The Phyllis Schlafly Report

VOL. 15, NO. 9, SECTION 1 | BOX 618, ALTON, ILLINOIS 62002 | APRIL, 1982

Defending the Economic Life of the Family

Many previous issues of this newsletter have dealt with defending of the traditional family unit against legal, social, moral, and psychological attacks. This newsletter addresses some of the economic attacks on the traditional family. It is every bit as important for pro-family Americans to be as concerned about the economic integrity of the family as about its moral, social, and legal integrity.

IRAs Discriminate Against Homemakers

Why do federal tax laws discriminate against the traditional family and against the dependent-wife who is a career homemaker? Why does the federal tax code give tremendous financial advantages to wives in paid employment but deny those advantages to women who choose to be traditional wives and mothers?

The Individual Retirement Accounts (IRAs) are a prime example of the financial discriminations in our tax laws which are eroding the economic integrity of the family unit. Hundreds of millions of dollars have poured into IRA accounts, yet they are patently discriminatory against the traditional family.

The IRA offers tremendous financial advantages. It allows any wage earner to put $2,000 into an Individual Retirement Account. That $2,000 is tax free now, and so is all the income it produces for the rest of your life until you start drawing your retirement (which can be anytime from age 60 to age 70).

The discriminatory part is that, if both the husband and wife are wage-earners, they can *each* get the $2,000 benefit, for a total of $4,000 per year. But, if only the husband is a wage-earner and his wife is a traditional homemaker, the couple is limited to an IRA total for *both* of them of only $2,250 per year.

This financial discrimination against traditional one-earner families, and especially against dependent-wives and mothers, amounts to $1,750 per year plus lifetime interest. Over 20 to 30 years, the traditional homemaker would pay a terrible price for her choice of career.

IRA accounts started in 1975. Their current popularity and importance are caused by two facts: (a) the Reagan tax package increased both the amounts that can be salted away in IRAs and the kinds of persons who can create IRAs, and (b) current high interest rates make it so desirable to avoid paying income tax on interest-income.

The Reagan tax amendments increased the maximum that can be placed annually in an IRA from the lesser of $1,500 or 15% of the individual's earned income, to the lesser of $2,000 or 100% of the individual's earned income. The Reagan tax act also allows millions of additional people to set up IRAs who were previously excluded because they were under an employee pension plan or Keogh plan.

Two basic concepts of the IRAs remain the same. IRA benefits are limited to those who have *earned* income; income from savings, investments, social security, gifts, or husband's support cannot be counted. An IRA is an *individual* account for the exclusive benefit of *one* person; joint ownership is forbidden; the individual has the exclusive right, at any time, to designate or change his beneficiary.

Where both the husband and wife are employed, each spouse can set up an IRA and place up to $2,000 per year into it. However, neither spouse has any claim whatsoever on the other's IRA, and once the money is put into separate IRAs, it is locked up until retirement and cannot be shifted between the two accounts.

Assume the case of a couple that can afford to lock up only $2,000 a year instead of $4,000 in IRAs. They must decide right now how to allocate the $2,000 between the husband's and wife's account, and that decision can never be changed.

In a marriage where only the husband is employed, he can put a total of $2,250 into IRAs, which can be divided any way between his own IRA and the "spousal IRA." That is, he can put a maximum of $2,000 into either IRA and $250 into the other, or he can put $1,125 into each IRA. *But* this is still $1,750 less than the $4,000 that a two-earner couple can put each year into IRAs.

Note that an IRA cannot be jointly owned, but must be two separate IRAs, one owned by the husband and one owned by the wife. Once the division of money is made, it cannot be changed, and the money is locked up until retirement. The dependent-wife does not get

any vested or accrued benefit (as she does in Social Security). She can get only as much IRA retirement as her husband chooses to give her, whereas he can take the full amount and then name his girl friend or a future wife as beneficiary.

The traditional security and benefit which wives enjoy from joint tenancies and from the community property laws of eight states are specifically forbidden by the IRA law. The federal tax law limits an IRA to "the exclusive benefit of an individual and his beneficiaries" and exempts IRA from "any community property laws."

It is clear that the federal tax laws discriminate against the dependent-wife in the home in an unfair and financially costly way. This discrimination is shocking and should be eliminated immediately.

Should Fathers Support Their Children?

The most emotional and appealing of the unremitting attacks on President Reagan's economic program is the bleeding-heart coverage of how budget cuts will close child-care centers, cut welfare payments, and generally leave little children without care, food or shelter. How could the Reagan Administration be so cruel and heartless?

It's time for society to face up to the moral, social, and financial questions involved. Shouldn't low-income fathers have the same obligation to support their children which middle- and upper-income fathers have traditionally shouldered?

When Aid to Families With Dependent Children (AFDC) was established in the Social Security Act of 1935, it was assumed that most recipients would be wives and children of deceased or disabled fathers. A big change started in the 1950s; by the 1980s only 4% of the fathers of AFDC recipients were deceased or disabled.

In the 1950s the social service professionals who administered the program began to turn on the faucet of AFDC payments without making any attempt whatsoever to collect support payments from the father. They treated him as simply irrelevant. A new generation of fathers came into being whose attitude was, as expressed in one typical case in New York City Family Court, "She doesn't need help from me. She's on welfare."

The social service professionals concocted a smokescreen to conceal their new policy and its impact. The more candid ones said that the notion that fathers should ordinarily be regarded as the primary source of support for their children is an outdated "stereotype" and should be replaced by the concept that government must guarantee an adequate income for people in whatever lifestyle they choose to follow.

The professionals who wanted to conceal their ideology would assert: "The fathers can't be found; if found, they will not admit paternity; if they do, they do not earn enough to provide support, etc." A mountain of factual evidence is available to disprove all those claims, as shown in Blanche Bernstein's recent article in the magazine *The Public Interest* for Winter 1982.

It's pretty clear that the social service professionals simply looked upon AFDC as a conduit to redistribute income from taxpaying Americans to nontaxpaying Americans. The indiscriminate handouts of welfare funds became a prime tool in the hands of the liberals who want to restructure society.

When Congress saw what was happening, it tried to put its finger in the dike by passing Title IV-D of the Social Security Act. This was designed to promote an aggressive effort to locate absent fathers and require them to make support payments for their children.

After several years of experience with this law, enough evidence is available to indicate that it will work where states try to make it work, and it won't work if they don't. The "Child Support Enforcement Statistics" for 1980, published by the Department of Health and Human Services, show the percentage of Title IV-D cases with successful child-support collection ranged from 43% in Massachusetts, 32% in Connecticut and 22% in Michigan all the way down to 8% in New York and Illinois.

It is interesting to note that, when the child-support collections are compared in dollars (rather than in number of cases, as in the preceding paragraph), Michigan has the best record of all and New York and Illinois the worst. Yet, Michigan has the worst economic problems in the country today, plus one of the highest welfare benefit payment standards.

The difference is the willingness of the Michigan courts to enforce the law plus the cooperation of the unions. The auto companies and the UAW cooperate in enforcement, including use of payroll deduction orders.

The main problem we face is that the liberals have created a climate of opinion among judges, bureaucrats, and social service professionals which is antagonistic to the concept that a father should have the primary obligation to support his own children. The social and financial costs of allowing this situation to continue are horrendous.

Nothing could do more to stabilize the family than an aggressive program to enforce the traditional obligation and function of fathers. And, incidentally, it would be the best way to cut the increasing costs of the welfare burden.

Affirmative Action In Jobs?

Eleanor Holmes Norton, former chair of the Equal Employment Opportunity Commission, has demanded that Affirmative Action for women be militantly enforced both by the EEOC and the Office of Federal Contract Compliance in the Labor Department. "No single form or combination of forms of discrimination have for us the priority we attach to maintaining and strengthening Affirmative Action," she asserts. She explicitly urges the use of "numerical indicators," which she defines as quotas, goals and timetables.

Norton passionately defends the "effects" standard which places "responsibility on the employer to intervene into systemic patterns." Translated into plain English, that means the employer is always guilty, regardless of his intent or good-faith efforts, if he doesn't produce up to 50 percent women in every job category.

Affirmative Action is a system of reverse discrimination in which an employer is required to set minimal qualifications for each job category, and then to hire by quota from the pool of persons who meet the minimal qualifications. This denies the employer the right to hire the *most* qualified person, and it often results in hiring or promoting the less qualified woman in preference to the more qualified man.

The supposed rationale for the forced hiring of women is to remedy past discrimination. But it is fundamentally unjust because (a) it punishes a man who committed no wrong, and (b) it rewards a woman who was never wronged. The woman who receives a benefit today is not the one discriminated against a generation ago.

There is no more justification for giving women preferential job treatment today than there would be for giving women two votes on the rationale that, a half century ago, many women were denied the suffrage. Women are just as smart as men, and they should be willing to compete with men for jobs on an equal, not preferential, basis.

Affirmative Action for women not only discriminates unjustly against the male worker, but also against his dependent wife in the home whose livelihood depends on the single income brought home by her provider husband. All over the country, I meet women who tell me, "My husband has been told not to expect a promotion for ten years because the government says all the promotions must go to women."

At the union hiring halls, it is easy to find many unemployed skilled workers who are deprived of their ability to support their families because the government has forced the employer to hire an artificial quota of women even though most women physically cannot do the job of a laborer or a carpenter, etc. Small contractors say they can't make ends meet because they must hire and pay a full wage to women who have not met the qualifications and cannot physically do the work that available men can do.

Affirmative Action was dramatized by a woman who phoned in on a Chicago radio talk show. She had an Affirmative Action production job in a steel plant in Gary, Indiana. She said, "I'm making $18,000; my husband is making only $17,000." Why did she call in? In order to say it's the job of the government to provide child-care for her new baby.

Affirmative Action thus induced a young mother to take a job she didn't need and physically couldn't do as well as available men (have you ever been through a steel plant?), took a job away from a steelworker trying to provide for his family, and then created an artificial demand for the government to take care of babies. The forced quota hiring of women in steel production has proved so financially costly for steel mills (because employers have to pay the costs of women's much higher accident rate) that some steel plants now assign the women to just stand and do nothing while men do their work.

Affirmative Action for women is unjust, discriminatory, and was never intended by federal law. Affirmative Action is simply incompatible with the principle of equal employment opportunity, which is a far better method of achieving fairness in the job market.

The biggest problem our country faces today is inflation, and the second biggest problem is unemployment. Most people are working harder and having less to show for it at the end of each pay period. What is the most socially just way of coping with the problem of more people searching for jobs than there are jobs? The best way is to give the job to the most qualified and capable, based on equal employment opportunity.

Servicemen And Their Families?

In July 1981, the U.S. Supreme Court decision in *McCarty v. McCarty* reversed a state court decision which had awarded 45 percent of a serviceman's pension to his divorced wife, as required by that state's family property law. The McCarty marriage had endured for 18 of the 20 years required for a serviceman to receive military retirement pay. The state court awarded 45 percent on the premise that military retirement pay, like a typical pension, represents deferred compensation for services performed during marriage.

Relying on the Supremacy Clause and the doctrine of federal preemption, the Supreme Court held that federal military retirement statutes and state community property rights conflicted, and that the federal interests must prevail. The Court ruled that, since the federal law gives pension rights exclusively to the serviceman, the state court is forbidden to divide the pension rights and apportion up to half to the wife.

The Supreme Court decison was wrong, *first*, because family property law and divorce settlements have always been, and should remain, a matter of state law; and *secondly*, because the decision removes a financial disincentive to divorce. It should be public policy to encourage intact families rather than to encourage divorce.

This is not an issue of sex discrimination at all because both the statute and the Court ruling are sex-neutral. A servicewoman's divorced husband is treated just as badly as a serviceman's divorced wife.

But it is a matter of family discrimination. A serviceman's wife contributes a great deal to his career success in the Armed Services. Public policy should not allow her to be cut off penniless while the pension rights she helped to earn over two decades are given to a new wife.

Later in 1981, the U.S. Supreme Court handed down another anti-family decision called *Ridgway. v. Ridgway*. This miscarriage of justice allowed a serviceman to evade his responsibility to provide for his minor children.

The Servicemen's Group Life Insurance Act of 1965 gives servicemembers the right to choose their insurance beneficiaries. As part of his freely negotiated divorce settlement, Ridgway agreed to retain his children as his insurance beneficiaries. Four months after his divorce, Ridgway remarried; six days later he changed the be-

neficiary to his new wife in defiance of the state court order; shortly thereafter, he died.

The Supreme Court let Ridgway get away with his fraud and breach of trust on the ground that the federal law must take precedence. Yet, it was obvious that Ridgway was consciously evading his obligation to support his minor children.

The real problem posed by these cases is that the easy, no-fault divorce laws adopted in recent years have made it possible for a husband to walk out on his wife and children without financial penalties. Both *McCarty* and *Ridgway* provide new incentives to divorce because they allow a serviceman to evade his obligation to support his family.

The Supreme Court in both cases recognized the injustice of these results and expressly invited Congress to remedy the situations if it chooses. Congress should accept this challenge and move speedily to overturn both decisions.

The End Of The Widow's Tax

The "widow's tax" is the label created by the feminists to describe the trauma that a recently bereaved widow suffers if her late husband failed to do adequate estate planning and then the tax collector decrees that jointly-owned property must be taxed in the estate of the deceased spouse unless the surviving spouse can prove that she contributed to its value in money or other full and adequate consideration.

That was the law for many years. Of course, the law (26 U.S.C. 2040(c)) is sex-neutral, but it obviously impacted more widely on female spouses because they tend to outlive their husbands. The result was that, upon the husband's death, federal estate (death) taxes had to be paid on all their property unless she could prove she paid for it.

Many wives, particularly homemakers, don't contribute cash or capital toward the purchase of the family home or other property. But they work in it and they certainly do consider it at least half theirs, especially if it is titled in joint names.

In the last decade, rapid inflation has escalated land values so much that the federal estate tax could force the sale or all or a portion of the property. While the estate tax is on the *value* of the property, regardless of whether it is a farm, a residence, stocks and bonds, or cash, the sale of family-owned farm land to pay a husband's estate tax has been the most visible and resented aspect of the widow's tax.

President Ronald Reagan's Economic Recovery Tax Act has totally repealed the "widow's tax." Under amended Section 2040 of the tax code, effective Jan. 1, 1982, property held jointly by husband and wife will be treated as owned 50 percent by the husband and 50 percent by the wife upon the death of the first spouse.

This new rule applies even though the husband may have furnished 100 percent of the consideration for the property. As a result, only 50 percent of the value of joint property is considered as part of the husband's gross estate if he is the first to die.

Under amended Section 2056, there is now also an unlimited estate tax deduction for any property passing to a surviving spouse. As a result, a husband's entire estate, no matter how large, may now pass to his widow without having to pay any federal estate tax whatsoever.

The combined effect of these two amendments is that all property jointly held by husband and wife passes to the survivor entirely free from any federal estate (death) tax when the first spouse dies. Half the joint property's value is deemed to be already owned by the survivor (under Section 2040), and the other half passes to the surviving spouse free from tax (under Section 2056).

Under amended Section 2523, there is now an unlimited gift tax deduction for property given by one spouse to the other during the donor's lifetime. The unlimited deduction also applies to the creation of a joint tenancy between spouses (which previously would have constituted a taxable gift).

Ronald Reagan was correct in dismissing as a "bum rap" any accusations that his Administration does not address issues affecting women. He has proved in a financially-meaningful way that he is pro-women and pro-family.

The Wife's Benefit in Social Security

The Social Security retirement benefit paid to the fulltime homemaker has been an important part of the system for more than 40 years. Social Security is thus one of the most pro-family and pro-women institutions in America: it recognizes the social value of the career homemaker who devotes her life to her family.

The women's liberation movement has worked for years to wipe out this benefit. The macho-feminists succeeded in getting the Carter Administration to publish an official proposal to eliminate this benefit, or, alternatively, to impose a double tax on the traditional family for the privilege of receiving the same benefit the wife receives now. These proposals were set forth in a Social Security Administration document called "Social Security and the Changing Roles of Men and Women," published in 1979. If this plan had been voted by Congress, it would have imposed such heavy financial economic penalties on the traditional family that women would no longer have the realistic option of becoming career homemakers.

Eagle Forum deserves the credit for identifying and successfully defeating this threat to the economic life of the traditional family. Full details are given in the *Phyllis Schlafly Report* of April 1981 entitled "Eagle Forum Defends Wives and Mothers."

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: 50 cents each; 4 copies $1; 30 copies $5; 100 copies $10.