



STOP Equal Rights Amendment

February 2008

National Chairman:

Phyllis Schlafly

Box 618

Alton, Illinois 62002

Dear Illinois Friend,

The old Equal Rights Amendment (ERA) has reared its ugly head in Illinois again. The House Judiciary I — Civil Law Committee approved it 8 to 6 on February 21 by the dishonest tactic of removing two No votes and replacing them with two Yes votes. **ERA could come to a vote in the full House any day. We need your immediate action to phone State Representatives and ask them to vote NO.** The Illinois General Assembly debated and defeated ERA every year for ten years, 1972-1982. In all that time the ERAers were never able to show that ERA would give any benefit to women. ERA is a fraud. Illinois has said NO to ERA. The United States has said NO to ERA. Let ERA rest in peace.

- **ERA would require taxpayer funding of abortions.** Several states have ruled that ERA requires taxpayer funding of Medicaid abortions. For example, New Mexico's state supreme court ruled that its State ERA requires taxpayer funding of abortions because, since only women undergo abortions, the denial of taxpayer funding is "sex discrimination." (N.M. Right to Choose/ NARAL v. Johnson, Nov. 25, 1998) We must NOT give courts this power!
- **ERA would allow the courts to legalize same-sex marriages.** Courts in four states have ruled that ERA's ban on "sex" discrimination requires marriage licenses to be given to same-sex couples. In Maryland and Washington, those decisions were overturned by a one-vote margin in higher courts, but ERA gives the power to the judges to rule either way. We must NOT give supremacist judges this power!
- **ERA would deprive wives and widows of their "dependent wife" benefits in Social Security.** Ruth Bader Ginsburg explained this effect of ERA in her book "Sex Bias in the U.S. Code," and she reasserted this in her opinion in the Supreme Court Partial Birth Abortion case in 2007. She says the "equality principle" of ERA requires us to get rid of "archaic" notions such as the "dependency" of a homemaker on her husband's financial support. Beware! A vote for ERA is a vote to take away Social Security checks received by most mothers and grandmothers.
- **ERA would require young women to register for military service (even though we don't have a draft), and if they fail to register, they would immediately lose their federal college grants and loans, and they would never be able to get a federal job.**

We need your urgent help to defeat ERA. Please phone Illinois State Representatives today and urge them to vote **NO on ERA**. Call the Capitol at **217-782-2000** and the operator will tell you who is your own Representative. For more information, you can contact Illinois Stop ERA Chairman Elise Bouc, 847-465-8903 or ebouc@juno.com

Faithfully,



The Phyllis Schlafly Report

[More ERA Info](#)

A Short History of E.R.A.

- The Debates About ERA
- The Houston Debacle
- ERA Referenda
- ERA Time Extension
- ERA Tries in Congress Again
- The Effort for State ERAs

A Short History of E.R.A.

The Equal Rights Amendment, a proposed amendment to the United States Constitution, was born in the era of the women's suffrage amendment and first introduced into Congress in 1923. For nearly 50 years, all those Congresses had the good judgment to leave ERA buried in Committee. Almost no one of importance or prominence in either political party supported it.

During most of those years, ERA had attached to it the Hayden Clause which read: "Nothing in this Amendment will be construed to deprive persons of the female sex of any of the rights, benefits, and exemptions now conferred by law on persons of the female sex." Then, as now, the advocates were unwilling to compromise for anything less than a doctrinaire equality, and so ERA went nowhere.

In 1971, when feminism first rushed onto the scene in the United States, a little band of women stormed the corridors of Congress and demanded the discharge from committee of the long-dormant Equal Rights Amendment. The House passed ERA on October 12, 1971, after rejecting the Wiggins Amendment which would have exempted women from "compulsory military service" and which also would have preserved other laws "which reasonably promote the health and safety of the people." Only 23 Congressmen voted no, of whom one was the senior female member, Representative Leonor Sullivan (D-MO), who made a strong speech opposing ERA because it would harm the family.

In the Senate, Senator Sam J. Ervin, Jr., (D-NC) proposed nine separate amendments to ERA to protect the traditional rights of women. Every one was defeated on a roll-call vote on March 21 and 22, 1972. These nine amendments established the legislative history that ERA was intended to do exactly what the Ervin Amendments would have prevented ERA from doing.

The Ervin amendments would have exempted women from compulsory military service and from combat duty; they would have protected the traditional rights of wives, mothers and widows, and preserved the responsibility of fathers to support their children; they would have preserved laws that secure privacy to males and females; they would have continued the laws that make sexual offenses punishable as crimes. All these modifying clauses were defeated. When ERA was passed in strict, absolute language, only nine Senators voted "no."

Congress sent ERA out to the states on March 22, 1972. Within twelve months, 30 states had ratified ERA. Then the disillusionment set in. In the next six years, only five more states ratified ERA, but five of the 30 states rescinded their previous ratifications of ERA, leaving a net score of zero for six years of lobbying for ERA. The five states that rescinded their previous ratifications were:

Nebraska	3/15/73
Tennessee	4/23/74
Idaho	2/08/77
Kentucky	3/16/78
South Dakota	3/01/79

The following 15 states never ratified ERA:

Alabama	Illinois	North Carolina
Arizona	Louisiana	Oklahoma
Arkansas	Mississippi	South Carolina
Florida	Missouri	Utah
Georgia	Nevada	Virginia

Most of the 15 states which never ratified ERA were forced by the ERA advocates to vote on ERA again and again. The Illinois Legislature voted on ERA every year from 1972 through 1982, the Florida Legislature nearly every year, the North Carolina and Oklahoma Legislatures every two years. Most of these votes were highly controversial, intensely debated, with much media coverage and many spectators present.

During the ratification period, ERA was enthusiastically supported by 99 percent of the media, the Gerald Ford and Jimmy Carter Administrations, most public officials at every level of government, and many wealthy national organizations. ERA enjoyed the political momentum of what appeared to be inevitable victory.

A small group of women in 1972, under the name "Stop ERA," took on what seemed to be an impossible task. In 1975, they founded "Eagle Forum" - the genesis of the pro-family movement, a coming-together of believers of all faiths who, for the first time, worked together toward a shared political goal. Eagle Forum volunteers persevered through the years and led the movement to final victory over ERA.

The last state to ratify ERA was Indiana in January 1977. There have been perhaps 25 different votes on ERA since that time (in legislatures, committees, referenda, and Congress), but Indiana was ERA's last success.

The Debates About ERA

The Equal Rights Amendment was presented to the American public as something that would benefit women, "put women in the U.S. Constitution," and lift women out of their so-called "second-class citizenship." However, in thousands of debates, the ERA advocates were unable to show any way that ERA would benefit women or end any discrimination against them. The fact is that women already enjoy every constitutional right that men enjoy and have enjoyed equal employment opportunity since 1964.

In the short term, clever advertising and packaging can sell a worthless product; but, in the long term, the American people cannot be fooled. ERA's biggest defect was that it had nothing to offer American women.

The opponents of ERA, on the other hand, were able to show many harms that ERA would cause.

1. ERA would take away legal rights that women possessed - *not* confer any new rights on women.
 - A. ERA would take away women's traditional exemption from military conscription and also from military combat duty. The classic "sex discriminatory" laws are those which say that "male citizens of age 18" must register for the draft and those which exempt women from military combat assignment. The ERAers tried to get around this argument by asking the Supreme Court to hold that the 14th Amendment already requires women to be drafted, but they lost in 1981 in *Rostker v. Goldberg* when the Supreme Court upheld the traditional exemption of women from the draft under our present Constitution.
 - B. ERA would take away the traditional benefits in the law for wives, widows and mothers. ERA would make unconstitutional the laws, which then existed in every state, that impose on a husband the obligation to support his wife.
2. ERA would take away important rights and powers of the states and confer these on other branches of government which are farther removed from the people.
 - A. ERA would give enormous power to the Federal courts to decide the definitions of the words in ERA, "sex" and "equality of rights." It is irresponsible to leave it to the courts to decide such sensitive, emotional and important issues as whether or not the language applies to abortion or homosexual rights.
3. Section II of ERA would give enormous new powers to the Federal Government that now belong to the states. ERA would give Congress the power to legislate on all those areas of law which include traditional differences of treatment on account of sex: marriage, property laws, divorce and alimony, child custody, adoptions, abortion, homosexual laws, sex crimes, private and public schools, prison regulations, and insurance. ERA would thus result in the massive redistribution of powers in our Federal system.
4. ERA's impact on education would take away rights from women students, upset many customs and practices, and

bring government intrusion into private schools.

- A. ERA would force all schools and colleges, and all the programs and athletics they conduct, to be fully coeducational and sex-integrated. ERA would make unconstitutional all the current exceptions in Title IX which allow for single-sex schools and colleges and for separate treatment of the sexes for certain activities. ERA would mean the end of single-sex colleges. ERA would force the sex integration of fraternities, sororities, Boy Scouts, Girl Scouts, YMCA, YWCA, Boys State and Girls State conducted by the American Legion, and mother-daughter and father-son school events.
 - B. ERA would risk the income-tax exemption of all private schools and colleges that make any difference of treatment between males and females, even though no public monies are involved. ERA is a statement of public policy that would apply the same rules to sex that we now observe on race, and it is clear that no school that makes any racial distinctions may enjoy tax exemption.
5. ERA would put abortion rights into the U.S. Constitution, and make abortion funding a new constitutional right. *Roe v. Wade* in 1973 legalized abortion, but the fight to make abortion funding a constitutional right was lost in *Harris v. McRae* in 1980. The abortionists then looked to ERA to force taxpayer funding. The American Civil Liberties Union filed briefs in abortion cases in Hawaii, Massachusetts, Pennsylvania and Connecticut arguing that, since abortion is a medical procedure performed only on women, it is "sex discrimination" within the meaning of the state's ERA to deny tax funding for abortions. In the most recent decision, the Connecticut Superior Court ruled on April 19, 1986 that the state ERA requires abortion funding. Those who oppose tax funding of abortions demand that ERA be amended to prevent this effect, but ERA advocates want ERA *only* so long as it includes abortion funding.
6. ERA would put "gay rights" into the U.S. Constitution, because the word in the Amendment is "sex" not women. Eminent authorities have stated that ERA would legalize the granting of marriage licenses to homosexuals and generally implement the "gay rights" and lesbian agenda. These authorities include the *Yale Law Journal*, the leading textbook on sex discrimination used in U.S. law schools, Harvard Law Professor Paul Freund, and Senator Sam J. Ervin, Jr. Other lawyers have disputed this effect, but no one can guarantee that the courts would not define the word "sex" to include "orientation" just as they have defined "sex" to include pregnancy.
7. In the final years of the ERA battle, two new arguments appeared. Both were advanced by the ERA advocates, but they quickly became arguments in the hands of the ERA opponents.
- A. ERA would require "unisex insurance," that is, would prohibit insurance companies from charging lower rates for women, even though actuarial data clearly show that women, as a group, are entitled to lower rates both for automobile accident insurance and life insurance. This is because women drivers have fewer accidents and women live longer than men. Most people found it a peculiar argument that "women's rights" should include the "right" to pay higher insurance rates.
 - B. ERA would eliminate veterans' preference. This rests on the same type of legal argument as the abortion funding argument: since most veterans are men, it is claimed that it is "sex discriminatory" to give them benefits. Naturally, this argument was not acceptable to the veterans, and their national organizations lobbied hard against ERA.

The Houston Debacle

Realizing that the seven-year time period allowed for ratification was running out, the ERA advocates in 1977 persuaded Congress to give them \$5 million, supposedly to celebrate International Women's Year. An IWY conference was held in each of the 50 states, culminating with a national convention in Houston in November 1977. Every feminist of any fame was a participant in this Conference, including Gloria Steinem, Betty Friedan, Eleanor Smeal, and Bella Abzug, who was the chairman.

The conferences were all run as forums promoting ERA and the feminist agenda. Only pro-ERA speakers were permitted on the platforms of the 50 state conferences and the Houston national conference. The media coverage was immense, and the Houston platform was graced by three First Ladies: Rosalynn Carter, Betty Ford, and Ladybird Johnson.

At the IWY event in Houston, the ERAers, the abortionists, and the lesbians made the decision to march in unison for their common goals. The conference enthusiastically passed what the media called the "hot button" issues: ERA, abortion and abortion funding, and lesbian and gay rights. The IWY Conference doomed ERA because it showed the television audience that ERA and the feminist movement were outside the mainstream of America. ERA never passed anywhere in the post-IWY period.

Supreme Court Justice Ruth Bader Ginsburg's book, *Sex Bias in the U.S. Code*, documents much more mischief from the Equal Rights Amendment:

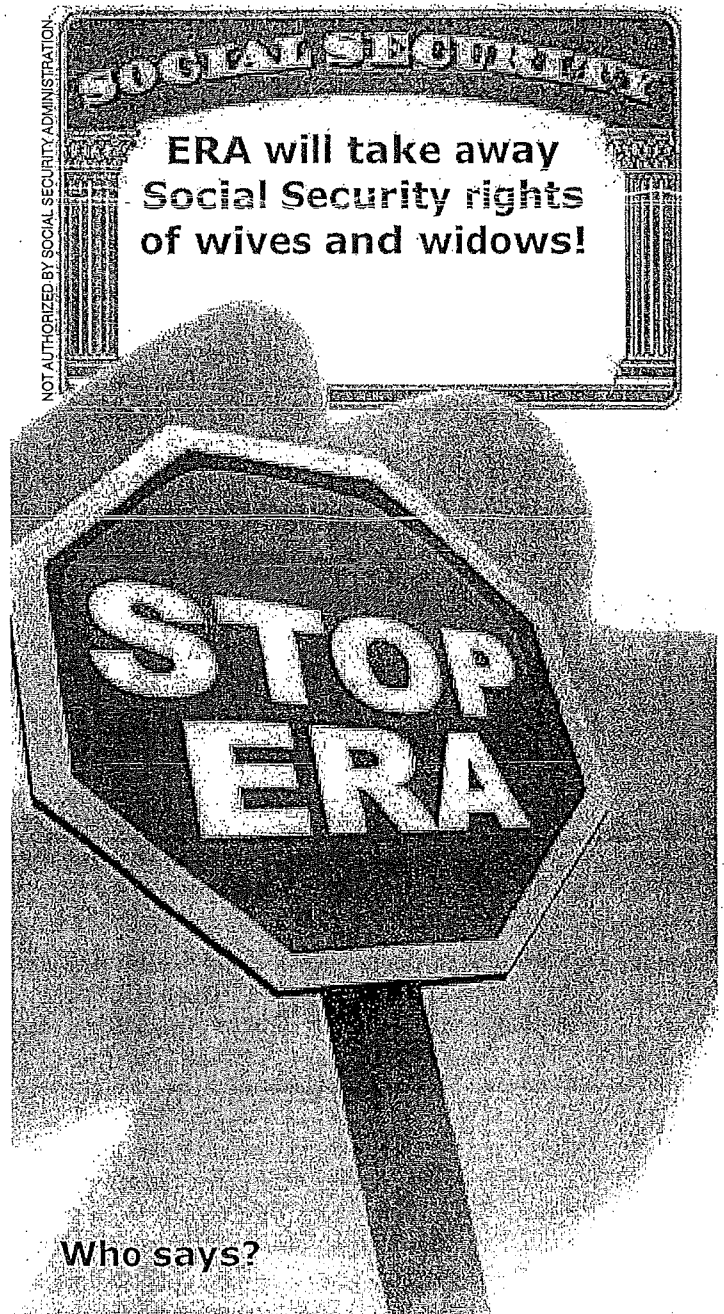
- Women must be drafted into the military when men are drafted. (p. 202, 218)
- Women must not be exempted from military combat. (p. 26, 218)
- Affirmative action must equalize men and women in the military. (p. 218)
- No-fault divorce must be adopted nationally. (p. 214-215)
- Government must provide comprehensive child care. (p. 214)
- The age of consent for sex must be lowered to age 12. (p. 102)
- Prostitution must be legalized as part of "privacy." (p. 97, 99, 215)
- Bigamy laws would become unconstitutional as part of "privacy." (p. 195-196)
- Prisons must be sex-integrated. (p. 100-101, 216)
- Single-sex schools and colleges must be sex-integrated. (p. 101)
- Fraternities and sororities must be sex-integrated. (p. 169)
- Boy Scouts and Girl Scouts must be sex-integrated. (p. 145-146, 219-220)
- Mother's Day and Father's Day must not be separate holidays. (p. 146)
- The words "husband" and "wife" must be eliminated and replaced with "spouse." (p. 15-16, 53, 64, 170, 177) This would change the federal DOMA law which defines marriage as the "legal union between one man and one woman as husband and wife."

We've already had too much mischief from activist judges who think their word is law and that they can "evolve" the language of the Constitution to enforce their social and political agenda. ERA would give judges immense opportunity to do more damage.

Vote NO on ERA

Eagle Forum, Alton, Illinois 62002

Links available at
www.StopERA.com



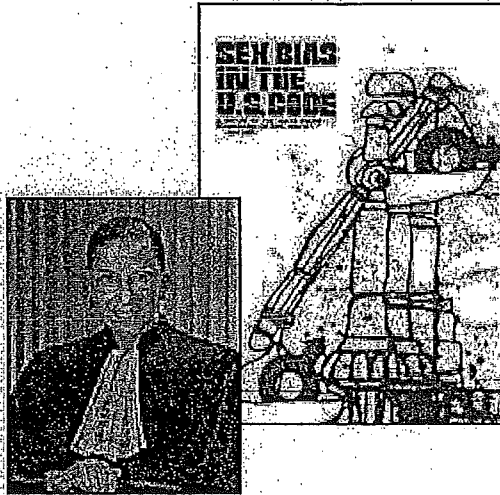
Who says?

**Supreme Court Justice
Ruth Bader Ginsburg:**

Her book makes clear that ERA would eliminate the Social Security benefits of wives, widows, mothers and grandmothers.

**A wise adage reminds us:
"Oh, that mine adversary
had written a book."**

Well, the country's most prominent legal advocate of the Equal Rights Amendment (ERA), now-Justice Ruth Bader Ginsburg, did write a 230-page book to tell us exactly how ERA will change 800 federal laws. The most important of these laws is **Social Security**. Her 1977 book was published by the U.S. Commission on Civil Rights during the 10-year ERA ratification battle.



Ginsburg's book makes clear that ERA would abolish the wife's and widow's benefit in Social Security. Here are her own words on page 206:

"Congress and the President should direct their attention to the concept that pervades the Code: that the adult world is (and should be) divided into two classes — independent men, whose primary responsibility is to win bread for a family, and dependent women, whose primary responsibility is to care for children and household. **This concept must be eliminated from the code if it is to reflect the equality principle.**"

Ginsburg's contempt for the wife's benefit in Social Security, which she calls "sex stereotyping," is stated repeatedly in her book, and she calls it a "prime recommendation" that it be eliminated. (p. 211-212) The feminists don't want wives and mothers to receive Social Security benefits unless they work in paid jobs in the labor force just like men. That's the "equality principle" of ERA.

Social Security benefits to dependent wives and widows have been part of the Social Security system since 1939. These benefits make Social Security one of America's most pro-women, pro-marriage, pro-motherhood institutions. These benefits are society's recognition of the value of mothers to society.

When a husband and wife reach retirement age, the husband receives his Social Security check based on his earnings, and his wife **additionally** receives a Social Security check that is 50% of the benefit paid to her husband. When she becomes a widow, she receives the full amount previously paid to her husband. To receive the wife's or widow's benefit, the woman does **not** have to pay Social Security (FICA) taxes or have workforce earnings of her own — Social Security recognizes her value as a wife, and specifically uses the word "wife."

The feminists have tried for years to repeal the wife's benefit in Social Security. During the Jimmy Carter Administration, they got the Social Security Administration to publish a major proposal called *Social Security and the Changing Roles of Men and Women* (1979). It would have drastically reduced the wife's and widow's benefit, or required husbands to pay **double** Social Security taxes for their wife and widow to receive the same benefits they now receive.

Eagle Forum defeated that anti-homemaker plan in the 1970s. **But the feminists seek the same goal by putting ERA in the U.S. Constitution.** As Ruth Bader Ginsburg explained in her book, ERA would "eliminate" the "concept" that a mother's work in the home deserves Social Security benefits. Social Security is based on this pro-family "concept" — while ERA is based on a phony "equality" concept that would put millions of mothers and grandmothers into poverty.

Employed women receive Social Security benefits on exactly the same formula as employed men — without discrimination. Taking away the dependent wife's benefit doesn't put one cent in the pockets of employed women — it only hurts mothers and grandmothers.

We must not let ERA take away wives' and widows' Social Security benefits.

1 www.latimes.com/news/printedition/opinion/la-op-schafly8apr08,1,1165099.story?coll=la-news-comment&ctrack=2&cset=true
From the Los Angeles Times

EQUAL RIGHTS REDUX

'Equal rights' for women: wrong then, wrong now

Just like last time, when Americans see the cynicism of a revived Equal Rights Amendment, they'll reject it.

By Phyllis Schlafly

PHYLLIS SCHLAFLY, the author of 20 books, is the president of Eagle Forum, a national pro-family volunteer organization. eagleforum.org.

April 8, 2007

NEARLY 25 years after the defeat of the Equal Rights Amendment, feminists and their political supporters, who now control Congress, are back at it. Last month, the constitutional measure, now dubbed the Women's Equality Amendment, was reintroduced in the Senate and House, and its prospects, according to one advocate, "are better now than they have been in a very, very long time."

But ERA Retro is doomed.

The amendment, which was born around the time that women were given the right to vote, was first introduced in Congress in 1923. For nearly 50 years, all subsequent Congresses had the good judgment to leave it buried in committee.

In 1971, the women's liberation movement burst on the scene and became the darling of the media. Its leaders demanded a gender-neutral society in which men and women would be treated exactly the same, no matter how reasonable it might be to respect differences between them. The amendment, which states that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," was the chosen vehicle to achieve this goal.

A radical feminist organization called the National Organization for Women stormed the halls of Congress and forced a vote on the Equal Rights Amendment. Only 24 members in the House, and eight in the Senate, voted against it. On March 22, 1972, Congress sent the amendment to the states, which had seven years to ratify it.

The Equal Rights Amendment had a righteous name and incredible momentum. Who would oppose equal rights for women and men? Support was bipartisan, with Sen. Edward M. Kennedy (D-Mass.) and then-Alabama Gov. George Wallace among its endorsers. Three presidents — Richard Nixon, Gerald Ford and Jimmy Carter — signed on. Within the first year, 30 of the 38 states needed for ratification passed it, many without holding a hearing on the legislation. The Equal Rights Amendment was actively supported by most of the pushy women's organizations, a consortium of 33 women's magazines, numerous Hollywood celebrities and virtually all the media.

The opposition was totally outmanned. We had no Rush Limbaughs, no Fox News, no "no-spin zone" to challenge the need for the amendment. We had no Internet, no e-mail, no fax machines to help rally an opposition.

But the Equal Rights Amendment was rejected. We kicked off our Stop ERA campaign, launched in February 1972, with an article I wrote: "What's Wrong with Equal Rights for Women?" Over the next 10 years, nearly 100 issues of my Phyllis Schlafly Report were devoted to exposing the bad effects of the amendment.

While claiming to benefit women, the ERA would actually have taken away some of women's rights. We based our arguments on the writings of pro-ERA law professors, among them current Supreme Court Justice Ruth Bader Ginsburg. The amendment would require women to be drafted into military combat and men were conscripted, abolish the presumption that the husband should support his wife and thereby Social Security benefits for wives and widows. It would also give federal courts and the federal government enormous new powers to reinterpret every law that makes a distinction based on gender, such as those related to marriage, divorce and alimony.

Throughout the 1970s, we presented legislators with our arguments. I testified at 41 state hearings.

Meanwhile, the pro-amendment crowd could not show how the ERA would confer any benefit on women, not even in employment, because employment laws were already gender-neutral.

In 1977, ERA advocates realized that they were approaching the seven-year time limit three states short of the 38 needed for ratification, so they persuaded Congress to give them \$5 million to stage a conference, called International Women's Year, in Houston. The conference featured virtually every known feminist leader and received massive media coverage. But it backfired. When conference delegates voted for taxpayer funding of abortions and the entire gay rights agenda, Americans discovered the ERA's hidden agenda.

A couple of months later, a reporter asked the governor of Missouri if he was for the ERA. "Do you mean the old ERA or the new ERA?" he replied. "I was for equal pay for equal work, but after those women went down to Houston and got tangled up with the abortionists and the lesbians, I can tell you ERA will never pass in the Show-Me State."

With the expiration clock ticking — March 22, 1979 — and ratification uncertain, feminists appealed to Carter and Congress for a time extension and won. The ratification deadline was extended to June 30, 1982.

The American people were so turned off by the extension that no additional state ever passed the ERA. In Idaho vs. Freeman, a federal court ruled that the time extension was unconstitutional and that states could constitutionally withdraw their previous support. Five did.

The Supreme Court subsequently ruled that the lawsuit was "moot" because the ERA had not been ratified by either the original deadline or the extension.

ERA supporters repeatedly tried to revive the amendment, reintroducing it in Congress in 1983. But the House rejected it. They then tried to persuade individual states to pass the ERA as state constitutional amendments. They got nowhere.

The current plan to revive the amendment is so outrageously dishonest — for instance, backers say both previous time limits can be ignored, that prior court rulings are irrelevant and that the previous state ratifications are still valid — that it's a wonder anybody could argue it with a straight face. No matter its new name, the same text that has been voted down, again and again, will again be rejected by the American people.

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EQUAL RIGHTS AMENDMENT

ENSHRINING ABORTION AS A CONSTITUTIONAL RIGHT

By J.C. Willke, MD

The *Equal Rights Amendment*, better known as the ERA, was a highly controversial social issue in the seventies and eighties. The reason for this is that legal experts say it would have placed the right to unrestricted abortion into the Constitution. Recently, the ERA has once again reared its ugly head, and pro-lifers should be concerned. But in order to fully understand its continued danger to unborn children and their mothers, we must first understand its history.

The proposed constitutional amendment wording above was passed in March of 1972 by both houses of Congress. Within two months, 13 states had ratified it, by nine months, 22, and by twelve months, 30 states. But then momentum stopped and the tide turned. In the next six years, five more states ratified the ERA but five rescinded it, leaving a total of 30. Thirty-eight states are necessary to ratify in order to make it part of the constitution. Why the turn around?

Basic credit for this goes to Phyllis Schlafly who sounded the alarm, publicized its scope and problems, lectured, wrote and successfully led the campaign against it. She focused the nation on much of the following:

A long series of amendments were proposed to this ERA wording during the debates in Congress. Each would have rectified serious flaws. Each was defeated. An examination of these reveals their profound significance. These proposed amendments included:

- Women could not be drafted. Amendment 1065: "This article shall not impair the validity of any laws of the US or any state which exempt women from compulsory military service." This amendment was voted down.
- Women could not be sent into combat. Amendment 1066: "This article shall not impair the validity of any laws of the US or any state which exempt women from service in combat units of the armed forces." It was voted down.
- Two amendments would have ensured that women, wives and mothers would not lose certain civil and legal privileges that they have always needed, e.g. receiving homemaker benefits while the husband works. Amendment 1067: "This article shall not impair the validity of any laws of the US or any state which extends protections or exemptions to women." Amendment 1068: "This article shall not impair the validity of any laws of the US or any state which extend protections or exemptions to wives, mothers, or widows." Both were voted down.
- Women would not lose child support. Amendment 1069: "This article shall not impair the validity of any laws of the US or any state which impose upon fathers the responsibility for the support of their children." It was voted down.
- Schools, seminaries, sports, toilet facilities, etc. could continue to be segregated and have separate, private facilities. Amendment 1070: "This article shall not impair the validity of any laws of the US or any state which secure privacy to men and women, boys and girls." It was voted down.
- Homosexuality would not be forced upon the nation as co-equal legally with the traditional heterosexual family in education, etc. Amendment 1071: "This article shall not impair the validity of any laws of the US or any state which make punishable crimes sexual offenses." It was voted down.

Since the Senate rejected all of these limitations, it was logical to assume that they meant the ERA would allow or even direct that all of the above could or should happen. This marked the beginning of the campaign against the ERA.

In response, the proponents pointed out that none of the amendments above-mentioned abortion. This was true. However, if the sexes were to be completely equal then the rights that one sex had should be guaranteed to the other also. Men could have sex and walk away not pregnant, so if a woman had sex and got pregnant, she should have the right to be not pregnant also. If she were "forced" to stay pregnant that would be sexual discrimination.

In addition, if surgical operations peculiar to the male sex, e.g. prostate surgery, were paid for with tax money, operations that are peculiar to the female sex, e.g. abortion, should also be paid for.

But there was more. At the present, a homemaker has certain benefits because of what her husband earns. Under the ERA, she would have to pay Social Security taxes based upon the value of her contributed work at home in order to obtain retirement benefits. Obviously, if a homemaker was required to pay, say, \$2,000 a year in Social Security taxes, many or even most would have to leave their homes and work outside the home.

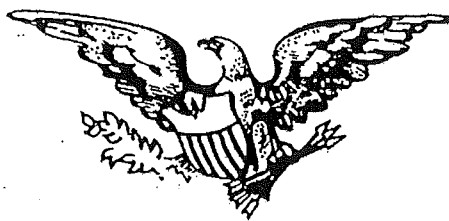
At the time, Senator Sam Erwin made another very cogent comment, "The ERA will transfer from the states to the federal government vast governmental powers which have been reserved to the states throughout our history. By so doing, this amendment would substantially thwart the purpose of the Constitution, which created an indestructible union composed of indestructible states and would reduce the states in a large majority to powerless zeros on the nation's map."

All this negative baggage that had accumulated around the ERA made it much less appealing to locally accountable elected state senators and representatives. So then what happened after the pro-ERA people were stymied in the state legislatures? They turned to state referenda. Accordingly, three years after the ERA's introduction, statewide referenda were held in New York State and New Jersey. In both, the ERA was decisively defeated. Others were Wisconsin in 1973, Florida and Nevada in 1978, Iowa in 1980, Maine in 1984 and Vermont in 1986. All of these proposed state ERAs were defeated.

The next positive development was that states began rescinding their earlier ratification. This occurred in Nebraska, Tennessee, Kentucky, Idaho and South Dakota.

Then in March 1979, the seven-year limit for ratification expired. Congress extended the time limit for 30 more months. This extension was questioned constitutionally, however, this was never resolved. Even with the extension, the ERA expired in 1982 without any more states ratifying it.

But the proponents didn't quit. In 1983, the same wording was reintroduced in both the House and the Senate and hearings were held. By now, abortion was the crucial issue. Testifying before a Senate committee, Senator Paul Tsongas answered this question, "Would the ERA lock the right to abortion and/or abortion funding into the Constitution?" His answer, "That issue will be decided in the courts." The same answer was given to questions regarding women in combat, privacy issues, etc. This proved, in a rather devastating fashion to anyone listening, that the ERA could mean anything the Supreme Court interpreted it to mean. This was not too reassuring.



The Phyllis Schlafly Report

VOL. 15, NO. 4, SECTION 2

BOX 618, ALTON, ILLINOIS 62002

NOVEMBER, 1981

How ERA Would Change Federal Laws

Proponents of the Equal Rights Amendment often argue, "We need ERA because 800 Federal laws discriminate on account of sex." This report examines those 800 laws and how ERA would change them. It reveals how our nation would be dramatically changed if ERA ever became part of the U.S. Constitution.

The source of the "800 laws" argument is a 230-page book entitled *Sex Bias in the U.S. Code: A Report of the U.S. Commission on Civil Rights* published in April 1977. The U.S. Commission on Civil Rights is a Federal agency established by Congress to investigate and study discrimination and make reports to Congress.

Sex Bias in the U.S. Code was actually written by Ruth Bader Ginsburg and Brenda Feigen-Fasteau (who were paid with tax funds under Contract No. CR3AK010). Ginsburg is one of the two most widely quoted pro-ERA lawyers. Her name appears as one of the feminist lawyers in most of the gender cases that have reached the Supreme Court in the last decade. At the time *Sex Bias* was written, she was a professor of law at Columbia Law School and used the assistance of 15 Columbia Law School students. In 1980, President Jimmy Carter appointed Ginsburg to the second highest court in our country, the U.S. Court of Appeals for the District of Columbia. Feigen-Fasteau was a director of the Women's Rights Project for the American Civil Liberties Union, and has appeared in TV network and other debates on ERA with Phyllis Schlafly.

Thus, *Sex Bias in the U.S. Code* is a good index to what ERA would do. It was written by the two top ERA activist female lawyers, it was published by the U.S. Commission on Civil Rights, and it was funded by the Federal Government during the Carter Administration.

Sex Bias in the U.S. Code was written and published in order to identify all the Federal laws that discriminate against women, and to recommend the specific changes demanded by the women's lib movement in order to eliminate "sex bias" and to conform to "the equality principle" of ERA. (p. 10) *Sex Bias in the U.S. Code* makes it clear that, if ERA were ever added to the Constitution, ERA would accomplish all these changes in one stroke. *Sex Bias in the U.S. Code* also makes it clear that ERA activists are trying to accomplish the same results by changing Federal statutes. The ERAers are constantly pressuring the President and Congress to eliminate all the laws that discriminate on account of sex.

Sex Bias in the U.S. Code is, therefore, a handbook to prove what the ERA will do and what the ERAers want. The book proves that the legal consequences of ERA and the social and political goals of the ERAers are radical, irrational, and

unacceptable to Americans. *Sex Bias* convicts the ERAers out of their own mouths. In the view of the authors, all the proposed changes listed in *Sex Bias* are needed in order to achieve "the equality principle" of ERA.

An old adage warns, "Would that mine enemy had written a book." Well, the top ERA lawyers wrote one, and they've provided a powerful weapon against ERA. Here is a summary of the changes demanded by the book *Sex Bias in the U.S. Code*. All quotations below are directly from the book and are identified by page numbers.

ERA Changes in Employment

The box below shows what changes ERA will bring in employment.



That's right, NOTHING! *Sex Bias in the U.S. Code* proves that ERA will do absolutely nothing in employment! *Sex Bias in the U.S. Code* explodes all the phony arguments made by the ERAers about the job discrimination and "59¢."

Sex Bias tries to claim that two Federal laws discriminate on sex in employment — and both claims are completely false. *Sex Bias* falsely claims that there is a "sex-age differential in 41 U.S.C. #35 setting a minimum age of 16 for boys and 18 for girls employed by public contractors." (p. 217) The fact is that the age was equalized for boys and girls in 1968. *Sex Bias* falsely claims that women are prohibited from working in coal mines. (p. 217) The fact is that more than 3,000 women are coal miners today.

ERA Changes in the Military

1. Women must be drafted when men are drafted.

"Supporters of the equal rights principle firmly reject draft or combat exemption for women, as Congress did when it refused to qualify the Equal Rights Amendment by incorporating any military service exemption. The equal rights principle implies that women must be subject to the draft if men are, that military assignments must be made on the basis of individual capacity rather than sex." (p. 218)

"Equal rights and responsibilities for men and women implies that women must be subject to draft registration if men are. Congressional debate on the Equal Rights Amendment points clearly to an understanding of this effect on the Amendment." (p. 202)

2. Women must be assigned to military combat duty.

"Until the combat exclusion for women is eliminated, women who choose to pursue a career in the military will continue to be held back by restrictions unrelated to their individual abilities. Implementation of the equal rights principle requires a unitary system of appointment, assignment, promotion, discharge, and retirement, a system that cannot be founded on a combat exclusion for women." (p. 26)

3. Affirmative action must be applied to equalize the number of men and women in the armed services.

"The need for affirmative action and for transition measures is particularly strong in the uniformed services." (p. 218)

4. We must recruit an equal number of women into the military academies.

"Because entrance to the academies enables a person to obtain the education necessary for officer status and advancement opportunities, the equal rights principle mandates equal access to the academies." (p. 27)

ERA Changes in the Family

1. The traditional family concept of husband as breadwinner and wife as homemaker must be eliminated.

"Congress and the President should direct their attention to the concept that pervades the Code: that the adult world is (and should be) divided into two classes — independent men, whose primary responsibility is to win bread for a family and dependent women, whose primary responsibility is to care for children and household. This concept must be eliminated from the code if it is to reflect the equality principle." (p. 206)

"It is a prime recommendation of this report that all legislation based on the breadwinning, husband — dependent, home-making wife pattern be recast using precise functional description in lieu of gross gender classification." (p. 212)

"A scheme built upon the breadwinning husband [and] dependent homemaking wife concept inevitably treats the woman's efforts or aspirations in the economic sector as less important than the man's." (p. 209)

2. The Federal Government must provide comprehensive government child-care.

"The increasingly common two-earner family pattern should impel development of a comprehensive program of government-supported child care." (p. 214)

3. The right to determine the family residence must be taken away from the husband.

"Title 43 provisions on homestead rights of married couples are premised on the assumption that a husband is authorized to determine the family's residence. This 'husband's prerogative' is obsolete." (p. 214)

4. Homestead law must give twice as much benefit to a married couple who live separate and apart from each other as to a husband and wife who live together.

"Married couples who choose to live together would be able to enter upon only one tract at a time." (p. 175)

"Couples willing to live apart could make entry on two tracts." (p. 176)

5. No-fault divorce must be adopted nationally.

"Consideration should be given to revision of 38 U.S.C. #101 (3) to reflect the trend toward no-fault divorce." (p. 159)

"Retention of a fault concept in provisions referring to separation ... is questionable in light of the trend away from fault determinations in the dissolution of marriages." (pp. 214-215)

6. The government must provide "paternity" leave for childrearing as well as maternity leave.

"A provision of Title 20 (#904) authorizes 'maternity' leave. To the extent that leave is authorized for childrearing as distinguished from childbearing, fathers as well as mothers should be eligible." (p. 213)

"In government schools overseas, leave may be taken by a teacher for ... 'maternity' purposes. ... Both male and female teachers may wish to take 'parental' leave to care for their infant children, and there is no justification for limiting such leave to female teachers." (pp. 106-107)

7. The role of motherhood must be restricted to the very few months in which a woman is pregnant and nursing her baby. Mothers are not entitled to any special benefits or protections for motherhood responsibilities beyond that.

"The references are to 'maternal' health or welfare and 'mothers.' Those terms would be appropriately descriptive only if the programs involved were confined to care for pregnant women and lactating mothers." (p. 212)

8. The law must not assume that a woman takes her husband's name upon remarriage.

"38 U.S.C. #3020 prohibits delivery of benefit checks to 'widows' [of veterans] whom the postal employee believes to have remarried, 'unless the mail is addressed to such widow in the name she has acquired by her remarriage.' As written, the provision implies that women automatically acquire a new name upon remarriage, an implication inconsistent with current law and the equality principle." (p. 156)

ERA Changes in Moral Standards

1. The age of consent for sexual acts must be reduced to 12 years old.

"Eliminate the phrase 'carnal knowledge of any female, not his wife who has not attained the age of 16 years' and substitute a Federal, sex-neutral definition of the offense ...: A person is guilty of an offense if he engages in a sexual act with another person, not his spouse, and ... the other person is, in fact, less than 12 years old." (p. 102)

2. Bigamists must have special privileges that other felons don't have.

"This section restricts certain rights, including the right to vote or hold office, of bigamists, persons 'cohabiting with more than one woman,' and women cohabiting with a bigamist. Apart from the male/female differentials, the provision is of questionable constitutionality since it appears to encroach impermissibly upon private relationships." (pp. 195-196)

3. Prostitution must be legalized; it is not sufficient to change the law to sex-neutral language.

"Prostitution proscriptions are subject to several constitutional

and policy objections. Prostitution, as a consensual act between adults, is arguably within the zone of privacy protected by recent constitutional decisions." (p. 97)

"Retaining prostitution business as a crime in a criminal code is open to debate. Reliable studies indicate that prostitution is not a major factor in the spread of venereal disease, and that prostitution plays a small and declining role in organized crime operations." (p. 99)

"Current provisions dealing with statutory rape, rape, and prostitution are discriminatory on their face. ... There is a growing national movement recommending unqualified decriminalization [of prostitution and the prostitution business] as sound policy, implementing equal rights and individual privacy principles." (pp. 215-216)

4. The Mann Act must be repealed; women should not be protected from "bad" men.

"The Mann Act ... prohibits the transportation of women and girls for prostitution, debauchery, or any other immoral purpose. This language, which is not confined to illegal acts but encompasses 'immoral' conduct as well, appears too broad and vague to the point where fair notice of the activity proscribed is hardly supplied. ... The act poses the invasion of privacy issue in an acute form. The Mann Act also is offensive because of the image of women it perpetuates. ... It was meant to protect from 'the villainous interstate and international traffic in women and girls,' 'those women and girls who, if given a fair chance, would, in all human probability, have been good wives and mothers and useful citizens. ... As the courts consistently proclaimed, the act was meant to protect weak women from bad men.'" (pp. 98-9)

5. Rape laws must be rewritten in sex-neutral language.

"A sex-neutral definition of rape ... should be added to Title 18 or Title 10 and referred to throughout for the definition of the offense." (p. 103)

"Current provisions dealing with statutory rape, rape, and prostitution are discriminatory on their face." (p. 215)

6. Prisons and reformatories must be sex-integrated.

"If the grand design of such institutions is to prepare inmates for return to the community as persons equipped to benefit from and contribute to civil society, then perpetuation of single-sex institutions should be rejected. ... 18 U.S.C. #4082, ordering the Attorney General to commit convicted offenders to 'available suitable, and appropriate' institutions, is not sex discriminatory on its face. It should not be applied, as it now is, to permit consideration of a person's gender as a factor making a particular institution appropriate or suitable for that person." (p. 101)

"Change the name and eliminate the single sex character of the National Training School for Boys. ... Change the name and eliminate the single sex character of the Federal Reformatory for Women as part of the larger reorganization of the Federal correctional system necessitated by the equal rights principle." (p. 103)

7. In the merchant marine, provisions for passenger accommodations must be sex-neutralized, and women may not have more bathrooms than men.

"46 U.S.C. #152 establishes different regulations for male and female occupancy of double berths, confines male passengers

without wives to the 'forepart' of the vessel, and segregates unmarried females in a separate and closed compartment. 46 U.S.C. #153 requires provision of a bathroom for every 100 male passengers for their exclusive use and one for every 50 female passengers for the exclusive use of females and young children." (p. 190)

"46 U.S.C. #152 might be changed to allow double occupancy by two 'consenting adults.' ... Requirements for separate bathroom facilities stipulated in Section 153 should be retained but equalized so that the ratio of persons to facility is not sex-determined." (p. 192)

ERA Changes in Education

1. Single-sex schools and colleges, and single-sex school and college activities must be sex-integrated.

"The equal rights principle looks toward a world in which men and women function as full and equal partners, with artificial barriers removed and opportunity unaffected by a person's gender. Preparation for such a world requires elimination of sex separation in all public institutions where education and training occur." (p. 101)

2. All-boys' and all-girls' organizations must be sex-integrated, because separate-but-equal organizations perpetuate stereotyped sex roles.

"Societies established by Congress to aid and educate young people on their way to adulthood should be geared toward a world in which equal opportunity for men and women is a fundamental principle. In some cases, separate clubs under one umbrella unit might be a suitable solution, at least for a transition period. In other cases, the educational purpose would be served best by immediately extending membership to both sexes in a single organization." (pp. 219-220)

3. Fraternities and sororities must be sex-integrated.

"Replace college fraternity and sorority chapters with 'social societies.'" (p. 169)

4. The Boy Scouts, the Girl Scouts, and other congressionally-chartered youth organizations, must change their names and their purposes and become sex-integrated.

"Six organizations, which restrict membership to one sex, furnish educational, financial, social and other assistance to their young members. These include the Boy Scouts (36 U.S.C. ##21-29), the Girl Scouts (36 U.S.C. ##31-34, 36, 39), Future Farmers of America ..., Boys' Clubs of America ..., Big Brothers of America ..., and the Naval Sea Cadets Corp. ... The Boy Scouts and Girl Scouts, while ostensibly providing 'separate but equal' benefits to both sexes, perpetuate stereotyped sex roles to the extent that they carry out congressionally-mandated purposes. 36 U.S.C. #23 defines the purpose of the Boy Scouts as the promotion of '...the ability of boys to do things for themselves and others, to train them in scoutcraft, and to teach them patriotism, courage, self-reliance, and kindred virtues. ...' The purpose of the Girl Scouts, on the other hand, is '...to promote the qualities of truth, loyalty, helpfulness, friendliness, courtesy, purity, kindness, obedience, cheerfulness, thriftiness, and kindred virtues among girls, as a preparation for their responsibilities in the home and for service to the community....' (36 U.S.C. #33.)" (pp. 145-146)

"Organizations that bestow material benefits on their members should consider a name change to reflect extension of membership to both sexes ... [and] should be revised to con-

form to these changes. Congress should refuse to create such sex-segregated organizations in the future. ... Review of the purposes and activities of all these clubs should be undertaken to determine whether they perpetuate sex-role stereotypes." (pp. 147-148)

5. The 4-H Boys and Girls Clubs must be sex-integrated into 4-H Youth Clubs.

"Change in the proper name '4-H Boys and Girls Clubs' should reflect consolidation of the clubs to eliminate sex segregation, e.g., '4-H-Youth Clubs.'" (p. 138)

6. Men and women should be required to salute the flag in the same way.

"Differences [between men and women] in the authorized method of saluting the flag should be eliminated in 36 U.S.C. #177." (p. 148)

ERA Changes in Social Security

The Social Security section in *Sex Bias in the U.S. Code* is hopelessly out of date. It has been obsoleted by Supreme Court decisions and statutory changes by Congress. There is no sex discrimination in Social Security today. The working woman receives the same benefit as the working man. The dependent-husband receives the same benefit as the dependent-wife. ERA should have no effect on Social Security.

ERA Changes in Language

1. The overwhelming majority of the 800 Federal laws that allegedly "discriminate" on account of sex merely involve the use of so-called "sexist" words which the ERAers are trying to censor out of the English language. About 750 out of the 800 changes in Federal laws demanded by the ERAers are ridiculous semantic changes. Here is a partial list of the specific words which *Sex Bias in the U.S. Code* wants censored out of the Federal laws. "The following is a list of specific recommended word changes." (pp. 15-16, 52-53)

Words To Be Removed

manmade
man, woman
mankind
manpower
husband, wife
mother, father
sister, brother
entryman
serviceman
midshipman
longshoremen
chairman
postmaster
plainclothesman
watchman
lineman
newsboy
businessman
salesman
duties of seamanship
"to man" (a vessel)
she, her (reference to ship)
he or she
her or him
hers or his

Words To Be Substituted

artificial
person, human
humanity
human resources
spouse
parent
sibling
enterer
servicemember
midshipperson
stevedores
chairperson, the chair
postoffice director
plainclothesperson
watchperson
line installer, line maintainer
newscarrier
businessperson
salesperson
nautical or seafaring duties
to staff
it, its
he/she
her/him
hers/his

2. In another piece of nonsense, *Sex Bias* demands that Congress create a female anti-litter symbol to match "Johnny Horizon."

"A further unwarranted male reference ... regulates use of the 'Johnny Horizon' anti-litter symbol. ... This sex stereotype of the outdoorsperson and protector of the environment should be supplemented with a female figure promoting the same values. The two figures should be depicted as persons of equal strength of character, displaying equal familiarity and concern with the terrain of our country." (p. 100)

3. On the other hand, *Sex Bias* shows its hypocrisy by demanding that the "Women's Bureau" in the U.S. Department of Labor be continued. Although the authors admit that this is "inappropriate," (it is obviously sex discriminatory), they simply demand it anyway.

"The Women's Bureau is ... a necessary and proper office for service during a transition period until the equal rights principle is realized." (p. 221)

What Sex Bias Proves

A fundamental error in *Sex Bias* is its statement that "The Constitution, which provides the framework for the American legal system, was drafted using the generic term 'man.'" (p. 2). The authors apparently didn't bother to read the U.S. Constitution. If they had, they would have found that the word "man" does not appear in it (except in a no-longer-operative section of the 14th Amendment, which is not in effect now and was not in effect when the Constitution was "drafted"). The U.S. Constitution is the most beautiful sex-neutral document. It exclusively uses sex-neutral words such as person, citizen, resident, inhabitant, President, Vice-President, Senator, Representative, elector, Ambassador, and minister, so that women enjoy every constitutional right that men enjoy — and always have.

Out of the "800 laws" that allegedly discriminate on account of sex, a half dozen changes might be worth making. *Sex Bias*' most constructive proposal is to extend Secret Service protection to the widower of a future female President just like the protection now given to the widows of our male Presidents. (p. 99) But for that, we hardly need a constitutional amendment or a radical revision of Federal laws!

Sex Bias in the U.S. Code is devastating to the ERA cause. It proves that the "equality principle" of the Equal Rights Amendment will bring about more extremist results than anyone has yet imagined. *Sex Bias* proves that ERA is extremist in its anti-family objectives and extremist in its trivial nonsense. *Sex Bias* proves that ERA is extremist in its assault on our moral standards and extremist in its attack on the combat-effectiveness of our armed services.

Above all, *Sex Bias* proves how the leading lawyers of the ERA movement intend to use the "equality principle" of ERA to bring about vast changes in our legal, political, social, and educational structures — and that they are working hard with our tax dollars to do it *either* by constitutional mandate *or* by legislative changes *or* by judicial activism.

Finally, *Sex Bias in the U.S. Code* proves conclusively that (a) there are NO laws that discriminate *against* women, and that (b) all claims that ERA will help women in regard to jobs or employment are false and fraudulent.

The Phyllis Schlafly Report

Box 618, Alton, Illinois 62002
ISSN0556-0152

Published monthly by The Eagle Trust Fund, Box 618, Alton, Illinois 62002.

Second Class Postage Paid at Alton, Illinois.

Subscription Price: \$10 per year. Extra copies available: 25 cents each; 6 copies \$1; 50 copies \$5; 100 copies \$8.