".

The need for the ERA

A favorite argument of those who oppose the ERA is that it is not necessary, that existing laws and the 14th Amendment to the Constitution bar sex discrimination. Is this so?

Added to the Constitution in 1868, the 14th Amendment was not drafted with gender discrimination in mind. In fact, it marks the first time that the Constitution used the word "male," thereby specifically excluding women (Drake Law Review).

Five years after passage of the 14th Amendment, the Supreme Court handed down the first in a long line of decisions upholding sex discrimination. In 1873 in Bradwell v. State [83 U.S. (16 Wall.) 130 (1872)] the Court approved an Illinois law prohibiting women from the Illinois bar: "Man is, or should be, women's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. . . . The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator." Georgia's 1974 declaration that "the husband is the head of the family and the wife is subject to him" is not far removed from this view.

Not until 1971 did the Court ever use the 14th Amendment to strike down gender discrimination. Since 1971, the Court has struck down some sex classifications and allowed others to stand. No majority opinion has articulated a general principle in this area (Drake Law Review). As a practical matter, for women to be assured redress under the 14th Amendment for gender-based discrimination, the Supreme Court would have to firmly establish "sex" as a "suspect classification," (as has been done in cases involving race and religious discrimination) thus shifting the burden of proof from the challenger to the state. The Court has not been willing to do this. In fact in the 1973 Frontiero case (see section on Military) three justices "used the pending ratification of the ERA as their reason for not treating sex discrimination similarly to race discrimination. They said that the Equal Rights Amendment 'if adopted will resolve the substance of this precise question'" (The Equal Rights Amendment: Its Political and Practical Contexts).

Indeed, if the 14th Amendment had been applied to women's rights, there would have been no need for the 19th Amendment giving women the right to vote. The hard-fought struggle for passage of the suffrage amendment is a measure of the distance between the ideals of the 14th Amendment and its application to women.

If the 14th Amendment has not been applied to women's rights, what about the rash of legislation of the 1960s and 1970s that prohibits discrimination against women in employment, education, credit and other fields? Don't these adequately protect women's rights?

The equal employment legislation of the 1960s, Title IX of the Education Amendments in 1972 and the Equal Credit Act of 1975 are important steps toward eliminating sex discrimination, but there is nothing permanent about them. They can be amended, ignored and written into obscurity with little effort and little notice. Though they represent progress, these laws still constitute the body

of the car without the engine, the cart without the horse. The effort to ratify the permanent driving and sustaining force behind existing sex discrimination legislation is still being pursued.

Without final and full constitutional recognition of the right of men and women to be treated as individuals before the law, congressional, executive and Supreme Court action on the question of sex discrimination will undoubtedly continue to fluctuate, as it has for the last 200 years, according to political and economic circumstance.

Without comprehensive revision of federal and state laws, in accordance with the principle established by the Equal Rights Amendment, efforts to eliminate sex-discriminatory legislation could well continue for another 200 years.

The great advantages of the ERA over this piecemeal approach are clear:

1. The ERA would be a well-known remedy. Women who don't spend full time poring over federal legislation may not be able to tell the boss that some practice is illegal under Executive Order 11246 (chances are the boss hasn't heard of it either). Knowing of one comprehensive remedy will enable women to invoke rights they may now have but do not know about. At present, if a woman turns to the wrong law, she will not succeed in changing her situation. Under the ERA, there is no wrong law (The Rights of Women).

2. The ERA would provide an accessible remedy. Enforcement of present measures too often involves the cutoff of federal funds or involvement of an executive agency. For a woman to try for such a cutoff is much more involved than to sue on her own behalf. Under the ERA, the complainant would not have to show that sex discrimination is "unreasonable." All she would have to do is show it occurred.

3. The ERA would provide a permanent remedy. Passage of the individual laws barring sex discrimination takes years of careful nurturing, coalition building, money, time and energy. Each individual law is subject to compromise and bargaining, to political whims and trends. Each emerges compromised and imperfect. Congress and state legislatures cannot be relied on for piecemeal measures. The Equal Rights Amendment would provide a legal impetus for reform, independent of political mobilization.

Like the argument for states' rights, the argument for piecemeal measures is a delaying tactic. Experience has shown piecemeal measures to be imperfect at best, unenforceable in practice, and damaging at worst, because they create the illusion that stronger, more comprehensive measures are unnecessary.

The goal of the ERA is equality between the sexes under the law. It deals only with government action; social customs and private behavior will not be affected. In fact, far from infringing on rights, the ERA protects individual freedom to choose according to individual wishes and desires. As conservative Republican State Representative Bill Stoner of Springfield, Missouri says in his article, "A Conservative for ERA":

"The ERA says to government: 'Get out of peoples' lives! Let women be whatever they can be. . . . Let husbands and wives decide for themselves what their relationship is to be. . . !' I believe the ERA represents a valiant effort to restrict Government's ability to tell men and women how to relate to each other. . . . I believe this is the essence of a free society."

State ERAs: what they have done

So much attention is being focused on the federal ERA that many people may not be aware that 15 states have already specified in their state constitutions that equal rights or equal protection may not be denied on account of sex. These states include Alaska (1972), Colorado (1972), Connecticut (1974), Hawaii (1972), Illinois (1971), Maryland (1972), Montana (1973), New Hampshire (1975), New Mexico (1973), Pennsylvania (1971), Texas (1972), Virginia (1971), Washington (1972), Utah (1896), and Wyoming (1890).

Differing interpretations of these provisions follow the pattern established by each state's supreme court and point unmistakably to the need for a single, uniform federal standard for judging sex discrimination cases. "The Wyoming and Utah provisions were adopted prior to 1900 and have not been interpreted consistent with modern understanding of an equal rights amendment. The Virginia amendment includes an exception permitting separation of the sexes and has been interpreted by the Virginia Supreme Court as permitting women to decline jury service without reason. On the other hand, "the Illinois constitution uses the 'equal protection' language of the 14th Amendment to the U.S. Constitution, while the Illinois Supreme Court has interpreted the amendment in as strict a fashion as the courts of other states have interpreted ERAs worded like the federal ERA [People v. Ellis, 311 N.E. 2d 98, (1974)]." Until the federal ERA is ratified and takes effect, judicial interpretations of state equal rights and equal protection provisions are likely to continue to vary widely from state to state. ("...To Form A More Perfect Union...", National Commission on the Observance of International Women's Year, p.27.)

Nonetheless, state legislative and court action taken under these provisions do demonstrate a measure of the benefit to be derived from an equal rights amendment and should douse the fiery rhetoric of those who claim that bathrooms will be integrated, homosexuals will marry, and wives will have to provide financial support for their families. To verify the facts, a League member in New York wrote to all the governors in states with state ERAs and asked whether women had lost any rights under the state ERA. The ten states that replied said "No" on all counts--to the contrary. From Maryland, Ellen Luff, counsel, Governor's Commission to Study Implementation of the Equal Rights Amendment, came this response (January 14, 1976):

"The allegations which have been made about Maryland which you repeat in your letter must be categorically denied: (1) Maryland women have not lost rights or privileges because of the Equal Rights Amendment; (2) the legislature has not mandated sexual integration of public rest-rooms, prison cells, or sleeping quarters of public institutions; and (3) implementation of the state ERA has been neither costly nor unwieldy."

State ERAs have proven to be particularly helpful in domestic and inheritance matters, some areas of employment, insurance and criminal law.

WHAT HAS HAPPENED IN DOMESTIC LAW?

Alimony and Child Support: Under the state ERA, the Pennsylvania Supreme Court ruled in 1974 that responsibility for child support (in the event of divorce) should be equal and determined on the basis of what each spouse can contribute. "This has led to a new standard which looks at contributions not only monetarily, but also in terms of homemaking and child care services." Illinois, Maryland, New Mexico, Texas and Washington now scrutinize both spouses' financial means in setting alimony and child support awards.

Child Custody: New Mexico, Pennsylvania and Texas now require that custody be awarded the parent who will serve the child's best interests.

Property: Until 1973, a wife in New Mexico "owned" half the property acquired during marriage but had no control over it. She could not keep her husband from selling, giving away or encumbering both their halves. Under the state ERA, New Mexico gave the wife control as well as "ownership" of half the marital property. Under the state ERA, the Pennsylvania Supreme Court gave wives an interest in household goods bought by the husband. Under the old "common law," the wage-earner would have been the sole owner of everything from the family home to the dishtowels [DiFlorido v. DiFlorido, 331 A2d 174 (1975)]. Montana also recognized the homemaker's contribution to marital property and amended its legal code (§ 36-102) to reflect it. No longer does a wife have to prove a monetary contribution to establish a claim to joint property.

Marriage: Illinois and New Mexico struck down gender differences in minimum age for marriage; Hawaii, Pennsylvania and other states have removed restrictions on a woman's use of her maiden name.

Inheritance: New Mexico has given women the right to will one-half the marital property as she chooses. (Before the state ERA, her half went automatically to her husband if she died before him --even if she left a will to the contrary. Montana struck down a requirement that a husband must consent before a wife can will her own property as she pleases.

...IN EMPLOYMENT

In Pennsylvania, women's right to work was expanded; girls were given the right to be newspaper carriers; women may now cut men's hair (this right was extended in Illinois and Maryland as well); and parole officers are now assigned because of compatibility, rather than on the basis of sex alone. Discriminatory employment advertisements have been banned, and restrictive licensing requirements stricken.

☐Maryland now permits women to be state police and firefighters with salaries and benefits equal to men's.

...IN INSURANCE AND OTHER BENEFITS

☐The Pennsylvania insurance commissioner ruled that the ERA prohibits sex discrimination in coverage, benefits and availability and has required that medical and disability insurance cover complications of pregnancy. Women are now able to buy the same policies and receive the same benefits as men of the same age, health and other characteristics.

☐Pennsylvania's tax breaks for widows have been extended to widowers.

☐Maryland has sex-neutralized many pension and survivors' benefits provisions.

...IN CRIMINAL LAW

Contrary to the fears of ERA opponents, rape protections have been significantly strengthened under state ERAs:

☐New Mexico struck a provision which allowed a judge to give special instructions to the jury in a rape trial suggesting the victim's testimony was less credible because of the nature of the crime (18 PSCA 3106 repealed).

☐At least 14 states now protect both males and females from rape, and 12 states prohibit questions about a victim's sexual history without a special determination of relevance.

☐At least 6 states have repealed special corroboration requirements.

☐No state has changed prohibitions against homosexual marriage or integrated its toilets because of a state ERA.

This is not an exhaustive review of rulings under state ERAs. If your state has an ERA, the state Commission on the Status of Women should have a breakdown of your rights. The commissions can usually be contacted through (and often are located in) the governor's office.

Film resources

American Parade: We the Women

Narrated by Mary Tyler Moore, a survey of women in American history from colonial times to the present. Produced by CBS for their Bicentennial historical series, American Parade. Includes brief reference to present situation of women.

16 mm, color, 29 minutes. Available from:

B. F. A. Educational Media
P.O. Box 1795, Santa Monica, California 90406
(213) 829-2901
Rental fee: $45

University of California Extension Media Center
2223 Fulton Street, Berkeley, California 94720
(415) 642-0460
Rental fee: $27 (film #9272)
Order well in advance of showing, heavy demand.

Choice: Challenge for Modern Woman Series

1966 series of discussion films designed to help women arrive at reasoned choices as they make decisions affecting themselves, family and society. Authorities discuss their own viewpoints and results of research. Two films from this series may apply to ERA discussion from perspective of 1960s attitudes.

"What Is Woman?" (film #6772)
Keith Berwick and Margaret Mead discuss what is feminine and what is masculine as prescribed by society and confused changing patterns.

"Wages of Work" (film #6778)
Mary Keyserling and a panel of employment experts discuss why, how, when and where women work and the effect on family, job and community.

16 mm, black and white, 30 minutes each. Available from:

University of California Extension Media Center
2223 Fulton Street, Berkeley, California 94720
(415) 642-0460
Rental fee: $16 each

The Emerging Woman

Documentary using old engravings, photographs and newsreels to show the history of women in the United States. Shows varied economic, social and cultural experiences; how sex, race and class determined women's priorities from the early 1800s through the 1920s. Available from:

Film Images
17 West 60th Street, New York, N.Y. 10023
(212) 279-6653

1034 Lake Street, Oak Park, Illinois 60301
(312) 386-4826
Rental fee: $45 in classroom to one class; $60 when shown to organization membership; $75 general public.

Out of the Home and Into the House

Documents the process of influencing legislation at the state level, using the ERA as an example. Lobbying activities by persons favoring or opposing legislation are commonplace in a democratic society. With few exceptions, the legislators being appealed to are male, and most professional lobbyists are also male. Here the lobbyists, both those favoring and those opposed to the Amendment are female. Thus, the film captures an unusual scene in American history: widespread, determined participation in the political process by women.

16mm, black and white, 48 minutes. Available from:

Film Images
17 West 60th Street, New York, N.Y. 10023
(212) 279-6653

1034 Lake Street, Oak Park, Illinois 60301
(312) 386-4826

4530 18th Street, San Francisco, California 94114
(415) 431-0996
Rental fee: $50

We Are Women

Narrated by Helen Reddy, combines dramatic vignettes, brief documentary interviews and pertinent historical artwork delineating the origins of the traditional role of women.

16 mm, color, 29 minutes. Available from:

Motivational Media
8271 Melrose Avenue, Suite 204
Los Angeles, California 90046
(213) 653-7291
Rental fee: $50

University of California Extension Media Center
2223 Fulton Street, Berkeley, California 94720
(415) 642-0460
Rental fee: $26 (film #9370) Order well in advance of showing, heavy demand.

Women on the March: The Struggle for Equal Rights

Older film going only through the fifties but full of history of the women's rights struggle in England, Canada and the U.S. Divided into two parts, the film records the struggle of women for the franchise and other rights from the beginning of the suffrage movement. Gives faces and action to names in history. Part I shows the struggle to gain recognition by picketing, parading and hunger strikes. Part II is much less satisfactory because of the 1950s point of view; it covers the period after World War II.

16 mm, black and white, 30 minutes each part. Available from:

Contemporary Films/McGraw Hill
Princeton Road, Hightstown, New Jersey 08520
(609) 488-1700 Ext. 5851
Rental fee: $15 each part; Part I #407676; Part II #407677
Order well in advance of showing and indicate alternate date in case film is not available.

Women: The Hand That Cradles the Rock

Intercuts footage of advertisements that use stereotyped images of women with brief, occasion-

ally superficial sequences in which members of the women's movement discuss their ideas. Also interviews a woman who prefers being a housewife and mother and who explains her reasons for rejecting the women's movement. (1971)

16 mm, color, 27 minutes. Available from:

University of California Extension Media Center
2223 Fulton Street, Berkeley, California 94720
(415) 642-0460
Rental fee: $28 (film #8406)

Women's Rights in the U.S.: An Informal History

Bright, fast moving, tongue in cheek. Our political origins in pictorial montage. A historical background for present ERA debate. Using quotes from major historical figures and magazine illustrations from the times discussed, sets the scene for each major period in the history of women's rights.

16 mm, color, 27 minutes. Available from:

Indiana University Audio Visual Center
Bloomington, Indiana 47401
(812) 337-2103
Rental fee: $13 (note film #CSC2454)
Order at least 5 weeks in advance; they have limited copies.

Altana Films
340 East 34th Street, New York, N.Y. 10016
Rental fee: $40

University of California Extension Media Center
2223 Fulton Street, Berkeley, California 94720
Rental fee: $28 (note film #EMC9059)
Order well in advance, heavy demand.

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*WOMEN AND SOCIAL SECURITY: ADAPTING TO A NEW ERA, A Working Paper prepared by the Task Force on Women and Social Security for use by the Special Committee on Aging, United States Senate, October 1975, p. 87. (For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, price $1.10.)

"Social Security: Who's Secure?" by Tish Sommers, Equal Rights Monitor, August 1976 (926 J Street, Sacramento, California 95814).

A STUDY OF INSURANCE PRACTICES THAT AFFECT WOMEN, a Report prepared by the Iowa Commission on the Status of Women, February 1, 1975. (For more information contact: Iowa Commission on the Status of Women, 300 Fourth Street, Des Moines, Iowa 50319.

THE MYTH AND THE REALITY, U.S. Department of Labor, Women's Bureau, 1973.

ECONOMIC PROBLEMS OF WOMEN, U.S. Congress Joint Economic Committee, 93rd Congress, 1st sess., July 12, 1973.

OPPOSITION

THE PHYLLIS SCHLAFLY REPORT, Box 618, Alton, Illinois 62002.

TEN THINGS THE ERA WON'T DO FOR YOU by Women's Law Project, 112 So. 16th Street, Suite 1012, Philadelphia, Pennsylvania 19102. The Women's Law Project has additional information on state laws including a list of significant court decisions under state ERAs.

An opinion letter from former U.S. Senator Marlow W. Cook (Kentucky) to Ms. Kay Jones (Columbia, Missouri) regarding the effect of ERA on the question of abortion, February 1, 1975.

An opinion letter from J. William Heckman, Jr. (Chief Counsel, Subcommittee on Constitutional Amendments, U.S. Senate) to Ms. Kay Jones (Columbia, Missouri) regarding effect of ERA on question of abortion.

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, 1973. (Single copies available from LWVUS.)

An opinion letter from Ruth Bader Ginsburg (Professor, Columbia Law School) to Barbara Burton (LWVUS Staff) regarding effect of ERA on church practices, June 10, 1975.

STATE ERAs

"State Equal Rights Amendments," ERA YES #6, LWVUS, March 1975. (Reprint from November, 1974 article in Women Law Reporter)

THE IMPACT OF THE STATE EQUAL RIGHTS AMENDMENT IN PENNSYLVANIA SINCE 1971, a Report prepared by the Pennsylvania Commission on the Status of Women, May 1976 edition.

"New Mexico Statute Revisions Under ERA 1973-75 Summarized," State publication, "La Palabra," League of Women Voters of New Mexico, November-December 1975 (219 Shelby St., Room 211, Santa Fe, New Mexico 87501).

Letters from Alaska, Colorado, Connecticut, Hawaii, Maryland, New Mexico, Pennsylvania, Utah, Virginia, Washington and Wyoming to Paula Minklai, LWV of New York, regarding impact of state ERA in each state, January-March 1976.

*Major Sources (good for general reference on the subject of ERA)

Order from League of Women Voters of the U.S. 1730 M St., Washington, D.C. 20036. Pub No. 321,$1.50

Organizations that endorse the ERA

From list compiled by ERAmerica, 1976.

American Association of Law Libraries
American Association of University Professors
American Association of University Women
American Baptist Women
American Bar Association
American Civil Liberties Union
American Federation of Labor-Congress of Industrial Organizations, and affiliated unions
Americans for Democratic Action
American Home Economics Association
American Jewish Committee
American Jewish Congress
American Medical Women's Association
American Newspaper Women's Club
American Nurses' Association
American Psychiatric Association
American Psychological Association
American Political Science Association
American Public Health Association
American Society for Public Administration
American Society of Women Accountants
American Veterans Committee
American Women in Radio and Television
Association for Women in Science
Association of American Women Dentists
B'nai B'rith Women
Catholic Women for the ERA
Center for Social Action, United Church of Christ
Child Welfare League of America
Christian Feminists
Christian Church (Disciples of Christ)
Church of the Brethren
Church Women United
Citizens' Advisory Committee on the Status of Women
Coalition of Labor Union Women
Common Cause
Council on Women and the Church
Democratic National Committee
Evangelicals for Social Action
Executive Women in Government
Family Services Association of America
Federally Employed Women
Federation of Organizations for Professional Women
Federation of Women Shareholders in American Business, Inc.
Friend's Committee on National Legislation
General Federation of Women's Clubs
Institute of Women Today
Intercollegiate Association for Women Students
International Association of Human Rights Agencies
International Association of Personnel Women
International Association of Women Ministers
International Brotherhood of Teamsters
Leadership Conference on Civil Rights
Leadership Conference of Women Religious
League of American Working Women
League of Women Voters of the United States
Lutheran Church Women
Movement for Economic Justic
NAACP
National Association for Women Deans, Administrators, and Counselors
National Association of Bank Women
National Association of Colored Womens' Clubs, Inc.
National Association of Commissions for Women
National Association of Social Workers
National Association of Women Lawyers
National Black Feminist Organization
National Catholic Coalition for the ERA
National Center for Voluntary Action
National Coalition of American Nuns
National Commission on the Observance of International Women's Year
National Council of Churches (of Christ)
National Council of Jewish Women
National Council of Negro Women
National Council of Women of the U.S.
National Education Association
National Federation of Business and Professional Women's Clubs
National Federation of Press Women
National Federation of Temple Sisterhoods
National Organization for Women
National Republican Congressional Committee
National Secretaries Association
National Student Nurses' Association
National Welfare Rights Organization
National Woman's Party
National Women's Political Caucus
Network
Planned Parenthood Federation of America, Inc.
Presbyterian Church, U.S.
Republican National Committee
Sociologists for Women in Society
Soroptimist International of the Americas, Inc.
Southern Christian Leadership Conference
St. Joan's International Alliance
Union of American Hebrew Congregations
Unitarian Universalist Women's Federation
United Auto Workers
United Church of Christ
United Methodist Church
United Mine Workers of America
United Presbyterian Church, U.S.A.
Women in Communications
Women's Bureau, Department of Labor
Women's Campaign Fund
Women's Equity Action League
Women's International League for Peace and Freedom
Women's National Democratic Club
Young Women's Christian Association
Zero Population Growth, Inc.
Zonta International

The Equal Rights Amendment has also been endorsed by Presidents Eisenhower, Kennedy, Johnson and Ford and President-elect Carter

Organizations that oppose the ERA

From Women in 1975

American Conservative Union
American Women Are Richly Endowed (AWARE)
Communist Party, U.S.A.
Daughters of the American Revolution (DAR)
Eagle Forum
Humanitarian Opposes the Degrading Our Girls (HOT DOG)
John Birch Society
Knights of Columbus
Ku Klux Klan
League of Housewives (formerly HOW)
Liberty Lobby
National Council of Catholic Women
Rabbinical Alliance of America
Stop ERA
The American Party
Veterans of Foreign Wars
Young Americans for Freedom