The Phyllis Schlafly Report

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Women in Industry Oppose Equal Rights Amendment

The Equal Rights Amendment, if ratified by three-fourths of the States, would permanently outlaw all protective labor legislation, that is, the various State laws designed to give women employees particular benefits and protections not granted to men. These laws include such provisions as protecting women from being compelled to work too many hours a day or week or at night, the weight-lifting restrictions, provisions which mandate rest areas, rest periods, protective equipment or a chair for a woman who stands on her feet all day, laws which protect women from being forced to work in dangerous jobs such as mining, and the laws which grant more generous workmen's compensation for injuries to a woman than to a man. Women and unions have worked hard over many generations to achieve such legislation to protect and benefit women who do manual labor. If ERA is ratified, all such State laws will be wiped out in one stroke of the pen.

This immediate and absolute effect of the ERA is the reason why the AFL-CIO officially opposed ERA in testimony before Congressional committees in 1971, and officially opposed ERA in testimony before many State Legislatures in 1972 and 1973.

ERA proponents cannot dispute the fact that ERA would make it unconstitutional for any Federal or State law to protect or benefit working women over men. In order to avoid coming to grips with this issue of prime importance to the big majority of employed women, ERA proponents resort to various diversionary arguments.

Already Outlawed?

1. Congresswoman Martha Griffiths answers the protective labor legislation issue by saying that it is all *already* outlawed by Title VII of the Civil Rights Act of 1964. It is true that *some* labor legislation in *some* States has been invalidated by the courts under the Civil Rights Act. But not all, by any means. Just because the courts have knocked out *some* labor legislation is no reason to use the sledgehammer approach and knock it all out!

The important fact to keep in mind is that, to any extent that labor legislation has been knocked out by the Civil Rights Act, it can be restored by another amendment to the Civil Rights Act. But if it is knocked out by the U.S. Constitution, it cannot be restored except by the long and laborious process of repealing a constitutional amendment.

2. Ms. Wilma Scott Heidi, chairman of NOW, answers the protective labor legislation issue by arguing that it usually doesn't protect women in hospitals, hotels and mercantile establishments. This is a sour-grapes argument. We should not take benefits away from some women because others do not have them. Let's extend benefits to all women who do manual work.

Women Need Protection

3. The business and professional women who have appeared as witnesses for ERA before State Legislatures usually argue that protective labor legislation doesn't "protect" but instead discriminates adversely, and that protective legislation is obsolete and unnecessary in this modern technological age. This is the smug attitude of a business or professional woman who sits at a comfortable desk all day in a relatively clean and spacious office. She is the type of woman who finds intellectual fulfillment in her job, and she may want the opportunity to work longer hours at her comfortable desk for more pay and promotions.

This is not the point of view of the factory woman who works only to help supplement the family income, who stands on her feet all day in front of a machine, whose work may be sweaty or exhausting, and who is eager to go home to take care of her children. There are millions more factory women than there are business women, and it is grossly unfair to the factory woman to wipe out the legislation which now protects her from a company which may order her to work a second 8-hour shift, an extra 4-hour shift, seven days a week, or assign her to heavy-lifting, dangerous or unpleasant jobs as they may arbitrarily assign male employees.

Only if ERA is permanently rejected will women be protected in their right to have overtime on a voluntary basis and their right to reject heavy and dangerous work without penalty.

At one of the State Legislative hearings, a business woman appearing as a witness for ERA confidently argued that, in this technological age, women no longer need a law which requires a company to provide a chair for a woman. It comes with exceedingly poor grace for a woman who sits at a comfortable desk to demand legislation which will deprive a woman who stands on her feet all day of the right to have a chair.

The "restroom argument" is always brought up by the ERA proponents in an effort to ridicule the opposition. ERA proponents always pitch the "restroom argument" in the context of both sexes sharing a restroom in the home, on planes, or in executive offices. ERA proponents who ridicule the

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Testimony of Myra K. Wolfgang
Before the Michigan Senate Committee on the Judiciary
April 18, 1972

My name is Myra K. Wolfgang. I reside in the City of Detroit, State of Michigan. I am an International Vice President of the Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO, and Secretary-Treasurer of its Detroit Local 705. I am a member of the Michigan Wage Deviation Board, and am now a member of the Michigan Women's Commission (formerly known as the Governor's Commission on the Status of Women). I have served on the Commission since its inception, having been appointed by Michigan's last three Governors, Democrat and Republican.

I am grateful for this opportunity to tell you why I am firmly opposed to the ratification of the so-called Equal Rights Amendment, by the State of Michigan.

The fact that the United States Congress overwhelmingly passed the Equal Rights Amendment does not justify the Michigan Legislature voting for its ratification without fully understanding the impact it will have on the women of this State and Country. The assumption that many of you are making that men will receive the same protection against excessive physical exertion through labor standards legislation that women now have, is as erroneous as the assumption that any "Right to Work Law" guarantees a job to anyone.

Those who say that passage of the so-called Equal Rights Amendment will not invalidate any of the necessary protections and benefits that have been extended to women by statute are getting their pot from Shangri-La. In fact, nothing in the Amendment prohibits the reduction of present benefits and privileges as a means of complying with the equality standard set out by the Amendment.

William Rehnquist, Assistant U.S. Attorney General, in discussing the Equal Rights Amendment has said: "It seems relatively clear that most if not all of protective laws applying only to women would be invalid under the proposed Amendment. The difficult question is what would be the consequence of finding such laws invalid when applied only to women. Some proponents have attempted to apply a benefit-burden test: genuine benefits would be extended to men, burdens would simply be stricken. There are a number of problems going beyond even the difficulty of determining which laws impose a burden and which extend a benefit. In fact many of the laws are seen as a burden on women, chiefly because they put them at a competitive disadvantage with men. If the options are simply to apply a given protective law (e.g. minimum wage) to all or to none, a court required to decide whether it was a benefit or a burden would be forced to decide a much-debated social issue quite unrelated to sex discrimination. Another problem with that solution is that courts would probably be far more hesitant to extend to the male majority a law originally passed to 'protect' a minority of female employees than to eliminate the 'benefit' for the women. To extend a maximum hour law to men, for example, would seem more like judicial legislation than to strike it down as to women. In sum, we believe the likely effect of the Amendment would be to subject women to the labor rules currently applicable to men."

The "Psychological Uplift"?

The Equal Rights Amendment, pushed through Congress by a vocal, if relatively small group of misguided middle-class feminists, will, if ratified by the States, wreak untold havoc in the lives of the great majority of American working women. The "unisex" rhetoric of some feminist organizations -- however loud -- can no longer be allowed to replace reason. The working class women of America cannot afford to pay for the "psychological uplift" of a few of their more fortunate sisters, nor can they afford the assumption that the Equal Rights Amendment is simply a "statement of policy." Gentlemen, this is a Constitutional Amendment you're being asked to ratify.

I am not necessarily opposed to Constitutional change *per se*, but I would hesitate to change the orbit of our world in order to get rid of the smog. That the proposed change in our Constitution is submitted on the grounds that the Amendment will expand the equality concept of that instrument, makes it all the more serious. The fact that you consider this matter in the tumult of sexual confrontation that reaches into the homes of every American, makes your decision all the more important. It's not a pot that you are about to tinker with, it is the needs and the wants of the overwhelming portion of the women of America.

Our Constitution was based upon the best of man's thinking down through the ages. We know that the very foundation of all government worth having, is predicated upon laws designed to protect the unequal, those who are smaller and less strong, from those who are larger and stronger. Let's keep it that way.

I am fully aware of all the inequities visited upon the women of America. The question is not whether discrimination based on sex is pervasive and destructive -- we know it is both; but rather how best to remedy such discrimination. Not all the laws that treat men and women differently are discriminatory nor should they be abolished.

Yet, the Equal Rights Amendment will permit no difference in the law. It will do little to solve the many serious existing problems of sex discrimination. I oppose the Equal Rights Amendment because:

1. It will not bring about equal pay for equal work, nor guarantee job promotion free from sex discrimination.
2. It does not apply to the private sector of the community where the greatest amount of discrimination exists.
3. It will reach into the work force where "equality" cannot always be achieved through "identity of treatment."

Use of the law in an attempt to conjure away all the differences between the sexes is both an insult to the law itself and a complete disregard of fact. The contention of the proponents of the Equal Rights Amendment that the vulnerable woman down at the bottom of the ladder will in the long run be pulled up by the Equal Rights Amendment is outrageously optimistic.

Unfortunately, the only way to go is not up. Far more likely, a good many women would be forced off

the job ladder altogether, preferring the purgatory of existence on Aid to Dependent Children (ADC) to the hell of back-breaking, home-wrecking compulsory overtime -- overtime that would be required if State protective legislation is abolished.

The pie in the sky, so generously proffered by the advocates of the Equal Rights Amendment, must seem like a cruel joke to women who have no hope of reaching it. Just try telling a woman obliged to work a 60 or even a 70 hour week, as well as meet her family responsibilities, that the Equal Rights Amendment should boost her "morale, aspiration and fighting spirit."

The middle-class women who push for the ratification of the so-called Equal Rights Amendment will, at best, be "liberating" only themselves -- at the price of adding to the exploitation of the 64% of the female working force who hold low-paying or menial jobs and who desperately need what protection they now have. Our goal should be to humanize working conditions for all, not to de-humanize them for women in the name of equality.

Overtime for Women?

For an example, hours-limitation laws for women provided them with a shield against obligatory overtime to permit them to carry on their life at home as wives and mothers. While all overtime should be optional for both men and women, it is absolutely mandatory that overtime for women be regulated because of her double role in our society. . . .

At the time that State protective legislation was initiated, there were relatively few women in the labor force, yet, society recognized the need to protect women workers. At present, there are more than 30,000,000 women in the labor force. Almost 60% of them are married and living with their husbands. Working mothers constitute 38% of all working women. Obviously, the majority of women workers have domestic responsibilities, and a very substantial number of them, almost 11,000,000, have children under the age of 18 years. Even with the 40-hour work week, such women -- between their paid employment and their many hours of cooking, cleaning, shopping, child-care and other household duties -- work arduously long hours. While millions of women are in the work force, they have not been released from home and family responsibilities. The women I'm talking about can't afford domestic help. . . .

Though court decisions and Attorney-Generals' opinions have held that the Civil Rights Act of 1964 makes hours limitation laws, applying to women only, illegal, many women working for small employers are not covered by the Federal Law and are still protected from excessive overtime work by State Law. The Equal Rights Amendment would repeal the Michigan law that says that no woman shall work more than ten hours a day or 54 hours a week.

You must understand that the overwhelming portion of women who work, need to work. They need their job and the income it produces. Where women are unorganized, and that means more than 85% of them, they depend solely upon their employer's understanding of their home responsibilities. In most cases, he is a man more concerned with meeting production standards than he is for his female workers' children's safety and well-being.

Fortunately, for the vast majority of waitresses, maids, kitchen employees, that we represent, our Union contract makes overtime optional for both sexes. In Michigan, however, only 25,000 culinary employees, out of the 150,000 workers, are organized and covered by such provisions.

The "take it or leave it" attitude of most of the employers on this matter is notorious. Especially is this true during periods of recession and a shrinking labor market. The person who glibly states that no one has to work overtime, if they don't want to, does not understand that, when there are not enough jobs to go around, people fight to keep those that are available. Thousands of women, because of economic necessity, will submit to excessive hours in order to obtain or hold a job. Thousands will work excessive hours out of fear of discharge, particularly when they see some of their Legislators calling for the nullification of protective legislation by urging ratification of the Equal Rights Amendment -- and in the name of "equality" yet!!

Anyone who thinks of the sweatshop as a quaint relic of the evil past is kidding himself. Profit is still the name of the game, just as it was in the heyday of *laissez-faire*. It is not any notable improvement in employer morality that gives us better working conditions than we had in the 19th Century. It is labor standards legislation and the trade unions that give us better conditions.

The reason for protective legislation for women is not mysterious, nor is it founded entirely in male chauvinism or sexist attitudes. Women, despite all the denials of the obvious, have different bodies and different social roles than do men.

Is a man who works 60-72 hours a week confronted with the same problems that, say, the mother of three children working 60-72 hours a week is? Don't talk theory to me, tell me the practice. In the first place, men are better able to work overtime than women. Repeated studies have shown that women's accident proneness and efficiency drop substantially, after long hours of work, more than men doing the same job.

In the second place, who of the two is held responsible by society for the health,care and safety of children? Let the kids answer as they bob into the back door after school with a "Where's Mom?"

"Shared Roles" Illusion

And while you're at it, ask the average woman about the "shared roles" ideology that is so popular with the neo-feminists. She'll tell you that she still bears the primary responsibility for her home and children. She may not phrase her reply so politely, at that. For let's face it -- the "shared roles" ideology is just an ideology as far as most women are concerned. The average working mother and homemaker is going to be doing her outside job as well as meeting her family responsibilities. She will have little or no help at her second job at home. If she has a husband at home -- and is not widowed, divorced, separated or unmarried, as many working women are -- she will probably not find him very eager to put on an apron and do dishes, or to bathe the children, or to cook dinner, or to do the laundry. Unjust as this may well be, it's the way things are. If you think you're going to "enable" women to share their roles by an Equal Rights Amendment, better ask the average husband how he feels about housework. All the Equal Rights Amendment will do, in most cases, is make the role of the working women harder, by removing the legislation that protects her in outside employment, and sending her home to her second job exhausted.

Unless we are foolish enough to imagine we can re-structure in one broad sweep our entire society, we will realize no Equal Rights Amendment can alter the traditional role of women, not only as the bearer of children, but also as the one responsible for their care,

their growth and development. This being the case, "sameness" of treatment will never result in true equality. The Equal Rights Amendment, however, prohibits any legal differentiation between the sexes and compresses all relationships into one tight formula. This can't be done. There are many laws that now differentiate between men and women, and indeed, they should.

Consider family support laws, for example. It is very doubtful that women would agree that a family support law is a curtailment of their rights. Divorced, separated or deserted wives struggling to support themselves and their children may find their claims to support even harder to enforce with the ratification of the Equal Rights Amendment, than they are right now. Can it be said that the treatment everywhere accorded wives regarding support is a manifestation of male oppression or chauvinism or domination?

Equal Rights Amendment supporters assure us maternity leaves are not a discrimination and will not be outlawed by the Equal Rights Amendment. This may appear logical, but certainly inconsistent in that they tend to ignore the fact that babies are not just born, they also must be cared for by someone. . . .

Spurn the Simplistic Solution

Sad to say, the temper of our times demands instant solutions, all purpose panaceas and in the mad rush for "equality" some women have overlooked or ignored the complexity and ramifications of the problems involved. They demand "equal rights" for themselves, and don't seem to care who pays for their privileges. They betray the working class woman, whom they are so quick to call "sister" and whom they are so slow to understand or consider. Surely, opportunities for some women should be achieved without removing the desperately needed protection of others.

It's one thing for a professional woman to talk about fulfillment through her job. It's another story for a woman who supports her family by scrubbing out other peoples bathrooms.

It's one thing for a professional woman who can hire domestic help to talk about the "right" to work overtime. It's another story for the average working mother who cannot work overtime.

It's one thing for middle class feminists to talk about the "psychological uplift" of the Equal Rights Amendment. She can afford a brief high. Her working sisters will have to pay for her "fix". When the National Organization for Women calls the passage of the Equal Rights Amendment "a giant step for womankind" they are not all wrong. They just have their directions mixed up. The giant step is a backward one.

It is your duty to refuse to accept the simplistic, spurious solution to sex discrimination proffered by the proponents of the Equal Rights Amendment and to work instead for specific bills for specific ills. The Equal Rights Amendment is as dangerous to the majority of women as is the discrimination it falsely purports to end. Don't be taken in by the myth that all women are for the Amendment. This simply is not so. . . .

There is little difference between the behavior of the proponents of Prohibition and the 18th Amendment with their sin and hatchet movement, terrorizing the people of America, 50 years ago, under the slogan "Beat Booze, Beezlebub and Bastardy with God and Volstead", assaulting all opponents as back-sliders, as agents of Satan, than there is in the conduct of some feminists in an election year shouting down all opposition, all reason, all discussion with such appellations as "traitors," "Aunt Toms," and "chauvinists."

Thousands of women of America have been hoodwinked into thinking that equality can be gained with slogans and progress made with sorcery. It can't be done and, should this Amendment be ratified by the States, then I predict it will ultimately meet the same fate as did the 18th Amendment. Recourse to law is but a small part of the struggle for equality. The tragedy of Prohibition proved that amending our Constitution didn't change our habits, our thirsts, or the people governed by its provisions. . . .

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"restroom argument" are simply proving that ERA is an elitist, upper-middle class cause that has no relevance to the big majority of working women. The restroom argument is meaningful to the woman who works in industry. She knows that the women's restrooms are much pleasanter places than the men's and are often equipped with a couch. They are places where she can escape for a few moments of rest each day from the drudgery of a manual labor job. She knows that protective labor legislation has mandated rest periods and rest areas for women, and that such laws, supplemented by union contracts and company policies, guarantee her right to be treated like a woman -- and she likes it that way.

The patronizing attitude of some business and professional women shows clearly that they neither understand nor represent the needs or desires of women who work in industry or in manual labor jobs. President Nixon's Council on the Status of Women, which endorsed ERA, was wholly dominated by business and professional women and had no representation from women in industry.

Extend Protection to Men?

4. Some young and inexperienced proponents of ERA have argued that, if certain jobs are so hard, dangerous, and unpleasant, men should not be required to do them any more than women, and that, if protective labor legislation truly "protects", ERA will automatically extend that protection to men also. Such arguments are not only invalid, but completely out of touch with the realities of economic life.

There are thousands of jobs in industry which are strenuous, hard, unpleasant, dirty and dangerous which men can and will do, and for which they receive good wages, but which women don't want to do and should not be compelled to do. To abolish these jobs would eliminate thousands of necessary and well-paying jobs and grossly reduce the American standard of living. Eliminating them would benefit neither women nor men. But legislation can and should protect women from being forced to take them.

Nobody but a starry-eyed neophyte could believe that industry will assume the cost of upgrading women's benefits to include men. The AFL-CIO testimony calls this belief "particularly unrealistic" and accurately states: "Nothing in the Amendment prohibits the reduction of present benefits and privileges as a means of complying with the equality standard set out by the Amendment."

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