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How Will ERA Change State Laws?

How many disasters could be avoided if only we could look into the future and get a preview of the consequences of our actions! Would Congress have passed the Tonkin Gulf Resolution if it had been able to look through a magic window and see the consequences of that vote? Would states have ratified the income tax amendment -- or the prohibition amendment -- if a magic window had afforded them a look into the future? Would President Eisenhower have appointed -- or the Senate confirmed -- Earl Warren as Chief Justice of the Supreme Court if we had known what radical changes in our laws Warren would prescribe?

The answer to all of those questions is "probably no." There were gloomy Cassandras who predicted exactly what the consequences of those actions would be, but their forecasts were swallowed up by the overwhelming majorities who laughed at the dire predictions and enthusiastically voted aye.

Gloomy forecasters who have predicted unfortunate consequences for the Equal Rights Amendment have been generally treated with the same scorn as were the tiny minority who opposed the Tonkin Gulf Resolution, the income tax amendment, or Earl Warren's appointment. The predictions sounded too incredible to believe!

Yet, informed scholars believe that the Equal Rights Amendment will cause every bit as radical a change as the earlier historical events cited above. Dr. Jonathan H. Pincus, Professor of Neurology at the Yale Medical School, specifically phrased it this way to the Senate Judiciary Committee: "Is the Equal Rights Amendment to be the Tonkin Gulf Resolution of the American social structure?" He answered his own question in the affirmative. Starting from the premise that "a solid happy family life is the foundation of mental health and happiness," Dr. Pincus stated:

"I would predict that the Equal Rights Amendment and many of the other goals of its proponents will bring social disruption, unhappiness and increasing rates of divorce and desertion. Weakening of family ties may also lead to increased rates of alcoholism, suicide and, possibly sexual deviation."

What Happened in Maryland

Fortunately, in the case of the Equal Rights Amendment, we have a magic window to look into the future -- the experience of the state of Maryland. What has happened in Maryland is a microcosm-in-action of

what is in store for us nationally if the Equal Rights Amendment becomes the 27th Amendment to the United States Constitution. Maryland has shown us specifically how the Equal Rights Amendment will mandate changes in state laws.

Nationally, there has been considerable debate about what effect the Equal Rights Amendment will have on state laws and what changes will be required. Section 3 of ERA gives the state legislatures two years to bring themselves into conformity with the Equal Rights Amendment, if it is ratified. It is generally admitted that each state legislature will be required to amend 150 to 250 state laws in order to bring them into compliance with the new constitutional principle of "equal rights."

Technically, this often means changing the words man, woman, boy, girl, male and female, to "person," and changing husband and wife to "spouse." That may sound simple, or just a matter of semantics, but the actual results would be radical and sweeping in substance.

The reason why Maryland's experience is important is that, in the November 1972 election, Maryland voters approved an amendment to the Maryland Constitution which has the same wording as the Federal ERA: "Equality of rights under the law shall not be abridged or denied because of sex." This state amendment was vigorously promoted by all the feminist groups, by the Maryland Commission on the Status of Women, by the usual groups supporting ERA nationally, and by major segments of the media.

There was plenty of evidence available about the consequences of a state ERA. The Maryland Attorney General drew up a list of 227 state laws which would be affected by passage of the Maryland ERA. The Maryland Department of Legislative Reference stated: "The adoption of the amendment to the State Constitution as well as the adoption of the amendment to the Federal Constitution, *either or both*, would require the review and probable repeal of a wide variety of State statutes now making some distinction between the sexes and perhaps would modify court rulings throughout the entire area of family and domestic relations laws."

The voters ignored these warnings and passed the Maryland ERA.

After the new Legislature convened in January 1973, the chickens came home to roost. Senator Newton I. Steers, Jr. introduced 82 bills into the General Assembly to bring Maryland's laws into

conformity with the new Maryland ERA.

Then, a remarkable thing happened! When a hearing was held on these bills, the same groups which had demanded adoption of ERA attended the hearing and pleaded with the legislators not to go too far too fast! They voiced concern that women might have to pay alimony and lose other rights that women now enjoy. The women's liberationists were suddenly unwilling to assume responsibility for the equality they had been so militantly demanding.

One witness was Ellen Luff, legislative representative for the Women's Law Center of Baltimore, who testified: "There is no attempt on our part to avoid women losing some of their rights, but we think it ought to be done in a thoughtful manner."

Ms. Luff argued that Senator Steer's bills could lead to a situation in which a 50-year old woman could be required in a divorce case to go out and seek work after spending 30 years providing a home for her husband.

Acting largely on the advice of Ms. Luff and the Women's Law Center, the Maryland Senate Judicial Proceedings Subcommittee decided to be more "thoughtful" about depriving women of the rights they now possess, and buried the bills "for further study."

The Barbara Morris Report

The individual who deserves the credit for exposing the truth about what has happened in Maryland is Barbara Morris, a dedicated patriot who writes and publishes *The Barbara Morris Report*. Mrs. Morris did a valiant job of trying to alert Maryland

citizens before they voted on the state ERA.

After the hearing on Senator Steers' bills, she issued a press release, saying: "It would appear there is a determined effort to temporarily sweep these bills under the rug. As a result of the first hearing, bills were sent to a subcommittee for further study because 'libbers' were supposedly concerned about the effects of some bills.

"These people knew that passage of the Equal Rights Amendment would adversely affect laws relating to women, and I think their recent concern is phony.

"I believe there is a deliberate effort to hold off action on the worst of these bills so that states that have not ratified the Equal Rights Amendment cannot see the detrimental results of passage of the measure. I think they are waiting for a more opportune time to work for passage of the more obnoxious bills."

Mrs. Morris publicly called for hearings "on the worst of these bills." "We want them exposed to the public for what they are," she added. "We want the 'lib' groups and any tax-supported agency that promoted the Equal Rights Amendment to publicly defend these bills."

We are all indebted to Barbara Morris for her courage and careful research in making the Maryland story available to the rest of the country while there is still time to stop ratification of the Federal Equal Rights Amendment.

On the next page is a summary of the most obnoxious of the Maryland bills, and below is a news account from the *Washington Post* on the Maryland hearing.

Women's Rights Measures in Trouble

Maryland: Thoughtful Look

By Richard M. Cohen
Washington Post Staff Writer

1973

ANNAPOLIS, Feb. 1—Representatives of several women's rights organizations warned a male-dominated Senate committee today that in their efforts to legislate equality for men and women they were overlooking some differences between the sexes.

Testifying on a group of bills introduced by Sen. Newton I. Steers Jr. (R-Montgomery), they cautioned the Maryland Senate to slow the rush of equality measures until they could be studied for their impact.

The testimony was somewhat of a surprise for the male legislators, who over the years have learned to stifle their giggles as women have come before them to advance the cause of women's liberation. So surprised were they

by the presentation of one witness, that they sat silently for a moment and then complimented her on her testimony.

Steers' bills, all 82 of them, were introduced following an attorney general's opinion saying that 227 Maryland laws had to be amended if the state was to conform to its own equal rights amendment. The state constitutional amendment was approved by Maryland voters last November.

State Attorney General Francis B. Burch, in perusing the law, said that such legal relics as a law that prohibits any "female from using a musical instrument to solicit money" and others referring to sex crimes like rape would have to be amended to include men as well as women.

"There is no attempt on our part to avoid women losing

some of their rights," said Ellen Luff, legislative representative for the Women's Law Center of Baltimore. "But we think it ought to be done in a thoughtful manner."

For instance, Miss Luff implied that Steers had neglected some fundamental differences in a bill that would make the rape laws apply equally to woman as well as men. While she did not question that at some time, in some place some woman might have raped some man, she doubted, she said, that it was much of a problem.

In addition, she said, "There is a lot of discussion about the whole concept of rape. There are many women who feel that the crime should be abolished and made aggravated assault to make it easier to get a conviction." The answer to the problem, she said, was not Steers's bill, but a long-range study of the law.

Other bills under consideration, she said, ignored the different roles that men and

women usually have in society. For instance, she said, a proposal to have alimony laws apply equally to men as well as women ignores the fact that women generally earn less than men and are less able to provide for their children.

Other witnesses, representing the Maryland Commission on the Status of Women, the Women's Political Caucus of Montgomery County, the State Federation of Business and Professional Women's Clubs and the Women's Lobby Inc., generally supported the thrust of Steer's bill but also cautioned him not to proceed too far, too fast.

Steers, a little taken aback by some of the warning, told the committee, "I might say that some of the ladies, women, females, persons don't agree with each other. I think that's healthy. It shows they're getting more like men every day."

A hiss was heard from the back of the room.

Summaries of the Maryland Bills

Equality In Family Support

- S.B. 353 A bill to make a wife criminally liable for the support of her husband (just as a husband is criminally liable for the support of his wife). No exemption is provided for the wife if her husband is just lazy and doesn't want to work.
- S.B. 355 A bill to make a wife liable for her husband's debts (just as a husband is liable for his wife's debts). No provision is made to exempt a wife from her husband's debts even if he has deserted her and she has children to support.
- S.B. 396 A bill to delete the present protection of a wife's property from the debts of her husband.
- S.B. 343 A bill to equalize alimony so that a wife can be required to pay alimony to her husband.
- S.B. 293 A bill authorizing the court to require a wife to make weekly support payments to her husband and children (just as the court is now empowered to require this of a husband).
- S.B. 420 A bill which provides that a wife who is jailed for failure to support her husband, children or destitute parents may be released from jail in order to work at gainful employment under supervision of the Division of Parole and Probation.

Equality In The State Militia

- S.B. 287 A bill to make women automatically part of the State Militia. No exemptions are provided for pregnant women or women with small children. No provision is made for separate barracks and facilities.

Equality In Mental Institutions

- S.B. 357 A bill which eliminates the right of a female mental patient to be accompanied by a woman when transported to or from any facility.

Equality For Prisoners

- S.B. 397 A bill which eliminates the right of female prisoners to have separate facilities in county jails, correction or detention houses, and reformatories.
- S.B. 304 A bill to integrate male and female criminals of all ages in state prisons. No provision is made for separate sleeping and other facilities.
- S.B. 327 A bill to integrate boys and girls in state training and rehabilitation institutions. No provision is made for separate sleeping and other facilities.
- S.B. 457 A bill to authorize the use of women prisoners (as well as men prisoners) for labor on public roads if they are "physically able to work." No criteria are established for determining what is "physically able."
- S.B. 324 A bill to authorize payments for work on public roads or bridges to a convict's "spouse or children." Present law specifies a convict's "wife or children." This change would authorize the use of women prisoners for road work.
- S.B. 325 A bill providing for the State Roads Commission to make payments for convict road work to "the spouse . . ." Present law specifies "the wife . . ." This change would authorize the use of women prisoners for road work.

Other Kinds of Equality

- S.B. 282 A bill to eliminate preferential life insurance premium rates permitted for women. Present law permits the rates for women to be calculated as though they were three years younger -- a provision based on longer life expectancy for women.
- S.B. 320 A bill to "equalize" the laws against forced prostitution.
- S.B. 432 A bill to repeal certain protective labor legislation and equalize the compulsory work law.

Equal Rights in Action

Woman Guard at San Quentin

SAN QUENTIN, Calif. (UPI) Mar. 5, 1973 — Standing with her rifle on the gun rail above the inmates of San Quentin, the prison's first woman guard says she's not worried about working around 1,400 caged men.

But some of the men are upset about her.

Wilma Schneider, 31, of Senoma, a group supervisor at a state reform school for the past three years, quietly became the prison's first female correctional officer three weeks ago.

"I lived with the possibility I'd be clobbered or hurt for three years," she said. "I just hope if something happens, I'll be able to deal with it. I'm certainly not going to be running around watching the inmates fearfully.

"I'm convinced that women can be a real asset in here," she added. "I think they can help provide a more normal atmosphere for the inmates and even make life a bit more pleasant — if anything can be pleasant here."

The hiring of Mrs. Schneider for the \$753 a month post broke a 121-year tradition of male prison guards, or correctional officers as they are officially labeled in California, and immediately raised questions about some of her duties — such as supervising showers.

While Mrs. Schneider, a slender brunette who was recently divorced and has three small children, was convinced she could handle the guard job, San Quentin inmates voiced doubts.

The prisoners objected to her performing some of the guards' normal duties — supervising showers and making body searches of inmates.

The Men's Advisory Council, a group of elected convicts which investigates prisoner complaints, has started getting together a petition against women officers.

"I feel it is an invasion of my privacy to have a woman watching me while I'm taking a shower," said Edward Joines, 40, serving a manslaughter sentence. "It makes me feel small and uncomfortable and I just don't like it."

The woman guard said she sympathized with the men's feelings.

"All I can do is handle it the same way a doctor handles an examination; I'm not going to gawk at them. It will take time, but eventually they'll feel more comfortable with me around."

SAN FRANCISCO (AP) Mar. 28, 1973 — A San Quentin inmate has filed suit charging it is cruel and unusual punishment to have women guarding him, especially when one of them looks like his wife.

Lawrence Hand, 42, asked a U.S. District Court Tuesday to find that employment of women guards subjects him to "cruel and unusual punishment in violation of the 8th Amendment to the United States Constitution."

The prison recently hired two women correctional officers, Bonnie Briggs and Wilma Schneider, both of whom were named as defendants.

The convict said he has lost certain rights but personal modesty was not among them. He said his privacy is being invaded because the women guards watch him as he bathes and take care of his other personal needs.

Mother Ordered to Pay Child Support

WASHINGTON (AP) Feb. 24, 1973 -- In the first ruling of its kind here, a judge has awarded the husband in a divorce case custody of his three children and ordered the children's mother to pay child support.

Superior Court Judge George W. Draper based his decision on a little noticed change in the District of Columbia code three years ago. It shifts the obligations of child support from the father primarily to both parents equally.

Draper, explaining his action, said the logic of the statute change relates to what he called "the improved economic position of women generally in our society."

He ordered the mother to pay \$200 a month support payments, pointing out that she earns more than \$17,000 a year as a government agency chemist. Her husband earns roughly the same amount as a geographer.

In awarding the children, ages 9, 7 and 5, to the father, Draper said the father enjoyed a "warm, affectionate and caring kind of relationship" with them. The judge said the father did many "things a loving and concerned parent would do for and, more important, with his children."

An Excess of Equality

Common sense, it is often argued, will prevent excesses in application of laws which tend to break down separation between sexes. Even though it may be forbidden to make distinctions between men and women, the advocates of equal rights are fond of saying, there will never be such things as communal bathrooms.

How then are we to take the news that a woman security guard at San Quentin prison has been assigned the task, as part of her routine duties, of shepherding male prisoners in and out of the showers? Is this or is this not an example of over-reach in an effort to comply with the dictum that there must be no discrimination on the job? And if it is all right for a woman to hold down a job in a male shower room -- purely for official reasons, of course -- then is it equally OK for a man to handle the same detail in a women's prison?

What goes on behind bars does not necessarily set a standard for life on the outside. Few women — and no ladies — will approve of mixing of the sexes, San Quentin style. But when you use the laws to break down sensible barriers to separation, that's what you get. A law which says it's permissible for a woman to work in a men's shower out there in San Quentin must say, it follows naturally, that a man can hold a job in the ladies' room of a restaurant, theater, night club or wherever. How can the Libbers explain that to the rest of the girls?

—Editorial from the Charleston, S.C.,
Evening Post, Mar. 8, 1973.

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