

MINUTES OF JOINT HEARING

16

SENATE AND ASSEMBLY JUDICIARY COMMITTEES

FEBRUARY 3, 1975

Senate Members Present:

Senator Close, Chairman  
Senator Wilson, Vice Chairman  
Senator Bryan  
Senator Sheerin  
Senator Dodge  
Senator Foote  
Senator Hilbrecht

Assembly Members Present:

Assemblyman Barengo, Chairman  
Assemblywoman Hayes, Vice Chairman  
Assemblyman Heaney  
Assemblyman Polish  
Assemblyman Hickey  
Assemblyman Lowman  
Assemblyman Sena  
Assemblywoman Wagner  
Assemblyman Banner

The purpose of the hearing was to hear testimony on A.J.R. 1<sup>\*</sup>, which ratifies proposed constitutional amendment relative to equal rights for men and women.

Chairman Close called the meeting to order and explained the process by which testimony would be heard.

The ~~Assembly~~ Attache reported testimony in favor of the resolution and the Senate Attache reported testimony in opposition to the resolution.

The following testimony is in opposition to A.J.R. 1.

Phyllis Schlafly, National Chairwoman of STOP ERA. At the Virginia legislative hearing on ERA, our star witness was a 93 year old woman who identified herself as an original suffragette and said she had been campaigning for women's rights for half a century. She concluded her remarks by saying "the ERA proponents are 50 years behind the times; they are fighting a battle that is long since won." I think that sums it up very well. When you listen to the proponents, they are still giving tear-jerking references to women not having had the right to vote, or being able to serve on juries, or go to graduate school. Wrongs which have long since been righted and which have no relevance to the present day and age. You have heard the presentation of the proponents and you have seen that they have no affirmative case. This amendment is presented as something which is going to improve the status of women and in no way can they show that it is going to benefit women in any way. I will tell you how they are able to get the endorsements of these organizations, it is because they present them with false information such as has been presented to you today. You were told by one of the speakers that Illinois is one of the states that has a State Equal Rights Amendment. I can tell you that that is absolutely not true. I come from Illinois. We have the language of the Fourteenth Amendment; the equal protection of the laws language. That is not an equal rights amendment. We have lived with the Fourteenth Amendment for 100 years and we know it is a vehicle for abolishing discriminations that we want to get rid of but it does not require us to do the unreasonable things that the Equal Rights Amendment will require. That is the difference and we do not have it. Another statement that was made here, that is frequently made before women's organizations and that is that women do not exist as persons under our Constitution and laws. For those who are worried about not being persons, I am happy to be able to tell you that back in 1875, in the case of *Minor v. Haperstead*, the U.S. Supreme Court officially declared that women are persons under the Fourteenth amendment and the Constitution and entitled to all

\*Also S.J.R. 1

constitutional protections and guarantees except the right to vote and we got that under the Women's Suffrage Amendment.

Many people have identified with the ERA because they think it means equal pay for equal work. The amazing thing that comes out in this state legislative hearings is that the ERA will not benefit women in any way, whatsoever in the field of employment. When I made that flat statement in a televised debate with their leading proponent, Congresswoman Margaret Griffith, she replied "I never claimed it would." That blows their case and they cannot show that it will help women any way in the field of employment. There are two reasons for this: One is that ERA doesn't apply to private industry, it only applies to federal and state law and; there is no way it can add to the Equal Employment Opportunity Act of 1972, a law which applies to hiring, and pay, and promotions and under which the women have gotten these enormous multi-million dollar settlements against some of the biggest companies in our land. They got 38 million dollars from AT&T, a settlement that required back pay not only to women who hadn't been paid what they should have been paid but also to women who hadn't been promoted as they should have been promoted and even to women who had not applied for jobs because they didn't think they could get them. What more could you want by means of legislation to give a fair break to women in employment? The U.S. Steel settlement of 30 million dollars in back pay mandates U.S. Steel to hire 20% women in production in the steel mill. So those jobs are there if you want them. The ERA will not do anything for women in the field of education since the passage of the Education Amendments of 1972. A law which abolishes discrimination in every aspect of education from kindergarten through graduate school in regard to hiring, promotions, scholarships, grants, admissions, etc. The ERA will do nothing for women in the field of credit since the passage of the Depository Institutions Amendment Act of 1974. A law which gives them everything they have been complaining about in the field of credit. So they have no affirmative case. They can't show that the ERA will benefit women. On the other hand, we can demonstrate that it will have a great many disadvantages for women and will take away many of the important legal rights that women now enjoy.

First of all, lets discuss Section 2, the section that says Congress will have the power to enforce it by appropriate legislation. This is the grab for power at the federal level and this the is section that will give into the hands of the federal government, great new areas of jurisdiction which they haven't yet got their meddling fingers into. This includes marriage, marriage property laws, divorce, child custody, minimum marital age limits, prison regulations; insurance rates, protective labor legislation - any type of legislation that makes a difference between men and women. Why anybody would want to send a whole new batch of jurisdiction to Washington, with all the problems they have and with their inability to solve the problems that they have, is more than I can understand. But that is what it will do and Congresswoman Margaret Griffith conceded, under cross-examination at the Missouri hearing last week and I quote "the intent of Section 2 is to make state laws uniform". I submit that is not our system of government. We do have differences from state to state and these are some of the areas that have not yet gone into the hands of the federal government. When the Farm Bureau in many states took a position against the ERA they said in their official statement "anyone who has had any dealings with OSHA, EPA, DOP or any other federal agency realizes the enormous possible consequences of federal administration of ERA." I think this grab for power at the federal level is why we see all these federal payrollers running all over the country testifying, speaking and lobbying on behalf of the ERA. Time and again when I go out to speak or appear before a legislature or in a debate and my STOP ERA friends have passed the hat to pay for my plane fare, I find that my oponent is there on your money, your tax money and they are coming out of the White House and they are coming out of the Department of Labor, full time federal employees, telling the state legislatures to hurry up and ratify ERA. I think they see an enormous area of jurisdiction coming under their control so they can have new bureaus with affirmative action and reverse discrimination departments breathing down our necks in a lot of new aspects that they haven't yet gotten their clutches on.

We have had quite a good example recently of what this means. In 1972, Congress passed the Education Amendments which abolished discrimination in education. Sounded beautiful, who could be against it? Well HEW labored for 2 years in the bureaucracy to bring out their regulations and they came out in June, 1974 with 80 pages of them. And when they came out with them, these regulations said that federal sex discrimination law now required you've got to have co-ed sex education classes, co-ed gym classes and fraternities and sororities can no longer operate on any campus that gets any federal aid. That picked up a lot of flak and within 2 weeks Jasper Wynberger had to call a press conference and say "well, we'll take sex education classes out of the regulations right now." And then the fraternities and sororities and athletic directors began to get the message of what these HEW regulations would require. They flooded Congress with letters and - what do you know, the big proponents of this bill said "Oh! We didn't mean any of this kind of nonsense when we passed the Education Amendments of 1972." So they drafted a little quickie amendment that passed very rapidly, with no opposition to it, specifically exempting from the Education Amendments of 1972 and the HEW regulations, gym classes, fraternities, sororities, YMCA, YWCA, girl scouts, boy scouts, camp fire girls, boys clubs and girls clubs. Well, that's fine, no problem. The problem is that if the ERA is ratified as every lawyer knows, no way can you pass a little ex post facto congressional amendment which would exempt us from the nonsense that a mandatory rule against sex discrimination will require. Now let's talk about the matter of the draft. If the ERA is ever ratified, the first thing that will happen is that every 18 year old girl will be compelled to report to a local draft board, register, get a number and be available for call up. The federal law which now says that women are kept out of combat, becomes immediately unconstitutional. I heard one legislator ask a proponent "well even if we did draft women, couldn't we give them the safe jobs and leave the fighting up to the men?" and she said "Oh no, because that would discriminate against women and deprive us of our equal opportunity to win a Congressional Medal of Honor." Well, now most Medal of Honor winners are dead and just relate it to the Vietnam war and I think you will see that most women do not feel that that we were discriminated against that we didn't have the equal opportunity to fight in jungle warfare or be POWs. No civilized country puts its young women in combat, and don't let anybody tell you that Israel does. Israel has had a position of acute manpower shortage and has found it necessary to draft women, but Israel would never go for anything so nutty as the ERA. They do not put their women in combat; they treat them differently. The Congress has the power to draft women today, but if you ratify ERA you will deprive Congress of the power to exempt women and that is what we want. We want women exempted. You will deprive the military of the opportunity to make the ruling that our emergency calls for the drafting of fathers of small children but doesn't call for the drafting of mothers of small children. ERA will enforce a mandatory equality so that the law must fall equally on both sexes and you know that is not what the majority of American men and women want. The effect on the family laws and the many laws of our state and country which go to bring the family together will be widespread, pervasive and very disadvantageous to the family and to the women. This is why Senator Sam Ervin calls the ERA the most destructive piece of legislation that has ever been passed by the United States Congress. That was a large statement. Why, because it will invalidate all of the laws that make it the primary obligation of the husband to support his wife, to provide her with a home, to support their minor children; the laws which give the husband the right to establish the domicile; the laws which enable a married woman who does not have a job to get credit in her husband's name and to draw social security benefits based on her husband's earnings. These are just some of the many laws that give the rights to the wife and go to bring the family together. The ERA will not permit you, even in the future, to pass any legislation that imposes an obligation on one sex differently from the way it imposes on the other. I personally think that if ERA is ever ratified, the one who will be hurt the most is the senior woman who has made her lifetime career in the home but

who now will be told, this is the age of equality, too bad for you. In the field of protective labor legislation, the woman who has nothing to offer in the market except her physical labor, ERA will be devastating. Again, don't let anybody tell you that the benefits which are now for women in this regard will be extended to men. We have a good example in the State of Washington where they have a state ERA. The benefits of protective labor legislation have simply been lost to the women; they have not been extended to the men. And then there is a new area of concern. Last year the U.S. Supreme Court handed down a decision which approved the power of the Internal Revenue Service to withdraw tax exemptions from a college which doesn't get any federal aid, but which has tax exempt status, on the ground that it allegedly discriminated on the basis of race. Now I don't happen to agree with this college, but nevertheless, if you apply that same rule to sex, you open up a whole new area of colleges that don't get federal aid but have tax exempt status, and you will be giving into the hands of the Internal Revenue Bureau the power to say to such private and religious based schools, either you stop your single sex status and your alleged discrimination against women, or you lose your tax exempt status. The women's libbers are making a big drive on the churches. There are some churches that are ordaining women and that is their privilege and I support their right to do that but there are other churches that it is against their church doctrine to ordain women and ministers or priests or bishops. Are we giving to Internal Revenue power to say "stop your discrimination or lose your tax exempt status." These are some of the reasons why 17 state legislatures have voted against the ERA. The momentum is on our side. In 1974, 3 states ratified; 7 states rejected it; and one rescinded its previous ratification. Already this year, the score is 3 to 1 in our favor. As women learn more and more about this amendment, they do not want it and we believe that we have all the arguments and all the common sense. We don't have the money. In Illinois it's the Playboy Foundation financing the ERA effort and they have acquired all kinds of vast financial resources to put on these high pressure campaigns that tell you ERA is going to be ratified any minute. ERA is an anachronism from a bygone era and we respectfully ask you to vote no.  
Thank you.

Sylvia Ford, Northern Nevada Co-Chairwoman for the STOP ERA Committee. Stated that she was upset by articles in the newspapers recently about members of the Senate, who were members of the Mormon church, having to defend their stand on ERA because the church has come out in opposition to it. She cited several other churches that have also come out against it. She felt that most religions had guidelines by which people live their lives so that it would only stand to reason that your religion would be a part of your conscience. She quoted from Section 9 of the NOW booklet "Revolution: Tomorrow is NOW" and stated that our churches are under attack and they must be defended. She urged members of the Senate and Assembly to vote No on ERA.

Jolane Slade endorsed Senator Sam J. Erwin's presentation to the Senate in March 1972 concerning ERA. She felt it was the strongest statement, either for or against ERA, that she had ever read. She asked that before the Committees took a stand on ERA, that they first read the thoughts that the Senator had proposed. She highlighted 3 questions that should be kept in mind when considering ERA: 1) what unfair or unreasonable discriminations does the law make against women; 2) is it necessary to amend the Constitution to abolish these; 3) is it desirable to add the ERA to the Constitution.

Amy Lewis discussed the issue of the draft. ERA is a proposed Constitutional amendment that will positively, absolutely and without the slightest shadow of doubt, make women subject to the military and the draft on the same basis as men. She cited an article in the Reno Evening Gazette which said "starting on August 16th women participated in a pilot project desegregating barracks at Fort Dicks, New Jersey." She also referred to

the House Judiciary Committee Report to Congress, Number 92359 which not only would compel all women, mothers as well, to the draft, but it would also require them to serve in combat positions alongside of the men. She asked if any of the Pro-ERA people would like that.

Janet Heller stated that she was married and had six children. She discussed the effect ERA would have on Nevada in regard to loss of state's rights to legislate for themselves. She had received a letter from Governor Mike O'Callahan in which he had informed her that ERA would not affect private actions or the purely social relationships between men and women. She could not believe that this was true. She further stated that she was for state's rights; the right to legislate specific laws for specific problems.

Patty Clark did not feel that the wording was correct and that the courts would take away many of the rights that women now have. She stated that the Maryland legislature had ratified ERA in 1972 and before they had even voted on it, their attorney general had told them that they would have to alter or repeal at least 227 of their laws. She cited a 45-page study by the Nevada Legislative Counsel Bureau which discussed those laws that would have to be changed if ERA passed. Inasmuch as the legislature could forecast the future and what effects passage of ERA would bring, she urged the Committees to vote no.

MaryAnn Murphy, Washoe County Co-Chairwoman of STOP ERA, discussed the question of a state rescinding action on ratification of ERA. She stated that actions to rescind ERA are now pending in 11 other states at the present time. This is not the year for Nevada to ratify ERA; the momentum is against ERA.

Shirley Cowan, in referring to Section 2 of the amendment, noted that federal laws are all encompassing and supercede all other laws of the land. She felt that there were many contradictions in the amendment itself.

Ilene Francis wanted to know what good a marriage license would be if ERA were passed; what would become of the children when the wife is forced out of the home to work. ERA will not give women any more rights than they have now.

Lillian Mendonca, wife, mother of 7, raised 9 foster children, professional truck driver, member of the Teamsters Union, qualified driver of gasoline tankers, doubles and triples stated that she was as liberated as any woman could get and she was against ERA. She has faced the discriminatory practices that the proponents talk about and have found in many ways that our existing laws are not being enforced. ERA will only be another piece of legislation to be dealt with and of no help in the fight for equality.

Margot Druedahl representative of the Nevada Young Republicans and National Young Republican Federation, stated that these groups were opposed to ERA. She charged that the GOP's passage of support of ERA was arrived at through undemocratic procedures through the use of a luncheon speaker and opponents were not given equal time to present their views; it passed with a very narrow majority. One of the greatest problems of the ERA is its ambiguity and its open-ended language. She felt that the present laws, if enforced, were adequate to end any discrimination based on sex.

Janine Hansen, Northern Nevada Co-Chairwoman of STOP ERA warned the Committees not to believe the lists of organizations that have come out in favor of ERA. She attended a meeting which was supposedly representing 36 organizations combined for the Nevadans for ERA; there were fourteen women at that meeting. She stated that a lot of the support for ERA was nothing but propaganda. She asked that the members of the Committees not bow to the pressures of the vociferous women's libbers who pretend to represent the majority of women in the State of Nevada.

Judy Roze felt that the laws that the Committee is about to adopt is going to be setting a standard. In the eyes of many, this is understood as a formal declaration that such conduct is proper, moral and accepted. The adoption of ERA will create endless litigation in the courts in which legal decisions are made that might create circumstances harmful to the solidarity of the home. Conceivably the courts could find that the State must recognize marriages between members of the same sex. She asked if this is the standard that they would set by the laws.

Dennis Sorensen stated that the Constitution guarantees freedom and equality. To keep amending it is an indication of shifting our responsibility to the federal government instead of disciplining ourselves. He urged the Committee to keep this responsibility on a state level.

Lynn Whitaker believes that ERA is only the tip of the iceberg. He bore his testimony that this is a good country; that he is proud to be an American in the name of Jesus Christ.

Rayola McBride believes women's lib movement has gone to far. She agrees with the concept that women should get equal pay for equal work but stated that ERA is not self-enforcing and that women will still have to bring suit just as they do now. She felt that no one really knew what all the ramifications would be if ERA were passed.

Ruth Hansen felt that the great unanswered question was whether ERA would wipe out the right of wives to receive social security. It would be up to the Supreme Court to make that decision and that would only be done after ERA had been passed. If the Supreme Court ruling was unsatisfactory, there would be nothing that could be done about it. The obligation of the husband to support the family is one of the fundamentals of American life as we know it.

Ray Roze felt that what we really needed was less lawyers in politics and more common people with common sense. He also stated that there were too many laws on the books now.

Dan Hansen, State Chairman of the American Independent Party stated that the AIP was the only political party in Nevada to oppose ERA. Section 2 is an unlimited, undefined, unchecked, blanket grant of power to the federal government. That is a direct contradiction of the Constitutional purpose of limiting and containing government. He asked that the Committees mark well how they vote, as liberty hangs in the balance.

Ralph McMullen, National Committeeman for the Young Republicans of the State of Nevada and State Chairman for Young Americans for Freedom stated that one of the reasons that these groups have gone on record in opposition to ERA is that of increasing governmental power through regulations. He was concerned about loss of rights to the local and state government.

Greta McCully felt that ERA will hurt women in the area of insurance. Today women pay less life insurance than men. She felt that insurance companies should have the right to adjust their rates in accordance with such facts that women live longer than men; that women under the age of 25 have fewer automobile accidents than men of the same age. All persons will be losers if we ratify ERA.

Mildred Earl felt that present laws are adequate. She requested change on the state level.


Carole Mortinson felt that women have the advantage over men as far as community property laws are concerned in that they have control over one-half of it. She discussed the

Texas Equal Rights Constitutional Amendment. This is similar to the one presently being considered before this Committee but refers only to state authorities. In view of severe objections to their amendment, the Texas legislature recodified their Family Code Project so that it would not make discriminations because of sex.

Robert Armstrong concerned specifically with Section 2 giving the federal government so much authority over the states. He felt that in looking at this amendment, the Committee should also look at the other 7 Constitutional amendments that have similar customary enabling language. Every one has taken power and authority from the states. The arguments you have heard today as to the meaning of ERA are irrelevant. The Supreme Court has the ultimate decision as to its meaning, and the guidelines of the amendment are nebulous.

End of testimony on the Equal Rights Amendment.

Respectfully submitted,

  
Cheri Kinsley, Senate Attache

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

ASSEMBLYMAN ROBERT R. BARENGO, CHAIRMAN