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LEAGUE OF WOMEN VOTERS
726 Jackson Place, Washington 6, D. C.

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THE STATUS OF WOMEN

Need for a National Policy

What place should women occupy in our nation and the world? Almost a century ago at Seneca Falls, New York, a small but determined group of women held a "Woman's Rights" Convention which proved to be the beginning of a great social movement. Lucretia Mott, a quiet-spoken Quakeress with a penetrating intelligence, her sister, Martha C. Wright, Elizabeth Cady Stanton, and Mary Ann McClintock called the Convention and presented, in a manner of the Declaration of Independence, a "Declaration of Sentiments."

The Seneca Falls Convention outlined the objectives these women and those leaders who followed them wished to achieve. Lucy Stone, Susan B. Anthony, Anna Howard Shaw, and Carrie Chapman Catt were spokesmen for women who wanted an opportunity equal to that of men in education, religion, professions. They wanted laws permitting them to manage their own business affairs. They wanted equal guardianship over their children. They wanted to be citizens on an equal footing with men.

The achievements of women in the hundred years of American history since 1848 have been great. Partly, women have improved their position through gaining improvements in laws and through gaining and exercising citizenship. Partly, they have gained new opportunity and stature as persons through a gradual increase of enlightenment.

Women in the United States today occupy a high place. Legally and politically they have gained most of the important privileges and responsibilities men possess. They are making progress point by point against remaining discriminations. Sixteen states still do not permit women to serve on juries. A few states deny to women the right of domicile if that state is not the legal residence of her husband. Some states deny to women the guardianship of their children. In a few states husbands exercise

certain controls over their wives' earnings. Such readily recognized remnants of discrimination need to be removed.

Socially and economically women have still a long way to go to equal man's position. On the whole boys receive more education, and are accorded more vocational concern. Men still receive higher pay for similar work. The family's place of residence, and in large part the character of family living are determined by the father's objectives. It is not easy to change these social and economic habits by laws.

In a few respects women enjoy a position superior to that of men. Widows' pensions, alimony following divorce, and various laws protecting a wife's property are examples of legal assets to women. That women are still to some extent provided for and protected by men is a social and economic fact which most women admit, although some women disagree as to its desirability.

Most thoughtful people today believe that individuals, both men and women should be valued for their total personality, of which sex is only one, albeit an important part.

WHAT IS "EQUAL"?

In the early years of the movement for women's rights discriminations were so obvious that the demand for "equal rights" which had been voiced at Seneca Falls was readily understood. Women wanted an opportunity for education, for choice of work, for the management of their own affairs. Gradually the problem became complicated by the interpretation of the word "equal." Since men and women are not identical (not "fungible" as the Supreme Court has said) the question arose: "What is equal?" How can men and women, in some respects similar, in some respects dissimilar be treated equally? To treat them identically is not necessarily to treat them equally.

The problem could only be solved by treating men and women alike in whatever respects they were alike and by allowing for differences where they differed. The Nineteenth Amendment providing for national suffrage established one great fact. Women had the intelligence and the competence to be full citizens. Their concern was as great and their consent as important in a democracy as that of the men. But suffrage did not mean that laws should not allow for differences between men and women. Laws favoring women as members of a family have always been held justified by society as a whole. The husband is, for example, primarily responsible for family support. Such laws are logical as long as the role of wife and mother in our society interrupts or

impedes the woman's opportunity to develop or maintain her own earning power. In physical structure, in biological and social functions, women differ from men. Society has always considered these differences in the making of laws and its application, and must continue to do so.

SPECIAL LABOR LAWS FOR WOMEN

When women began to assume responsibilities in the business and industrial world they did not have the same bargaining power as men. As a result they have often worked for low wages, which by undercutting men's wages tended to lower the wage scale for everyone. Because of their lack of power to bargain they were forced to work under conditions which tended to undermine their health and to lower their contribution to society in general. To remedy the situation it seemed wise to pass special labor laws establishing maximum hours of work, minimum wages, and healthful conditions of work for women. Most states have such laws. Because women in our society have a role of great importance as mothers and homemakers these "protective laws" for women are in the general welfare. They are important to all of us.

NEW SCIENTIFIC KNOWLEDGE

What are some of the factors which have led the League of Women Voters and other organizations to believe that a re-thinking of the status of women would be valuable at this time? The studies by scientists of the growth and development of the human being have progressed rapidly in the last few decades. From such study have come more dependable measurements of the differences between men and women. For example, the scientists now confirm the common sense knowledge that the human male reaches maturity several years later than the human female. Such scientific findings provide a basis for re-evaluating our laws about age of marriage. There are also new findings by psychologists and sociologists which should be considered. The importance of the family and the role of mother-homemaker are significant factors about which our social scientists have impressive data and which should be taken into account as we consider legislation.

U. N. CHARTER

The Charter of the United Nations, which our nation signed, declares it to be among its purposes to promote and encourage respect for human rights and fundamental freedoms for all "without distinctions as to sex." It is, therefore, our duty to bring our

laws and their administration into harmony with these principles. It is appropriate at this time to establish a national policy in keeping with the great aims of the U. N. Charter and to review our laws and practices, both in our federal government and in the states.

There are not thought to be important discriminations against women in federal laws, although there are some minor ones. For example, women cannot serve on federal juries in states where state law does not permit women to serve as jurors. While the letter of the federal law does not seem to discriminate, certain practices which produce actual discriminations need to be reviewed.

Because the problem of discrimination against women has long been a thorny one, because of widespread current interest in the role of women in our society, and because of our commitment to the U. N. it is a fitting time to review the question of the status of women in the United States.

BILL ON THE STATUS OF WOMEN

The proposed **Bill on The Status of Women** which the League of Women Voters is supporting with some forty other women's organizations would do four things.

(1) **Declare a Policy.** It would declare it to be a policy of the U. S. that "in law and its administration no distinctions on the basis of sex shall be made except such as are reasonably justified by differences in physical structure, biological, or social function."

(2) **Require Immediate Conformity with the Policy.** So far as permitted by existing legislation, the bill would require all federal agencies to review their current practices and conform them to the new policy.

(3) **Establish a Commission on the Status of Women.** It would provide a Presidentially appointed commission of nine members to: (a) study and review the economic, civil, political, and social status of women and the extent of discriminations based on sex, (b) recommend legislation necessary to bring the laws and government practices of the U. S. into conformity with the declared policy. The findings of such a Commission could become a great landmark in the history of the United States. Its work would have great effect upon the work of the U. N. Commission on Women and hence upon the progress of women throughout the world.

The Commission would dig into the facts. It would define **distinctions** based on differences in sex before defining **discrimination** based on sex. It would trace the development of sex discrimi-

nation. (The wording of the bill allows for studying discriminations against men too!) It would describe accurately the kinds and amounts of discrimination existing in the U. S. today. The new bill proposes to point up the facts in the same way as the President's Committee on Economic Security did before the Social Security Act was written or as the White House Conference on Child Welfare did before child welfare legislation was framed.

Such a Commission would need funds adequate to provide a staff. It would be created immediately upon passage of the bill and would report to the President by March 1, 1948. The President would, within 30 days after its receipt, transmit the Commission's Report, together with his recommendations to the Congress.

(4) **Urge the States to Declare a Policy.** A good federal example would be set by the bill. Therefore, it is fitting that it should urge the states to declare a similar policy, to review their laws and practices and bring them into conformity with the policy. Laws concerning marriage and family and pertaining to property (in which most discriminations reside) are largely state laws. The same organizations which are working for the passage of the federal bill on the **Status of Women** will work for improved state laws.

LEGISLATIVE FACTS

The **Bill on The Status of Women** was introduced in both houses of Congress on February 17, 1946. Mr. Wadsworth of New York took the initiative in the House, his bill is H. R. 2007. Other sponsors included Representative Kefauver of Tennessee, Lewis of Ohio, Rogers of Massachusetts, Douglas of California, and Norton of New Jersey.* Senator Taft introduced the bill in the Senate where it is S. J. Res. 67.

WHY NOT AN "EQUAL RIGHTS" AMENDMENT?

For many years some women have urged the passage of a Constitutional amendment saying that men and women in the United States should have equal rights. The problem is not as simple as that. Saying that men and women shall be equal will not make them equal. The words "equal rights" are impressive, but no one can possibly know what they would mean in a Constitutional amendment. Only a long series of legal cases could begin to arrive at some more precise definitions of the term. We have on our law books now hundreds of laws affecting women.

* The numbers of these other bills [identical in content] are H. R. 1996, H. R. 2323, H. R. 2003, H. R. 1972, H. R. 2035.

They are specific laws about specific problems. As has been said by Paul Freund, professor of law at Harvard University, "The basic fallacy in the proposed amendment is that it attempts to deal with complicated and highly concrete problems arising out of a diversity of human relationships in terms of a single and simple abstraction."

The organizations supporting the bill on the status of women believe that the whole problem of discrimination needs to be reviewed and positive and specific legislative action needs to be taken point by point. Those supporting the "Equal Rights" Amendment want a Constitutional declaration of a sweeping principle. Hundreds of current laws would be thrown into question. It would open up a period of extreme confusion in constitutional law. Even if the amendment should be passed and ratified, specific legislation would be needed to put it into effect. In the process there would be great danger that the federal government would step into additional fields which have always been the responsibility of the states.

WHY A BILL ON THE STATUS OF WOMEN

In contrast to the amendment procedure the new bill on the status of women offers clear, positive, and quick action. It immediately declares a national policy against discriminations. The Commission it creates will study the question in the light of all available information. Its findings will constitute the first official and complete body of facts ever assembled on the problem. Its recommendations based upon these facts will carry great weight with the President, Congress, and the respective states. In short, it provides a reasonable method for accomplishing an end which all enlightened citizens desire. Your senators and your representatives would like to know what you think about H. R. 2007, A Bill on the Status of Women. Watch TRENDS for legislative developments. League support for this measure is authorized by the Platform item.

"Specific legislation designed to insure for women equal guardianship, jury service, independent citizenship. Opposition to the equal rights amendment."

This or some similar wording has been a part of the League's program since 1920.

Tell your friends about H. R. 2007

Pass copies of this Brief on to other people

EQUAL RIGHTS
OR
HUMAN RIGHTS

?

A stork once dined with a fox. The fox served dinner in a flat dish. The stork had perfect equality with the fox to eat out of the same dish but he got very little to eat.

THE EQUAL RIGHTS AMENDMENT AND WHY IT IS OPPOSED

This is what it says:

The "Equal Rights Amendment," which has been introduced into every session of Congress since 1923, without favorable action, would add the following words to the United States Constitution:

"SEC. 1. Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction.

"SEC 2. Congress shall have power to enforce this article by appropriate legislation."

Its sponsors and the League have a different philosophy.

Its proponents desire to remove discriminations against women, and believe that the amendment will achieve this end.

The League of Women Voters, too, desires to remove discriminations against women, but its philosophy is quite different. Although the League appreciates the gallant spirit of the proponents of this amendment, the battle-cry of "Equal Rights" sounds like an echo of the far-distant past.

There are still many legal discriminations but the proposed amendment is not the cure.

The League is, however, aware that there remain on the statute-books of the states many laws which do discriminate against women. Chiefly, these laws prevent women in some states from serving on juries, from holding certain offices; they prevent married women from handling their property without the consent of their husbands, from setting up a separate domicile for all purposes, and so forth.

These discriminatory laws the League of Women Voters seeks to remove by changing the statutes state by state, and **this method is the only direct, certain and effective way** of making such changes. The proposed "Equal Rights Amendment" would put an abstract statement of general principle in mandatory form into the Federal Constitution (which instrument is not the place for abstract expressions of this kind,

in any case) and **would not of itself** with any certainty change **one state or federal law**. It would have the effect of nullifying a great many laws, but in most cases to secure a positive change new legislation would have to be passed by the legislature or by Congress, in the usual way. So that, as a method of removing legal discriminations, the amendment would be both clumsy and in general ineffective.

There are handicaps of prejudice harder to bear, and the "Equal Rights" Amendment would be useless in those cases. Statements in the Constitution do not change habits of thought.

But there are other discriminations which touch the experience of many more women than do these outworn laws. These are the discriminations due not to law at all, but to prejudice. How difficult it is for a woman to make the kind of success in the medical and legal professions that men do! How many men, and women, too, still hesitate to employ a woman lawyer or physician! How many times women who are capable of filling the highest positions in the business world are passed by, because they are women, while men actually less qualified take these places!

And what about the married woman in business? The reluctance to employ her in any position of importance is not a matter of law, but of "policy" upheld by specious and quite fallacious arguments.

These discriminations are not amenable to legal remedies, and the "Equal Rights Amendment" would help these women not at all. Nor, as a matter of fact, does the typically "feminist" attitude, usually aggressive and intensely personal, which serves only to arouse further antagonisms and to crystallize previously vague prejudices. Only the processes of time, and the steady, dogged persistence of women in achieving excellence in business and the professions, and their insistence, in each case, that they be treated quite impersonally, as individuals, will remedy this situation. **Habits of thought are not changed by amendments to the Constitution.**

There are other differences in the treatment of the sexes by law which give women the benefit of a "handicap" at the start of the race.

Again, there are certain most important differences in the treatment of women by law, which cannot properly be called discriminations. These are, rather, in the nature of "compensations," and afford some special measure of protection and privilege to women in certain specific capacities, for reasons important to the family and the state.

Non-support laws which make men responsible for the support of wives and children do not generally apply in equal measure to women.

Special provisions for the benefit of the widow, homestead rights, mothers' aid laws, are of this group.

This special consideration serves to equalize the position of women, and should certainly not be abandoned for a sterile legal "equality" which would in actual fact bear more harshly on women than on men.

The majority of women, upon marriage, give up the opportunity of perfecting themselves in a business or profession, and spend the years when they might be so perfecting themselves in caring for the household and rearing a family. They voluntarily give up the possibility of becoming economically independent, and for these "home-women," absolute "equality" that is, identical treatment with men before the law, might be a cruel farce. It may well be that the law should be made still more "unequal" in this sense, to provide greater economic protection for the woman in the home.

It is generally conceded that the passage of the amendment would nullify protective laws for women in industry. Such laws have seemed necessary, and still seem necessary, because of the large number of young women workers in industry, and of their comparative weakness in bargaining power. To scrap these laws and to expose these women to the same conditions of under-cutting and exploitation which led to their passage would simply increase the present economic handicaps of women.

The League of Women Voters will be happy to see that day come when this type of protection is unnecessary, and, through its broader program, it is in fact working to establish better conditions of labor for men and women alike. But in the meantime, it would be disastrous to abandon the benefits which have come to millions of working women through minimum wage and hour laws.

Finally, the League is opposed to the "Equal Rights Amendment" because of the chaos and confusion it would cause in every state by calling into question hundreds of state laws, and by throwing hundreds of test-cases into the already cluttered courts.

A mere mathematical equality would hardly improve their position—quite the contrary!

Protective laws for women in industry would be nullified. These laws should not be discarded until they are no longer needed.

Litigation, Chaos, Confusion!

The amendment would act "like a blind man with a shotgun." What would it hit?

The amendment would of course nullify any law in conflict with it if properly challenged before the courts, but what laws were actually in conflict with it, and how the "differences" in treatment of the sexes would be made like or equal, are questions which the courts would have to decide. To illustrate: In most states, non-support of wife and children is a penal offense; since this law does not apply equally to women (for the obvious reason that the wife is, as a rule, economically dependent on the husband) would non-support cease to be a crime? And in those states where girls reach the legal marriage age at eighteen and boys at twenty-one, what would be the legal age? If a girl reaches the age of majority at eighteen and a boy at twenty-one by the law of a certain state, would a contract made by a girl of twenty, after the passage of the amendment, be unenforceable? Would mothers' pension laws no longer be valid in any state?

These and hundreds of similar questions the courts would have to attempt to answer, and while test-cases were pending, the law in question would be in abeyance. And even after the courts had decided certain questions, the actual laws would have to be passed by the usual law-making bodies.

As the Dean of one large law school said, the amendment "would operate like a blind man with a shot-gun. No lawyer can confidently state what it would hit."

The League's Method.

In this matter of equal opportunity for women, the League believes that in 1920, women secured the **essential tool** by which any group, under a democratic form of government, may translate its wishes into law—the **VOTE**. It believes that in any state annoying discriminations will be removed just as soon as enough women care enough about the particular offending law to use their votes to remove it.

With this tool in their hands, then, the members of the League of Women Voters turned their attention to a wide variety of interests along the lines of the League's adopted program, to such matters as modern school systems, efficient personnel in government service, child welfare codes, reform of antiquated tax systems, county reorganization and similar matters of concern to women as members of the community and responsible voting

EQUAL RIGHTS OR HUMAN RIGHTS?

Other groups of women oppose the amendment.

citizens, as well as to jury service for women, admission of women to public employment, domicil, independent citizenship, and similar measures in the specific field of women's "rights."

While the League of Women Voters yields to no organization in its vital concern for the securing of every opportunity by which women may develop to their fullest capacities, it believes that the job of women citizens is to work toward a fuller opportunity for both men and women, and has not, therefore, limited its program solely to an insistence on the rights of women as a separate group. Other organizations of women which join the League in this point of view, and in opposition to the proposed amendment (which has been for a number of years the chief concern of the National Woman's Party), are the following:

American Federation of Teachers
American Home Economics Association
Girls' Friendly Society
National Board of the Young Women's Christian Association of the United States
National Consumers' League
National Council of Jewish Women
National Women's Trade Union League of America
Women's Homeopathic Medical Fraternity

The League will continue to work for better laws for women state by state.

The League will continue to work for the passage of better laws for women, state by state, and in each case will, after careful analysis, seek not merely "equal rights," that is, not merely identical treatment, but a true equality of opportunity so that women may have, under the law, a fair chance to develop both as women and as citizens.

NATIONAL LEAGUE OF WOMEN VOTERS

726 Jackson Place, Washington, D. C.

January, 1935

One hundred copies—fifty cents

NATIONAL LEAGUE OF WOMEN VOTERS

726 JACKSON PLACE

WASHINGTON, D. C.

MISS MARGUERITE M. WELLS
PRESIDENT

January 28, 1938

To State League Presidents:

Just a note to warn you that the Equal Rights Amendment may be reported to the Senate from the Judiciary Committee when it meets on Tuesday, February 1.

I have asked the presidents of Leagues in the states from which members of the Judiciary Committee come to communicate their opposition to the amendment to those Committee members in as effective a way as possible. I am enclosing a statement which is being used here by representatives of the various organizations opposed to the amendment in their interviews with the members of the Judiciary Committee. The A. F. of L. and other labor groups are also opposing recommendation of the proposed amendment. A great deal of work is being done here in an attempt to acquaint the members of the Judiciary Committee with the opposition to the amendment and the reasons for it. If it is reported from the Committee, it will be only because the members are wary of the lobbying for the amendment to which they are subject.

Very sincerely yours,



President

P. S. A copy of this letter and statement is being sent to your Legal Status chairman for her information.

NATIONAL LEAGUE OF WOMEN VOTERS

726 JACKSON PLACE

WASHINGTON, D. C.

MISS MARGUERITE M. WELLS
PRESIDENT

February 2, 1938

Dear State League President:

Last evening I telegraphed each state League president as follows:

"EQUAL RIGHTS AMENDMENT HEARING SENATE JUDICIARY FEBRUARY SEVEN.
IMPERATIVE EVERY LOCAL LEAGUE EXPRESSES OPPOSITION IMMEDIATELY TO
BOTH SENATORS. ASK SENATORS FILE COMMUNICATIONS WITH JUDICIARY
COMMITTEE."

The public hearing is being held at the request of the League and other organizations opposed to the amendment. It was obvious that a majority of the Judiciary Committee members had agreed to report the amendment to the Senate, although far from a majority are in sympathy with it. The only possibility of stopping that action was to request a public hearing. Our request was granted, and a public hearing as stated in my telegram is scheduled for Monday morning, February 7. Miss Dorothy Straus, attorney, of New York, will act as chairman and will be in charge of the presentation of testimony by all opponents of the amendment and will present a statement. The prevailing attitude of the Judiciary Committee seems to be that there is no harm in reporting it out, even though the members do not approve the amendment. It is a shock to realize that a Senate committee of lawyers, traditional admirers of the Constitution, should be willing to give even their tentative approval to so mischievous an addition to it as the proposed Equal Rights Amendment.

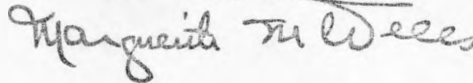
It is necessary that members of the Judiciary Committee be impressed with the degree and extent of the opposition to the amendment. More than fifty women representing the proponents of the measure were at the Capitol yesterday, way-laying members of the Committee. They have members in Washington - but we have members in states, where opposition should really count. Since the League of Women Voters is not organized in all of the states from which members of the Judiciary Committee come, one way of channeling through to the Committee the opposition of the League, is to have every local League communicate with the two senators from their states, requesting those senators, although not members of the Committee, to file their communications with the Judiciary Committee.

Now as to the House - since the amendment is also before the full Judiciary Committee of the House, it is expected that a vigorous attempt will be made by the proponents to have that Committee report the measure without public hearing. It is, therefore, important that the state Leagues start a drive now to inform their representatives on the House Judiciary Committee of the opposition existing to the amendment. You will know best how to do this in your own state. Certainly, both the state League and local Leagues within the Congressman's district should write. There are probably lawyers, well known within the state or district, who would be so shocked at the idea that such a proposal as the Equal Rights Amendment might be proposed to the House, that they would be glad to write to the Representatives. Representatives of other organizations nationally on record against the amendment might also be glad to know of the situation and to have an opportunity to help in the campaign. For your information, I am attaching a list of the House Judiciary Committee and a list of organizations opposing the amendment. There is need for prompt action on the House Judiciary Committee.

I'm trusting you to convince your senators that the Equal Rights Amendment is not desired by "all women", that it is not the kind of provision that has any place in our constitution. As an additional help to you, I am enclosing a few statements of opinions from prominent legal authorities.

I shall be eager to hear what you are able to accomplish.

Sincerely yours,



President

Enclosures: Judiciary Committee of the House
Statements on Proposed Equal Rights Amendment

National Organizations Opposed:

National Women's Trade Union League
Young Women's Christian Association
National Consumers' League
National Council of Catholic Women
National Council of Jewish Women
Girls' Friendly Society of America
Women's Homeopathic Medical Fraternity
American Federation of Labor
National League of Women Voters

JUDICIARY COMMITTEE OF THE HOUSE

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John M. Robsion, of Kentucky

Chauncey W. Reed, of Ill.

John W. Gwynne, of Iowa

February 2, 1938

STATEMENTS ON PROPOSED EQUAL RIGHTS AMENDMENT

August 7, 1923
(Permission to requote
January 17, 1938)

"The legal position of woman cannot be stated in a single, simple formula, because her life cannot be expressed in a single, simple relation. Woman's legal status necessarily involves complicated formulation, because a woman occupies many relations. The law must have regard for woman in her manifold relations as an individual, as a wage-earner, as a wife, as a mother, as a citizen. Only those who are ignorant of the nature of law, and of its enforcement, or indifferent to the exacting aspects of woman's life, can have the naivete, or the recklessness, to sum up woman's whole legal position in a meaningless and mischievous phrase about 'equal rights.' Nature made man and woman different; the law must accommodate itself to the immutable differences of Nature. For some purposes men and women are persons, and the law should, for these purposes, treat them as persons, subjecting them to the same duties and conferring upon them the same 'rights.' But for other and vital purposes men and women are men and women - and the law must treat them as men and women, and, therefore, subject them to different and not the same, rules of legal conduct.

"In a blind effort to remove remaining differences in the law, in the treatment of women as compared with men, which do not rest on necessary policy based on inherent differences of sex, the Woman's Party would do away with all differences which arise from the stern fact that male and female created them. The Woman's Party cannot amend Nature. But they can add considerably to the burdens already weighing too heavily upon the backs of millions of women least able to bear them." --

Felix Frankfurter
Law School of Harvard University

January 1938

"While I am in full sympathy with every effort to protect women against unjust discrimination, I firmly believe the so-called 'Equal Rights' amendment should not receive the favorable consideration of the Congress.

"The argument that the amendment, if adopted, would invalidate the numerous legislative provisions designed to protect wage-earning women from injury or exploitation has been fully developed in earlier discussions of the proposed amendment. The argument need not, therefore, be elaborated now.

"But there are other equally grave objections to the proposal.

"The proposed amendment would constitute an enormous and unprecedented extension of the powers of the federal government into fields which have, throughout the history of our national government, been subject to the control of the several states. It is impossible to predict or to measure the effect of such an extension upon the whole structure of our governmental and constitutional system.

"The amendment, as drawn, is so vague and indefinite in its phraseology that it is impossible to estimate in advance, even approximately, the scope or extent of its

application. What is meant by 'Equal Rights'? Here alone is a field for endless conflict and litigation. The phrase 'equal protection of the laws' in the Fourteenth Amendment is more specific than 'equal rights,' but its interpretation has given rise to numberless controversies which have engaged the attention of the Supreme Court and of other courts in a vast number of cases. The provision for equal rights 'throughout the United States' is equally uncertain in meaning. The generality of the language leaves it doubtful whether this phrase means that the 'rights' of men and women must be identical everywhere within the boundaries of the United States or whether the requirement would be satisfied by equality, as between men and women, in each of the several states and territories. In other words, does this phrase imply uniformity over the whole area of the nation, without regard to local differences of tradition, custom or conditions which may make a provision which is suitable in New York or Massachusetts unsuitable or unworkable in California or in Texas? Here, again, is the seed for unending conflict and litigation.

"It is probable that the proposed amendment, if adopted, would immediately abrogate all existing state laws which operate upon one of the sexes alone, or operate differently upon the two sexes. To mention just a few examples, one may consider laws defining and punishing sex crimes, widows' pension laws, statutes defining the obligation of the husband to support his wife and children and the varying state laws regulating the rights of husband and wife in the property owned by each before marriage and that acquired during marriage. It is not difficult to picture the chaotic condition which would result if all these laws were made ineffective at one stroke - a condition which would continue until new legislation could be framed and adopted.

"Looking particularly to the laws designed to compel support of wife and children and to those which regulate the relative rights of husband and wife in property, the application of an exact and unbending rule of equality would work great hardship upon the large group of wives and mothers who are not economically independent, and cannot be so while our pattern of social and family life endures. Fairness and justice should not be sacrificed to an abstract ideal of equality." --

Mr. M. C. Sloss, formerly Associate
Justice of the Supreme Court of the
State of California

January 24, 1938

"As stated to you a few days ago, in my view the Equal Rights Amendment now before the Congress of the United States should be defeated. I am in accord with those who insist that present discriminations in law can be more surely corrected by specific, carefully drafted legislation. Does this 'equality' mean that the law requiring a man to support his wife will apply 'equally' to women? Are divorced wives to have the 'equal right' of paying alimony to the divorced husband? The effect of the Amendment, I fear, would be to deprive women of rights they now have, and to which they are entitled, because they are women. The discriminations of which women now rightly complain cannot be removed by the proposed remedy, the Equal Rights Amendment. The adoption of that amendment will in the courts produce 'Confusion worse confounded' and be another long stride towards destruction of State's Rights without compensating women for loss of rights she had prior to the amendment." -- William J. Millard, Justice of the Supreme Court of the State of Washington

January 24, 1938

"Although I sympathize with the general purpose of the equal rights amendment, namely, to avoid the discrimination of women before the law, I do feel that the amendment is quite the wrong way to secure the objective. One must recognize the realities of the present situation and the way to eliminate existing discriminations is to approach each subject concretely and to legislate with full understanding as to that, rather than to attempt some vague generality. The blind statement contained in the proposed amendment is, in my judgment, of such a nature as to be almost sure to fail of its purpose. I feel that its adoption would be a serious mistake." -- Charles E. Clark, Dean of the School of Law, Yale University

January 8, 1938

"The Equal Rights Amendment seems to me objectionable, partly because it may cast doubt on the validity of much existing state legislation which is beneficial to women, and partly because it repeats the mistake of the Eighteenth Amendment, which sought to impose a single national rule in a matter involving social customs and habits which differed widely from locality to locality. I believe the sounder course is to tackle the matter state by state in the light of the existing legislation, social attitudes and customs in each state.

"My general philosophy is that Congress should have power to legislate in matters of national concern which affect the economy of the whole country and with which the states acting separately cannot effectively deal. While I sympathize with the objectives of the proposed amendment, it seems to me that the legal status of women is a matter which can effectively be dealt with by the states acting separately and that under these circumstances a national rule ought not to be attempted." -- Lloyd K. Garrison, Dean of the Law School, University of Wisconsin

February 2, 1938

COMMUNICATION TO LOCAL LEAGUE PRESIDENTS:

This is for immediate action!

A wire from Miss Wells received this morning says:

"EQUAL RIGHTS AMENDMENT HEARING SENATE JUDICIARY FEBRUARY SEVEN.
IMPERATIVE EVERY LOCAL LEAGUE EXPRESSES OPPOSITION IMMEDIATELY
TO BOTH SENATORS. ASK SENATORS FILE COMMUNICATIONS WITH
JUDICIARY COMMITTEE. MARGUERITE M. WELLS "

Will you please consult with your local chairman of Legal Status in the formulation of a wire to Mr. White (although he is now in Egypt, there is a chance that the communications will be filed with the committee by his secretary) and to Mr. Hale. Will you also have as many letters to them written by League members? A minimum of ten letters for your League, more of course if possible at such short notice.

Please report what you are able to do.

Most sincerely,

Mrs. Herschel E. Peabody,
State President

Copies to local
chairman Legal Status
Also Mrs. DeShon
Miss Currier

BURTON K. WHEELER, MONT., CHAIRMAN
ELLISON D. SMITH, S. C.
ROBERT F. WAGNER, N. Y.
ALBEN W. BARKLEY, KY.
M. M. NEELY, W. VA.
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AUGUSTINE LONGERAN, CONN.
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HARRY H. SCHWARTZ, WYO.

HENRIK SHIPSTEAD, MINN.

M. W. MITCHELL, CLERK

United States Senate

COMMITTEE ON INTERSTATE COMMERCE

February 5, 1938

Mrs. Herschel E. Peabody
President, Maine League of Women Voters
35 Norway Road
Bangor, Maine

My dear Mrs. Peabody:

Your letter of February 4 with reference to the Equal Rights Amendment, so-called, has just been received in the absence of Senator White.

I know that the Senator will be very glad to have this expression of your views and will give this amendment his thoughtful consideration when it comes before him.

In accordance with your request your communication is being filed with the Judiciary Committee of the Senate before which the amendment is presently pending.

Believe me

Very sincerely yours,

Ruby C. Hutchins

Secretary

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HARRY S. TRUMAN, MO.
F. RYAN DUFFY, WIS.
EDWARD R. BURKE, NEBR.
HERBERT E. HITCHCOCK, S. DAK.
THEODORE F. GREEN, R. I.

United States Senate

COMMITTEE ON APPROPRIATIONS

February 9, 1938

KENNEDY F. REA, CLERK
JOHN W. R. SMITH, ASST. CLERK

Mrs. Herschel E. Peabody, President
Maine League of Women Voters
35 Norway Road
Bangor, Maine

Dear Mrs. Peabody:

I have your letter of February 4th and note what you say about the proposed Equal Rights Amendment.

I doubt the advisability of the Amendment and I expect to vote against it, should it come up for action in the Senate.

I will see that your letter is filed with the Judiciary Committee.

Sincerely yours,



S1

NATIONAL LEAGUE OF WOMEN VOTERS

726 JACKSON PLACE

WASHINGTON, D. C.

MISS MARGUERITE M. WELLS
PRESIDENT

February 9, 1938

Dear State League President:

I looked forward this morning to sharing with you reports from those who have been attending the Equal Rights Amendment hearing. I wanted my letter to be exclusively congratulatory, with a few words about the best points of the hearing. I learn this morning, however, that I must put into the letter a most urgent appeal for you to do more. I will tell you why later.

We had two days of hearings. Miss Dorothy Straus, New York, managed them so adroitly that she won compliments even from members of the Committee. Her opening statement emphasized constitutional and legal objections to the proposed Amendment. Perhaps the best presentation was that of Dean Acheson, former Undersecretary of the Treasury, who emphasized the legal confusion bound to result if the Amendment were ever ratified. Mrs. Edith Valet Cook, Chairman of the League's Department of Legal Status, presented a good statement on our behalf. More than a score of organizations and individuals were represented by speakers. One of the best speeches of all was made by Miss Newman, representing the Women's Trade Union League. She qualified as having begun work in a factory at the age of eleven and a half. She spoke with controlled emotion and her declarations in criticism of the proposal and of its proponents were forceable and frank. She won spontaneous applause from the audience. If there was a defect in the entire hearing it was that too many of the objections were aimed against the threat to protective legislation for women in industry.

Throughout the hearings communications were brought in to members of the Committee from Senators who had received them from their constituents, mainly I suspect from Leagues of Women Voters. It was the most important evidence of all and I assure you, therefore, that your contribution at this stage is absolutely essential.

This morning's news does not sound so good. We hear that the Senate is being flooded with telegrams in support of the Amendment. These, I suspect, are mostly from individuals. Now, therefore, is the moment when by extraordinary efforts you may turn the tide which otherwise you may have to continue to fight for years to come. Telegrams in opposition to the proposed Amendment should be sent to your Senators in increasing numbers throughout the next few days. These should come from individuals and whenever possible from men and women of some influence with their Senators. They should emphasize the constitutional enormity of the proposal, the confusion it would cause in state laws already existing, the fact that it is absolutely unnecessary for the achievement of the object in view as well as being dangerous to the very object it pretends to aim at. Remember telegrams now should be from individuals. If you cannot get influential individuals, get any one whom you can interest. They should come immediately and continue to come for several days. Leagues that are very strong throughout the states should fairly flood their Senators. Leagues that are weak throughout their state should try to get individuals even from places where there is no League. You must show strength and at once, if you are to avoid future trouble. What has already been done by you gives me great hope for what you will continue to do the next few days.

Congratulations and success to you!

Very sincerely yours,

Marguerite M. Wells

President

P.S. I will send you later a copy of Mrs. Cook's statement. I think it will be useful to you.

NATIONAL LEAGUE OF WOMEN VOTERS

726 JACKSON PLACE

WASHINGTON, D. C.

MISS MARGUERITE M. WELLS
PRESIDENT

February 15, 1938

Dear State League President:

Monday the 14th the Senate Judiciary Committee voted eight to eight on reporting out the proposed Equal Rights Amendment. Those who voted for reporting it out were Senators Ashurst, Burke, Austin, Hughes, Hatch, O'Mahoney, Pittman, Van Nuys. Those who voted against reporting it out were Senators Borah, Connally, Dieterich, King, Logan, Neely, McGill, Norris.

Senator Pittman, who as you notice voted for reporting it out, is reported in the papers here as saying that he had doubt about the proposal and thought the Amendment might cause confusion, but believed that the Senate should be given an opportunity to vote on it. Only one member of the Committee was absent when this vote was taken. Another vote will be taken when there is a full committee, perhaps within a few weeks.

You will be especially gratified to hear that messages against reporting the Amendment out came to Senator King in such numbers that they could not be put into the record of the hearing. The news in this letter is not for publication, but goes to you with my congratulations - so far so good!

I am enclosing a copy of the rebuttal made by the opponents and sent to the Committee in writing to spare them another sitting to hear it.

I write at this time because I know you are eager to hear the news up to date.

Very sincerely yours,

Marguerite M. Wells

President

Enclosure: Statement

National League of Women Voters
726 Jackson Place
Washington, D. C.

Main League
February 10, 1938

Legal Authorities Opposing the
So-called Equal Rights Amendment
from whom Written Statements were Received and Filed
in the Record of the Hearing

LaRue Brown, Attorney, Boston, Massachusetts
Joseph P. Chamberlin, Columbia University Law School
Charles E. Clark, Dean, School of Law, Yale University
John P. Devaney, Attorney, Minneapolis, Minnesota
Noel T. Dowling, Professor, Columbia University Law School
Herbert B. Ehrmann, Attorney, Boston, Massachusetts
Morris Ernst, Attorney, New York City
Felix Frankfurter, Professor, Harvard Law School
Everett Fraser, Dean, Law School, University of Minnesota
Lloyd K. Garrison, Dean, Law School, University of Wisconsin
Leon Green, Dean, School of Law, Northwestern University
Edwin N. Griswold, Harvard Law School Faculty
Albert Jacobs, Professor, Columbia University (Family Law)
William H. Millard, Justice of the Supreme Court, State of Washington
Roscoe Pound, former Dean of the Law School, Harvard University
Richard R. Powell, Dwight Professor of Law, Columbia University
M. C. Sloss, former Associate Justice of the Supreme Court,
State of California
Silas H. Strawn, Attorney, Chicago, Illinois
Edgar Bronson Tolman, Attorney, Chicago, Illinois
Charles Warren, Attorney, Washington, D. C.
John H. Wigmore, former Dean of the School of Law, Northwestern University

Maine League

National League of Women Voters
726 Jackson Place
Washington, D. C.
February 8, 1938

FOR IMMEDIATE RELEASE

Statement of the National League of Women Voters
In opposition to the Proposed Equal Rights Amendment

Presented to the Senate Judiciary Committee
by
Mrs. Edith Valet Cook, Chairman of the
Department of Government and Legal Status of Women
of the National League of Women Voters

The National League of Women Voters represents the opinion of women in all sections of the country. It is an established, working organization composed of 550 branches, urban and rural, in 33 states in the North, East, South and West. It has behind it 18 years of unremitting effort to advance the position of American women by the removal of hampering legal and administrative discriminations, as well as by training them for responsible participation in government as citizens and voters. It is therefore from no amateur's point of view that we appear today to oppose the proposed amendment.

In the first ten years after women received the vote members of the League were especially active in removing discriminations against women in the law and they successfully supported many state and federal enactments equalizing women's opportunities, beginning with the Cable Act of 1922 which gave independent citizenship to married women and helping to place in the law the principle of equal pay for equal work in the 1923 Act reclassifying the Civil Service, their efforts then extending through their state legislatures into such fields as office-holding, admission to public employment, jury service, guardianship of children and property rights. In the last half dozen years progress, although still steady, has been a good deal slower and for very good reasons. First, the outstanding and obvious legal discriminations against women have, with a few significant exceptions, been removed. Second, most of the discriminations which remain are either of a type which do not bear oppressively on many women or are not possible of removal by a

single simple formula. They are in the realm of domestic and family law concerning which there is no general agreement as to precisely what change would be desirable. Then, too, most women aware of the realities of present economic and political conditions have been turning their attention to more general solutions to these problems along human rather than strictly feminist lines.

Some legal discriminations do remain and call for solution. Typical of these are, for example, laws concerning the property rights of married women where, as has been pointed out, no one formula for effective equality has been agreed upon nor can be expected to meet constantly changing social and economic situations. Our experience in the League convinces us that the removal of even the simplest discriminations calls for several distinct and careful steps which include a study both of the laws and of the actual operation of these laws in a particular state, careful drafting of proposed changes, and work for the desired change. We have found that specific measures state by state are necessary to correct specific ills. In the more complex fields of family and property law lack of care in drafting legislation may easily result in hardships more severe than those caused by discriminations removed.

To proceed effectively in the removal of remaining discriminations it is our conviction that federal and state legislatures alike within their respective fields should be free to pass laws to meet the changing conditions, to repeal these later if necessary, in general to keep the laws abreast of changing customs and social conditions without being limited by new and untried constitutional restrictions upon their powers. We believe also that women through the vote have now the means of correcting laws that are discriminatory against them whenever they agree that they are in fact discriminatory, and that^{they}/favor making changes in laws that affect their own status with precision and care, rather than through some glittering generality about equal rights. There is neither any need nor in any substantial sense any demand for an amendment to the Constitution of the United States for this purpose.

But to say that comparatively few laws remain to be changed is not to agree that women do not still suffer from discriminations which spring from custom and prejudice. Clearly these discriminations are not amenable to law. For instance, the handicaps that business and professional women must still overcome result in no way from legal discriminations, for laws controlling entrance into the various professions now apply equally to men and women. Such obstacles in the way of woman's advancement result from prejudices inherited from the past, from habits and traditions which are not usually changed by high sounding phrases in the Constitution.

The League of Women Voters is opposed to the so-called "Equal Rights" amendment because:

- (1) It would be completely ineffective - it would do none of the things that are claimed for it, since even after it became a part of the Constitution state legislation would still be necessary;
- (2) It would be dangerous - it might do irreparable harm by nullifying much legislation which does not treat men and women identically before the law but which has been designed to give the millions of wives who are economically dependent effective equality with their husbands. Moreover, it would assuredly cause legal chaos in every state by casting doubt on those laws which are different for men and women.
- (3) It is entirely unnecessary - it would do nothing that could not be done without it by the tried method of specific legislation state by state which is the only sure and certain way of changing laws to meet specific handicaps.

One state League of Women Voters taking a bird's-eye view of their state laws which treat men and women differently have put the thing in a nutshell as follows:

"Shall we pass the EQUAL RIGHTS AMENDMENT and give up:

- "1. Allowance for support of widow for one year after death of husband,
- "2. Increase in widow's inheritance tax exemption from \$3500 to \$5000,
- "3. Sole liability of father for support of illegitimate child,
- "4. Support from husband for wife and minor children,

"In order that women may be employed as 'bell-hop, taxi driver, gas or electric meter reader, ticket seller at hours before six a. m. or after ten p. m. in mines, blast furnaces . . . or in pool-rooms or bolling alleys having only men patrons.'"

The opposition of the League of Women Voters to the proposed amendment is based also upon its interest in the structure and functioning of our constitutional form of government. We therefore oppose the amendment regardless of the possible adverse effect on laws equalizing unequal opportunities of women. We are interested not only in a particular need, but in what governmental procedures are best adapted to meet that need. The Constitution is not a recital of general principles, it is the law of the land and such vague and uncertain generalizations as the proposed amendment have no place in it. The language of the Constitution should, to be sure, be in broad and general terms, but certainly not in such vague and uncertain language that it cries aloud to the Supreme Court to interpret it. Furthermore, to incorporate into the Constitution a proposal for equality of the sexes with its implication not only of present, but of probable future, inequalities just at the time when we were hoping that women were on the road to being treated as citizens rather than women is to "freeze" into the fundamental law through court interpretation based on present traditional ideas a concept which women are bending all their efforts to eliminate.

Ninety years ago, when the first woman suffrage convention was held "equal rights" was an exciting battle-cry. Then women's position was so far below men's in every field that equality with men was a goal worthy of their best efforts. The recital of their grievances against men beginning with the statement "He had never permitted her to exercise her inalienable right to the elective franchise through the complaint that he has monopolized nearly all the profitable employments to the crowning indignity that he has denied her the facilities for obtaining a thorough education all colleges being closed to her.", - this complaint indicates that in those days equal rights were something to work for. Today to accept

as an end equality with men is a backward step. Wider opportunities, social, economic, political and cultural are needed so that women may advance all along the line. As a matter of fact the League's experience through eighteen years indicates that the large majority of women throughout the country realize this and have gone far beyond the demands for mere equal rights. They understand that the real battle for equal rights was won in 1920 when women secured in the vote the tool with which they may make their desires effective in law whenever enough of them choose to do so.

Mr. Chairman, and members of the Senate Judiciary Committee, we have appeared here today that you may have evidence that women deeply concerned with, and widely experienced in, advancing the status of women, do not favor the proposal before you. Indeed we represent a distrust of that proposal that extends far beyond our membership. Expressions of it have come to us during the past few days from every side, and we have been particularly interested in the opinions that have come from many learned lawyers, and in their expressions of confidence that upon its merits the proposal will not find favor with your committee. We, too, leave this matter in your hands with confidence, knowing that you realize that the mischievous character of the proposed amendment to the Constitution outweighs every other possible consideration.

Maine League

Copy of Editorial from
The Washington (D. C.) Post
February 10, 1938

The 'Equal Rights' Amendment

Worthy of a better cause is the persistence with which a small but ardent group of feminists have fought for a constitutional amendment according "equal rights" to women. A Senate judiciary sub-committee is now holding hearings on this much discussed proposal which, as one thoughtful witness pointed out, ignores the fact that law "is no place for emotional hopes."

One of the best ways to gauge the value of any proposal is to note the character of the opposition to it. Women prominent in the trade union movement, or familiar with the conditions under which women work, have appeared to cite their objections to the amendment. That distinguished leader in the fight for woman suffrage, Carrie Chapman Catt, and the organization which she heads, as well as other civic bodies composed solely of women, likewise protest against a plan that they regard as impractical and "misleading." Many of the country's outstanding legal authorities, both conservative and liberal, are also on record against the proposal.

These dissenting groups seem thoroughly in sympathy with the desire to emancipate women from legal restrictions impairing their usefulness and unduly hampering them in their freedom of action, either as housewives or paid workers. They do not, however, believe that a blanket amendment could provide a desirable sort of freedom unless one regards the right to be exploited as a privilege to be cherished. For passage of the amendment would obviously undermine all protective laws applicable to employed women workers as such.

Women in industry are as a rule unorganized, unskilled workers who in the absence of protective legislation fall easy victims to exploitation. The restrictive provisions of laws applying only to women may, in a limited number of cases, result in the employment of men. But, as Mgr. Ryan said in testifying before the Senate sub-committee, the number of women who have been handicapped by labor laws is "quite insignificant" compared with the number benefited.

It is not only in the industrial field that the proposed amendment might work havoc, through forcing arbitrary changes in State laws. Witnesses also stressed the legal complications that would result from attempt to establish arbitrary equality for women, regardless of the practical considerations that have given rise to statutory distinctions. Thus Dean Acheson pointed out that all but 14 States require husbands to support their wives. He pertinently asked whether the proposed amendment would impose a similar legal obligation upon the wife.

This blind struggle for theoretical equality of rights has a certain valiant crusading aspect that arouses admiration. But very little reflection is needed to show that it is not a practical approach to solution of the problems raised by the inferior legal status of women. Whenever and wherever legal handicaps have lost their original justification, they should be fought, not with a meaningless slogan but with specific remedies for admitted evils. The removal of unwarranted, inexpedient and outmoded restrictive laws applicable to women is needed, not a misnamed "liberty" that would deprive the weak and defenseless of essential safeguards.

Furthermore, the way to set about securing a rational emancipation in this field is to work for changes in the laws of the several States. To empower Congress to define "equal rights" for women and to force its definition upon the States, would be an impossible proceeding. It could only be "provocative," as one witness said, "of endless turmoil and trouble."

February 12, 1938

Concluding Statement in Opposition to the
So-called Equal Rights Amendment, S. J. Res. 65.

At the request of ~~the~~ organizations and individuals appearing at the hearing in opposition to S. J. Res. 65, the following statement is presented to the Senate Judiciary Committee.

No necessity for the amendment shown. The proponents of the so-called Equal Rights Amendment have failed to produce any evidence of need for an amendment to the Constitution. Almost without exception, the testimony has attempted only to show that the proposal would not be harmful. On the positive side the proponents only claimed in their testimony that "the nineteenth amendment granting political freedom took us to the door of equal opportunity and the Equal Rights Amendment would open the door and take us into the temple of equality" and "would write a principle into the highest law of the land."

They further expressed the hope that the amendment would goad state legislatures into making changes in state laws. Various witnesses admitted that changes in state laws affecting men and women differently, which all agree should be changed, have and are being modified to such an extent that one witness said, "Today all our laws have been so modified by statutory enactment that the Equal Rights Amendment is to some extent a declaration of existing conditions . . ." This same point was brought out by other witnesses.

Outlawing industrial legislation for women shown as principal objective.

Elimination of special protective legislation for women in industry was admitted by the proponents of the amendment to be one of its principal objectives. They failed to show either that such legislation had not been helpful in raising the status of women in industry or that the mass of working women wished it eliminated.

The evidence presented on this point by the opponents of the amendment showed the overwhelming and official support of industrial legislation for women, not only by the largest labor organizations such as the American Federation of Labor, the

International Ladies Garment Workers Union, the National Women's Trade Union League, but also by the largest national organizations whose membership is especially concerned with women employed in industry such as the National Board of the Young Women's Christian Associations, the National Consumers' League, and the Girls' Friendly Society of America, and the support of many important national organizations whose membership is concerned with improving general social and industrial conditions such as the National League of Women Voters, the National Association of Catholic Women, and the National Council of Jewish Women, as well as the National Women's Homeopathic Medical Fraternity.

On the other hand the proponents of the amendment presented a few individual working women who spoke either for themselves only, or for small local organizations, and who objected to industrial legislation for women whether or not they were affected by it, and a list of a few state and national organizations and a number of local organizations opposed to such legislation, practically all with a membership of business and professional women and employing groups.

It was further claimed by the proponents that although labor legislation for women only would no longer exist if the amendment were adopted, such legislation would not be permanently wiped out but might be changed by the substitution in state laws of the word "persons" for "females." Again it is obvious that the amendment is not needed to accomplish this end. Specific state action would still be necessary, thus bringing the issue back to the states, where it is at present.

Effect of the Ohio Minimum Wage Law. The proponents of the amendment also went into considerable detail regarding the effect on women of the recently enacted minimum wage law in Ohio. This testimony was not according to the facts secured through a recent and still unpublished investigation by the Women's Bureau of the United States Department of Labor. The authoritative statement from that Bureau, prepared at the request of the opponents of the amendment and attached hereto, shows that the evidence presented by Miss Bitterman was not accurately interpreted. Women were not handicapped, as she reported, by the Ohio Minimum Wage Law.

No facts produced to show that the Amendment would not lead to endless litigation and untold confusion.

On the point raised by the opposition that the Amendment would create

untold confusion and litigation and is a reckless and irresponsible method of achieving a desired goal, the proponents could only express wishful thinking by claiming that state legislatures would act to change all laws affecting men and women differently, during the time the so-called equal rights amendment would be pending before the states. They naively compared this complicated field, including as to precisely what changes are desirable, domestic and family law, where there is no general agreement, with the simple legal situation created by the specific provisions of the Nineteenth Amendment. They failed to mention that even such changes in state laws would be subject to interpretation by the courts in the light of the amendment should it be adopted. Since the amendment does not define the meaning of "equality," no state legislature could change its laws with any certainty that they would be upheld by the courts.

Arguments against the amendment. The opponents of the amendment showed that it:

1. Would be completely ineffective in and of itself, but would require state legislation to implement it.
2. Would be dangerous, since it would do irreparable harm by nullifying much legislation - social, economic, and industrial - which does not treat men and women identically.
3. Is entirely unnecessary since it would do nothing that cannot be done without it by the same method of specific legislation in each state to meet specific handicaps.
4. Is not appropriate matter for the body of the Constitution. The Constitution is not a recital of general principles; it is the law of the land and such vague and uncertain generalizations as the proposed amendment have no place in it.

Conclusion. We submit that the proponents of the amendment have showed no necessity for it, have advocated repeal of industrial legislation for women by means of the amendment, have admitted that it would require specific legislation

in each of the states, have admitted rather than denied that confusion would result, and have only defined its meaning by repeating its terms.

On the basis of the testimony presented at the hearing, it seems obvious that the Judiciary Committee of the Senate must necessarily refuse to recommend the so-called Equal Rights Amendment for Senate consideration.

Miss Mary Winslow
National Women's Trade Union League of
America

Mrs. Louise G. Baldwin
National League of Women Voters

February 12, 1938

Statement Concerning Effect of Minimum Wage Laws
in the
Cleaning and Dyeing Establishments in Ohio

Submitted for the Record by opponents
of the so-called Equal Rights Amendment,
and prepared at their request by
Mary Anderson, Director, Women's Bureau,
U. S. Department of Labor.

It is always essential to remember when studying the effect of minimum wage laws that they do not operate in a vacuum. Rather such laws are put into effect at the same time as the volume of business changes, as price wars are carried on, as technical improvements are made. The period in which the minimum wage law was made effective in Ohio was one in which there was a rapid adoption of newly designed equipment to use synthetic fire-proof solvents. These machines not only required less skilled and fewer operators than when petroleum solvent was the cleaning fluid, but they also made possible cleaning back of the counter over which dry cleaning was accepted. Consequently, the family shop, that is the shop in which members of the family do most of the work, increased through these technical changes.

At the same time a price war was under way in Ohio which forced prices down but at the same time increased the actual volume of work done. The actual changes in numbers employed and in wages must be reviewed against this background of industrial change.

Women's Bureau Survey made in Summer of 1937

Scope

In the Summer of 1937 the Women's Bureau made a survey of 388 cleaning and dyeing establishments in 62 towns in Ohio to determine the status of women employees in this industry over a three years' period: namely April 1934 before any minimum wage law, April 1935 immediately after its enactment, and April 1937 after the favorable Supreme Court decision on Minimum Wage. Out of these 388 firms, 154 had no records for one or more years reported.

291 firms were in business during the three years. Of this number 173 had records and only verbal reports could be had from 118. Fortunately, the firms having records employed by far the larger number of workers.

Summary of Results

Employment of women in the 291 establishments in business during the three years increased 10%; employment of men increased 11%. Women purported to have been laid off because of minimum wage regulations were found to be reemployed in all but three cases. Almost 90% were reemployed at increased wage rates.

Women's median weekly earnings increased 23% from 1934 to 1937;
men's median weekly earnings increased 24%.

Median hourly earnings of women increased 14%, while hourly earnings of men increased less than 8%.

In order that comparison might be made with a neighboring state in which the industry was undergoing the same technical and business changes but in which there was no minimum wage law, the Women's Bureau made a survey of the Indiana cleaning and dyeing industry and secured records for the same month in 1934, 1935 and 1937 as were obtained from Ohio.

Of 181 identical firms covered, these were the conditions found:

Employment of women increased 22%; employment of men 27%.

Median weekly earnings of women increased 16%; men increased 29%.

Median hourly earnings of women increased 10%; men's hourly median hourly earnings increased 19%.

The conclusion seemed sound, therefore, that while general business conditions in the dry cleaning and dyeing industry occasioned a general increase in staff regardless of sex, women's hourly earnings increased to a greater extent in Ohio under the minimum wage law than they did in Indiana. In April 1937 the median hourly earnings for women in Ohio was 40¢ as compared with the 33¢ in the neighboring state of Indiana.

Statement Presented to the Secretary General of the League of Nations
By the National League of Women Voters of the United States of America

Concerning the Equal Rights Treaty Scheduled to Be Discussed
By the Assembly of the League of Nations.

Scope of Statement

The National League of Women Voters herewith presents a statement of the grounds upon which it opposes the proposed treaty by which the signatory nations would in terms bind themselves to accord "equal rights" to men and women within their respective jurisdictions.

As a national organization, the League of Women Voters addresses its opposition in a formal sense solely to the possible application of such a treaty to the United States. This statement, therefore, will deal particularly with the peculiar danger and difficulties inherent in an attempt to apply an international convention of this character to civil and social conditions within the various governmental units which comprise the United States and the territory subject to its jurisdiction.

Moreover, the League of Women Voters is convinced through practical experience that any attempt to secure equality for men and women, in complex civil, social and economic relationships, by general or "blanket" prescriptions of law constitutes a real danger to the achievement of equality of a realistic and substantial character. A statement of these more general grounds of objection to an Equal Rights Treaty will also be included in this presentation. However, in view of the fact that the proposed treaty was originally sponsored by a women's organization in the United States, a preliminary statement on the situation existing in this country with reference to proposals of this character will first be made.

I.

Situation in the United States with respect
to general or "blanket" proposals to provide for equal rights between men and women.

For twelve years a proposal to insert in the Constitution of the United States an amendment in language practically identical with that of the proposed Equal Rights Treaty has been submitted to Congress. This so-called "Equal Rights" Amendment has been sponsored by the National Woman's Party and has been the chief and until recently almost the sole objective of that organization. Although persistently advocated by that organization it has never gained any large following or become a serious political issue

in the United States. The League of Women Voters, with many other women's organizations, has consistently opposed this proposal and it has never reached a vote in the Congress of this country.

Prior to its advocacy of the proposed "Equal Rights" Amendment to the Federal Constitution, the Woman's Party endeavored to secure "blanket" or general statutes in the various states to provide for equal rights between men and women. This attempt, soon abandoned by its sponsors, received no general support and was opposed by those most experienced in movements to advance the position of women as an unsuitable and unsafe method of attempting to secure the desired results. As a matter of fact, in only one state was such a law enacted, and there it was enacted in a form no longer approved by the Woman's Party since it contains qualifications designed to protect welfare legislation affecting women.

The organization which sponsored these unsuccessful efforts to secure the enactment of state and federal laws of a general character is now advocating the proposed Equal Rights Treaty. The United States did not sign the convention on the subject of equality of rights of both sexes submitted at Montevideo in December, 1933. The attempt to secure a convention along these lines is patently the effort of a small minority interested in doctrinaire feminism to obtain by indirection what it has been impossible to obtain directly.

II.

Difficulties in the application of the proposed treaty and other "blanket" methods to secure equal rights between men and women peculiar to the United States.

The situation in the United States differs materially from that in almost every other country in that there is no centralized government which has complete jurisdiction over the civil status of its citizens throughout the entire extent of its territorial limits.

It must always be remembered that in the United States there are practically forty-nine different sovereignties, none of which can under our Constitution coerce the others. The civil status of women, except in such general matters as nationality, control of which has been reserved to the United States Congress, is regulated by the laws passed by the several state legislatures and the precedents established by the courts of each of them. There is consequently considerable difference in the rights and privileges as well as duties under the law of the women in New York and Massachusetts and those in South Carolina, Louisiana, and even in California.

The property rights, both during coverture and after the husband's death, are quite distinct in the "common law" states, where the tradition follows the English rules, and the "community property" states that still retain bits of the old Spanish and French civil codes.

The Federal Government has no control over these differences and, we believe, under the Federal Constitution, would have no power to establish a uniform standard. The scope of the treaty-making power upon subject matter reserved under the Constitution to the state governments is itself a matter of controversy. Accordingly, if the United States should ratify the proposed treaty the effect of such action in the United States would be highly uncertain. Under the Federal Constitution a treaty becomes a part of the supreme law of the land. It is possible, however, that the Supreme Court would hold that the adherence of the United States to a convention as comprehensive exceeded the treaty-making power. Assuming, however, that the Court sustained the validity of ratification, two constructions as to its legal effect within the United States are possible. The Court might construe the treaty as a mere contractual obligation of the United States to take action to accord men and women equal rights. Or, it might construe the treaty as itself establishing equality of right as subsisting law, automatically superceding both state and Federal laws inconsistent therewith.

If construed as a contractual obligation, the Federal Government might be powerless to perform its promise, save with respect to the few questions, such as nationality, upon which it has power to legislate. The simplest of examples will illustrate the difficulty. There is at present one state of the forty-eight in which a woman is not with her husband the joint guardian of her children. Under the present framework of our government no one outside the citizens of that state has any power to effect a change in this situation. Certainly, the Federal Government has no such power. If the proposed Equal Rights Treaty were ratified the continuance of this condition might be construed to constitute a denial of equality and therefore a breach of the treaty. The mere expression in a treaty that there shall be equal rights, however, does not establish the mechanics for their creation. The ratification of the treaty would probably not be effective to bestow upon the Federal Government the power it does not now possess under the Constitution to legislate upon the subject directly or to compel the state to do so. In such a situation the treaty would be ineffective to accomplish its apparent purpose.

If the treaty is construed as establishing equal rights as a matter of law, throughout the United States and all territory subject to its jurisdiction, the problem of determining what are "equal rights" will arise in a bewildering variety of situations. So far as these involve laws in the various states, the interpretations put upon the term "equality" by various state courts might have to be accepted. The confusion and differences certain to result from such diverse agencies of judicial interpretation would be aggravated because the term "equal rights" in the treaty is in no way defined.

For example, there are certain states in which a woman is considered to have reached her majority at eighteen years of age, although in practically all of the states a man is not considered to have become of age until he is twenty-one. Under the wording of the proposed treaty it is utterly impossible to decide whether (a) the age of majority for both sexes would have to be the same, or (b) if so, whether the age of majority should in some states be automatically dropped to 18 for men or automatically be raised to 21 for women.

Similar questions of interpretation will arise with respect to a multitude of matters of purely domestic concern upon which wide differences of opinion exist in the United States. What, for example, is "equality" as regards the age of marriage, mothers' pensions, age of consent, widows' homestead rights, and the distribution and control of family income?

These matters, which in the United States have been regarded as so domestic in character that they are withheld from the jurisdiction of the Federal Government and left to determination by the various states, have no substantial bearing upon the international relations of the United States or upon the general status of women throughout the world. It is of the highest importance domestically, however, that the legal standards governing them be certain and clear under our constitutional system. If "equal rights" become the supreme law of the land, the validity of innumerable statutes and of private rights arising under them would depend upon their conformity with that standard. The confusion to be anticipated in the courts, and indeed in ordinary business transactions, pending judicial determination of the meaning of "equal rights" and the passage of statutes in conformity with that standard as construed by the courts, is something that no practical or responsible group would care to contemplate.

III

Application to Labor Laws

Appreciating the high quality of effort of the League of Nations and its affiliated body, the International Labour Organization, in striving to correct grave inequalities between peoples, the National League of Women Voters of the United States of America believes that true equality between men and women as between different groups of workers of the same sex or between those of different nations can be secured ultimately only by methods similar to those of the International Labour Organization for the protection of all labor, viz., the drafting of specific proposals after informed consideration.

The National League of Women Voters has watched with interest the International Labour Organization's acceptance of draft conventions relating specifically to women, No. 3, pertaining to the employment of women before and after childbirth, No. 4 (No. 41 revised in 1934) pertaining to the employment of women at night, and No. 13 forbidding the employment of men under 18 and of all women on industrial painting involving the use of white lead or sulphate of lead.

A partial survey of laws in various countries indicates how important is the legislation which would be wiped out if the Equal Rights Treaty should be generally ratified. In addition to the International Labour Organization's draft conventions and the related national conventions, many nations have passed laws pertaining specifically to the employment of women. The fact that practically every modern industrial nation has adopted some special labor laws for women is evidence of the recognition that the nations cannot permit the industrial exploitation of women to the point where it endangers women's children and the race.

In the United States, the proposal of an "Equal Rights" Amendment to the Federal Constitution similar to the proposed Equal Rights Treaty has led the National League of Women Voters to make a thorough study of its probable effect on state labor legislation protecting women. The National League of Women Voters has opposed the "Equal Rights" Amendment to the Constitution because it would wipe out such state laws if they relate to women alone. If it should be construed that these laws would be extended by the amendment to apply to men as well as to women, it is probable that the question of their constitutionality would be raised afresh since the courts have been less willing to uphold labor laws for men than for women.

Among the United States laws which would be endangered by Equal Rights legislation are:

Women's hour laws - passed by 43 of the 48 states

Women's night work laws - passed by 17 states

Minimum wage laws for women and minors - passed by 14 states

There is no question but that labor laws need to be periodically revised to make sure that as conditions change, the outlawing of an old exploitation does not limit unreasonably the opportunity of workers who do not need the intended protection. This is true of all laws.

However, protection of industrial workers has been too hardly won through a century of prolonged effort, to risk destroying the protection gained by any group through the adoption of a rule-of-thumb to be applied in all cases thus wiping out the opportunity to deal specifically with the known dangers of industrial exploitation of women.

While it is desirable to secure for men as well as for women the proven benefits of such legislation, it is not logical nor sound to advocate risking by constitutional amendment or by Equal Rights Treaty the destruction of hard-won legal protection gained for one group, merely because it is not yet attained for others. Equality does not consist in robbing women of hard-won victories on the ground that they have not yet been gained by men.

No men's groups seeking protection for workers facing special hazards ask that such protection be withheld until public opinion is ready to grant similar protection to all workers.

The National League of Women Voters affirms its belief in the social value of labor legislation and in the securing of such legislation for each group of workers - classified by occupation, by sex or by age - as rapidly as experience makes such provision acceptable to the public and to legisla-

tures. We believe that this procedure is best designed to secure the necessary protection for all workers and that the process should not be checked by arbitrary, theoretical pronouncements such as the Equal Rights Treaty.

See appended Supplements relating to labor laws for women.

Quotations from Miss Frances Perkins, Secretary of Labor of
the United States.

Robert Wagner, United States Senator of New York
Dr. Alice Hamilton, Assistant Professor of
Industrial Medicine, Harvard University.

Toward Equal Rights for Men and Women by Ethel
M. Smith, Published by the National League
of Women Voters, Washington, D. C. (1929)

IV.

Illusory character of attempts to establish Equality by general enactments

In the United States, the National League of Women Voters has sought to remove discriminations against women and to place women in a position of substantial equality with men. The National League of Women Voters does not pretend to know the meaning of equality between men and women in any complete or ultimate sense. We regard it as a changing factor dependent upon social and economic conditions and more often established by custom than by law. In the United States there are many laws which presumably grant equal rights to men and women; yet as put into practice discrimination is not only maintained but justified under them. Moreover, in our experience, a process of patient education is necessary to effect changes which, being supported by the sentiment of the community when they are passed, have a permanent effect and actually achieve their ends. Eternal vigilance and a very clear recognition, which we do not believe at present exists, as to the function of women in modern society is necessary in order to achieve anything like equality.

For these reasons the technique which the League of Women Voters has followed, when legislation has been necessary, is to proceed by specific enactments, federal, state or local as the situation requires. In some cases these enactments have been based upon a recognition of existing factual distinctions between men and women and have sought to overcome them by compensation differences in legal treatment. In other cases equality has been sought by removing legal distinctions and securing legislation having identical application to men and women. We are satisfied that this technique is sound under the conditions prevailing in the United States. The problems confronted do not arise from differences of standards as to the status of men and women which prevail in other countries, but are purely domestic in character. The proposed treaty, therefore, would not only be confusing and destructive, but would in no way facilitate the attainment of equality between men and women in this country. In our opinion there is no practical possibility that such a treaty would be ratified by the United States.

It seems to us, moreover, that the objections to a treaty of this character are not confined to the United States but are of general application. Just as there is no agreement within the United States as to what constitutes actual equality of right between men and women, it is apparent that there is also no agreement among the various nations of the world as to what constitutes such equality.

To have a convention on the subject before its real objective is defined or clearly understood is to promulgate a pious hope rather than an effective practical instrument. Legal equality is no longer, in our view, the ultimate desideratum. We have found all too often that even the best laws, from a theoretical standpoint, are neither enforced nor accepted by the community. Putting laws on the statute books or signing conventions does not in any way change people's habits of thought nor prejudices. The things we have found that really handicap women are not so much the laws to which the treaty seems to be directed, but the customs and emotional reactions in different communities. We believe that the only way to overcome these is not by legislation and treaties but by education. As a matter of fact, to adopt a blanket expression of objectives and to clothe it with the form of law is to create an illusion of actual accomplishment which the effect of such an expression does not in any way warrant.

We are therefore inevitably thrown back upon the removal of specific discriminations by specific effort and a treaty would seem to be wholly supererogatory. Experience sustains this view. We have seen a great many of the modern constitutions embodying the so-called principle of equality between men and women swept aside when economic and political conditions seemed to call for such action, and we do not believe, since we regard these matters realistically, that any country will consider itself bound by a treaty if the powers momentarily at the head of its government happen to disbelieve in the principle the treaty purports to embody.

While, therefore, we regard the treaty as unnecessary, we believe also that it will be positively harmful in some respects. The damage it might do to women in industry has been set forth at length. It took one hundred years of the machine age to get what we now have in the way of protection and control. It seems absurd to waste this effort for the sake of a principle applied in an unrealistic and impractical manner. What the women in industry have won has been merely to care for needs disclosed by experience. As a matter of fact, we regard these so-called gains as merely a step toward substantial equality since in this particular field women were and are still handicapped. Most of them, and it is true all over the world, even in Russia where women are now most nearly freed of tradition, have the double burden of breadwinning outside of the home and the maintenance of the home. To recognize these facts by lightening their burdens in one aspect does not, we believe, detract either from their contribution to society or their dignity as human beings.

V.

Desirability of study
preceding consideration of treaty

The question of what constitutes fairness and equality between men and women is one that has not been solved. We are convinced that it does not mean identity and that an actual difference in laws does not necessarily create an unfair difference in status. What should be asked in every instance are these questions:

1. Is the so-called discrimination of advantage to women and through them to society in general?
2. If it is disadvantageous to women, what legal changes are appropriate to put women on an equal footing with men?
3. Would legal identity in such an instance coincide with social and economic equality?
4. Would identity in any event be consistent with social justice?

No intensive study of the civil status of women under modern conditions has been made anywhere except perhaps in a recent work on Russia, so that even within each country it is now impossible to state precisely what would be equality. That such an intensive study should be made seems highly desirable, and that the League of Nations should undertake it even more so. Similar researches have been undertaken by the International Labour Office and the machinery for such a study is practically ready. We regard such an empirical foundation as essential for any proper discussion of a treaty similar to the one proposed. Consideration of any specific proposal for an international convention on this subject should be postponed until such a study shall have been made.

National League of Women Voters
726 Jackson Place, N. W.
Washington, D. C.
United States of America

July 2, 1935.

DO WOMEN IN INDUSTRY NEED SPECIAL PROTECTION?

By Honorable Frances Perkins, former member of the State Industrial Commission of New York, present Secretary of Labor of the United States.

Article appeared in the Survey Midmonthly, February 15, 1926.

An intelligent evaluation of the laws designed to protect wage-earning women in American industries requires that those who attempt it should hold themselves strictly to a realistic viewpoint. They should weigh each item of the program with reference to the actual conditions of life and work in 1926 and without regard to abstractions however intriguing.

The program of industrial legislation for the protection of wage-earning women was initiated because of observed and striking facts; namely, the overwork, exploitation and unhealthful surroundings of the working women who crowded into factories in the latter part of the nineteenth century. Such laws have been maintained during the recent years of improved industrial technique and conditions because of the observed facts that conditions tended to sink to the old levels of exploitation without such laws and in communities where enforcement of the laws was for any reason relaxed. The reason for this tendency to sink back in the face of an improving technique of management is that in every state the number of persons employed in small factories - those having under fifty employees - is vastly larger than the number employed in the big industrial plants where scientific management can and has developed and where the strength of the trade union has made itself felt. In New York state alone 71 per cent of all the women factory workers are in factories employing fifty or less persons.

Recently the validity of this program, in which such meagre and painful progress has been made over many years, has been challenged by certain groups of feminist thinkers on the ground that it has worked harm rather than good for women workers by discriminating against women and making their employment in competition with men more difficult. This objection overlooks the United States Census figures which show a constant increase in the number of gainfully employed women throughout the country during the period in question. In theory it also assumes that women are consistently competing with men for industrial opportunity and ignores two facts: first, that as industry has become more finely differentiated and divided the best economic opportunities for women as wage earners have developed in specialized trades and occupations where women are preferred and usually excel men in skill and competence; and, second, that industrial work rarely offers opportunity for a satisfying career. Those who know industry best testify that factories are operated for profit and that workers in them are a part of the machinery doing non-creative work for which a certain wage is paid. This may afford economic independence but it is not a career.

The industrial laws for women vary in different states but in general they fall into five classes:

1. Laws regulating the hours of labor and establishing a short work day.

2. Laws requiring certain sanitary and health equipment for women employes - seats, dressing rooms, separate toilets, rest rooms, etc.
3. Laws prohibiting night work for women and laws regulating employment immediately before and after child-birth.
4. Laws looking to the establishment of a legal or living wage for women.
5. Laws prohibiting labor of women at certain trades or occupations known to involve a special hazard.

Today every state in the Union with one exception has some kind of labor laws for women. These laws touch the lives of some four million factory women. Instead of being a handicap and offering a discrimination to women these laws have the contrary effect. Industry is very largely a man's world, arranged and operated by men and with its conceptions of comfort and convenience based on man's physical structure, habits and social status. So small a matter as the traditional and usual height of a workbench is based on the average male stature and is too high for the comfort of the average woman worker. The woman wage earner enters a misfit world. The laws which reduce her fatigue by limiting hours, requiring seats, prohibiting night work and guaranteeing her a living wage are all aids to her in her struggle to work with health and happiness and to compete fairly with men who have by habit and greater experience most of the advantages in any competitive struggle. Her only hope of a reasonably satisfactory life in industry is on the basis of the prevention of fatigue by short hours, good wages and healthful conditions.

The physical and biological differences between men and women are so fundamental both in structure and in function that they cannot be ignored in considering the life of the two groups in industry where strength and skill are for sale and used for profit. A mass of information and learned opinion has been gathered over many years showing that women are more likely than men to suffer injury from the strain of industry. Dr. Alice Hamilton of the Harvard Medical School, in a recent article, says that "investigations have shown a lower resistance on the part of women to the strain and hazard of industry." Mortality figures in Fall River, Massachusetts - a textile town with many women workers - are significant. Let me quote from the report Conditions of Women and Child Wage Earners in the United States, Woman's Bureau, Department of Labor, Washington, 1921, Vol. 4:

. . . These figures show that women in general have a lower death rate than men in most age groups, while women employed in the mills have in almost every age group a much higher death rate than the mill men.

The total death rate in age group 15 years to 44 years was as follows:

Non-mill operatives	
Men 2.04	Women 1.23
Mill operatives	
Men 2.63	Women 3.20

Studies of absenteeism due to illness among industrial workers show conclusively that the sickness rate is higher among women workers than among men workers. A recent study by the New York Department of Labor shows 101 cases of sickness per thousand male employes and 154 cases of sickness per thousand female workers. Moreover, the time lost per man was 0.9 days and per woman 1.6 days.

Those facts reinforce the individual knowledge of persons experienced in industrial life that women need short hours and good sanitary conditions as a preliminary to a good economic life and are arguments for such special industrial legislation as the States may develop for women.

Because men have in many instances created excellent industrial conditions for themselves without legislation and through the medium of the trade union and the strike, it is often urged that women should achieve these undisputed needs by the same methods. Women workers, however, are not well organized. In the State of New York only 13 per cent of the working women are in trade unions and if the percentage of women in industry increases as it has in the past ten years and the percentage of organized women increases as it has in the past ten years, it will still take 129 years, 2 months and 26 days to organize them all. Self-protection through unionization is a slow method for those who live and work today.

The reasons are numerous, some of them obvious: First, the great majority of women go into industry temporarily between school and matrimony and have no impetus to affiliate with unions and make present sacrifices for future good they expect never to share. Second, most women are so insufficiently paid that the necessary dues to union membership are an impossible drain. Third, most women workers are so young that their judgment and realization of the important gains of collective bargaining have not developed. It will be a very long time before trade unions can force the desired industrial conditions for women.

The trade union women, moreover, are the leaders in the movement for the realization of those conditions by special legislation. This is perhaps the overwhelming argument for this method of progress - on practical grounds - on democratic grounds, even on strictly feminist grounds. The women who suffer these conditions in their own bodies have most at stake and have also the best opportunity to judge methods and results. They would be the first to protest if protective legislation were handicapping them. If to give women opportunity to have the deciding voice in their own affairs is one of the aims of the feminist movement, then surely this voice of the working woman, articulate, clear, conscious and courageous through organization, should be enough to settle the matter of method in securing and maintaining needed industrial standards. Mary Anderson, Chief of the Women's Bureau, United States Department of Labor, has often pointed out (and recently in the Monitor, Vol. VII, No. 4):

It is in the states that have good laws for women workers that there exist not only the best conditions for women in industry but the most important examples of women's advance into new fields of employment.

The night work laws and the prohibitory laws have perhaps given most concern to those who have advocated regulatory industrial legislation. It is my own opinion that very few of the strictly prohibitory laws are justified by facts. They prohibit for the most part the labor of women in occupations which they do not follow in this country - mining, bootblackening, etc. A few relate to occupations believed to be hazardous to health. Such is the New York State law prohibiting the labor of women in metal polishing which has a high tuberculosis rate. The cure for this kind of industrial risk is better sanitary measures, not prohibition. In cases where a health hazard affects women peculiarly - and such exist in connection with some chemicals - prohibition is justified and should be

established. Night work laws must be administered with good sense and for the most part they are. The present organization of society requires many women to play the dual role of wage earner and home maker. For that reason night work - always undesirable for anyone - bears with special severity on women who under those conditions tend to work all night and discharge family and home duties most of the day. The increase of married women in industry - two million of them according to the last census - points to the wisdom of such regulation. No one who has known a town in which the women work on the night shift and the men on the day shift - and that arrangement always seems to develop unless forbidden by law - can forget the pathos of sleepy women, haggard and drawn, frying potatoes and scolding children throughout a day broken only by snatches of sleep in a chair by the stove. When night shifts are forbidden for women, the industry makes the necessary adjustments after a time and women are the gainers in the long run. A few women printers in New York - eighteen all told - have made a cause celebre over their loss of work when the night work law was passed in that State. However, when the law was specifically amended to exempt them, only three women, so far as the Department of Labor has been able to learn, ever returned to their work on night shifts. That industry too had evidently adjusted itself to the new rule and absorbed the women in the day shifts.

The New York city conductorettes, who, it is claimed, were dismissed when a law was passed regulating their hours and prohibiting night shifts for them, afford an example of war-time work undertaken by women and quite naturally given back to the former male employes when they returned from the war. The company in that case had a plain policy of lay-offs of the women in groups in effect at the time the law was passed. The law only hastened very slightly the process of eliminating the women which had already begun.

The increasing skill of women in mechanical industry has made it clear that women are there to stay. If that is so, the factory will become their life, their environment, for most of their waking hours. The industrial legislation now existing in our States has been a great factor in making working conditions so tolerable that women have been able to achieve what success they have. An industrial organization adapted to women's needs and abilities will not only use women workers to greatest advantage but will give them the best opportunity for economic success for health and for happiness.

Progress by a combination of (1) employer's leadership for the sake of efficiency, (2) trade union organization for collective bargaining, and (3) minimum industrial standards set by law, is clearly indicated as a practical working program for the successful adaptation of industry to women's physical and economic needs.

National League of Women Voters
United States of America

Supplement No. 2
Re: Equal Rights Treaty

WOMEN IN INDUSTRY

Address of Hon. Robert F. Wagner of New York, on the Occasion of the Public Affairs Dinner of the Institute of Women's Professional Relations, New York City, March 28, 1935.

(Senator Robert F. Wagner is the junior United States Senator from New York. He was the author of the Wagner-Peyser Employment Service Act, 1933, the National Industrial Recovery Act, 1933, and the Labor Disputes Bill, 1935.)

Excerpts

"Up to the present, most of the legislation designed to protect women at their jobs, instead of dealing with the problem of discrimination, has given women certain preferences based upon their special characteristics in strength and endurance. Thus, only five states have failed to pass laws regulating the hours of work for women in factories. Some sincere advocates of the cause of women in industry have looked with disfavor upon this special legislation upon the theory that it denies the principle of equal treatment. While I appreciate their sentiments, I do not share their views. There does not seem to me to be any inconsistency in holding on the one hand that women should receive equal treatment with men for the same kind of work, and on the other hand that women should receive special consideration based upon special circumstances. I am inclined to agree with the famous statement of Mr. Justice Holmes dissenting from a Supreme Court decision which declared unconstitutional a minimum-wage law for women in the District of Columbia. He said: 'It will need more than the nineteenth amendment to convince me that there are no differences between men and women, or that legislation cannot take those differences into account.'

"The most important reason, however, for upholding and enlarging these special laws which advance women in industry, is that they are the entering wedge through which can be driven new and wider forms of social security laws for all groups. It was upon the experience established by regulating the work of women and children that the National Recovery Act was reared to guard the living standards of all groups. It is to the precedents of liberal courts sustaining special protective legislation that we look when we hope to sustain general protective legislation. Progress comes by slow degrees, and every assumption of social responsibility, however slight, is a step in the direction of that public enlightenment upon which full responsibility must rest."

National League of Women Voters
United States of America

Supplement No. 3
Re: Equal Rights Treaty

The Proposed Equal Rights Amendment by Dr. Alice Hamilton,
Assistant Professor of Industrial Medicine, Harvard University,
Former Member of Health Organization of the League
of Nations.

THE PROPOSED EQUAL RIGHTS AMENDMENT

The question of providing through legislation certain protective measures for women must be considered from the medical aspect but not without taking into consideration the economic aspect, for it must be remembered always that one of the most important causes of sickness in women of the industrial class is poverty, with all its attendant evils of poor food, poor housing, heavy domestic work and constant anxiety. Therefore, if laws for the protection of women's health should result in so lowering the status of working women as to affect their wages, it might well be that such laws would do more harm than good. In discussing these two phases of the problem I will confine myself to our experience in the United States.

In the United States working women are massed largely in the early age groups, while men are distributed much more evenly among all age groups. In a study made by the Public Health Service of 133,000 wage earners, only about 3 per cent of the women were found to be over 45 years of age, 19 per cent of the men. One large factory reported that nearly 50 per cent of the women employees were under 25 years, only 23.4 per cent of the men. A large insurance company has twice as large a proportion of women in the age group under 20 years as of men.

This means that working women are harder to organize than men since they do not expect to remain long in industry, but to marry out of it, and because of this they do not take their work as seriously as men do. It is also one reason why the sickness rate of women in industry is higher than that of men, for youth means greater susceptibility to sickness. The Public Health Service has found that women in industry have a sickness absentee rate which is 44 per cent higher than that of men, even when only the diseases common to both sexes are considered, and that the relative youthfulness of the women is not the only cause. Women between 20 and 30 years have 235 cases of sickness per 100 employed, men have 110. The average of days lost is 216 for women to 100 for men, in the 30-34 year group; 346 to 100 in the 40 to 44 years group. This is true even when the women do light work and the men heavy, as in a factory making electrical machinery, where the men form 35 per cent of the force and had in one year 23.5 per cent of the sickness, the women make up 65 per cent and had 76.5 per cent of the sickness.

The death rate from tuberculosis is higher among young women workers than among men of the same age, as shown by a large insurance company. Thus in 1924, the rate for women 20-24 years of age was 152 as against 100 for men in 1926, 159 as against 100.

In considering the need for special protection for women against industrial poisons there are few data from American sources available, since women are not employed in the poisonous trades to any great extent. We have not found women to be more susceptible to lead poisoning, but more liable to the cerebral form than men. They are apparently more susceptible to such poisons as benzol and the narcotic solvents. Another aspect of the action of poisons is the effect on the woman's offspring. While it is true that lead exerts an injurious effect on the male germ cell as well as on the female, in the case of the woman the injury is prolonged throughout her pregnancy, the poison passing from the maternal blood to the fetus. This is also true of other poisons, such as carbon monoxide, mercury, radium, etc.

There are other, less direct effects of the mother's industrial employment upon the child, such as lack of breast feeding and of maternal care. In a study made by Dr. C. C. King of Fall River, Massachusetts, a large textile town, it was found that the Portuguese have but 28.87 per cent of the births, but 45.76 per cent of the infant deaths; the French Canadians have 15.93 per cent of the births, but only 14.6 per cent of the deaths, and the Portuguese have almost twice as large a proportion of mothers employed in industry during pregnancy and after child-birth as have all the other nationalities.

The objection to laws for the protection of women against injury to health from industrial work is based on the belief that such laws make it more difficult for them to find work at proper wages. Whatever may be true in other countries, this is not true in the United States. Each of the 48 states has its own labor laws and therefore it is very easy for us to compare the condition of women in states where laws governing their employment are fairly strict with those in which they are practically non-existent. Such a comparison shows that in states where there is the least legal control of women's work the exploitation of women is worst. In this country it is not necessary to argue about what entire liberty for working women would mean, for we have been able to observe the results of such liberty for many years in many states and we can still see it in force in far too large a number. Certainly the working women of Kansas who have legal protection do not envy the greater freedom of the women of Arkansas, one of the backward states, nor do the women of Ohio go down into Kentucky in order to be able to work as many hours as their employers wish. Long hours and night work are most in evidence in those states where there are no laws regulating women's work and these are also the states where women's wages are lowest.

In the United States the majority of working women do not come into competition with men and therefore they are not hampered by laws which apply to them alone. They hold jobs which men do not want, they form the majority of textile workers; they are in the laundries, canneries, biscuit, box and candy factories, telephone exchanges; they are hotel chambermaids, waitresses and office scrubwomen. The distinction between men's work and women's is based partly on physical strength, partly on peculiar dexterity, or on monotony, or simply prejudice and tradition which are very strong. Another factor which determines the employment of men instead of women is the refusal of most girls to enter on a long apprenticeship. The women printers are usually cited as among the greatest sufferers from laws forbidding night work or overtime, but in 1916 there were found in 130 printing plants only 14 women lino-

typists among 1,532 operators and but 103 women typesetters among 3,800, and of these 117 women all but 31 were employed in non-union plants where they are not obliged to pass through an apprenticeship. There is of course a minority of women workers who do not wish to have their hours or the conditions of their work regulated by law. For them exception should be demanded, and this is never hard to secure from legislators.

In the United States there is at present need for legal protection for women in industry against over-long hours, night work, heavy, unhealthful and distinctly poisonous work. It is impossible to secure such protection now through the trade unions, for the vast majority of working women are unorganized and have no voice at all in determining the conditions under which they work. The situation may be quite different in other countries but in the United States, the Government will have to assume the responsibility of safeguarding the health of women wage-earners until there has been a fundamental change in the position of these women.

July 1, 1935

Toward Equal Rights for Men and Women, by Ethel M. Smith. National League of Women Voters, Washington, D. C., United States of America (1929).

Excerpt - pages 43 to 45:

LEGISLATIVE PRINCIPLES INVOLVED

"To the wage-worker, the hours of work and the rates of pay are terms of employment which stand apart from all other terms. Nor is this solely because of their basic importance to the wage-earner's standard of living. They register bargaining power, and bargaining power determines, for the wage-worker, all the conditions of life.

"By this measurement, therefore, the hour laws in nearly all the states, and the minimum-wage laws, in seven states, are labor laws of first importance. They are also regulations for public health and social welfare. But their direct relationship to women's bargaining power, and the vital relation of that bargaining power to the fundamental issue of the labor struggle, gives them their high economic importance. They apply for the most part to women, and not to men, though there are hour laws that apply to men only. This is differentiation between women and men. Is it discrimination against either sex?

"Only in a narrow and arbitrary sex-equalitarian sense can such a contention hold. This is a labor problem first, and a woman problem second. It concerns women not primarily as a sex, but as newcomers and forced underbidders in a competitive labor market where not only women themselves, but their own husbands, brothers, fathers, and sons are the sufferers by their competition.

"Women have thus a very special labor problem; special not chiefly because they are women, but because they occupy, as a class, the lowest level in every economic stratum. They occupy this position for the double reason of their own economic history as a class, plus the history of industry itself. They came in legions, two hundred years ago in England, directly out of unpaid service into a competitive market already over-supplied. Here the unrestricted competition, plus self-undervaluation, as well as exploitation by employers, held the women's standards down. As machinery continued to take the place of skill, more and more women entered the factories. Each was approximately as satisfactory as her neighbor, and the competition was unrestrained. All standards fell, and England paid the price in health and strength of her working population, until Parliament eventually gave relief. Under legal regulation the conditions, the bargaining power, the hours, and the wages of women in the trades affected by the law improved, and trade union organization was notably advanced.

"The United States has largely repeated England's experience, in kind though not in degree. The industrial revolution came in this country after the War of the Revolution, and slowly at that in the newly developing, largely agricultural country. Its effects were not reflected in the law until after many years had passed. Then our labor law, like our common law, followed the British precedent.

MAINE LEAGUE OF WOMEN VOTERS

35 NORWAY ROAD, BANGOR, MAINE



Affiliated with the
National League of Women Voters

Dec. 12, 1938

DEAR LOCAL LEAGUE PRESIDENT:

This is to warn you that sometime during the next month or two that quick action may be needed of you on the status of women at the Pan American Conference at Lima, Peru.

One of the seven sections of the Agenda is on The Political and Civil Rights of Women under which the final report of the Inter American Commission of Women is to be presented. This Commission has already endorsed the so-called Equal Rights Treaty, international counterpart of the proposed Equal Rights Amendment, and it is likely that they will again do so. Our opposition to the treaty is based on the same ground as our opposition to the proposed constitutional amendment. Attempts to gain real equal rights for women in various nations with different social and economic backgrounds by the blanket method is illusory, to say the least. To give you a little more background, I would suggest that you secure from the National League office a copy of the "Chronological Statement of the International Discussion of Equal Rights", price 5¢. This was published No. 617, 1936, but is still quite timely.

Miss Wells writes that there is a good chance that a constructive proposal for real equality may be proposed at Lima. To agree to this, however, in the face of opposition which the Inter-American Commission of Women may be able to muster, the United States delegation may need considerable demonstration of support. Since any action may be required in the space of a very few hours, would your League get the promise of one or more individuals to send cables to Lima upon request? Such cables should be addressed "Amelgat, Lima" and copies should go to the President and the Department of State in Washington. Rates on cables deferred for only a few hours are 28 cents a word. It would be very helpful if you would let me know what I can expect from your League if and when the call should come.

You know of course, that Mrs. Wright is one of the seven experts accompanying the official delegation from this county.

ACTION AT ONCE I wish to refer you to a news item which appeared in the New York Herald Tribune of December 8th, an excerpt from news story on the Lima Conference. This story reports that a proposal on recognition of equal rights and duties for women citizens has been agreed upon by the United States delegates on board the Santa Clara and will be presented at Lima. If you check on this story you will find that such a proposal coincides with the views of the League of Women Voters.

Therefore, Miss Wells requests this morning that State Leagues by themselves expressing approval at once. Will you as soon as possible send an air-mail letter for your local League and ask your local Legal Status of Women Chairman to write also? Interested individuals might also be given an opportunity to express an opinion. The mail address for Secretary Hull

is: The Honorable Cordell Hull, Chief, American Delegation to 8th International Conference of American States, Hotel Houlevard, Lima, Peru. I suggest copies of your letters be sent to the State Department and to The President in Washington.

You will notice in the Herald Tribuen article certain allusions to "equal rights" as though we were not all in favor of real equal rights. It is only illusory equal rights as proposed in blanket formulae for legislation or treaties that the League of Women Voters opposes.

I am enclosing a sheet on which to keep a record of all requests for action on federal legislation., At the end of the year I shall ask for this record.

Sincerely yours,

Mrs. Herschel E. Peabody,
State President

P.S. Attention of new groups, Houlton, Waterville, Rockland
This request for action may find your league and league members unprepared for action. In fact I believe Houlton and Waterville do not have local chairmen for this department. There is splendid study material which may be secured from the National League office, 726 Jackson Place, Washington, D.C. Your board might be interested in informing itself on this important subject. R.A.P.

Copy
also sent to Mr. Carlson
of Evening Express

H.D. Oliphant, Editor
Portland Press Herald
Portland, Maine

Box 724, Augusta, Me.
November 9, 1945

Dear Mr. Oliphant:

The Maine League of Women Voters have been interested in your editorial comments favoring the so-called Equal-Rights Amendment, and would like to call your attention to the fact, that although this may seem to be progressive legislation it would, when put into effect, probably work just the other way. One reason why the League has opposed the Amendment is that it would have the dangerous effect of nullifying legislation designed to give millions of wives, who are economically dependent, an effective equality with their husbands.

The League has always been opposed to such blanket legislation, but has gone on the principle of "specific bills for specific ills". During its 25 years it has worked steadily and successfully in each of the states to do away with the legal disabilities under which women have suffered. It knows that this Amendment is unnecessary because it would do nothing that could not be done by this method of specific legislation, state by state. The discriminations from which women suffer are to a large extent rooted in tradition and custom, and no sweeping generalities such as are embodied in the Amendment can do away with these. The League also opposes the Amendment because it is ineffective. It would do none of the things its proponents claim, since even should it become a part of the Constitution, state legislation would still be necessary. Some authorities consider it an unjustifiable invasion of states' rights. Others say it would cause legal chaos in every state, since it would cast doubt on all laws different for men and women.

As you know there are some groups of professional women, such as the National Federation of Business and Professional Women who are supporting the Amendment. However, within these groups opinion is often divided. This is certainly true in our Augusta Business and Professional Women's Club. Some of us feel that we have no right to support legislation which does not affect us, but does adversely affect millions of other women whose needs we do not fully understand. It makes us professional women appear indifferent and even callous to the best interests of housewives and women in industry when we thus work to wipe out protective laws which have developed slowly and carefully. This is the view-point of Frieda Miller, head of the Women's Bureau who recently wrote in regard to the Equal Rights Amendment to an officer in the Augusta Business and Professional Women's Club that it would "definitely undermine much valuable legislation now existing - labor laws built up over years to safeguard employed women, and civil laws essential for the welfare of married women and their families for a healthy society".

Sincerely yours,

Chairman of Economic Welfare

April 9, 1947

Prof. Joseph LeMaster
Department of Government
Bates College
Lewiston, Maine

Dear Prof. LeMaster:

Ever since I heard you speak at the League of Women Voters meeting in Lewiston, I have been bothered by your statements about the Equal Rights Amendment. I understand from some of the women that you had hoped to have the other side brought out during the discussion following the meeting. Frankly, however, I am not sure whether or not you understand the other side, and I would like to call a few things to your attention.

In the first place, you said "a few women oppose the Equal Rights Amendment". A few of the organized women include such groups as the League of Women Voters, the American Association of University Women, the National Y. W. C. A., the Political Action Committee of the C. I. O., the Federated Womens Clubs of America, the United States Womens Bureau -- to name but a few of the forty-odd groups who oppose the Amendment.

In speaking of the value of Equal Rights, you spoke of such things as "equal pay for equal work". Of course these are not points of controversy. The bill is opposed on the basis of what women lose through such legislation, not what they gain. The gains we hope to make in the "specific bills for specific ills" procedure. What we lose is expressed by Frieda Miller, head of the Women's Bureau, who said that the Amendment would "definitely undermine much valuable legislation now existing -- labor laws built up over years to safeguard employed women, and civil laws essential for the welfare of married women and their families for a healthy society".

Some professional groups of women support the Amendment, such as the National Federation of Business & Professional Women. Dr. Grace Foster, a past president of the Augusta B P W Club, effectively expressed their minority viewpoint in a letter to the Editor of the Portland Press Herald November 9, 1945, as follows:
"Some of us feel that we have no right to support legislation

Prof. LeMaster, Cont'd.

which does not affect us, but does adversely affect millions of other women whose needs we do not fully understand. It makes us professional women appear indifferent and even callous to the best interests of housewives and women in industry when we thus work to wipe out protective laws which have developed slowly and carefully."

"Equal rights" sounds so definitely right that many housewives would unthinkingly support it, not realizing that it would nullify the legislation which gives wives, who are economically dependent, an effective equality with their husbands.

I am enclosing one of the latest publications which the League of Women Voters has published in relation to the whole problem. I would be very much interested to get your comments.

Please understand this is not a criticism of your talk for I think you did a wonderful job in putting across your main theme, "Every Woman a Politician", and that certainly is the credo of the League of Women Voters. I am sure you will be called upon often to help the Lewiston League and hope that you will always be as gracious in finding time for it.

Sincerely yours,

Virginia S. Lamb, President
Maine League of Women Voters

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