

PUBLIC HEARING

before

ASSEMBLY JUDICIARY COMMITTEE

on

ASSEMBLY CONCURRENT RESOLUTION NO. 67
(Proposing Constitutional Amendment to
provide Equality of Rights of Women)

Held:
May 2, 1974
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblywoman Gertrude Berman (Acting Chair Person)
Assemblyman Eldridge Hawkins
Assemblyman William J. Bate
Assemblyman John P. Doyle
Assemblyman John T. Gregorio
Assemblyman Alan J. Karcher
Assemblyman Victor Rizzolo
Assemblyman John A. Spizziri

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ASSEMBLY CONCURRENT RESOLUTION No. 67

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman BARBOUR

A CONCURRENT RESOLUTION proposing an amendment to Article I
of the Constitution, Rights and Privileges.

1 BE IT RESOLVED *by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article I of the Constitution, Rights and Privileges, by
4 the addition of a paragraph 20A as follows:

5 20A. Equality of rights under the law shall not be denied or
6 abridged on account of sex. The Legislature shall by law provide
7 for the enforcement of the provisions of this paragraph.

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
3 it shall be submitted to the people at the next general election
4 occurring more than 3 months after such final agreement and shall
5 be published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of
7 the General Assembly and the Secretary of State, not less than
8 3 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

4 There shall be printed on each official ballot to be used at such
5 general election, the following:

6 1. In every municipality in which voting machines are not used,
7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X),
9 plus (+) or check (✓) in the square opposite the word "Yes."

10 If you are opposed thereto make a cross (X), plus (+) or check
11 (✓) in the square opposite the word "No."

12 2. In every municipality the following question:

	Yes.	EQUALITY OF RIGHTS OF WOMEN Shall Article I of the Constitution be amended, as agreed to by the Legislature, by the addition of the following paragraph? "20A. Equality of rights under the law shall not be denied or abridged on account of sex. The Legislature shall by law provide for the enforcement of the provisions of this paragraph."
	No.	

ASSEMBLYWOMAN GERTRUDE BERMAN (Acting Chair Person):
This public hearing on Assembly Concurrent Resolution No. 67, proposing an amendment to the State Constitution, is being held by the Assembly Judiciary, Law, Public Safety and Defense Committee, by direction of the Assembly and in accordance with the procedure for consideration of proposed amendments to the Constitution, directed by the Constitution and the Rules of the General Assembly.

Assembly Concurrent Resolution No. 67 would add to Article I of the State Constitution a new paragraph 20A, which would provide that equality of rights under the law shall not be denied on account of sex.

I would like to state at the opening of this hearing that the Chairman of the Judiciary Committee, Assemblyman Eldridge Hawkins, has given me the opportunity to chair this particular session because of the interest which he knows I have in this particular issue. I still have not determined the propriety of my taking this particular assignment, but I am here.

Assemblyman Barbour, would you like to proceed with your statement.

G E O R G E H. B A R B O U R: Yes.

Madam Chairman and members of the Committee: I am the prime sponsor of Assembly Concurrent Resolution No. 67 and I don't think it is necessary for me to say a great deal. I think the resolution says it all. The question that is to be placed on the ballot is whether the Constitution is to be amended by adding the following language: "20A. Equality of rights under the law shall not be denied or abridged on account of sex. The Legislature shall by law provide for the enforcement of the provisions of this paragraph."

To the best of my knowledge, that is practically identical with the referendum that is presently in process to amend the Federal Constitution. And I believe that

the New Jersey Constitution should be amended to this effect because, number one, it will be effective as soon as the amendment is adopted, whereas the Federal Bill is not effective until two years after adoption. And, of course, it takes the concurrence of the required number of states. There is getting to be considerable controversy in some of the remaining states that haven't ratified the amendment. I understand Nebraska has rescinded its ratification of the Equal Rights Amendment.

Therefore, I think that here in New Jersey where we recognize this as a real need, we should move forward and implement it so that it is a part of the New Jersey law, part of the New Jersey Constitution, and will be enforced by the State. It may be that as we go down the road, we will determine that there are different avenues of enforcement than there would be under the Federal constitutional amendment if it becomes effective, because it would be enforced by the Federal government.

I would also like to point out that on Majority Day, April 1st, we had representatives here in the Assembly Chamber from the National Organization for Women; the American Civil Liberties Union of New Jersey; the League of Women Voters; the Women's Political Caucus of New Jersey; the Women's Equity Action League; the American Association of University Women; Business and Professional Women's Organization; Princeton University Women's Organization; New Jersey Parents Federation; Eve; Abortion Coalition; Woman's Project, Rutgers Law School; New Jersey Council of Churches; American Association of University Professors, Committee W; Industrial Union Council; Women's Affirmative Action Committee. And all of those organizations endorsed ACR 67 and spoke for and advocated its speedy passage.

I think with backing such as that that it behooves us to have this Concurrent Resolution passed so that it

can be on the ballot this coming November Election.

Thank you.

ASSEMBLYWOMAN BERMAN: Thank you, Assemblyman Barbour. Are there any questions?

ASSEMBLYMAN DOYLE: You are still in favor of the Federal constitutional amendment being adopted, of course.

ASSEMBLYMAN BARBOUR: Without question.

ASSEMBLYWOMAN BERMAN: Any other questions? (No questions.) Thank you, Assemblyman Barbour.

ASSEMBLYMAN BARBOUR: I might say I have little peer pressure at home. There are in the family six males and two females.

ASSEMBLYWOMAN BERMAN: I would like to now call Mrs. Helen Lindsay, who is Director of Human Resources, League of Women Voters of New Jersey.

The League of Women Voters of New Jersey supports ACR.67, the proposed state equal rights amendment. The League believes that an ERA is a major step toward guaranteeing equal rights for all, regardless of sex. While we in New Jersey await ratification and implementation of the federal constitutional amendment, we can guarantee these rights to our citizens by amending the state constitution.

In considering this proposal it may be worth recalling some of the general principles of an ERA.

- First, it is commonly agreed that the word "rights" includes not only privileges and immunities but also duties and responsibilities. In extending protection to women, the amendment also requires that women assume duties as well.
- The effect of an ERA would be to extend rights to both men and women. Benefits would not necessarily be taken away, but rather would be expanded to cover both sexes. Instances where women or men are discriminated against would have to be corrected. Protectional laws would cover both men and women.
- Laws that relate directly to physical characteristics that are unique to one sex (they must also be unique to all women or unique to all men) would not be affected. For example, laws having to do with payment for medical

costs of child bearing would remain valid. Rape laws would also remain in effect because they are based on real differences between men and women. The laws on rape could be changed to consider rape as an aggravated assault and thus extend protection to young men as well as to women. Sexual assault would be extended to cover both sexes -- a benefit to men as well as women.

- An ERA applies to government conduct not to private relationships. It would apply to activities wherever the government is involved, but not in our private lives. For example, the courts have never interfered in the basic relationships of an on-going marriage unless they have become a public concern. The division of responsibilities in a marriage is a private matter. When a marriage is dissolved, however, the government must enter into decisions; and an ERA would require that the decisions be made on the merit of the case, regardless of sex.
- Privacy itself is a constitutional right resulting from a combination of rights provided in the federal constitution. Although it is a relatively new concept, it seems clear that the right of privacy would prevail in such instances as separation of sexes in public rest rooms.

I will not attempt to consider in detail the existing state laws, regulations and practices that would be affected by an amendment to the state constitution. The proposed AJR.3 does this by setting up a commission to study the impact of an ERA on our state laws and regulations. Moreover, if necessary, the courts can set down the rules for a smooth transition period.

It should be noted that in areas of discrimination that relate especially to women, New Jersey has begun to move toward change. The Legislature has repealed protective labor laws which in effect discriminate against women by cutting them off from better jobs. Legislation is pending that prohibits discrimination by creditors on the basis of sex or marital status. And the courts have overruled prison terms of indiscriminate length for women when men serve a determinate (and often shorter) sentence for the same offense.

However, it is a very slow process to change laws piece by piece whether through the Legislature or the courts. In addition, this does not protect citizens from new discriminatory laws and practices that could be adopted in the future.

An amendment to the state constitution would eliminate discrimination once and for all. The Legislature can take the first step by passing ACR 67 now so that it can be put on referendum in November.

ASSEMBLYWOMAN BERMAN: Thank you, Mrs. Lindsay.

ASSEMBLYMAN HAWKINS: With your permission, Mrs. Chair Person, I would like to make a comment.

You made a comment briefly in your remarks about rape being unisexual the way it has been termed thus far. This same Committee will be working on the entire Penal Code, to revise the entire Penal Code. And I can suggest to you that the way it has been structured in the proposed Penal Code is that it will not be just for one sex, but the terminology "rape" will be changed so that it will incorporate the suggestions that you have made, both sexes.

ASSEMBLYWOMAN BERMAN: Any further questions? (No questions.) Thank you, Mrs. Lindsay.

Our next speaker is Marjorie Wyngaardin, who is an Aide to Assemblyman Herbert Gladstone.

M A R J O R I E W Y N G A A R D I N: As well as being an Aide to Assemblyman Gladstone, I am also a candidate for the Democratic nomination in the 7th Congressional District.

I would like to read something to you which is contained in New Jersey Civil Rights Statutes: "The Legislature finds and declares the practices of discrimination against any of its inhabitants because of race, creed, color, national origin, ancestry, age, sex, marital status," that was added in June of 1970, "or because of the liability for service in the Armed Forces of the United States, are a matter of concern to the government of the State and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State, but menaces the institutions and foundations of a free democratic

state."

So it appears in your Civil Rights Statutes, you have already taken the direction that I think you should go.

In August of 1970, the Attorney General of the State of New Jersey was very concerned that the Federal ERA might very well pass and go to the states for ratification. So he requested a computer printout of all the laws in the State of New Jersey that had the words in them, "girl," "girls," "female," "females," "male," "males." Here they are. Okay. This is not to say that they are all discriminatory. For instance, there is one in here that prohibits the harvesting of female crabs in season. You can see the computers cannot discriminate. When it is told to kick out females, it kicks out females. I think though that these really don't have any relationship to what we are talking about unless you also have the computer kick out all of the legislation having the words, "boy," "boys," "male," "males," "man," and "men." Then you can do a cross reference on this.

This is on file in the State Library. It is also on file in the Attorney General's Office of this State.

Let's go back a little bit in history before the 19th Amendment that gave women the right to vote. They did have the right to vote in New Jersey. But the Legislature in its wisdom took that right away from them, I think it was around 1897, and the reason this was done involved the Essex County Court House. It seems as though there was a referendum to decide where it would be constructed and it was seen by some of those who wanted it in one area that those in the other area had wagonloads of women, taking them to the polls. Where the one man wanted it built, it was decided to be built there. So when he subsequently was elected to the Legislature, he felt as though women had caused the Court House to be

built in the wrong town, so he took the vote away from them.

What I am pointing out is that without an Equal Rights Amendment to the State Constitution, it appears as though the Legislature has the right to take many, many rights away from women. For instance, equal protection under the law. You say that is guaranteed by the 14th Amendment to the Federal Constitution. Yes, it is, but the United States Supreme Court did not apply that to women until a decision involving the State of Idaho in 1970. Up until that time they said that women were not persons under the law with the right to the equal rights protection of the 14th Amendment. That was a very narrow decision and did not cover all of the bases.

The Legislature can also take away the right to jury service, the right to control their own income and earnings, the right to make contracts, the right to enter any business or profession, the right not to be deprived of one's property without due process of law, the right to choose unrestrictedly the hours of work - if you recall, several years ago there was quite a debate on the floor of this House regarding that - the right to custody of children, the right to divorce, or even freedom of speech. None of these rights are constitutionally guaranteed to women. They are state's rights. As the disposition of the State Legislature changes, so may these rights.

Mr. Barbour referred, I think, if I was listening correctly, to some of the efforts on the part of states to deratify their original ratification of the Federal Equal Rights Amendment. According to the decisions that I have, it cannot be done. The Constitution does not give them the power to do that. It only gives the state the power to ratify and there it ends.

I would also like to point out that New Jersey and Rhode Island were two of the states that tried to deratify their ratification of the 14th Amendment. To say we are

a rather liberal state, I think our history contradicts that.

I have a list of the organizations that are opposing the Equal Rights Amendment on the Federal level and I am sure they will oppose it on the State level as well: the John Birch Society, the National States Rights Party, We, the People, Women for Constitutional Government, White Citizens Council, Young Americans for Freedom, Klu Klux Klan, Liberty Lobby, Christian Crusade, Pro-America, and the American Conservative Union. I am pleased to say I am not in the company of any of those organizations.

Therefore, I would urge that you do release this from committee for vote. I urge passage in both Houses and I urge that it appear on the ballot in November.

ASSEMBLYWOMAN BERMAN: Thank you for your statement.

Our next speaker is Alice Cohan, who is the Legislative Coordinator for the National Organization for Women.

A L I C E C O H A N: Thank you, Chairwoman Berman.

My name is Alice Cohan. I am a Legislative Coordinator of the National Organization for Women of New Jersey. This statement is being presented on behalf of the organization which includes 23 chapters throughout New Jersey.

I would like to start off by quoting John Stewart Mills in his essay, The Subjugation of Women, which he wrote in 1861, that the principle which regulates the existing social relations between the two sexes, the legal subordination of one sex to the other, is wrong in itself and that it ought to be replaced by a principle of perfect equality, emitting no power or privilege on the one side nor disability on the other. This principle remains applicable today.

The State Equal Rights Amendment could greatly

help to alleviate this situation.

NOW in New Jersey strongly supports the passage of a State Equal Rights Amendment. Woman have been accorded different treatment from men throughout history. Legally sex distinctions have frequently been based on what was perceived to be either some divinely ordained plan or a fundamental difference in physical as well as mental structure that affected one's legal and social capabilities. Sometimes the motivation for the varied treatment was protective or humanitarian; sometimes not.

In any case, social norms evolved which embodied the view that sex in itself was a valid criterion by which to determine the legal scope of an individual's activity. Over the years some of these legal constraints have been eroded either by invalidating the legislation or making the necessary revisions. However, there are still many vestiges of these sex distinctions in today's legal structure and it is precisely these laws which will feel the major impact of an Equal Rights Amendment in the State of New Jersey.

This legislative body has already ratified the Equal Rights Amendment to the U.S. Constitution. Some may ask, why then do we need a State Equal Rights Amendment. The National Organization for Women contends that 53 percent of New Jersey's population deserves such attention in our State Constitution. But the issue is more complex than just a statement of support.

The Federal ERA requires ratification by 38 states before it becomes part of the Constitution. As of May 1, 1974, 33 states have ratified the ERA. However, one of these ratified states, Nebraska, has attempted to rescind its support of the Federal Equal Rights Amendment. Therefore, it is possible that the ratification of the 27th Amendment will finally be decided in the courts of law, trying to determine whether ratification of support of an

amendment is legal and constitutional. Added to this consideration of the foreseeable time table of implementation of an Equal Rights Amendment is the fact that the Federal ERA will not take effect until two years after the date of ratification.

The New Jersey Equal Rights Amendment must be passed by both Houses of the Legislature and then submitted to the people at the next General Election, occurring more than three months after such final agreement. According to the State Constitution, Article IX, Section 6, an amendment to the Constitution becomes a part of the Constitution in 30 days after approval by the people through referendum. Comparing the time tables of implementation of the Federal versus the State Equal Rights Amendment, it is obvious that if the Legislature of New Jersey is truly concerned with the equal rights of women, ACR 67 should be reported out of this Committee and further passed by the Legislature.

The possibility of an Equal Rights Amendment has been debated in the United States since 1923. Now is the time to act.

There is a definite precedence set for states to go ahead and pass their own Equal Rights Amendments. Twelve states have equal rights provisions in their State Constitutions. They are: Alaska, Colorado, Hawaii, Illinois, Maryland, New Mexico, Pennsylvania, Texas, Utah, Virginia, Washington, and Wyoming. In addition, three states - Connecticut, Massachusetts and New York - have equal rights provisions pending referendum and pending in their legislatures.

I would just like to take a few minutes to talk about the question of other alternatives to an Equal Rights Amendment. There has been discussion both nationally and statewide that perhaps we don't really need an Equal Rights Amendment, that we can do the same thing of providing

against discrimination by sex through other means and other legislative action.

The three basic ideas are: Number one, to extend the equal protection clause of the 14th and 5th Amendments to cover equal protection of the laws. The second is by piecemeal revision of existing Federal and State laws, which is what I would analyze as happening in New Jersey as of now. We have taken a lot of the legislators' time in trying to put through an Equal Credit Opportunity Act, trying to revise our Rape Statutes, trying to revise the various revisions that affect women. And we feel that an Equal Rights Amendment could encompass all of these areas in one legislative piece of work and can, therefore, simplify the problem in the State.

In summary, the type of legislation likely to be affected by the Equal Rights Amendment would be any that discriminates or differentiates on the basis of sex. The general rule or guiding principle enunciated very simply is that when the legislation restricts or limits the opportunities of a sex, it would be invalidated. When the legislation confers a benefit or privilege, such legislation would be extended to the opposite sex.

We see the Equal Rights Amendment as a very important step forward for New Jersey to recognize the equality of both sexes. And we thank you for your consideration.

ASSEMBLYWOMAN BERMAN: Thank you. Do you have any questions? (No questions.) Thank you, Miss Cohan.

Our next speaker is Nadine Taub, Esquire, from the American Civil Liberties Union.

N A D I N E T A U B: Thank you.

My name, as you said, is Nadine Taub and I am the Director of the Womans Rights Litigation Clinic, Rutgers Law School, Newark. I am here on behalf of the American Civil Liberties Union to express the organization's support

of a State Equal Rights Amendment.

My remarks will be addressed to the meaning, effect and implementation of the State ERA.

First, I believe we must make absolutely clear that we intend our State ERA to have the same meaning and effect as the Federal ERA. This ERA is designed to cover all rights, not merely those which might be called political or civil rights. I believe it is clear that the kind of equality we want requires going well beyond the right to vote; there must be equality of opportunity and equality of responsibility for both sexes whenever and wherever the State acts, whether it is in the schools, in its own hiring practices, in its Divorce Courts, in its Tax Laws or wherever. Thus, the legislative history of this amendment must make impossible the type of lower court decision which occurred in Pennsylvania where the judge stated that the Pennsylvania ERA was not intended to reach anything more than civil and political rights. I hasten to add that the Supreme Court of Pennsylvania has not taken this narrow position, but instead has taken the broader view I am now urging.

Second, we must make clear that because our concern is with individual merit, we will not tolerate any generalizations or sex stereotyping under the ERA. So, for example, a recent holding of the United States Supreme Court under the 14th Amendment would be impossible under our State ERA. The case I am referring to, Kahn versus Shevin, et al, permitted the State of Florida to grant a special tax exemption to widows while denying it to widowers, on the ground that widows have a harder time generally. Under our State ERA, as under the Federal, this ruling would be impermissible because sex would be a prohibited classification. That means, with only two exceptions, a state law could not differentiate on the

basis of sex.

The first exception involves those laws concerned with the physical characteristics found in all or some members of one sex and in no member of the other sex. For example, laws relating to wet nurses or sperm donors would be permissible. This exception flows from our basic understanding of the meaning of equality; that is, that relevant differences can justify different treatment under the law, but the only relevant differences between the sexes are those which turn on physical differences.

We must exclude differences in treatment which are based on psychological, sociological and other differences which we assume exist between the sexes. This is so simply because we cannot say that all men or all women have those characteristics to the exclusion of the other sex.

The second exception under the ERA to the rule that laws cannot embody classifications based on sex comes into play to insure that we give appropriate recognition to the constitutional right of privacy. Thus, sex classifications which are necessary to protect bodily privacy would be permissible under the ERA. There is, therefore, no reason why sex segregation in situations involving disrobing, sleeping, performing personal bodily functions, would not continue under and ERA. In other words, we are still likely to have separate bathrooms after the passage of the ERA, despite what opponents may imply.

It should be apparent then, that by making sex a prohibited classification, the ERA has a very different meaning and effect than the equal protection clause of the 14th Amendment. Under the 14th Amendment ordinarily a classification can be justified by any rational basis, including generalizations such as that given in the Kahn case I mentioned. In cases of suspect classifications, like rape, and a fundamental interest, like privacy, classifications can be justified by a compelling State

interest. However, under the ERA, the use of sex as a classification is absolutely prohibited and, except for the two situations already discussed, there can be no justification for it. Hence the ERA has a very different import than the equal protection clause.

I would now like to turn to the problem of how existing laws which do contain sex classifications will be treated after the adoption of the ERA. Basically, the problem facing the reviewing court is whether to strike down the law altogether or whether to extend its scope to the other sex as well.

Let me emphasize here that invalidating the whole statute is not automatic. For example, unconstitutional laws which establish schools and other facilities for whites only were not struck down in their entirety. Rather the courts extended the benefits conferred by those statutes to blacks as well. The factors a court will consider in deciding whether to strike down or to extend are the importance of the legislation, the feasibility or workability of its extended form, the proportional difference in terms of numbers of persons, groups or areas covered, whether the law is civil or criminal, whether it is a benefit or a burden which would be extended to the new group, and, finally, what the actual words of the statute are.

I believe it would be valuable to include in the legislative history of our State ERA some indication of how certain types of statutes would be treated. In this way, we would make clear that we wish to extend statutes wherever possible. Here it might be beneficial to contrast two recent Pennsylvania court decisions reached under that state's ERA. In Conway versus Dana, the State Supreme Court extended the coverage of child support responsibilities to include women as well as men. Likewise the middle level Appellate Court in the Case of Wiegand versus Wiegand ruled unconstitutional a State statute which permits the award

of support during the pendency of a divorce proceeding and attorneys' fees to be awarded to women and not men; that is, a law which distinguished in terms of the ability to get divorced based on sex was unconstitutional. But that court also held that the statute could not be extended to allow such awards to men. Rather they sent the matter back to the Legislature.

Because such support is often essential to enable persons to obtain divorces, we would hope that under the New Jersey ERA, a similar statute, if it did in fact exist in New Jersey, would be extended.

Examples of other statutes which should be extended are: protective labor laws, as long as those laws actually confer benefits; similarly laws giving child-rearing leave should be extended to men. By contrast, laws which excluded women from certain professions, such as mining or bartending, should naturally be struck.

These and other examples are examined in the excellent article discussing the Federal ERA which appears in the Yale Law Journal.

In conclusion, I would urge this Committee to incorporate that article into the legislative history of the amendment. For the record, the article is entitled "the Equal Rights Amendment: Constitutional Basis for Equal Rights for Women" and it appears at 80 Yale Law Journal 872, 1971. Thank you for your attention, and once again I urge reporting and passage of this amendment.

ASSEMBLYWOMAN BERMAN: Thank you. Are there any questions from the panel?

ASSEMBLYMAN HAWKINS: Greetings, Miss Taub. I have a few questions regarding the right to privacy. When you quoted the constitutional right to privacy, were you quoting the New Jersey or the United States Constitution?

MISS TAUB: Well, I think that the argument is based

on a Federal argument. As I urged, I think that by enacting the State ERA, we should be incorporating that in. But, as I understand it, both in the Federal and in the State Constitution the right to privacy is one that is built up from different portions of the Constitution and it is inherent in both constitutions' notion of due process by this time.

ASSEMBLYMAN HAWKINS: In whatever Constitution you were quoting, does it delineate between the sexes in the right to privacy?

MISS TAUB: No. I think that the whole point about the right to privacy is that it is not explicit what it is and the courts have built that right up. I think that it is clear and I think that some guidance could be provided by the Little League Case that the Appellate Division has decided, that that right to privacy does extend to keeping sex separate.

ASSEMBLYMAN HAWKINS: Miss Taub, isn't it a fact that the interpretations of the courts must be subject to the wording of the Constitution itself?

MISS TAUB: I certainly agree with you. But I think that is exactly the problem that faced the courts in Griswold, which was one of the first cases where the right to privacy was made explicit. In Griswold though, the court referred back to the Bosford Case and I don't have the exact title and citation at the moment. But that case involved whether a person could be subject to physical examination and that involved disrobing and intrusion into the body. I think even though that case did not present the exact situation you are referring to here, whether disrobing by a person of one sex in front of the other would be an invasion of the right to privacy -- I think that the thrust of the Bosford Case really addresses

the problem here, that you are concerned about protection of the integrity of the body.

ASSEMBLYMAN HAWKINS: Yes, ma'am. But with reference to the constitutional provision for the right to privacy, as you have stated, it is a general provision and it does not make a distinction between sexes; is that correct?

MISS TAUB: No. But it does not mention -- well, it doesn't mention any of the holdings that have been decided under it. What I am suggesting is that it is a general principle --

ASSEMBLYMAN HAWKINS: That's right.

MISS TAUB: (Continuing) -- that is applicable across the board.

ASSEMBLYMAN HAWKINS: Right. What we are trying to enact in this particular ACR 67 would you not call a specific principle about sex?

MISS TAUB: I think you can call it both a general and a specific principle in that it does not purport to lay out every single case where it would be applied. It is a general principle in that it refers to sex and not as the 14th Amendment does, all persons. It is more specific than the 14th Amendment.

ASSEMBLYMAN HAWKINS: Let me be more explicit. With reference to the provisions in either Constitution dealing with the right to privacy, would you not say that this particular constitutional amendment dealing with prohibition against discrimination on the basis of sex is more explicit when it comes down to the particular area of sex?

MISS TAUB: I agree with you, but I don't think that that means it would override the right to privacy.

ASSEMBLYMAN HAWKINS: Is there not a terminology or a phraseology used when you are interpreting the statutes or constitutional provisions that the specific takes precedence over the general?

MISS TAUB: And there is also ---

ASSEMBLYMAN HAWKINS: Would you answer that first question?

MISS TAUB: That is true. But as you know and I know as lawyers, there are a number of maxims that the courts apply. There is also the maxim - and I hope your Latin is better than mine - but it is the one that says that you take all provisions and interpret them consistently - in pari materia. Is that it?

ASSEMBLYMAN HAWKINS: In pari materia.

MISS TAUB: I think you have both principles co-existing.

ASSEMBLYMAN HAWKINS: Do you have any particular insight ---

MISS TAUB: Let me see if I understand your question.

ASSEMBLYMAN HAWKINS: Do you have any particular insight which way the courts would go in interpreting the problems, so to speak, as to, in fact, whether or not there would be a problem with separate ladies and mens rooms?

MISS TAUB: I do have an insight and I think that the Federal legislative history is clear on that. Again I am suggesting that we adopt and incorporate that Federal legislative history and that the courts in interpreting the amendment will look to its legislative history and make clear that the "potty" excuse is no excuse.

ASSEMBLYMAN HAWKINS: The point is that prior to this time there has been no constitutional amendment prohibiting discrimination on the basis of sex. So there is, in fact, no real legislative history as far as the judicial or common law ---

MISS TAUB: I am confident that the Federal ERA will be adopted, but I agree with Alice Cohan that it will take some time. When it is adopted, that legislative history goes into effect. But it is for the very reason of making

explicit what the legislative history of this amendment is that I mention the privacy question. I think the New Jersey courts in interpreting the New Jersey ERA will look to the legislative history established in our own state and, again, that is why I make explicit that our view should be that the ERA should exist co-existent with the right of privacy, which we interpret as protecting bodily privacy between the sexes.

ASSEMBLYMAN HAWKINS: In other words, Miss Taub, I take it that you mean that it is very important to continue a separation of the sexes as far as bodily privacy is concerned.

MISS TAUB: I think those questions are questions that properly are evolved with the times. I think right now that that is true. And I think that right now none of us would intend to do that, to eliminate that kind of bodily privacy. I think that is exactly why we think of a Constitution as a living document, to quote some Chief Justices. But I think that because mores may change, the concept of privacy is deliberately left somewhat unpinned down and I would say right now in terms of our society, it would be important to maintain that. But by expressing the idea that we want privacy to co-exist with the Equal Rights Amendment, we are expressing the idea that we want the courts to evolve the concept of privacy over time, and right now it is clear that that means bodily privacy.

ASSEMBLYMAN HAWKINS: Miss Taub, I must admit, I have problems in arriving at your same conclusions, using my maxims of statutory and constitutional interpretation. And I will go one step further and give you an analogy why it would bother me as far as having separate bathrooms. You know the old 1896 case of Plessy v. Ferguson where they said separate but equal is all right, and primarily they were dealing with races, having suitable facilities for different races. They said separate and equal is okay.

Then we came down to the 1954 Brown v. Board of Education Case where it simply stated separate but equal is not just separate and equal and they struck down "separate but equal" dealing with the races.

I have no difficulty in seeing the courts interpreting that line of decisions when they now have a constitutional provision saying that sex is no longer a basis for a discrimination and they are going to say now if somebody brings a suit and says, we don't want to have separate but equal bathrooms, inherently in the argument from Brown v. Board of Education separate bathrooms are unequal and we can't discriminate on the basis of sex, pursuant to the constitutional limits. Can you give an explanation or get around that argument?

MISS TAUB: I think, first of all, to assume that the courts are going to be completely cut loose from either the Legislature or the people of this State in the way they interpret the meaning and the import of the Equal Rights Amendment is a little unfair to the courts. I think that they, as they always have, will look to the intent that is behind the amendment and that it is up to us to make clear now what that intent is. That is my first point.

In terms of dealing with Plessy vs. Ferguson and Brown v. Board, I think that the point about that is that those were two different interpretations of the same amendment. Plessy v. Ferguson was not arrived at in order to satisfy the meaning of another constitutional provision; rather it was one view of what the Equal Protection clause meant. And in 1954, luckily in my mind, the court arrived at a different view of what that same amendment meant. It is not the same problem we are dealing with here, which is how do you predict and how do you control how a court will interpret two co-existing constitutional amendments when by the nature of the Constitution both

amendments are phrased in general terms.

Again I would say that we can pin that meaning down by what we put in the legislative history of the ERA.

ASSEMBLYMAN HAWKINS: Then you see no particular problem the way it is worded as far as maintaining privacy?

MISS TAUB: No, I don't.

ASSEMBLYMAN DOYLE: Let me posit a situation for you and you tell me, please, how the ERA would affect it. A public employer gives as a matter of course a post-natal leave of absence to a female employee of three months' duration and it does not affect her job standing or her tenure if she has previously acquired some vested right to the job. Do I understand with the ERA they would have to give that same leave to a man?

MISS TAUB: Assuming it doesn't date from the day of birth -- I mean you have to pin down what portion of that leave is due to the physical aspects of birth and what portion is due to the idea that a parent should have the opportunity to do the child-rearing. I think the point is that we want to leave to couples the decision of who is going to take that child-rearing responsibility and that the statute should make that choice open to the couple.

ASSEMBLYMAN DOYLE: Let us say we made that period two years - obviously not related to physical facts, but was ---

MISS TAUB: Right. And I would say the three months probably was too. But the question is: Do you date that three months from the time of birth or do you date it from a week after when the woman would be capable of going back to work?

ASSEMBLYMAN DOYLE: Starting from the date of birth, what period of time would you think would not be so long as to be unconstitutional if the ERA was passed?

MISS TAUB: I would suggest that you would want some medical testimony about that. It seems to me that

at the very minimum you can't require her to go back to work on the day of birth. And certainly you can't prohibit her from going back to work the next day if she feels physically capable of it and, in fact, she is physically capable of it. So I would hesitate at this point to predict a figure without medical consultation. But I think the clear distinction is child birth versus child rearing.

ASSEMBLYMAN DOYLE: If the public employer had a husband and wife as public employees and passed a resolution saying whichever one of them wanted to stay at home could, but both of them couldn't get the benefit of that one-month period, let us say, that would be acceptable, would it not, if the choice was left to the couple?

MISS TAUB: You mean either one, but only one at a time?

ASSEMBLYMAN DOYLE: Right.

MISS TAUB: Yes.

ASSEMBLYMAN DOYLE: You mentioned a Florida decision. I think it came down a few weeks ago.

MISS TAUB: Last week.

ASSEMBLYMAN DOYLE: -- widows and widowers. Did that relate to specifically people over 65 or was it just widows and widowers of any age?

MISS TAUB: You have got me for the moment. I think it was widows - widowers.

ASSEMBLYMAN DOYLE: Of any age? They didn't necessarily have to be what we now call senior citizens?

MISS TAUB: As I recall, it was across the board. I would have to check it.

ASSEMBLYMAN DOYLE: Assuming for a second that it is across the board and assuming whether we want it this way or not that it is a fact that a man of a given age is more likely to be employed than a woman of that same given age and accept as a fact - and I think it is economically true -

that a working man of a certain age is likely to be making more money than a woman of that same age who is also working, any legislation that would take into account those economic facts of life and would, therefore, give different benefits to women and men should be unconstitutional under the ERA if adopted.

MISS TAUB: That's right. If you are concerned about economic factors, make those economic factors explicit in the statute. Don't make generalizations which are over-inclusive - there are many women who won't need that benefit - and under-include men, because there are many men who will need that benefit. Go to the factor that you are concerned about, if it is an economic factor or whatever, and make that explicit in the statute. Then you will have a constitutional statute.

ASSEMBLYMAN DOYLE: If the statute required proof that you tried to obtain work and couldn't and, therefore, you became entitled to the pension, even though 95 percent of women would qualify and only 10 percent of the men, that would be all right because it would be based on a nonsexual determination.

MISS TAUB: Right.

ASSEMBLYMAN DOYLE: Thank you.

ASSEMBLYWOMAN BERMAN: Thank you.

Our next speaker is William Burke from SAVE. Is Mr. Burke here? (No response.)

All right. We will move on to the next speaker, Ms. Joan Sampieri, State Legislative Chairperson, New Jersey Women's Political Caucus.

D. J O A N S A M P I E R I: Thank you, Assemblywoman Berman.

I would not like to detain this Committee's hearing by reiterating what my colleagues have already said in favor of the laws and the changes in the laws that the Equal Rights Amendment would institute for all of us.

I would, however, like to go into one particular phase of what the Equal Rights Amendment will do, and that is the psychological effect of 53 percent of our population being different for no apparent reason other than sex.

I was pleased when Assemblyman Hawkins brought up *Brown v. Board of Education* because in the decision Justice Douglas said something to the effect that in separating people because of a slight difference, you tended to make that person a second-class citizen and that it did enormous psychological harm which could not be undone through the course of that person's life. Although that decision was made with regard to Blacks, we have found through the ages that we are in many instances more oppressed than Black people were, more oppressed in attempting to get our constitutional rights which should have been applied to us from the beginning.

I would, therefore, like to urge the Committee to report this bill out positively and to make sure that we have an Equal Rights Amendment so that my daughters and my sons and the sons and daughters of all of you may know that equality exists truly, legally and psychologically. Thank you.

ASSEMBLYWOMAN BERMAN: Thank you.

Our next speaker is Mrs. John O'Donnell, Chairman, New Jersey Stop ERA Committee. Is Mrs. O'Donnell here? (No response.)

We will move on to the next speaker. If she comes in, we will put her on our agenda.

Mrs. Charles Tindall.

M R S. C H A R L E S T I N D A L L: Gentlemen of the Assembly, I am Mrs. Charles G. Tindall (Hannah), and represent no organized group of women, but I feel nevertheless that I speak in defense of at least the majority of American women who either work or are domestic engineers

and cannot be here to speak for themselves.

I feel New Jersey has adequate laws for the rights, equality and protection of women. Thoughtful and wise men and legislators such as yourselves must realize that ERA is a piece of bad legislation for about 98 percent of the women in the United States today.

We already have the Equal Rights Amendment in the United States Constitution. We have the 14th Amendment, the 19th Amendment and the Employment Act of 1972 which is most specific about equal pay for equal work and about promotions for women.

Many of the women I talk to feel the American female is the most liberated and most fortunate woman in the world today or was until Fabian socialists pushed laws and eroded our society to the point where a majority of women - not quite a majority, but 45 percent of the women - must work out of the home to help their husbands support a home and family. Even as I say this, I wonder about the home as real estate and interest skyrocket day by day and our sons cannot afford to buy a home.

Most normal women don't want to be equal to men in strength, looks and emotions and strive to be admired, loved and revered wives and mothers and teachers. We who are not normally aggressive types will be extremely sorry if we let one or two percent of the aggressive extremists in the Women's Liberation Movement force this bill upon us. This bill threatens the legal rights of a full-time wife and mother by making the obligation for financial support fall equally on the husband and the wife. This is insanity at its worst in the minds of most American females.

There are other areas where we women will lose rights, such as in the now existing labor legislation, the draft legislation, the preferential life insurance

legislation, etc. But the biggest threat is to the American home and American family.

The sovereignty of our homes and of our Nation is at stake. Let's speak up to stop the undermining of what was and still is the greatest society on this earth after we won our freedom from England and Europe.

I implore you to vote against the ERA in New Jersey and not put it on the legislative slate.

How many Americans are truly aware that the same year we became a free nation, there was a plot underway in Europe to lead us into British socialism by the back door. Rose Kennedy in her book, which is currently on the Best Seller List, "Times to Remember," tells us how and why the decision was made to send their eldest son Joseph Kennedy, Jr. and later John Kennedy to the London School of Economics to study under Professor Harold Laskey, one of the best known theoreticians and leaders of British socialism and interpreters and scholars of Marxism in its various forms. And that quote is from Rose Kennedy. And this is what most Americans are fighting against, British socialism which has torn down almost every large nation in the world and instead of freeing people, has enslaved people.

Thank you, sir. (Applause.)

ASSEMBLYWOMAN BERMAN: Mrs. Tindall, would you mind remaining for a minute so the Committee might ask you some questions.

ASSEMBLYMAN DOYLE: This is not so much a question. I just hope Mrs. Tindall didn't fail to notice Assemblywoman Berman, who is chairing the Committee. You made several references to the "gentlemen of the Assembly." We have six women in this Assembly who make as much a contribution proportionately, I think, as the seventy-four men. I think those six - perhaps some day it will be more - are as good a reason as any for the adoption of this amendment.

That is more in the form of a statement than a question.
Thank you.

MRS. TINDALL: I was Postmaster in Dutch Neck for several years and I never minded being called Postmaster. I think this is picayune and I don't think this is the object of the people that are pushing for the Equal Rights Amendment.

ASSEMBLYWOMAN BERMAN: I might just comment on that. I am inclined to question that. I think it probably is a reflection of some internal state of mind that would make someone such as yourself look at a panel sitting here and automatically say "gentlemen."

MRS. TINDALL: Possibly I should have said ladies.
Excuse me.

ASSEMBLYMAN BATE: It is your contention, Mrs. Tindall, that the overwhelming number of women is opposed to this amendment; is that right?

MRS. TINDALL: Yes, and I base my decision on the fact that the overwhelming number of women are disorganized or unorganized and the liberal movements today have well organized groups that have printed material that comes to them and filters down to each committee. Today is a good example of it. Almost every speaker has a well-thought-out written paper. So much of this information has been handed down by liberal lawyers to them, etc., and we are getting too many laws, too many laws that are taking away rights instead of giving and keeping rights.

ASSEMBLYMAN BATE: What you are really saying, however, is that most women don't really care one way or the other, rather than the fact that they are opposed to it.

MRS. TINDALL: Oh, yes, they do care.

ASSEMBLYMAN BATE: They do care?

MRS. TINDALL: Yes, they care.

ASSEMBLYMAN BATE: The great majority of women do care whether this amendment is passed or whether it fails.

Is that what you are saying?

MRS. TINDALL: I feel they do and I said in the beginning of my statement, most of those who feel that way cannot be here to voice their opinions. They are too busy being good mothers and raising families.

ASSEMBLYMAN BATE: If this question is put on the ballot, a substantial percentage of the eligible voters are going to vote, and perhaps that represents half or a little better women, and if they are really opposed to the amendment, won't the amendment be voted down -- won't the referendum be voted on negatively?

MRS. TINDALL: Hopefully, it would be voted down. But I fear so many of these women don't get out and really know what is going on.

ASSEMBLYMAN BATES: What do you conclude, that they won't bother to vote "yes" or "no"?

MRS. TINDALL: Yes. That is the only reason I am here.

ASSEMBLYWOMAN BERMAN: Mrs. Tindall, I just want to ask you a couple of questions.

Early in your statement you referred to the existence of an Equal Rights Amendment. Am I to infer from your reference to this that you think that the rights of women are completely protected under that Equal Rights Amendment?

MRS. TINDALL: When I said "Equal Rights Amendment," I meant to say the Employment Act of '72. I am not in favor of the Federal Equal Rights Amendment either.

ASSEMBLYWOMAN BERMAN: In other words, you think that the only area of discrimination presently is in employment. As long as this is covered, there are no other areas of discrimination against woman.

MRS. TINDALL: Not any other areas that are that important.

ASSEMBLYWOMAN BERMAN: Let me ask you this. You referred specifically almost entirely to women who are

homemakers who are part of a married-couple family with children.

MRS. TINDALL: Yes, I did.

ASSEMBLYWOMAN BERMAN: Would you acknowledge the fact that there perhaps are a large percentage of women who presently are not part of a two-parent family?

MRS. TINDALL: Yes, I would.

ASSEMBLYWOMAN BERMAN: Would you be opposed to giving these women rights if they are operating in the outside world?

MRS. TINDALL: No, I would not.

ASSEMBLYWOMAN BERMAN: And how would you propose that they might get such rights?

MRS. TINDALL: I propose that they already have them.

ASSEMBLYWOMAN BERMAN: Then it would be your feeling that there is no discrimination once the employment matter has been settled?

MRS. TINDALL: Yes. We have now, in my feeling, equal rights and all the rights that women need in our State. Now other states, I realize, have bills where women cannot be homeowners or co-owners or handle their own finances. But in New Jersey, women have good protection, I feel.

ASSEMBLYWOMAN BERMAN: Earlier today, reference was made, for example, to equal credit and the fact that this legislative body just recently enacted legislation to end discrimination in credit. It would be your feeling that there are no other areas in which women are discriminated against. Once we pass this one particular piece of legislation, any woman could operate in the world and feel that the law did not discriminate against her.

MRS. TINDALL: I would be taking too much upon myself to say that. I do think there may be other things that will come up. But I think this is too broad.

ASSEMBLYWOMAN BERMAN: Let me go on to another point. You referred to aggressive women as though it were some kind of aberration. Would I be correct in assuming that you relate all aggressive qualities to men and all qualities of the other sort to women?

MRS. TINDALL: No. There are different types in both sexes. I feel that it is the squeaky wheel that gets the grease and right now we have the aggressive women getting all the legislation pushed through, which the majority of women are not for. So I feel we passive women have got to get out and be heard.

ASSEMBLYWOMAN BERMAN: You don't admit any possibility then that what is happening in terms of the women's movement today in the drive for equal rights is a reflection of what is happening in our society today and the fact that a broad cross-section of women might want that kind of equal protection?

MRS. TINDALL: I don't feel a broad cross-section do want that kind of protection.

ASSEMBLYWOMAN BERMAN: I would also like you to explain something, if you would be willing to. You made reference several times to socialism and equality of rights of women. I would ask that you explain that a little bit. I found it difficult to follow.

MRS. TINDALL: Well, I think most of the funds that are coming for this type of legislation are coming from strong men in this society who have the major control of the money and are pushing for this type of legislation to sort of water down our society.

ASSEMBLYWOMAN BERMAN: We have heard here a list of some of the particular organizations that are supporting this amendment, such as the League of Women Voters, NOW, and the American Civil Liberties Union. And would it be correct to assume from your remarks that these organizations

are, let's say, socialist supported and are being supported by funds from some kind of socialist source, and that is why they are making their major pitch here today?

MRS. TINDALL: It almost seems that way.

ASSEMBLYWOMAN BERMAN: Do you have any documentation of that?

MRS. TINDALL: No, I don't.

ASSEMBLYWOMAN BERMAN: In other words, it is a feeling that you have.

MRS. TINDALL: It is a feeling that I have.

ASSEMBLYWOMAN BERMAN: All right. Thank you. (Applause.)
Our next speaker is George Muha.

G E O R G E M U H A: I would like first of all to thank the distinguished members of the Committee for giving me this opportunity to speak before you. This is the first time I have ever spoken before such a panel and it certainly strikes me as a sign of how much freedom we have in this country that a private citizen like myself can so easily obtain the opportunity to speak before a body of important government decision-makers like yourselves.

I have gone through considerable inconvenience to take a train here this morning to express my deep concern over the Equal Rights Amendment. Let me frankly state that I fully support equal rights for women if that term is interpreted with the same meaning that our forefathers assigned to it. However, it is my belief that the Equal Rights Amendment, as now suggested for the November ballot, would decrease, not increase, the freedom of the people of New Jersey and produce a result opposite from that which will probably be intended by most of the people who vote "yes" on the amendment.

I oppose the amendment on the following grounds:

1. It is ambiguous and ill-defined.
2. It will lessen individual liberty and promote

socialism.

3. It will probably interfere with business productivity.

4. It may destroy marriage and force the people of our State to engage in behavior which would be otherwise alien and revolting to them.

It strikes me that women basically already have equal rights except in some very few areas, such as legal limits as to how much physical weight can be lifted on the job. Indeed, for every one of the few laws that appear unfavorable to women, there is roughly one that is unfavorable to men.

It must be remembered that equal rights is a political concept, not a moral, cultural or economic term. If a man only shakes hands with other men, is he denying women their equal right to shake his hand? Of course, not, because a man or a woman has the equal right and freedom to shake the hand of anyone he or she pleases. Likewise, it is also claimed that due to prejudice women are paid lesser salaries for exactly equal work. Even if this assumption were freely granted, it does not show in any way that women have unequal rights to employment. This is so because a woman or a group of women can set up their own company and offer men lesser pay for equal work under our State and Federal Constitutions. In other words, men and women, presumably, have the equal right to offer a larger or equal wage to any other men or women. Rights are equal. They would be unequal if, for example, women were forced to pay equal wages to men or women that they hired, but men did not have to abide by the same rule.

If this amendment is passed under the claim that it will force employers to give equal pay for what is in the State's opinion equal work, then it is not equal rights but a special kind of equal rights that is being sought.

If the Equal Rights Amendment were interpreted as merely abolishing legal privileges or differences of rights

to men or women, except in those areas where sex differences are essential, I would wholeheartedly support this amendment. But is the aforementioned concept of equal rights the intended one of the advocates of this amendment? I think not, especially since there are few areas where women do have lesser rights than men.

If the amendment is meant to force employers to give equal pay for equal work, there are several points to consider:

One, in this case, individual liberty would be lessened. If I am having a party and invite only males or women - or, say, I only invited males - and women claim that I have violated a woman's rights by not having invited some representatives of that sex to my party, I have not really done that because unless I freely choose to invite somebody, he has no right to attend my party. Likewise, if an owner of a proprietorship or the shareholders or the board of a corporation choose not to hire men or women, I feel in a free country they ought to have the right, and under our Constitution do have the right, to hire or not hire, regardless of the reason.

I don't feel that a person should have the right to force a second person to give him his hard-earned money unless that second person has committed fraud, violence or violation of contract. To force an employer to hire somebody against his will, is outright stealing in my judgment.

There is a widely held notion, encouraged by the Supreme Court, that businesses are public places and, therefore, must hire solely on the basis of ability. However, I don't think that this can yet be justified on constitutional, statutory or even common law grounds. I believe that until recently a man's rights or responsibilities to use his personal property were indistinguishable from his rights to business property. The move to

divorce rights of personal property from business property is pushing this country in the direction of lessening owners' rights to make their own business decision and is, in fact, leading toward socialism, a system wherein the government makes most of the business decisions.

It is foolish in my judgment to assume that men hate women and pay them lesser salaries because they just don't like them. It is almost as foolish to suggest that on the average men give women lesser pay for equal work because they don't feel that women should be in these managerial positions. Salaries are generally not paid by feelings. One may assume that employers try to give everybody as low a wage as possible to maximize profit. But competition and the need to get the work done forces salaries to be on livable or affluent levels.

Where women are getting paid unequally, I suggest there frequently are good reasons. Many times women do quit jobs readily because of marriage, pregnancy or because the job was for extra family money. The boss is surely entitled to discount these unsettling occurrences by offering lower salaries to women. More importantly, because women in their own estimations often work for extra income with the husbands bringing in the main checks, they probably usually do not bargain as hard as men for top salaries.

Another barrier to top positions in management may be the psychological makeup of women on a statistical level. Because of cultural upbringing, many women may - now I am not sure - but may not have the mental hard-headedness to make the quick weighty decisions under heavy pressure. I know one girl who had a \$14,000 job at Bell Telephone and refused a promotion to \$20,000 because she felt that she couldn't handle the pressure as well as a man. Thus we see that there may be real dollar and sense reasons why women sometimes receive lesser pay for what is apparently,

but not really, equal work. As the psychological attitudes of women change, as they now are, women will quickly rise to management positions on an equal salary basis, as is in fact now happening.

One cannot blame business for cultural differences between the sexes. Indeed, we now see women becoming more widely accepted in jobs that traditionally they did not even wish to apply for, with few exceptions.

No doubt there is some pure prejudice. No doubt there are some employers who do dislike women -- who do not dislike women, but refuse to give them managerial responsibility because they refuse to examine the individuals involved and judge the class of women as a whole, incapable of handling these positions.

The acceptance of a law giving economic equality is still not justified, even under this circumstance, because if we threaten to arrest anyone who has any prejudice, who would remain free? The beauty of the free enterprise economy is that those who bear such prejudices are penalized financially for it. If a woman with superior qualifications is refused solely because she is a woman, she may eventually be accepted by a competitor whose profits will rise because he employs solely on the basis of ability. Eventually competitor pressure tends to eliminate irrational prejudices, even if only one employer out of ten is initially unprejudiced.

Women in our society have a further bargaining card, for it is estimated that they control some 75 per cent of the purchasing power in this country, which makes them the real bosses with employment powers should they care to exercise those powers. Decisions, such as buying children's clothes, groceries, even houses and furniture, are really made more by women than by men on the average. If the average woman on the street really was upset over the lack of women management in, say, Macy's Department

Store, I am sure that one week's boycott on a massive scale would quickly change managerial attitude. Indeed, the other stores would be so scared by this example that they wouldn't wait until they were boycotted to change employment patterns. This method of change is superior to laws because it is voluntary rather than requiring the government to coerce change.

For all of the above reasons, I would denounce accepting the economic interpretation of the Equal Rights Amendment. Of course, in government jobs, the forces of the market do not protect women as much as in private businesses and they are public positions which serve men and women equally. Therefore, I wholeheartedly support government hiring based solely on ability. But this does not require a constitutional amendment that affects the private sector.

One may not agree with my above arguments. However, it is clear that the Equal Rights Amendment is ambiguous. Does it mean merely abolishing legal privileges due to sex or will it force cultural and economic equality as judged by the government? Equality and equal rights have meant different things to people in the past for the most part. They do not to some people today, especially those on the far left. Because of the ERA's ambiguity, the voters may vote for it regardless of whether they support the classical concept of equal rights or the far left concept, and they thus will be not knowing what they are getting. Also will the ERA's equivocal nature essentially give the judges the power to make the laws according to their own interpretations? Will the amendment require a quota system? It can be seen that many judges interpret equal rights in this fashion if we look at judicial interpretations of other recent civil rights acts.

Will the ERA abolish men- and women-only clubs, thus destroying freedom of assembly? Only the judges know for

sure. We know that the Supreme Court has ruled "separate but equal" unconstitutional. Will this mean that "separate but equal" restroom facilities in the State will be abolished by the judges? The possibility does exist since Admiral Zumwalt has recently ordered preparations for uni-john facilities in the Navy in the anticipation of the passage of the National ERA.

The point is one cannot say what the State ERA will mean. Proponents in the Assembly may tell their opponents that no nasty consequences will occur. But they simply cannot know this for sure because of the ambiguous wording of the amendment. It gives the judges a carte blanche which will usurp democratic procedures.

One last important Pandora's box that will be opened if the ERA is passed is the institution of marriage. While I do not claim to support every facet of the marriage laws, there must exist some laws respecting the rights and responsibilities of married couples, especially if children are involved. The ERA as written could potentially eradicate all existing legislation with regard to marriage. A few women complain that their rights are violated because they can be compelled to care for their own children while they prefer to ignore this responsibility and work. First of all, marriage is a civil contract, entered into voluntarily and like any contract, if one does not wish to bear responsibility for complying with its terms, one need not enter into the contract. Of course, the terms of marriage cannot be as readily changed as other contracts and perhaps more liberty should be granted to prearrangement of the contracts to differ from the statutory ones. Engaged couples usually make prior agreements on their own regarding work and child-rearing. However, if after children come along and voluntary arrangements cannot be worked out, someone must be responsible for rearing and somebody must be responsible for financing the children.

Because the majority of people accept the present arrangement of male providence and female rearage, this is the least offensive legally enforceable arrangement in the event of unsolvable conflicts between marriage partners. Will the ERA give women the equal right to compel men to stay at home with the children if their incomes cannot provide for professional services or relatives to care for the children? If men and women can equally compel each other to work and care for the children, how will these conflicts be settled? Will the courts be arbitrary? Will the states be forced to use taxpayers' money to care for the children? Clearly the ERA could destroy a family's legal responsibilities for child care. It creates a legal vacuum into which chaos could engulf the lives of unharmonious parents.

I do not know if the worst consequences mentioned above in my discussion will take place if the ERA is passed. Maybe the worse will happen. Maybe it will be harmless or humanely equalize rights. Maybe some of the bad consequences will occur. One thing is for sure, the results can't be predicted and the passage of the ERA will create government by judicial decree rather than law.

I urge the ACR 67 be killed in this Committee or drastically clarified so as to merely remove the legal privileges of the sexes, except for marriage laws. I certainly sympathize with efforts to constitutionalize those rights of women that could be taken away by the Legislature, but I don't approve of this ambiguously-phrased amendment.

Just two days ago, it was in the Newark Star Ledger that the height requirement for policemen was ruled against civil rights on the basis that only 6 per cent of the women are above 5 feet 7, whereas something like 60 or 70 per cent of the men are. Even though women could have gone into

the Police Force if they met the requirements, the mere fact that most women physically weren't of this height made the State Civil Rights Board rule it illegal. I think that this was not a constitutional decision, but it may be constitutionalized by such an amendment. Surely one would not cherish the thought of a 5-foot-1 woman in the middle of Newark at 2:30 in the morning being attacked by a 6-foot-4 man. It would force her to use more violent tactics sooner if he came charging at her with a knife. A tall cop might use his billy club, whereas a woman may be forced to use her gun.

I further urge that a resolution be adopted to rescind the ratification of the National ERA on the same grounds. Thank you. (Applause.)

ASSEMBLYWOMAN BERMAN: Any questions?

ASSEMBLYMAN HAWKINS: Are you an attorney, sir?

MR. MUHA: No, no, I am just a student at Rutgers.

ASSEMBLYWOMAN BERMAN: I would like to ask you a couple of questions.

You referred toward the end of your talk several times to the marriage contract and child-rearing. I was wondering whether you were prepared to say whether the marriage contract as presently used specifically spells out child-rearing obligations?

MR. MUHA: I don't know exactly how it was phrased in the State. I do know that child-rearage is the responsibility of the mother in the event of conflict, whereas the responsibility to provide is the male's. I believe most of the other things like owning property have been equalized between men and women. And I would say that this may create a conflict in the event the woman insists on working and the man does too.

ASSEMBLYWOMAN BERMAN: I would rather stick just to that.

MR. MUHA: Sorry.

ASSEMBLYWOMAN BERMAN: You said the marriage contract. Does it delineate whose responsibility the child-rearing is?

MR. MUHA: I am not sure of the law. I believe that it does state the woman to the best of my knowledge.

ASSEMBLYWOMAN BERMAN: To the best of my knowledge, I think that would not be so and that there is no specific delineation at all in the marriage contract.

You referred in your talk to a willingness on your part to let things evolve. In other words, you concede that perhaps women are not getting their equal rights at this particular time, but just sort of let things roll along. Would you be willing to say in terms of equal rights for races that this would have been a more suitable approach? In other words, in the area of race, there were specific laws giving equal rights under the Constitution and things rolled along for 150 years and those people were still being denied their rights and, therefore, no action should have been taken and we should have, as you are suggesting in this instance, just have sat back and let the natural course of things take place?

MR. MUHA: Well, in the first place, I didn't say that women don't have equal rights now. I was assuming that employers, regardless of sex, do have the right to hire and offer the salaries they choose. But, inasmuch as it is based on just prejudice rather than ability, this would be a decision of the employer and the laws of economics would tend to make him pay for that prejudice in dollars and cents.

As far as other civil rights go, I do feel the Civil Rights Act of '64 is unconstitutional on the exact same grounds. Many of the legal restrictions to race have been due to Jim Crow laws and other such laws which specifically kept down certain races, which I think

should have been declared unconstitutional.

ASSEMBLYWOMAN BERMAN: From your comments, I would ask whether you think there is a basic incompatibility with child-rearing responsibilities and a woman's participation in the larger areas of life?

MR. MUHA: No, I have nothing against women working. In fact, I think it is a good idea. Clearly the more people that work, the more productivity there is in the economy. I don't believe in the idea women take jobs away from men. The more brains that are being used to produce, the more production will occur. But this is something I think should be left to individual decision. Certainly when children do come along, somebody does have to take care of them. As long as somebody is free and not married, I have absolutely no objection to a woman becoming chairman of the board of any company.

ASSEMBLYWOMAN BERMAN: But you are willing to delegate full responsibilities to the women?

MR. MUHA: The way it worked ~~was~~ that men, I believe, had the responsibility. You can correct me if I am wrong on this. But I believe, at least in some states, men have the responsibility. If they couldn't voluntarily agree on another arrangement to physically support the woman by earning a living, I believe they could be arrested for desertion and non-support. And women have the responsibility for caring unless they have parents living and they can leave them or make some other voluntary arrangement.

I might even support an idea where they can legally draw up a contract before marriage and do it other ways. But the point is, I think my main objection to this law is that it is very ambiguous and it is not really giving the Legislature the control. I think it is throwing too much control onto the Judicial Branch. It is very ambiguous. I have heard a lot of nice things said in favor of it and what it will and won't do. But if people

wanted these things, why didn't they put it into the draft of the resolution rather than claim afterward what it may or may not mean? I think a lot of laws have been passed under the claim they would do one thing and they wound up doing another because of the phrasing.

I would support an Equals Rights Amendment if it was phrased to strike out "legal privileges," except maybe in regards to marriage. We might have to have some differences. But basically I think freedom will be infringed upon if you go around ordering people as to who they can or can't hire. If you look at the quota systems that have been established -- for instance, I believe Bell Telephone recently had to pay some \$20 or \$30 million in damages because they only had something like 7 instead of 11 percent minority employees. This is just paid out to the minority employees. It seems to me this is a situation which is becoming rather abusive. The thing is that we don't know whether this will occur with this ERA because it is too ambiguous.

There was a time, I feel, when equal rights meant one specific thing, a legal term, but people claim they are not getting their equal rights because they are not getting equal pay. I don't think any equal rights are being denied because women can offer less equal pay than men. I certainly feel I have a right to spend my hard-earned money in any manner that doesn't infringe on anybody else's liberty. For example, suppose my wife deserted me and I now hate women. I worked all my life in a mine saving up money for a store and I have five employees and I only want men because the thought of a woman coming in would revolt me after my wife deserted me. I don't believe I should be forced to have a woman come in and work for me against my will. That seems to me tantamount to stealing.

ASSEMBLYWOMAN BERMAN: Some of the things you are arguing are already in fact law. You have made several references to equal pay for equal work. Under the laws of New Jersey that is already a requirement.

MR. MUHA: It is, but I do feel that it is unconstitutional and may be struck down, whereas this would completely legitimatize such construing, or it might.

ASSEMBLYWOMAN BERMAN: Thank you. (Applause.)
Assemblyman Rizzolo has a question.

ASSEMBLYMAN RIZZOLO: Mr. Muha, I merely want to inquire, since you seem to indicate that you would favor some type of equal rights amendment, whether you have reduced that to writing, for example, a proposal of your own or amendment to the present ACR 67?

MR. MUHA: I haven't thought of it in detailed terms. But I would think it should include something like striking down such laws, which I believe exist, relating to how much weight a woman can legally lift. In my opinion, if a woman wanted to lift 500 pounds, there shouldn't be a law restricting that. I feel shop rules should be the right of the employer, but there shouldn't be a government rule saying that women can't do thus and so. An Equal Rights Amendment that would strike down laws that would legally restrain women from seeking opportunities, I would approve of.

ASSEMBLYMAN RIZZOLO: Do you feel in the framework of your own thinking that a resolution incorporating your ideas can be achieved?

MR. MUHA: I think it could be. I haven't thought of it in detail yet.

ASSEMBLYMAN RIZZOLO: Thank you.

ASSEMBLYWOMAN BERMAN: Thank you very much.

Our next speaker is Howard Freund, who is a candidate for Congress for the 12th Congressional District.

H O W A R D F R E U N D: Madam Chairman, members of the Committee, and my good friend Mayor John T. Gregorio: I want to thank you for affording me the opportunity to come here to speak and express the views of many, many people. I enjoyed listening to Mr. Muha and I certainly subscribe to all the ideas that he propounded.

"I never cease to be amazed at the nice sounding names that are given to so many bad laws. Probably the best example of this is the so called Equal Rights Amendment.

I doubt that any of the opponents of the ERA including myself believe that men should earn more for the same job than women. There is nothing in the Equal Rights Amendment that is not already guaranteed to women under the Civil Rights Act of 1964, subchapter VI and the Equal Employment Act which forbids discrimination in every aspect of employment-hiring, pay and promotion.

The ERA does not guarantee women better paying jobs, promotions or better working conditions. The Equal Rights Amendment is a fraud which will wipe out a woman's present freedom of choice to take a job- or be a full time wife and mother supported by her husband. The AFL-CIO opposes the ERA just as all thinking people who recognize the sinister effect this amendment will have on our country by destroying the family unit. Laws are already on the books and if there are any abuses then all the government has to do is enforce them without destroying those they profess to be helping. You don't have to burn down the house to get rid of termites.

As a man, I admire women and see nothing wrong with their superior and privileged status. Under the ERA, women would lose their special status in the family unit. Under ERA, maximum hours, and minimum wage laws for women, widows' allowances, alimony and support payments and the basic responsibility of man to provide for his family would be in danger. You wonder on who's side the proponents of the ERA are!!

At present more than 30,000,000 women are in the labor force. Close to 60% of them are married and living with their husbands. Working mothers constitute 38% of all working women, which means they have additional responsibilities in being homemakers. In this day and age of UNCONTROLLED inflation caused by deficit spending and printing press money you must realize that most women work because they have to work to assist in the support of their families. 85% of the women workers are unorganized and they depend on their employer's

understanding of their home responsibilities. It isn't easy to meet production schedules with women workers worried about the well being of their children and it takes an understanding employer. In Michigan a woman worker cannot work more than 10 hours per day or 54 hours a week. What is at issue in addition is the right to privacy and the function of the male and the female. If it is the function of the female to bear and rear our children, then it would be criminal to relieve the male of the obligation of being the provider.

A legal interpretation of the ERA by the Yale Law Journal spells out what we can expect if this bill is passed in New Jersey.

1. "Women will serve in all kinds of units, and they will be eligible for combat duty."

2. "Neither the right of privacy nor any unique physical characteristics justifies different treatment of the sexes...."

This amendment will reduce human beings to living at the same level as animals without differentiation of the sexes.

And if you don't think this can and will happen...The Department of Transportation has already published in the Federal Register its notice of proposed rule-making to amend Coast Guard regulations to allow female members of the crew to use washrooms and toilet rooms that are used by male members of the crew. Based on the ERA sexual segregation will not be allowed in prisons, penitentiaries, educational institutions, medical and mental hospitals.

The leading organization in the attempt to destroy the present status of women in America is an organization called NOW (National Organization of Women) The platform of principles of NOW is titled Revolution: Tomorrow is NOW, and sets forth NOW's action program which includes:

- 1. Lobbying for the Equal Rights Amendment.**
- 2. Government-funded free child-care centers for all children.**
- 3. Pro-lesbian legislation.**
- 4. Free abortion, sterilization and contraception.**
- 5. Elimination of laws and programs which give preference to veterans.**
- 6. Eliminating tax-exemption for churches and challenging church policies.**
- 7. Removing school textbooks which portray the "stereotype" of women in the home.**
- 8. Requiring schools to provide contraceptive and abortion counseling and women's lib programs.**
- 9. Eliminating women's exemption from the draft.**
- 10. A guaranteed annual income.**
- 11. Requiring business to assume the expense of providing "parent leave" to both parents instead of just maternity leave.**

The ERA is another step in a plan to destroy the American way of life. I urge the Assembly and the media to examine my testimony which sets out the facts on this very bad bill and I urge you to reject the ERA. (Applause.)

ASSEMBLYMAN HAWKINS: Mr. Freund, I think I heard you say that the ERA is not really needed because, number one, certain rights are already given to women. In fact, most of the rights that they are going to get from the proposed amendment, you feel they already have. Is that what you said?

MR. FREUND: In employment - the employment rights.

ASSEMBLYMAN HAWKINS: But there are a great many other rights that women don't have equal to men, is that correct?

MR. FREUND: I think the women have a superior status and I like it that way. (Applause.)

I think it should be a woman's privilege to be able to stay home and not have to go out and provide 50 percent of the support for a child. You are going to have to change all of your State laws regarding child support.

ASSEMBLYMAN HAWKINS: Mr. Freund, are you familiar at all with equal or unequal prison terms of women?

MR. FREUND: No.

ASSEMBLYMAN HAWKINS: You are not familiar with that. You have no knowledge at all in that area. Is that correct?

MR. FREUND: Well, I shouldn't say I don't have knowledge of it. I do have some knowledge on most subjects. I would certainly expect that women would be treated differently in a prison than men.

ASSEMBLYMAN HAWKINS: As far as the terms of incarceration, Mr. Freund, are you familiar or unfamiliar with that?

MR. FREUND: No. I will listen to you.

ASSEMBLYMAN HAWKINS: I am just asking the question, sir.

MR. FREUND: No.

ASSEMBLYMAN HAWKINS: You don't know about that?

MR. FREUND: No.

ASSEMBLYMAN HAWKINS: Are you familiar at all with whether or not they have equal or unequal social security benefits?

MR. FREUND: They have a privilege under social security. They don't have to provide for it. It is different.

ASSEMBLYMAN HAWKINS: Mr. Freund, will you answer the question. Are you familiar with whether or not ---

MR. FREUND: Yes, I am. They are unequal.

ASSEMBLYMAN HAWKINS: Do they have equal or unequal social security benefits?

MR. FREUND: Unequal, to their privilege, their benefit.

ASSEMBLYMAN HAWKINS: Are you familiar with their rights as to jury duty and whether or not they have equal or unequal jury duty rights?

MR. FREUND: Are you talking about being exempt because of dependents.

ASSEMBLYMAN HAWKINS: I am simply asking you the question whether you are familiar with whether or not they have equal or unequal jury duty rights.

MR. FREUND: They are different.

ASSEMBLYMAN HAWKINS: You are familiar with that. Is that your answer?

MR. FREUND: Yes.

ASSEMBLYMAN HAWKINS: And you said they are different?

MR. FREUND: Yes, they would be different.

ASSEMBLYMAN HAWKINS: Are you familiar or are you unfamiliar with female rights regarding property ownership?

MR. FREUND: A little bit. It varies state by state.

ASSEMBLYMAN HAWKINS: Are you an attorney, sir?

MR. FREUND: No, sir, I am not an attorney. I don't know what you are driving at either, sir.

ASSEMBLYMAN HAWKINS: Do you know whether or not the laws of the State of New Jersey with which we are dealing presently have equal or unequal rights regarding property with reference to sex? Are you familiar with that? Do you know? If you don't know, you may answer, "I don't know."

MR. FREUND: Can I answer that in a different way? Madam Chairman asked about the American Civil Liberties Union. Last year I ran for the governorship in the State of New Jersey and the American Civil Liberties Union sent out a questionnaire and there were 15 questions. One of them related to this question - how I felt regarding the property - should women have the same right on property. I said, by all means, that it was unfair. This was the only question I got in conformity with the ACLU out of 15 questions. But I can tell you this, the Communist Party got 13 out of 15 with the same line taken by the ACLU.

ASSEMBLYMAN HAWKINS: Mr. Freund, I heard you testify and state certain aims of the National Organization of Women, and you listed them.

MR. FREUND: Right.

ASSEMBLYMAN HAWKINS: What I didn't get from you, sir, is whether or not you considered all those aims good or bad. Would you tell the panel?

MR. FREUND: Well, in a free society they would have a right to lobby for their Equal Rights Amendment certainly. I don't agree with it. I don't believe in government-funded --- Do you want me to go through each one?

ASSEMBLYMAN HAWKINS: No, sir. You have listed them in toto, together. I am trying to get the object of your listing them. Are you saying that all of these things that NOW stands for are good or are all of these things bad?

MR. FREUND: I would say that every one would be bad.

ASSEMBLYMAN HAWKINS: Every one would be bad.

MR. FREUND: I would oppose every one of these and I would love to debate anybody from the National Organization of Women on this - every one of them - except their right to lobby for them. That is their privilege in a free society.

ASSEMBLYMAN HAWKINS: Also, sir, you ended your testimony by saying that it was against the American way of life. What is the American way of life, sir?

MR. FREUND: This is a government by, of and for the people; not by, of and for the government. I want a government - and I believe the American people want a government - that is responsible to the people where Big Brother doesn't tell us what to do, whether it be as an Assemblyman or a State Senator or an executive running our lives. You are the servants of the people. That is what I consider the American way of life.

ASSEMBLYMAN HAWKINS: Let me get specific, sir, regarding the topic which we are talking about today, the Equal Rights Amendment. Do you consider equal rights for all people, regardless of race, color, creed, sex, national origin, to be a part of the American way of life?

MR. FREUND: Certainly.

ASSEMBLYMAN HAWKINS: Then, sir, if you agree ---

MR. FREUND: It is already in the Constitution. It is already written into the Constitution, in the Bill of Rights, outlining ---

ASSEMBLYMAN HAWKINS: In the New Jersey Constitution with which we are dealing, is it in the Constitution presently that you may not discriminate on the basis of sex - if you know? If you don't know, say you do not know.

MR. FREUND: It is not in the State Constitution.

ASSEMBLYMAN HAWKINS: Do you consider it important, as you stated previously?

MR. FREUND: No.

ASSEMBLYMAN HAWKINS: Then you don't believe it is important that there is equal treatment for sex?

MR. FREUND: If you are going to go with your argument, then there should be equal treatment for Green people, Brown people, Pink people. Where are you going to end it? We are people. We are Americans. This is one country. I don't want to divide the people. I don't believe in quota systems. I think this is destroying America.

ASSEMBLYMAN HAWKINS: There should be equal treatment, period, don't you think?

MR. FREUND: By your own leave or by your own choice, not by government. You cannot make me love you. The only thing you can force in love is rape. What are you going to do, force somebody to love somebody? You can't. It is something that has to come from within the individual, and get the government out of it. We don't need an Equal Rights Amendment.

ASSEMBLYMAN HAWKINS: In other words, you are saying that we should not make any constitutional provisions at all, there should not be any governing principles, there should not be any Legislature, any Constitution to protect or direct activities of the State. You are saying people should be free to do what they wish. Is that what you are saying, sir?

MR. FREUND: No.

ASSEMBLYMAN HAWKINS: Then you are saying that there should be governing principles with the Constitution and legislation; is that what you are saying?

MR. FREUND: The question is - how far do you want to go with that regulation over your life. We have been existing for 198 years without an Equal Rights Amendment.

And I doubt that you will ever get it as a federal law.

ASSEMBLYMAN HAWKINS: In other words, what you are saying is that ---

MR. FREUND: The State of Nebraska has rescinded their approval of the Equal Rights Amendment.

ASSEMBLYMAN HAWKINS: Is what you are saying that if we have gotten along without it this far, we don't need it?

MR. FREUND: This particular bill and many of the bills like one yesterday, an abortion bill, things where the government is forcing its way with this affirmative action program.

ASSEMBLYMAN HAWKINS: May I suggest to you, sir, that this provision is not being forced by the government. I am asking you if you are aware that what we are doing in this resolution is to place it on the ballot for referendum vote for the people to decide. Are you aware of that, sir?

MR. FREUND: Yes.

ASSEMBLYMAN HAWKINS: And do you consider it wrong that the people should decide?

MR. FREUND: No, I believe in referendum.

ASSEMBLYMAN HAWKINS: So you do believe that it is important that we give the people the privilege, the opportunity, to determine whether or not they want an Equal Rights Amendment. Is that correct?

MR. FREUND: You have that right certainly. But then wouldn't somebody else have a right to introduce a bill that might be innocuous to a minority that might be popular with the majority?

ASSEMBLYMAN HAWKINS: That is correct, sir.

MR. FREUND: -- and deny rights to an individual?

ASSEMBLYMAN HAWKINS: If they can persuade the Legislature who represents the people to put it on the referendum, then it is constitutionally provided that the people can

vote thereon.

MR. FREUND: You see I wouldn't accept something like the Dred Scott Decision which said that negroes were just chattel and could be bought and sold. Yet that was the law of the land and the Supreme Court ruled in its favor. Just because something is a law doesn't mean it necessarily is right. For instance, the State of New Jersey ratified the Equal Rights Amendment. I believe it was pushed through before the people really knew what that Equal Rights Amendment would do to the status of women. (Applause.)

ASSEMBLYWOMAN BERMAN: Mr. Freund, I wonder if you would help me sort out some of the things you have said.

MR. FREUND: All right.

ASSEMBLYWOMAN BERMAN: In replying to Assemblyman Hawkins, you said that you believed in equal treatment for women. In your remarks earlier, you referred to the superior and privileged status of women and you indicated further in your remarks that you liked it that way.

MR. FREUND: To clarify that, it is personal versus business. Certainly in the world of business a woman should earn as much if not more than a man. There should be no stigma in being a women in the business world. By all means I am for equal pay for equal work. In the personal field, I still like the special status of women or that they have a privileged status.

ASSEMBLYWOMAN BERMAN: Would you give to women, for example, who happen to comprise 53 per cent of the population, the privilege of deciding whether they wished to have a privileged and superior status and whether or not they think that is some kind of discrimination against them?

MR. FREUND: Certainly. I would give them that, but I would like them to know what is in this bill. In the many states that the Equal Rights Amendment went through, it was reamed through until, thank God, we had people like

Phyllis Schafley and Professor Toby's wife here and many others who have gotten into the mainstream to let women know what is going to happen to them if this Equal Rights Amendment goes through.

ASSEMBLYWOMAN BERMAN: Then would I be correct in assuming that you have no objection to this being put on the ballot in November so that all people will have an equal right to hear and then act on the basis ---

MR. FREUND: I would oppose it personally. I have the utmost faith in the people. I would oppose it because I don't think it is a good bill at all. If we are going to put something on, let's put something real good on for people to vote on, like no more bussing of our children, or more local control for our communities so that the State doesn't take away home rule under fancy-sounding bills, like a home rule bill that takes home rule away from the people.

ASSEMBLYWOMAN BERMAN: Then I have to assume from your remarks that you are opposed to putting it on the ballot and you are opposed to allowing the total population, which includes 53 per cent of women, to decide that particular issue, whether or not they wish to remain, as you put it, in a superior and privileged status.

MR. FREUND: You ask good questions like Assemblyman Hawkins. Again, I am not a lawyer. I am used to coming out directly on something. I don't have the legalistic mind.

ASSEMBLYWOMAN BERMAN: For whatever comfort it is, I am not an attorney.

MR. FREUND: I oppose the bill, that's all. I have faith in the people. If you want to put it on, put it on, but I still oppose it.

ASSEMBLYWOMAN BERMAN: In other words, what you are essentially saying is that you would prefer ---

MR. FREUND: I would prefer that it not even be brought out of this Committee and I trust on all matters, after they have heard the evidence presented, they will exercise good judgment in deciding what bills will come before the entire Assembly and then before the people.

ASSEMBLYWOMAN BERMAN: I was very glad when you quoted some statistics about women who are employed and I gather that you would find it quite comfortable to think of women in full-time employment if the need for their employment had to do with the need of maintaining a home, and you have no problem about women continuing to rear children and work at the same time, no matter what burden that might place on those particular women. This is quite comfortable, despite the statistics that you just quoted.

MR. FREUND: That is from the testimony of Myra K. Wolfgang before the Michigan Senate Committee on the Judiciary, April 18, 1972. The AFL-CIO opposes this.

I don't believe that the employers are basically the Scrooges or the bad people that some people like to paint them to be. It is mighty difficult to run a business. You have to have an understanding employer when you have women working. They have personal problems and the employers, you know, are good people. Say they were working people. They don't have to have everything spelled out.

ASSEMBLYWOMAN BERMAN: Let me ask you, sir: Do you have any statistics that would indicate what percentage of absenteeism there is on the part of men and women in employment and whether in fact there is any greater absenteeism on the part of women? You said some pretty subjective things. I am trying to tie it down to some specific information.

MR. FREUND: In my own personal experience, probably the best person I have ever had working for me was a woman,

completely devoted. But I think it probably -- well, I would be guessing. I would assume, because of the personal problems, the child-rearing and the need and necessity of most women to work today in order to make ends meet in the family, that you probably would have more absenteeism among women.

I would be interested in finding that out myself and I will check into that.

ASSEMBLYWOMAN BERMAN: I would suggest that as a man who is interested in becoming a legislator you base your opinions on some facts. You made a particular judgment. I do not have the statistics here to bear me out, but they are there, that there is not a greater incidence of absenteeism amongst women. So your own subjective judgment about the role of women and the way they operate should not be allowed to enter into the way you think they might behave as employees in a particular situation.

MR. FREUND: May I ask where your figures are from on that? Are they Department of Labor Statistics or AFL-CIO?

ASSEMBLYWOMAN BERMAN: I can't tell you that right now, but I can get them for you.

MR. FREUND: I would like very much to have them.

ASSEMBLYMAN GREGORIO: Just a statement. I agree with many things you said, Howard, but I would like to say something to the Committee. With due respect to my fellow members of the Judiciary Committee, I don't think it is fair to ask questions of any witness that we already know the answers to, without him having access to certain statistics. I think we ought to stick to questions as to how he feels in regard to this resolution. I think we have been a little unfair to Mr. Freund in trying to make him appear as though he doesn't have some answers when we already have them in front of us and he doesn't.

I feel bad about that, Mr. Freund, and I apologize.

MR. FREUND: Thank you.

ASSEMBLYWOMAN BERMAN: I would just say to my fellow legislator, Assemblyman Gregorio, if we were in fact doing that kind of thing, I would apologize. But I do think if someone says that the performance of women is thus and so, they cannot follow it up by saying, "I think it is so." I think there has to be some basis in fact about a judgment like that when it is brought up in testimony before a body like this.

MR. FREUND: It was based on another point.

ASSEMBLYWOMAN BERMAN: All right. Thank you.

MR. FREUND: I thank you for allowing me to come.

(Applause.)

ASSEMBLYWOMAN BERMAN: We are taking the witnesses in the order in which they asked to be heard. If there should be anyone else who wishes to submit his or her name to be heard after we have concluded with those who are already listed, they might have an opportunity to speak.

Our next speaker is Ms. Deborah Sampieri.

D E B O R A H S A M P I E R I: My name is Debbie Sampieri and I am a student at the Pitman Middle School.

I feel the Constitution has guaranteed me the right to life, liberty and the pursuit of happiness, and that I cannot be happy unless I am doing what I want to do. I also feel that women have the right to stay home if they want to, but there are women who can't stay at home, who don't feel fulfilled if they are at home, and that they have the right to go out and do what they want to do.

I feel that some people think that the Equal Rights Amendment shouldn't be passed and, if that is a majority of the people, it shouldn't. But the people have the right to decide. (Applause.)

ASSEMBLYWOMAN BERMAN: Thank you very, very much. Why don't you stay there for a minute. Possibly someone on the committee would like to ask a question.

Do you mind telling us how old you are?

MS. SAMPIERI: Twelve.

ASSEMBLYWOMAN BERMAN: We are very pleased that you decided to make a statement today.

Our next speaker is Al Wagner, who is Pastor of Calvary Bible Presbyterian Church in Trenton.

A L W A G N E R: I would like to preface my remarks, because of the questioning of Mr. Freund, by saying right off that I am against the Equal Rights Amendment basically because it is not a function of government. The questioning directed at him, asking if he was a lawyer, etc. -- you people are the representatives of the people. As Jethro told Moses, the people were to provide able men, men who love truth, God-fearing men, men who hated covetousness, to be representatives of the people.

As I mentioned, the Equal Rights Amendment is not a function of the government. The function of the government is for the civil government to provide for the citizenry a quiet and peaceable life in all godliness and honesty. This is taken from First Timothy, Chapter 2, Verse 2.

The preface to the Constitution of New Jersey recognizes God Almighty as the author of civil and religious liberty. Article I says that we have natural and unalienable rights, and these must not be taken away from us by the Legislature, by the civil government.

You may ask, how can the civil government provide the people for a peaceable and quiet life. The answer is in Romans 13 where it gives the duties of the civil government and gives the duties of the people to the civil government. It says in verses 3 and 4 that rulers are not a terror to good works, but to evil. "For he is a minister of God to thee for good. But if thou do

that which is evil, be afraid for he beareth not the sword in vain."

So the civil magistrate is a minister of God to law-abiding citizens for good and a terror to evil doers. The law spoken of in Romans 13 is brought out in verses 8 through 10, and it is the law of love. You are all familiar with the fact that the Law of Moses was broken down into two tables, into two Great Commandments, "Thou shalt love the Lord thy God with all thy heart, with all thy soul, with all thy mind. And the second is like unto it, thou shalt love thy neighbor as thyself."

Now the God-ordained function of the government is to carry out only the second table of the law, to protect our life - "Thou shalt not kill"; to protect our family - "Thou shalt not commit adultery"; to protect our property - "Thou shalt not steal"; to protect our good name - "Thou shalt not bear false witness"; and to protect the individual citizen against any kind of fraud or conspiracy - "Thou shalt not covet." But the government is limited to the second table of the law.

With regard to the Equal Rights Amendment, we are always going to have factions. We have always had factions. And this is how we deal with factions. This was discussed by our forefathers as they drew up the original Constitution. Madison says in the Tenth Article, the Tenth Federalist Papers, that there are two methods of dealing with factions. The first is to remove the causes, and this can only be done by oppression - this can only be done by a dictatorship. The second is to control the effects. This is the biblical way - this is the American way.

Now the breaking down of the first of these, that of dealing with factions, is to do away with the causes of the factions. The first way is to destroy liberty. Madison compares liberty with air and faction with fire. If we take away the air from the fire, we destroy the

fire. But we need air to live and you would destroy the people along with it. If you take away the rights of the individual, if you take away his freedom, then you destroy him.

The second way to remove causes is for the government to give each person the same opinions, the same interest, the same passions, which again can only result in a totalitarian government.

You may wonder why a minister of the Gospel of Jesus Christ comes before this Committee, and the answer is that the prophets were to come before the nation, they were to come before the rulers when the rulers transgressed the law. And God told Jeremiah in Jeremiah 7, verses 27 and 28, "Now, therefore thou shalt speak all these words unto them, but they will not harken unto thee. Thou shalt also call unto them, but they will not answer thee." I pray that you will listen to the word of God this day. "But thou shalt say unto them, this is a nation that obeyeth not the voice of the Lord their God, nor receiveth correction. Truth is perished and is cut off from their mouth."

I believe that these groups, many have been mentioned - Mr. Freund mentioned the NOW organization - as far as their affiliations, I don't know. But I can line viewpoints up with philosophies. When you line up the Equal Rights Amendment, it does fall in line with Marxism. Marx said that we must abolish the family. Maybe I could quote a passage from the Communist Manifesto. He said, "Abolish the family." Then he said, "the bourgeoisie family will vanish as a matter of course when its complement vanishes and both will vanish with the vanishing of capital." I don't know if anyone understands what they are doing here, but I did notice that the Equal Rights Amendment is put right in with the section on private property. And Marx says, if you destroy one, you destroy the other.

This resolution says, "The Legislature shall by law provide for the enforcement of the provisions of this paragraph."

This is not the function of government. There are only two forces in the world, God and Satan, Christ and Anti-Christ, good and evil, right and wrong. And this started in the Garden of Eden when Satan deceived our first parents. He told them that they would be as gods to know good and evil. Plato said the same thing in the Republic when he said, "Are dogs divided into hes and shes or do they both share equally in hunting and in keeping watch and in other duties of dogs? They share alike." This is what we are bringing the United States down to, cats and dogs, when a state steps in an area in which it is forbidden to step - and this is an area in which it is forbidden to step - if it comes to that extent, not a minister of God to be for good, but a minister of Satan for evil.

I call upon you to defeat this legislation. Amen.
(Applause.)

ASSEMBLYMAN HAWKINS: Rev. Wagner, you stated that the state - I am taking it that you mean the State of New Jersey - is forbidden to step into the area into which we have obviously stepped.

REV. WAGNER: Right.

ASSEMBLYMAN HAWKINS: I am trying to find out from where you get your authority.

REV. WAGNER: From the Bible, from Romans 13.

ASSEMBLYMAN HAWKINS: Which Bible are you referring to, by the way?

REV. WAGNER: It is in practically all of them. I am referring here to the King James Version.

ASSEMBLYMAN HAWKINS: What you are saying is, the bible that you have is the authority which we should follow.

REV. WAGNER: Yes, sir. We recognize Almighty God

and our forefathers did too. It is right in our Constitution.

ASSEMBLYMAN HAWKINS: In other words, with reference to the Bible, you are telling the legislators that they should disregard their oath of office to follow the Constitution of the United States and the Constitution of the State of New Jersey and follow the words that are in your Bible.

REV. WAGNER: The Constitution was based on the Bible. Let me say this: You agree with the Commandment, "Thou shalt not kill," right?

ASSEMBLYMAN HAWKINS: Yes.

REV. WAGNER: You agree with the Commandment, "Thou shalt not commit adultery," don't you?

ASSEMBLYMAN HAWKINS: I do not know whether I agree with that Commandment or not.

REV. WAGNER: Well, I did notice that you put forth a bill to do away with fornication and adultery as a crime.

ASSEMBLYMAN HAWKINS: That is correct.

REV. WAGNER: Still you wouldn't want anyone having adultery with your wife.

ASSEMBLYMAN HAWKINS: Sir, I am not married. If you are asking my belief --

REV. WAGNER: If you were ---

ASSEMBLYMAN HAWKINS: (Continuing) -- it is a strange belief. I have my own religion.

REV. WAGNER: What about private property? You respect our right to have private property. You disagree with stealing, of course.

ASSEMBLYMAN HAWKINS: Of course.

REV. WAGNER: You disagree with slander and false witness and covetousness.

ASSEMBLYMAN HAWKINS: Yes, sir.

REV. WAGNER: These are the things that are the function of the government. You agree with all but one.

We have certain inalienable rights, as our Constitution says.

ASSEMBLYMAN HAWKINS: Actually I didn't wish to get into a debate. I am trying to get your determination as to whether or not we should follow the Bible or a mandate in the Constitution.

REV. WAGNER: You should go by the Constitution.

ASSEMBLYMAN HAWKINS: If the Constitution tells us that there should be equal treatment ---

REV. WAGNER: What do you mean by equal treatment?

ASSEMBLYMAN HAWKINS: Equal protection of law, sir.

REV. WAGNER: You mentioned about ---

ASSEMBLYMAN HAWKINS: Would you do me a favor? It is really, I don't think, proper for us to debate. I am trying to find out some answers to some questions. I am trying to find out whether or not you think that women should be regarded equal to men as far as the protection of the laws is concerned.

REV. WAGNER: It is all according to how you define equal. I don't agree that everyone should have an equal amount of wealth. A man should be worthy of his hire. He should work and receive wages commensurate with his work. Therefore, you can't have equality on this basis and liberty at the same time. We have equality before the law and the law must be based on the function of government. And the function of government isn't to go into the home. It is not to tell the parents how to raise their children or any of these things. (Applause.)

ASSEMBLYMAN HAWKINS: Our chairman is leaving, so I will temporarily take over.

I am still having difficulty, Reverend, delineating how we as legislators are supposed to act when you are

telling us that you are using one authority and we have been duty bound by our oath of office to use another.

Getting back to the equal protection of the laws clause, the way I interpret it, we as officials of government must give everyone the equal protection of laws. I consider women to be citizens just as everyone else, but you are quoting from another source which I presume you consider higher than the source that we are mandated to follow by our oath of office, and you are saying that other source dictates otherwise.

I am asking you, what are we as legislators supposed to do? Should we follow our oath of office or are you suggesting that we follow the other source?

REV. WAGNER: You follow the Constitution. But the Constitution of New Jersey says, "We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty. . .," and it is not the Legislature's duty to take away our civil and religious liberties and it is my liberty to choose whom I want for a wife. I discriminated greatly when I chose my wife. And I am very thank ful for it. I have a wonderful wife. You in the Legislature are not to take away these rights. You are not to legislate in the home, which this bill will do.

ASSEMBLYMAN HAWKINS: May I suggest something to you, sir, regarding the mandates of the Constitution. The mandates of the Constitution with reference to discrimination are going to have to be carried out by further legislation. In other words, the government is going to have to enact legislation to carry out the intention of the constitutional amendment. But, without any further legislation, the way I interpret the Constitution is that generally speaking it would take action on the part of the State which would be considered discriminatory, unless, as I have stated, there is legislation which says not only the State may not discriminate in this particular area, but people.

Would you agree with that interpretation or would you disagree with it?

REV. WAGNER: No. There are certain areas that the State is not to go into, our inalienable rights. You have no right to come into the realm of our natural and inalienable rights, to hire whom we choose and to pay what we desire to pay in bargaining with our employees. This will go into all these areas.

ASSEMBLYMAN HAWKINS: Any other questions?

ASSEMBLYMAN GREGORIO: Just one question: Where do you think this bill will legislate in the home?

REV. WAGNER: Well, God has ordained the natural order in the home. The man is to be over the wife in authority. This doesn't mean that the wife is inferior to the man. The Lord Jesus Christ put himself in subjection to his parents, but He was Son of God.

When you legislate equal rights, you are coming into the home and disrupting the home. Take, say, my wife and myself. If you legislate her as soon as she walks out of the home, then you are legislating in my family. This is not an area that the government is to get into.

ASSEMBLYMAN GREGORIO: I would like you to be a little more specific about where this bill would legislate in the home. Can you give an example? Where do you think it would do harm?

REV. WAGNER: The thing of it is, it doesn't even matter what harm it could do. I could list many reasons and many possibilities which way it is going to go. The thing is that it is not a function of government to legislate outside of its area of jurisdiction, and this is getting outside of the area.

ASSEMBLYMAN HAWKINS: I still don't understand how you can say, if the Constitution of the United States gives the State of New Jersey jurisdiction within which it may not only legislate but also make constitutional provisions,

we don't have jurisdiction to do it.

REV. WAGNER: Then what does the term "natural and inalienable rights" mean to you?

ASSEMBLYMAN HAWKINS: I do not know. That is a very ambiguous term. I am sure you would look to the Bible to find that definition.

REV. WAGNER: If you study history, you will see that our forefathers based the Constitution on the Bible. They had no intention ---

ASSEMBLYMAN HAWKINS: Which bible?

REV. WAGNER: They had mostly the King James.

ASSEMBLYMAN HAWKINS: How do you know this, sir?

REV. WAGNER: How do I know this?

ASSEMBLYMAN HAWKINS: Yes.

REV. WAGNER: It is a historical fact. One of the signers to the Declaration was John Witherspoon. He was a Presbyterian minister. He gave the deciding speech to go to war because our inalienable rights were being taken away. And he said something to this effect - of property, I have some; of reputation, I have some; but I would rather that these gray hairs would descend into the sepulcher as a free man, rather than my freedom and inalienable rights and natural rights be taken away from me. That is why we fought the Revolutionary War.

ASSEMBLYMAN HAWKINS: I believe what you are saying then is that we who are legislators must look not only to the Constitution, but higher than that; you are suggesting that we look to the Bible for such definitions of inalienable rights, etc.

REV. WAGNER: I will read you again the Preamble, "We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty. . . ." Now what is that civil and religious liberty? I don't think you should legislate in the area of an Equal Rights Amendment unless you can answer this question because it

is the opinion of a lot of people that you are taking away our natural and inalienable rights.

ASSEMBLYMAN HAWKINS: Let me ask you this, sir: Do you think that the people of the State of New Jersey would have a natural and inalienable right by majority vote to make a determination as to how they wish to be governed?

REV. WAGNER: As I understand, we live under a representative form of government. You were chosen as an able man, as a man who knows the Constitution. Most of the people out on the streets aren't familiar with this legislation that is being put forward. You legislators, as representatives, are to make this decision. Of course, since this is a constitutional amendment, it will have to go to the people. But you as an able man shouldn't send something that is unconstitutional that takes away our rights back to the people.

ASSEMBLYMAN HAWKINS: But if we determine that it is constitutional, then we should allow the people to vote on it; is that correct?

REV. WAGNER: Sure. That is constitutional procedure.

ASSEMBLYMAN HAWKINS: If we determine that it is constitutional, to what should we look? Should we look to the Bible or should we look to the Constitution?

REV. WAGNER: Well, you should look and I guess try to figure out what this term "natural and inalienable rights" means. You are not to legislate in the church; you are not to legislate in the home; you are not to legislate in dealings of one to another until there has been infringement of the law.

ASSEMBLYMAN HAWKINS: Are there any other questions? (No response.) Thank you very much for a very informative talk. (Applause.)

Time is getting late and we are going to proceed as rapidly as possible. I see someone coming up. It must be Mrs. Robert Bayer. Welcome, Mrs. Bayer. I would appreciate if those who have not yet spoken will keep their remarks short. If it is something that is going to be repetitive,

would you simply tell us that you are in support of a particular person's viewpoint. If you have anything additional to that, you may tell us.

M R S. R O B E R T B A Y E R: I have to leave because my mother crushed three ribs. She is 81 and she is at home and I should be there. So I will read this very fast, if I may, and I appreciate your letting me come. Thank you very much.

First of all, I would say that Nebraska is very smart because they rescinded their passage of this ERA and I am hoping that you all will consider, first of all, rescinding what you did last year, rather than putting this up for referendum, because I find most women who are working because of inflation, trying to earn money, that they can't take time to read what is going on and can't keep up with this. That is one of the big reasons I think you should consider rescinding what you did last year because it is so important. (Applause.)

What I hope you will realize - and you look very intelligent - is that the purpose behind this whole thing is to abolish the family unit. For instance, in the Soviet Union there are more women workers than men, and we will be drafted to go out and dig ditches. That is what they do to their women in the Soviet Union and that is what this will be. The Socialists want to take over our government and abolish the family unit, put the children in day-care centers paid by the state and run by dictatorship in Washington, and we have practically a dictatorship there anyway.

I would like to read the same things to put them back in your mind:

The ERA will make every wife in the U. S. legally responsible to provide 50 percent of the financial support of her family.

The ERA will wipe out a woman's present freedom of choice to take a paying job or to be a fulltime wife and mother supported by her husband.

The ERA will make women subject to the draft. That means combat. That means torture and POW camps. That also means that you could have a domestic draft and I would have to go out and dig ditches and haul garbage and I really don't want it.

ERA will also put women on warships and make them subject to combat duty on an equal basis with men regardless of whether we have a draft or not.

ERA will eliminate the preferential Social Security benefits women now enjoy, such as age 63.

ERA will wipe out many protective labor laws which benefit women. In other words, women should have different laws and different protection, not equal to men. I hope I am a little different than men.

ERA will integrate boys' and girls' physical education classes in high schools and colleges.

ERA will jeopardize present lower life insurance rates for women.

ERA could create havoc in prisons and reform schools by preventing segregation of the sexes.

ERA will nullify thousands of present laws which protect women - I like the laws we have now that protect me - and will transform every provision of law concerning women into a constitutional issue that will ultimately have to be resolved by the Supreme Court.

ERA does not guarantee women better paying jobs, promotions or better working conditions. The Equal Employment Opportunity Act, as you all know, and other laws already guarantee women "equal pay for equal work" and need only to be enforced to ensure women equal opportunity.

So I don't see any point in you people even bothering

with this. I think you should rescind what you did last year and get on with saving the country, stopping inflation and socialism. Thank you very much. (Applause.)

ASSEMBLYMAN HAWKINS: Thank you very much.

Mrs. Susan Toby.

S U S A N T O B Y: First of all, I must say that trying to capsule the Equal Rights Amendment is like trying to put the Constitution in a thimble. I am not prepared to be quite that brief.

First of all, I want to say that most women are for equal pay for equal work. I don't think you will ever find any woman that disagrees with that concept. Our Constitution was indeed built on the idea of the Judeo-Christian concept in which women are elevated. This is the only situation of its kind in the world where women are given privileges under this concept, and this is very important. There is nothing new about the Equal Rights Amendment concept. It goes back as far as Plato's Republic. That is a long time ago. Plato's Republic was built on the premise of humanism, that the man is capable of totally solving his own problems without any intercession of a God or anything of the like.

Now, as President of the Leadership Foundation of New Jersey, which is a women's group that represents and gets out to millions of women on legislative matters, I would like to cover a few of the things that the proponents of the Equal Rights Amendment say about it and then tell you what the opponents say and draw conclusions from there.

The distinctions based on the sexes still exist, and the proponents of this don't like it because they say the state laws placing special restrictions on women with respect to hours and work and weight-lifting on the job are bad. They say that state laws prohibiting women

from working in certain occupations are bad. They say laws or practices operating to exclude women from state colleges and universities are unfair. They say discrimination in employment by state and local governments is unfair. They say dual pay schedules for men and women public school teachers are unfair. I don't think anybody would disagree with some of these concepts.

The only problem is that the Equal Rights Amendment goes much further than is necessary. It is like using an atomic bomb for the curing of a virus because with it go the privileges of many women. I think it is only fair to say what has happened in some of the states that do have the Equal Rights Amendment. Let's go into the State of Maryland and see what happened there:

A bill to make a wife criminally liable for the support of her husband just as the 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.

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.

A bill to delete the present protection of wife's property from the debts of her husband.

A bill authorizing the court to require a wife to make weekly support payments to her husband and children. I don't think that many wives want to support their husbands.

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 Divisions of Parole and Probation. These are actualities; these are

not projected things. These things are actually happening in the State of Maryland.

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.

A bill which eliminates the right of female mental patients to be accompanied by a woman when transported to or from a facility.

A bill which eliminates the right of female prisoners to have separate facilities in county jails, correction or detention houses and reformatories.

A bill to integrate male and female criminals of all ages in state prisons. Remember this is a unisex concept we are dealing with. No provision is made for separate sleeping and other facilities.

A bill to integrate boys and girls in state training and rehabilitation institutions. No provision is made for separate sleeping and other facilities.

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."

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 is, remember again, the State of Maryland.

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.

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.

A bill to equalize the laws against forced prostitution.

A bill to repeal certain protective labor legislation and equalize the compulsory work law. When this bill was introduced, the proponents of it said that whenever a state law was at issue involving males or females, the judge would base his decision on the privilege situation, whether it be to the male or the female. This is not true because this isn't what is happening.

As an example of this, in a divorce case in Washington, D.C., on February 24, 1973, a Superior Court Judge, George Draper, awarded the husband custody of his three children and ordered the children's mother to pay alimony and child support. He based his ruling on the little-noticed change in the District of Columbia's code which mandates equality, plus what he called the improved economic position of women generally in our society. In this case both parents had government jobs earning about \$17,000 a year, so the wife doesn't seem to have done too awfully well on that. The ERA invalidates any law or court order which imposes obligation of the child support on the father because he is the father, because this is no longer a consideration.

On March 26, 1974, the Pennsylvania Supreme Court handed down a decision in the case of Conway versus Dana which invalidates any presumption that the father has the liability for the support of his minor children. The Supreme Court listed all previous cases, listing the father as having the primary duty of support, as no longer being followed.

This goes on and on into all kinds of cases that are involving the Equal Rights Amendment. Women's credit would also be abolished because unless you work, you do not have a credit status. Your preferred situation in Social Security would be abolished. You would also come

into the question of quota systems as far as women are concerned because women have become a civil rights' question in the case of the Equal Rights Amendment.

A very interesting poll that was taken by Mr. Roper said, according to the Congressional Record, that 83 percent of the women polled did not want the Equal Rights Amendment. (Applause.)

I think it is very important under the circumstances that both sides are listened to in this question because I am not, as some in this room are, opposed to a referendum. I say that for this reason: I think that it is absolutely necessary that the women of the State of New Jersey are able to understand fully just exactly what the Equal Rights Amendment does and, therefore, there should be a committee appointed by the Legislature to cover all the laws now existing in the State of New Jersey that deal with men and women and make a full disclosure to the state as a whole as to exactly what will happen to the laws that now exist in the State of New Jersey if the State Equal Rights Amendment is passed. And I don't see how anybody can be against that. (Applause.)

I think, being a woman myself and being very interested in government, it is the obligation of the Legislature to give full disclosure of pertinent things in anything as important as an amendment to the Constitution. That is your obligation as legislators. Therefore, no one can intelligently vote on anything unless they know all the facts. They must know one side, then the other, and must be given the privilege under this great system of ours of making their own choice. And I don't see how anybody could be opposed to that idea.

If you want to ask me specific questions - really it is very difficult to capsule this because you could go on and on and on.

ASSEMBLYMAN HAWKINS: Ma'am, I want to thank you

very much. Mr. Rizzolo has a question.

ASSEMBLYMAN RIZZOLO: A very quick question, Mrs. Toby: You gave us a list of bills. Were they bills that were introduced in Maryland?

MRS. TOBY: Yes, sir. They were introduced in Maryland in order to implement the Equal Rights Amendment.

ASSEMBLYMAN RIZZOLO: Do you happen to have with you information or know if any of these bills have been enacted into law?

MRS. TOBY: No, sir, I do not have that information. However, if you would like it, I will make an effort to get it for you.

ASSEMBLYMAN RIZZOLO: I would appreciate it.

MRS. TOBY: I will be delighted to do that.

ASSEMBLYMAN RIZZOLO: I am Assemblyman Rizzolo.

MRS. TOBY: May I have your card when I leave?

ASSEMBLYMAN RIZZOLO: Surely.

ASSEMBLYMAN HAWKINS: Mrs. Toby, thank you very, very much.

We have an additional person who has requested to speak, Rev. Philip Kunz, New Jersey Council of Churches. Is he still here? (No response.)

Is there anyone else who wishes to be heard?

C A T H E R I N E C R I L L E Y: I am Catherine Crilley. I am just an average worker and have been all my life. I have worked almost 50 years now and I am still working.

What I would like to say is that I have never had my civil rights taken away from me in the almost 50 years I have been working. In fact, I feel that I have had more rights than men. First, we women of America own most of everything in America and we control everything. We are the power behind the throne and this goes way back.

As to women being absent from work, they are absent. In my almost 50 years of working, in all the places I have worked, I found that the majority of absentees were women,

through pregnancy and through breakdowns, and a woman is not equal to a man. She does not have the strength. She doesn't have the emotional ability. Most women are too emotional. Men have the stability that a woman hasn't.

We have our wonderful virtues too and I wouldn't change places with a man for the whole universe. But I do think that you have to put things in their proper perspective. Men have certain abilities and women have certain abilities which they have been endowed by their creator. Men have strength and they don't have an emotional system like women. Now it is necessary for a woman to have the emotional makeup she has for child-bearing because if she didn't feel the way she does, she couldn't have the same feeling for her children. A man never feels the way a woman does. He couldn't; he doesn't have the makeup.

Furthermore - I'm a little nervous.

ASSEMBLYMAN HAWKINS: May I ask you a question while you are thinking?

MS. CRILLEY: Just a minute. Just as the people said before me, this thing is going into communism. It actually is. We are going to be taken over by a system where we become slaves of the state and they will use women just like they do in Russia and China and Cuba. They will put us out doing hard labor, as they said; either that, or they will kill us off if we are not capable of performing that type of work. They will think we are non productive and eliminate us women. So we women are going to do a terrible thing to ourselves because we are going to eliminate ourselves, especially older women, because they will not be able to live under a system like this, physically or any way.

As I said before with regard to equal rights, a man or a woman has certain qualifications. If you do not have the qualifications, you are not equal. I have done mediocre

work all my life because I do not have the education or mentality, and I admit it. I am an average person. I am not a person capable of being an Einstein or anyone like that, and I would not feel myself equal to him.

There are a few women that have the mentality of men, but they are very few. They are in the minority. Now no one should have to take someone who isn't qualified just because she is a woman, or just because the person is a certain race or a certain religion. They should not be forced to take these people unless they are qualified for the job. When they are qualified, then they should pay them equally. But if a man is more qualified, he should have the job. Whether a person is Black, White, Jew or Gentile, if he is not qualified for a job, he should not have it. But if they are qualified, they should have it. They should have that right.

I think this thing is going a little too far. In fact, I think it is heading toward communism in this country. If we are going to have that, we are going to be slaves of the state and we are not going to have any civil rights at all. We are going to be told just what we can do, what we can't do, and when to come and go, just like they do in Russian, China or Cuba. We will have no freedom, no rights at all. We will have no civil rights whether we are Black, White, Jew or Gentile - no rights at all. If we don't do what they say, off we will go. They will put us in the oven or however they are going to eliminate us. They are eliminating the babies now. Almost two million babies have been slaughtered in this country, unborn babies. The old people and the sick and retarded will be next. Then we will have someone in this country take over that will be like a Stalin or a Mao or Castro. And if we don't become slaves of the state, we will be eliminated.

ASSEMBLYMAN HAWKINS: Your remarks are very well taken, ma'am. And incidentally, the average, little person is the foundation of this country.

MS. CRILLEY: No matter what color they are.

ASSEMBLYMAN HAWKINS: Yes, ma'am.

MS. CRILLEY: I don't care what color or what nationality or what religion anybody is; everybody should have their rights.

ASSEMBLYMAN HAWKINS: That's right.

MS. CRILLEY: But not have their rights taken away from them or being misplaced, like making a woman a man. We are not men and you couldn't make us a man. I don't want to be made a man. This is what this ERA is trying to do to us. It is trying to make us men.

ASSEMBLYMAN HAWKINS: Look, ma'am ---

MS. CRILLEY: We aren't men. So don't do it. Don't put it through because we cannot compete with men.

ASSEMBLYMAN HAWKINS: We really appreciate your comments and thank you for coming.

MS. CRILLEY: Thank you very much. (Applause.)

W I L L I A M S C H R E C K: My name is William Schreck. I come from Monmouth County. I didn't come prepared to speak. As a result, I won't make a speech or anything like that. But since we have been graciously offered the opportunity to speak, I would like to voice my opposition to the Equal Rights Amendment and support the views of almost everybody here, especially affirming the views as expressed by Pastor Wagner. That hadn't been expressed before today, but I believe the very basics and the very fundamentals of our whole governmental system come from God and are expressed in the Bible. And I don't think that good legislation can come if it is not in accord with the Word of God.

I think there is tremendous historical backing for this and I just wanted to publicly express that.

I would also like to speak about discrimination. The word was used, especially earlier in the presentations, that people are discriminated against and things like that. First of all, I think everyone has a right to discriminate. I think if that right of discrimination were taken away from an individual, he would no longer have liberty. Freedom itself would be taken away from him. Because if a person doesn't have the right to discriminate, he hasn't got a right to choose. I have a right to choose who works in my business. Therefore, I discriminate against the people I do not choose. So I think proper definitions have to come into play. That had not been challenged at all in the early proceedings.

So I thank you again for giving me the opportunity to speak and I am opposed to this. I hope it doesn't come before the people. I do not think it should be voted out of this Committee. I don't think that you have the right to vote it out of this Committee, as has been expressed by previous speakers, because it is not within your realm - it is not in your prerogative. But if it were, I could see good things about it. This thing is so transparent that many people will become more aware of what is going on, not only in the State, but on the national level. Certainly it is going to put a lot more responsibility on the shoulders of some of us to do a lot more work, but I for one am ready to do it.

If I had known more about this today, you would have had hundreds more people here in opposition to the Equal Rights Amendment. Thank you. (Applause.)

ASSEMBLYMAN HAWKINS: We wish to thank you for your statement.

Let me say that we have gone over the time limit we set. I am going to limit anybody who wishes to say anything to one minute to say whatever they have to say.

Rev. Kunz, your name was called before.

P H I L I P E. K U N Z: Thank you, Mr. Hawkins.

For the record, I am testifying on behalf of the New Jersey Council of Churches, which is composed of the twelve major Protestant denominations in the State. We just want to make it very clear that we are in total support of ACR 67, the State Equal Rights Amendment. I think we have to confess to a certain degree that the church, itself, as an institution is not without sin in this area. It is something we are having an internal struggle with in many denominations and local circles to give women more opportunity, as they ought to be having. That notwithstanding, we encourage the members of the Legislature to proceed expeditiously with this because we feel very strongly that protecting equal rights is very much in the realm of constitution and law, as well as in voluntary circles.

We will send along a written statement a little bit later. Thank you again. (Applause.)

ASSEMBLYMAN HAWKINS: Thank you very much.

Anyone else? Will you state your name, please.

R O S E M A R Y D E M P S E Y B E L M O N T:
I am Rosemary Dempsey Belmont, President of NOW in New Jersey.

I would just like to say very, very briefly that the Equal Rights Amendment does nothing more than fill in the gap that unfortunately our fathers before us neglected to put in our Constitution. It simply states that no person will be discriminated against on the basis of sex.

I would like to say in response to the woman who spoke earlier that women no longer want to be the power behind the throne. We want to be sitting on the throne or alongside the throne. This bill in no way discriminates against women or men.

As to the argument with regard to child support, it would be decided on a case by case basis, probably favoring the parent who had custody of the children.

Therefore, the other spouse would probably be required to support somewhat those children.

I would like to also say that I question the statistics that 83 percent of the women in this country are against ERA ratification since we now have 38 states that have ratified it and almost every woman's organization, labor organization, church organization, etc., are behind this bill. Thank you very much. (Applause.)

ASSEMBLYWOMAN BERMAN: Ms. Belmont, would you mind waiting just a minute in case there are any questions by the Committee. (No questions.) Thank you.

Would you, please give your name.

M R S. E D W A R D V. C O N N E L L: Surely. My name is Mrs. Edward V. Connell. I am Legislative Services Committee Chairman of the Newark Archdiocesan Council of Catholic Women, an organization representing 90,000 women in the four northern counties of New Jersey - Bergen, Essex, Hudson and Union.

ASSEMBLYWOMAN BERMAN: And you are officially representing this group now?

MRS. CONNELL: Yes, I am, in that I wish to state at our most recent convention on April 20th, we passed a resolution which I will read. It is very short.

"Resolved, that under the guise of equality, the proposed Equal Rights Amendment" - and here they refer to the national constitutional Equal Rights Amendment - "would in legality wipe out the many safeguards that protect woman's position in the family, and because it proposes an idea of women foreign to the Christian concept of women's co-equal, but individual dignity, with man, and because it would destroy the legal safeguards women have secured through the years, the Newark Archdiocesan Council of Catholic Women in convention opposes the Equal Rights Amendment; and Resolved that we express our opposition to the amendment to our Governor and legislators, requesting

that they use their good offices to have New Jersey's approval of the 27th Amendment to the U.S. Constitution rescinded as promptly as possible."

This gives the statement in connection with the 27th Amendment to the U. S. Constitution, but since ACR 67 is, in fact, a duplicate of that, which applies to our State Constitution, we feel for the same reasons we would be completely against it.

We feel too that there is no point in acting on this at this time until some decision has been made nationally because if it is rescinded or never comes into effect, there is no point in New Jersey acting on this thing and then having to backtrack. In the meantime, we will lose many of the protections we have on the books.

ASSEMBLYWOMAN BERMAN: Actually, as a point of information, if the federal ERA were to come into effect or not go into effect, it would not wipe out the New Jersey ---

MRS. CONNELL: In the case of the Supreme Court's decision on abortion, it has. It is a national law and it affects the State of New Jersey. And if the Equal Rights Amendment, the 27th Amendment to the U. S. Constitution becomes a law, it will affect the State of New Jersey.

ASSEMBLYWOMAN BERMAN: What I am saying is this: If, in fact, the ERA does not come about on a national level, the State would still have the right to have a State ERA.

MRS. CONNELL: The State would have the right to consider it. But the people then would be wiser as to what the effect of it would be and how the feeling about it is nationally. So I would say that it should be held off until something is done nationally and we see how other people feel because other states who have ratified it have already rescinded it, two at least, and others are considering it.

ASSEMBLYWOMAN BERMAN: Thank you.

I believe we have time for just one more speaker, and then we will conclude this hearing.

M R S. E D W I N F I S H E R: I am Mrs. Edwin Fisher of Mantoloking, New Jersey.

I am a member of not NOW but HOW, "Happiness of Women," but I just want to speak as an individual this morning. ERA on the surface sounds very good to many women, but there are many deceptions. One thing that has been completely overlooked today, and has been overlooked every time I have heard a group of women speak, is that there was a minority report on this. It was written by Senator Sam Ervin, Jr. I would just like to quote the opening paragraph of the minority report: "Before we abolish all legal differences in the treatment of men and women, I believe we should consider the following questions:

"1. What is the character of the unfair discrimination which society makes against women?

"2. Does it require an amendment to the Constitution of the United States to invalidate them?

"3. If so, would the Equal Rights Amendment constitute an effective means to that end? In other words, would the ERA reach areas in which Congress does not really want to act?

"It is the better part of wisdom to recognize that discrimination not created by law cannot be abolished by law. They must be abolished by changed attitudes in the society which imposed them. One of the recurring myths that surround the Equal Rights for Women Amendment is the allegation that all women are for the Amendment. This is not so."

We must remember those are the words of Senator Sam Ervin who many of us are very familiar with.

I and countless numbers of other happy women agree with Sam Ervin's statement that all women are not in favor

of ERA. Happiness for many women is making a career of being a female with its many rights by law of being protected and provided for in the role of wife and mother, and creating a homelife for the children to grow up in.

ERA will wipe out many laws that guarantee these rights to women. I will not go into a list of them. One of the former speakers did list a great number of them.

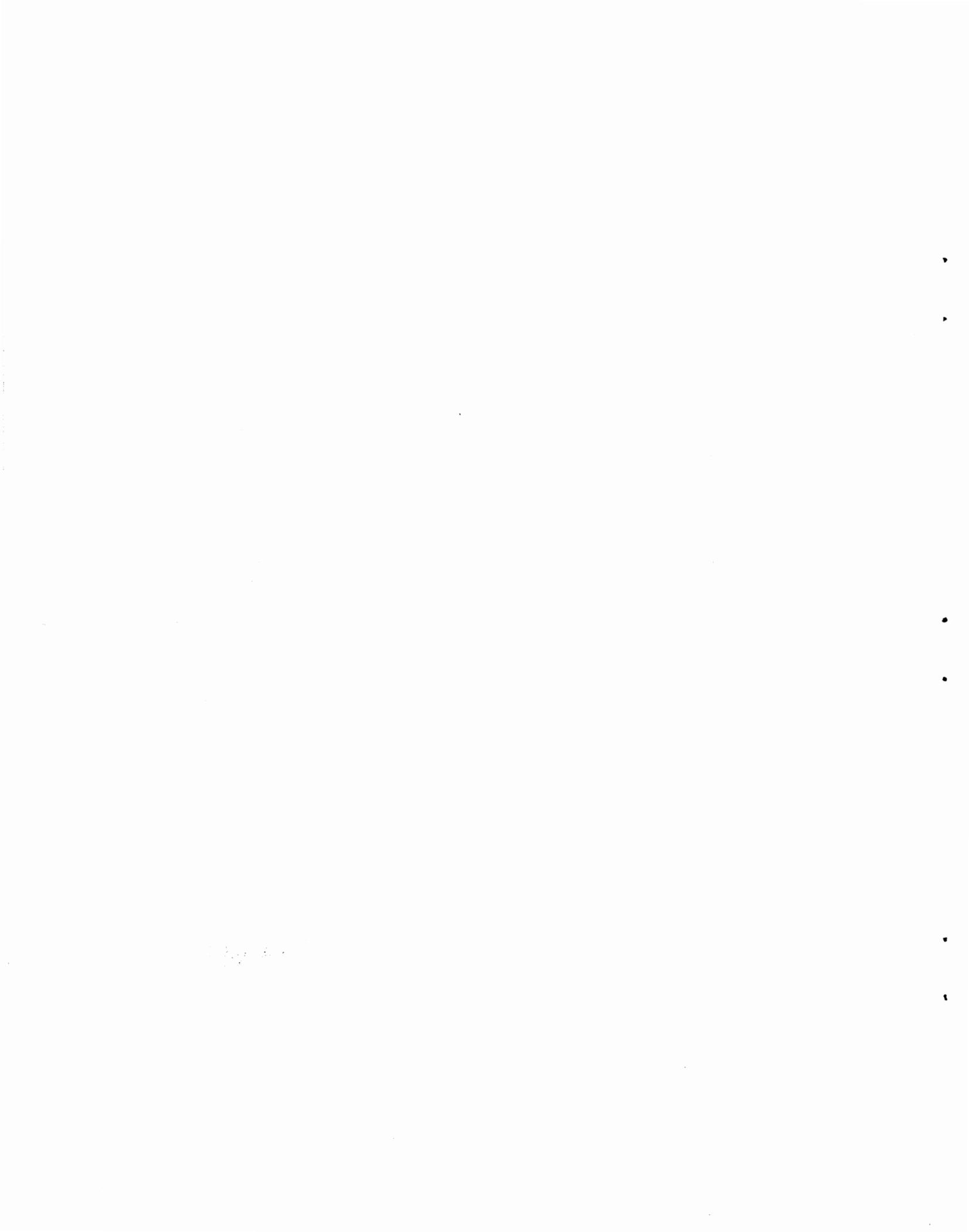
I just want to say that I believe women are deceived as to the benefits of ERA. They seem to want to have more than just equal employment opportunity and equal wages. It seems very evident that they want a unisex society. And it is strange, isn't it, that with all the efforts being made to prove women as being just like men, no one ever tries to prove men are just like women. I wonder why. Do you think it is because it sounds so asinine?

I think it is and I would ask your support to stop ERA. Thank you. (Applause.)

ASSEMBLYWOMEN BERMAN: That concludes this hearing. Thank you.

(Hearing Concluded)

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