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# THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION (PART I)

By SARAH JANE M. CUNNINGHAM, Lincoln, Nebraska

*"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. Congress and the several States shall have power within their respective jurisdiction, to enforce this article by appropriate legislation. Sec. 2. This article shall be inoperative unless it shall have been ratified as an Amendment to the Constitution by the Legislatures of three-fourths of the several States. Sec. 3. This Amendment shall take effect one year after the date of ratification."*<sup>2</sup>

This is the proposed Equal Rights Amendment to the United States Constitution. What is taken away by these words? Absolutely nothing of course. All it does is to bring the Constitution up to date by adding the word "sex" to the original "race, creed, or color" that appear elsewhere in our much vaunted laws against discrimination.

Senator Estes Kefauver, from the Committee on the Judiciary of the United States Senate, in making the favorable report of the committee on the amendment said: "The purpose of the proposed legislation is to submit an amendment to the State Legislatures which, if adopted, would insure equal rights for men and women.

"This is a well-known proposal, designed to assure equal rights for men and women. Similar legislation has been introduced in the Congress since 1923 following the adoption of the equal-suffrage amendment to the United States Constitution. The equal-suffrage amendment prohibits inequality in voting rights on account of sex. The proposed amendment would prohibit inequalities under the law on account of sex and thereby complete the movement for equality for women begun by the adoption of the equal-suffrage amendment.

"The language of the amendment parallels the language of the 19th Amendment. Like the 14th and 15th amendments, its prohibitions are directed against the acts of Government and its agents and agencies. It does not apply to acts of individuals unless such acts are undertaken in concert with officials of Government. It is designed to establish equality of treatment, particularly in matters of employment.

"The United Nations Charter, to which the United States is a signatory, states in

the preamble, as one of its objectives, the reaffirmation of faith in the equal rights of men and women. As a signatory to this charter, the United States has subscribed to its principles, including those expressed in the preamble. However, as pointed out by supporters of this amendment, this Nation has not kept pace with other nations, notably Egypt, Burma, Greece, Japan, Western Germany, and Pakistan, all of whom have given constitutional equality to women.

"The Committee on the Judiciary believes that this proposed amendment throughout the years has received thorough consideration. Consequently, in accordance with its previous recommendations on prior proposals to achieve the same objective, the committee is recommending that the legislation be favorably reported in order that the matter may be submitted to the Senate for its consideration."<sup>3</sup>

It would seem obvious from this report that after thorough study and consideration of this proposed legislation over a period of many years, the members of the Senate Judiciary Committee have assured themselves that such legislation is a matter of equity and justice for this nation.

But many people say, "Why a Constitutional Amendment?" "Aren't there other ways that this problem can be solved?" It would seem that there are adequate answers to such questions but before we delve into those perhaps it would be fitting here to take a brief look at the historical background of this proposed amendment for in so doing some of the answers to these questions will seem obvious.

In the summer of 1848, the first Woman's Rights Convention was called at Seneca Falls, New York. Among the leaders at the beginning of the organized fight for woman suffrage and equality under the law were

1. Susan B. Anthony in her magazine THE REVOLUTION.

2. S. J. Res. 80, 85th Congress, 1st Session (Report N. 1150).

3. Senator Estes Kefauver, from the Committee on the Judiciary, submitted the Report to accompany S. J. Res. 80, 85th Congress, 1st Session.

Lucretia Mott, Martha Wright, Elizabeth Cady Stanton, and Mary Ann McClintock. Thirty years later, the Suffrage Amendment in the form in which it was finally ratified was introduced in the Congress. Other suffrage proposals had reached the Congress as early as 1869. By 1913, when the National Woman's Party was formed by Alice Paul, six states had authorized suffrage for women. In June of 1919, the Congress passed the Suffrage Amendment and sent it to the States, eleven of which had already granted suffrage to women. By 1920, the requisite number of States had ratified the amendment and it became operative.

In 1923 the first Equal Rights Amendment was introduced in Congress by Senator Charles Curtis and Representative Daniel Anthony, both Republicans from Kansas. The proposal has been reintroduced in every Congress since that time. Numerous hearings have been held by Senate and House Judiciary subcommittees. Three subcommittees reported the proposal favorably to the full committee between 1924 and 1938. On April 25, 1938, the proposed amendment was reported to the Senate without recommendation. It was recommitted to the Judiciary Committee on May 5, 1938. In 1942, the amendment was reported to the Senate without amendment. The following year, May 23, 1943, the proposal was reported to the Senate with amendments. Up until this time, the proposed amendment had read:

"Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction. Congress shall have the power to enforce this article by appropriate legislation."

The Senate Judiciary subcommittee altered the language to read:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation."

In 1945, the amendment was reported to the House for the first time, but no action was taken by that body. In 1946, the Senate considered the amendment and defeated it by a vote of 35 to 23 on July 19, 1946. The proposal was reported in the House again in the 80th Congress (June 4, 1948) but no further action was taken in that Congress. On January 25, 1950, the Senate by a vote of 63 to 19 passed Senate Joint Resolution

25 of the 81st Congress which proposed an equal rights amendment to the Constitution.

In the 82nd Congress the Equal Rights Amendment was again introduced by a number of Members of Congress. The only such bill to receive action was S. J. Res. 3, which was reported to the Senate on May 23, 1951 (Senate Report 356). No further action was taken with respect to any of these bills in the 82nd Congress. No hearings were held in the 83rd Congress; although a number of such bills were again introduced, S. J. Res. 49 was reported on May 4, 1953 (Senate Report 221). The Senate Judiciary Committee did not hold hearings on this resolution. It was passed as amended (the Hayden amendment) on the floor of the Senate on July 16, 1953. The Hayden amendment to the Equal Rights Amendment was approved by a vote of 58 to 25. The amendment offered by Senator Carl Hayden of Arizona had also been attached to the Equal Rights Amendment passed by the Senate in the 81st Congress. The resolution as finally passed by the Senate reads:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

*The provisions of this article shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law upon persons of the female sex.*

The Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.

This article shall take effect one year after the date of its ratification. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States, as provided in the Constitution, within seven years from the date of its submission to the States by the Congress."

The resolution as amended was referred to the House Judiciary Committee on July 17, 1953. The amended version of the amendment was received with mixed reactions by both proponents and opponents. Both sides claimed a victory, opponents of the measure expressing themselves as "much gratified" that special labor and other legis-

lation had been safeguarded by the Hayden amendment.<sup>4</sup>

In the 85th Congress, 1st Session S. J. Res. 80 was reported favorably to the Senate without amendment.

The women who attended the Seneca Falls meeting issued a momentous declaration of independence. 'We hold these truths to be self-evident: that all men and women are created equal,' they intoned; 'and we insist that women have immediate admission to all the rights and privileges which belong to them as citizens of the United States.' American men at that time scoffed, ridiculed, and angrily rejected this claim to equality. They called it 'feminism' and grimly classified it with atheism and socialism. But today it has provoked what one writer has called the greatest American revolution: The emergence of the American wife from the status of "charwoman" and "maternity machine" to that of an independent human being with the heady power of freedom.

In 1848, when the first National Woman's Rights Convention made its declaration of independence, there were, beyond all argument, serious defects in the status of women, particularly married women, in the United States. A single woman had most of the male's legal rights. But under the English tradition of common law, which the United States inherited, a married woman was "legally dead." She had no identity in the eyes of the law: She could not make a legal contract, she could not sue or be sued. She lost the title to all property in her possession, even though it had been acquired before marriage. Even such personal property as clothing, jewelry, and household furnishings could be taken and sold to pay the husband's debts or destroyed by him without her consent. Her salary, if she worked, belonged absolutely to her husband. Finally, and most outrageously, she had no control over the destiny of her own children. Not only was the father their sole guardian during his life, but in his will he could appoint an outsider as guardian with authority superseding the mother's.

If this was the legal status of women, one could hardly expect their social status in the community to be an improvement.

Nor was it. Women did not have the right to vote, their education was inferior to that of men both in quality and duration, they were prevented from enjoying most of the healthful physical exercise in which men engaged. Wives were advised by the moralists of the period as follows: "Seem always to obtain information from him, especially if before company, though you may thereby appear a simpleton. Never forget that a wife owes all her importance to that of her husband. Leave him master of his actions to go or come whenever he thinks fit."<sup>5</sup>

With the historical background which has been here pictured is there really any need to discuss. "Why a Constitutional Amendment"? But even so there are those who desire more of an answer and it can be given. Following a survey of various fields of law it was shown that, despite the great progress that has been made toward narrowing the common-law gap between the sexes, there is no full legal equality for women in present-day America. The magnitude of this remaining differentiation has led to the introduction in Congress of this Equal Rights Amendment. Some militant women's organizations have become dissatisfied with the slow process of whittling away at discriminatory legislation statute by statute, and now seek to achieve absolute legal equality for their sex in one constitutional stroke.

The Honorable Katherine St. George, sponsor of the amendment in the House of Representatives in speaking before that body on the amendment said: "In looking over the life of Susan B. Anthony we find that *The Revolution*, her magazine, had as its motto these words:

*"Men, their rights and nothing more;  
Women, their rights and nothing less."*

We always find any philosophy best stated briefly and the more talk and verbiage we get the less we understand and the less, to be brutally frank, we know what we are talking about.

In these very simple words Susan B. Anthony and her friends epitomized what the so-called equal-rights amendment would do, and also answered the objections of those who claim it would take away necessary protection and special legislation needed by women.

First she speaks of the rights of men and women. That is exactly what the  
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4. *Congressional Digest*, Dec. 1946, pp. 290, 298, 301; Bruton, Margaret Perry, "Present-Day Thinking on the Woman Question," *Annals of the American Academy of Political and Social Science*, May 1947, p. 11; Kennerly, Edwin B., "Equal Rights: Proposed Constitutional Amendment," Fed. 11, 1948, Legislative Reference Service, Library of Congress, 4 p., type-script.

*Congressional Record*, January 25, 1950, p. 903. *New York Times*, January 26, 1950, p. 1; January 27, p. 19; July 17, 1953, p. 10; July 19, p. 9E.

5. *Cosmopolitan Magazine*, January 1958, pp. 20 et seq., James T. F., "The American Wife".

or business property. There is a difference in the treatment of business property, however. Since a casualty is an event due to some sudden, unexpected or unusual cause, damages by termites to a residence would be disallowed (unless the termites were unusually fast eaters), but damages to business property by termites is allowed.

If a residence burns down, and there is no insurance coverage, the casualty loss will be limited to the fair market value of the house at the time of the fire, if this basis is lower than the adjusted cost. But if rental property is completely destroyed by fire, the owner will be entitled to deduct the adjusted basis of the property, less salvage value and less insurance received.

If only part of the property is destroyed and the remaining property is not discarded, the following formula may be used for computing the deductible loss:

$$\frac{\text{Actual value before loss} - \text{Actual value after loss}}{\text{Adjusted basis X Actual value before loss}} = \text{Loss}$$

Rental income and expenses pertaining thereto are reported on Schedule G.-Income from Rents and Royalties, Form 1040

Example:

Cost—		
Land	\$10,000	
Bldg.	15,000	\$25,000
		<hr/>
Depreciation,		
3 yrs. @ \$600		
per year		1,800
		<hr/>
		\$23,200
Selling price		16,000
		<hr/>
Loss		\$7,200

—U.S. Individual Income Tax Return. Depreciation of rental property is to be explained on Schedule I.-Explanation of Deduction for Depreciation Claimed in Schedule G and repairs and other expenses should be itemized on an attached list. The net rental income is combined with other income and is included in adjusted gross income by being reported on Page 1 of Form 1040.

Accountants should impress upon their clients the importance of good records in support of deductions claimed for rental properties. The taxpayer should be encouraged to preserve appraisals, invoices for expenditures, cancelled checks, and any other pertinent memoranda. Often-time property owners conclude a sale or disposition of properties without adequate knowledge of proper accounting for such transactions because they fail to consult an accountant. An accountant can render more effective service to the client when consulted prior to the consummation of such transactions, and is in a better position to advise tax treatment of the transaction most favorable to the taxpayer rather than after the event has occurred.

Fair Market Value at Conversion—

Land	\$10,000	
Bldg.	12,000	\$22,000
		<hr/>
Depreciation,		
3 yrs. @ \$600		
per year		1,800
		<hr/>
		\$20,200
Selling price		16,000
		<hr/>
Deductible		\$4,200
Loss		

(Continued from page 9)  
amendment does. The title of the resolution reads:

“Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.”

Next, she wants both sexes to have their rights, nothing more and nothing less. These rights we spell out as being equality under the Constitution, nothing more or nothing less.

*Although both AWSCPA and ASWA are on record as supporting Equal Rights legislation, which is introduced in each session of Congress, many members are quite vague as to what the broad problems are. This information is being published in a series of articles so that members of the two societies may become better informed.*

*Mary F. Hall, Legislative Chairman,  
AWSCPA*