The Equal Rights Amendment:

a report on the proposed 27th amendment to the Constitution

FW FEDERAL WOMEN'S
PC PROGRAM COORDINATOR'S
CU COMMITTEE OF UTAH

Why Is The ERA Necessary?

The strength of American society rests on two premises: the individual's freedom of opportunity and choice, and, the Government's responsibility to respect this freedom. The Equal Rights Amendment fits well into this frame as it is designed to protect women, men, and children from discrimination. The ERA sends a message to the judges, politicians, and other public officials: "Respect people as individuals, not on what sex they happen to be."

The individual case attacks on discriminatory laws and regulations waged in the legislatures and courts for more than fifty years, have not succeeded in eradicating sex discrimination in federal, state and local governments. Only a Constitutional Amendment, with its massive legal, moral and symbolic impact, can provide the impetus for the necessary changes in our laws.

In most sex discrimination cases to date, women have been successful in winning suits on 5th Amendment grounds (prohibiting deprivation of rights without due process of law), but not under the 14th Amendment Provision affirming all persons' equality. As the Supreme Court has rarely recognized women's 14th Amendment right (once, in 1971), full extension of constitutional privilege has not been upheld.

As a U.S. Senate report has stated, "While there has been some progress toward the goal of equal rights and responsibilities for men and women in recent years, there is overwhelming evidence that persistent patterns of sex discrimination permeate our social, cultural and economic life." (Sen. Rept. 92-689.)

What Does the Equal Rights Amendment Say?

SECTION 1. Equality of rights under 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.

Stated simply, the ERA would insure that sex not be a factor in determining the legal rights of women and men. In other words, each person, under law, would be judged on the basis of individual behavior, ability, performance, and need, rather than according to her/his socially assigned stereotype.

How and When Would the ERA Be Implemented?

The ERA will become effective two years after its passage, allowing sufficient time for necessary changes to be made in state, federal, and local laws. In anticipation of ratification many states have examined, and are modifying, existing laws in order to comply with ERA requirements.

An overextension of power on the Federal level is not inferred in Section 2. This section grants Congress the power to implement provisions of the ERA through legislation; however, this is a customary enforcement clause and does not transfer any authority from the State legislatures to the Congress. The Amendment's wording is taken from Section 5 of the 14th Amendment, and almost identical language is found in the 13th, 15th, 19th, 23d, 24th and 26th Amendments.

In 1972, by a vote of more than the constitutionally required two-thirds of its membership, the United States Congress recommended that the states approve the ERA. (The U.S. House of Representatives passed the Amendment by a vote of 354 to 23, October 12, 1971, and the U.S. Senate approved its passage 84 to 8, on March 22, 1972. In both cases, opponents attempted to add qualifying language, limiting the scope of the ERA, but were decisively defeated.)

When three-fourths of the state legislatures (38) ratify the Amendment (seven years to do so), it will become the 27th Amendment to the U.S. Constitution. It must be ratified by March 22, 1979.

common cause
2030 M STREET, N.W., WASHINGTON, D. C. 20036 (202) 833-1200

How Will The ERA Affect

Family Relationships?

ERA will serve to strengthen the family. As it stands, most state laws require that males provide support for the home during marriage. In the event of neglect, however, women often find it difficult to receive financial assistance without first filing for divorce.

Under the Amendment, the chief wage earner would be responsible for support, yet in cases where both spouses were employed outside the home, each would be required to contribute according to their earnings. If disagreements arise in cases involving divorce or child support, court decisions would be based on each partner's financial capabilities and non-monetary contributions to the marriage.

As non-monetary responsibilities and services are included as major sources for support and custody allocation, the homemaker's position would be legally viewed as an important facet of our social and economic stability.

Child Support And Alimony?

The passage of the Equal Rights Amendment would not make alimony unconstitutional, nor would it deprive women of child support or custody. Instead, the ERA would merely extend eligibility rights to men.

The welfare of the child would still be the main criterion for awarding custody; however, the ERA would challenge the assumption that sex alone determines which parent is best suited.

In the case of divorce, the Amendment prohibits a greater liability on one spouse than another for child support. Although both persons are not required to contribute the same amount of financial aid, both must take on proportional responsibilities, either in terms of money or non-monetary services.

Community property laws too, would be based on fair division, rather than on customary practice. In short, the ERA would make divorce laws contingent upon individual circumstances, by viewing each case in terms of two persons, rather than female/male stereotypes.

Rights Of Privacy?

Opponents of the ERA have contended the Amendment would require public restrooms and similar facilities be sexually integrated. Right of privacy, first recognized by the U.S. Supreme Court in *Griswold v. Connecticut* (1965), would preclude this type of integration. Thus, undesignated bathrooms would not materialize as a result of ERA passage. States will also maintain the power to require segregation of sexes with respect to sleeping quarters in co-educational colleges, prison dormitories, and military barracks.

Homosexual Marriage?

The Amendment only requires that if state and federal governments establish laws concerning homosexual union, these laws must be made applicable to both sexes.

Abortion?

Because laws affecting abortion can apply only to women, such statutes will not be affected by the Equal Rights Amendment.

Criminal Laws?

State laws which provide greater penalties for female law violators than for males committing the same crime (and vice versa), will be nullified by the ERA. However, the Amendment will not invalidate laws which punish crimes on the person, such as rape; these types of protective measures would merely be extended to men.

Protective Labor Laws?

In the past, where physiological differences were assumed to have a significant effect on the individual capacities of women, protective labor laws were instituted. However, these laws have served to hinder a woman's chances for employment and promotion more than they have served to protect. In many cases, these laws have had a valid premise, that of serving to protect against injury, but have placed all women into stereotyped roles. ERA would not nullify any practical labor laws, it would simply extend their coverage to men.

In other words, as both sexes would be subject to the same type of protection, employment would be based on individual needs and ability, rather than that evolving from a sex stereotype.

Social Security?

The ERA will serve to equalize social security benefits. Presently, if a married woman is employed, she pays an equal percentage of social security tax, but receives a lower return than men in her income bracket. If a woman dies or retires, her spouse can draw on her social security only if he has supplied less than half of the family's income. Not until March, 1975, did the Supreme Court declare a regulation which prohibited a widower with minor children from drawing on his wife's social security, as unjustifiable and discriminatory.

The ERA would make the social security system more equitable for senior citizens and other dependents. It would also remove the dependency require-

ments necessary for a husband to receive his spouse's benefits.

Although some change in the system has been made, forty years have elapsed since the passage of the Social Security Act and its present, but slight, modifications. The case-by-case approach is expensive and time consuming, creating tremendous uncertainty for those whose lives are directly affected by social security benefits.

Insurance?

Although states do not generally set insurance rates, in those that do, the ERA would prohibit the state from adopting a rate schedule that discriminates on the basis of sex. The Equal Employment Opportunity Commission's guidelines to Title VII of the 1964 Civil Rights Act prohibit employers from offering unequal benefits (in relation to pension and insurance), but cases are backlogged and all workers are still not covered under Title VII.

Education?

At present, most educational and vocational guidance is predicated on sex stereotypes and not objective assessment of all students. Women are commonly discriminated against in admissions, curriculum, facilities, counseling and placement.

Although regulations concerning discrimination have been dealt with in Title IX of the Higher Education Act, the act itself is not fully conclusive, offering many exemptions and loopholes. Enforcement of the Act is also a major problem.

As teachers, women are almost universally discriminated against in hiring and salaries, particularly at the college level. Scarcely more than one high school principal in a hundred is a woman, and in elementary schools, where women compose 85 percent of the teaching force, men fill 80 percent of the principal positions.

ERA is necessary to support equal opportunity legislation such as Title IX, making these regulations stronger, while still emphasizing the need for individuality.

Credit Practices?

There is widespread evidence of discrimination against women in granting credit by banks, savings and loan associations, credit card companies, finance companies, retail stores and the Federal Government. Married men can also experience hardship, as creditors do not include the working wife's salary as part of the total family income. This, of course, denies the family a higher credit rating. Unfortunately, this type of discrimination is rooted in the assumption that women of child-bearing age may quit work and default on credit payments.

Although the ERA cannot have a direct effect on the private sector's credit practices, it will have a long-range effect on lessening discrimination. ERA will make available to women such public, government-insured credit programs as the FHA (Federal Housing Administration) and VA (Veterans Administration) loan programs. Moreover, the Amendment will serve to raise social consciousness by having all persons viewed as individuals under the law.

Property And Other Business Laws?

In 1971 the Supreme Court invalidated a law which arbitrarily favored men over women as administrators of estates. The ERA will go beyond that decision by invalidating all laws which restrict the right of wives to establish businesses, become guarantors, or enter into contracts. Furthermore, state property laws would be altered so that division and management of property depend on need and expertise rather than sex.

The Military?

Significant barriers involving women's full participation exist in the armed services. At the entry level, women must meet higher standards for enlistment than men. Despite this, women's opportunity for promotion and post-service employment is far more limited. Moreover, restricted assignment policies reduce the number of training programs open to women, narrowing their range of work experiences.

The ERA would require admission of women into the military under the same conditions as men, demanding equal consideration for assignment and rank.

Under the ERA, women would be subject to the draft; however, only those persons meeting appropriate physical standards would be eligible for combat duty. (Only 14 percent of all men in the military served in combat at the height of the Viet Nam war, the other 86 percent were stationed in areas around the globe, serving in support positions.) Congress can provide draft exemptions as long as they are applied to both sexes. Exemptions on the basis of parental or marital status will remain valid, but those initiated on the basis of sex will not.

Historically, women have served in forward positions as communication officers and medics. Although they have been voluntarily stationed in these areas, women have not been allowed to carry any type of weapon for defense. ERA would nullify this law, allowing women to carry arms in the interest of protection.

What Can You Do To Promote Ratification In Your State?

Write your State Representative and State Senators at regular intervals. If the legislator fails to reply or act on the Amendment, arrange a visit—either alone or with a group of supporters.

FOR MORE COPIES OF THIS PAMPHLET WRITE TO COMMON CAUSE, 2030 M STREET, N.W., WASHINGTON, DC 20036, OR CALL 202/833-1200.

Supporters Of The Equal Rights Amendment

Advisory Committee, Women's Rights and Responsibilities, HEW
AFL-CIO
American Association of College Deans
American Association of University Women
American Association of Women Ministers
American Civil Liberties Union
American Federation of Soroptimist Clubs
American Federation of State, County, and Municipal Employees
American Federation of Teachers (AFL-CIO)
Americans for Democratic Action
American Home Economics Association
American Jewish Congress
American Medical Women's Association
American Newspaper Guild
American Nurses Association
American Psychological Association
American Public Health Association
American Society of Women Accountants
American Society of Women Certified Public Accountants
American Women in Radio and Television
Association of American Women Dentists
Association of the Bar of the City of New York
B'nai B'rith Women
Church Women United
Citizens' Advisory Council on the Status of Women
Common Cause
Communications Workers of America
Council for Christian Social Action, United Church of Christ
Council for Women's Rights
Democratic National Committee
Ecumenical Task Force on Women and Religion (Catholic Caucus)
Federally Employed Women
Federation of Organizations for Professional Women
General Federation of Women's Clubs
Intercollegiate Association of Women Students
International Brotherhood of Painters and Allied Trades
International Brotherhood of Teamsters
International Union of Electrical, Radio and Machine Workers
International Union of United Automobile, Aerospace and Agricultural Implement Workers (UAW)
Interstate Association of Commissions on the Status of Women
League of American Working Women
League of Women Voters
National Association for the Advancement of Colored People (NAACP)
National Association of Colored Women
National Association of Negro Business and Professional Women's Clubs
National Association of Women Deans and Counselors
National Association of Women Lawyers
National Board of the Leadership Conference of Women Religious
National Coalition of American Nuns
National Council of Jewish Women
National Education Association
National Federation of Business and Professional Women's Clubs
National Federation of Republican Clubs
National Organization for Women (NOW)
National Secretaries Association
National Welfare Rights Organization
National Woman's Party
National Women's Political Caucus
Network Staff (Catholic Nuns)
President's Task Force on Women's Rights and Responsibilities
Republican National Committee
St. Joan's Alliance of Catholic Women
Theta Sigma Phi
United Presbyterian Church
Unitarian-Universalist Association
Unitarian-Universalist Women's Federation
United Methodist Church—Women's Division
U.S. Commission on Civil Rights—Women's Rights Project
United Steelworkers of America
Women's Bureau, U.S. Department of Labor
Women's Christian Temperance Union
Women's Equity Action League (WEAL)
Women's International League for Peace and Freedom
Women United
Young Women's Christian Association
Zero Population Growth
Zonta International

MEMBERSHIP APPLICATION

I would like to join other concerned Americans in working for responsible government. As a member, I will receive IN COMMON 10 times a year.

Annual dues $15. Youth (under 21) or student membership $7. $2 of the $15 annual dues is allocated to the cost of IN COMMON.

Make checks payable to Common Cause:
☐Check enclosed ☐Please bill me

NAME _____ ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE _____ (include area code)

☐ My check includes—in addition to my dues—an additional $5 to be earmarked for Common Cause in my State.
☐ I want to make an additional contribution of $ _____ to Common Cause National Organization.
☐ I am already a Common Cause member but am using this form to send you an additional contribution.

common cause 2030 M STREET, N.W., WASHINGTON, D. C. 20036

KUSE