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DEEP IN THE HURT OF TAXES

By IDA S. BROO, C.P.A.,

Founder of ASWA and Honorary Member of AWSCPA

Words can come back to haunt you. Recently, an article in The Woman C.P.A. quoted from a speech I made in 1939 as follows: "A minor factor has been the increasingly difficult tax situation." Today the tax situation is by all odds the most important factor in our business life. Thirty years ago America was the Land of Free Enterprise, where each individual was responsible for his own future. Today we still refer to America as the Land of Free Enterprise, but our concept of individual responsibility is changing. The government has assumed many responsibilities which formerly pertained to the individual alone. Our values have changed. Fifty years ago, economy meant thrift and saving while today economy is merely a larger package at the supermarket. It is true that money still talks, but what it says nowadays makes less cents.

Taxation is as old as recorded history and methods of taxation have been widely varied. In ancient Rome the privilege of collecting taxes was sold for a fixed sum paid into the treasury. This privilege was often auctioned, and the purchaser had the right to make whatever profit he could on the venture. The Tudor and earlier Stuart sovereigns of England did not hesitate to exact forced loans from people of property on the theory that, if a man lived economically, he could not have failed to save money and was therefore in a position to make his sovereign a handsome contribution. If he lived extravagantly and ostentatiously, he evidently possessed means and was therefore in a position to assist his king.

In those days it was difficult to draw the line between taxation and plunder. The theory prevailed throughout the ancient world that taxation was an injustice or at best a misfortune, to be avoided whenever possible. Today there are two divergent theories as to the best method of taxation: direct or indirect. When a tax is levied on the income or property of an individual, it is direct. When it is imposed on the articles on which such income or property are expended, it is indirect. Economists are divided as to which is the better method: direct taxation educates the taxpayer, while indirect taxation attracts the least attention.

Many of the political habits and institutions of England carried over to the political life of the United States, and undoubtedly tax developments in the mother country had their influence upon taxation in the United States. Taxation of land was an acknowledged failure in England at the end of the 18th century, so that most of the revenue came from customs, stamp taxes and sales taxes. Taxes were levied almost entirely upon expenditures rather than upon possessions. When England was at war with France and needed money in 1793, many new taxes were imposed. William Pitt, the Prime Minister of Great Britain, who was not interested in reform, but in revenue, proposed a tax directly upon income, to become effective in 1799. When peace came, this tax was repealed, but the renewal of war brought its return.

The criticisms which met this act might have been written in the early days of our present income tax. It taxed earned income at the same rate as income derived from capital. A picturesque description of this tax stated: "The law has no passover: the destroying angel visits every door, allows the validity of no mark of blood on the lintel and side posts, to induce him to pause in his destructive course, for the destroyer comes, with ferocious swoop, into our homes, to smite us and our first born; no door is exempt from his dire visitations." In the various debates which continued to rage about this tax, the objection seemed to be not to the economic burden, but to the inquisitorial character of the tax.

In England, Parliament passed the Property and Income Tax Law of 1842. At every expiration date there was a determined effort to discontinue this tax. The debate as to the merits of direct v. indirect taxation continued unabated, but the income tax remained. In no country in which it has become established has the income tax ever been permanently repealed. It has indeed become "The Man Who Came to Dinner." In 1853 Gladstone, the four times Premier of Great Britain, troubled by the size of the national debt, used his immense influence to keep such a "collossal engine of finance" as the income tax. While it was not a popular tax, the principle of the income tax was firmly established. It survived unpopularity

and soon was referred to as one of the most productive parts of the British fiscal machinery. Lloyd George referred to it as the center and anchor of the British financial system.

The American colonies, the government established by the Articles of Confederation, had no independent financial powers. As a result, this early government depended upon requisitioning contributions from the States for its revenue. The Congress could merely recommend and leave it to the States to do as they pleased. Under such circumstances, the government could not meet its obligations, and in 1782, with no money in the treasury, a bankrupt government defaulted on its obligations.

It was apparent that something had to be done, and Section 8, Article I, of the Constitution adopted in 1789 states: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States." These words were interpreted as being a requirement that all taxes be levied among the states in direct proportion to the population. In 1798 Congress adopted a direct tax on houses, lands and slaves; and the government also derived income from land sales and postal receipts. All this required administrative personnel, and the office of Commissioner of Revenue was established.

In 1812 the administration of Thomas Jefferson abolished all excises except the salt tax, and relied principally upon the tariff for revenue. Jefferson, who seemed to think the entire burden of taxation through tariff fell upon the rich, was an early advocate of the "Soak the Rich" policy. He thought that the day would come when the farmer would see his government supported, his children educated, and the face of his country made a paradise, by the contributions of the rich alone. When the tariff began to be used as a protector of American industry instead of a revenue producer, it became a bone of contention between the North, who wanted to protect industries, and the South, which was interested in the tariff only as a producer of revenue.

When Abraham Lincoln became President, there was an empty treasury, and resort was had to the income tax. At this time the income tax was not considered a direct tax and so was not subject to apportionment. To finance the war, President Lincoln in July 1862 signed a measure which extended the income tax and imposed an inheritance tax. Every manufactured article was taxed, as were the gross receipts of railroads, ferryboats, steampships, toll bridges and advertisement. The rates of income tax were set out: 3% on profits between $600 and $10,000, and 5% on profits over $10,000, "whether derived from any kind of property, rents, interest, dividends, salaries, or from any trade, employment or vocation carried on in the United States or elsewhere, or from any other source whatever." It is interesting to note that there was a withholding system in effect at this time for taxes on government salaries, both civil and military, and for taxes on interest and dividends paid by railroads, banks, trust companies, and insurance companies.

At one time the Supreme Court of the United States decided that the Civil War income tax was not a direct tax requiring apportionment, but later took an opposite viewpoint. To settle this question for all time, the Sixteenth Amendment to the Constitution was adopted, which states: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." There were varying interpretions of this amendment. Many points were contested and sometimes different groups held temporary advantages. For many years, for example, the salaries of federal judges were not taxable, but the modern Supreme Court holds that the federal government may tax the salaries of state officials, and state governments may tax the salaries of federal officials.

Exactly what is taxation? Is it a proportion of the national income taken by consent from individuals to be spent by the nation for common purposes, economic as well as political? Is it purely for revenue, or is taxation a form of social and economic control? President Coolidge, who presided in what was probably the last of the so called "normal periods" believed in taxation for revenue only. As outlined by Secretary of the Treasury, Roswell Magill, "The primary utility of tax laws is to raise money fairly to meet the expenses of the government. That is the target at which the shotgun of taxes should be aimed. It is a difficult target to hit, even with a shotgun."

Taxation in the United States has not been limited to raising money for the needs of government. The tariff has developed from a method of raising revenue into an

instrument for the protection or encouragement of industry in the United States. This protective tariff was designed to help one segment of industry without destroying others, but it did not always work out. In 1902, for example, Congress taxed oleomargarine at ten cents a pound, but at a much lower rate if it was not colored to look like butter. In 1931, the low rate was restricted to oleomargarine which was free from yellow coloring whether artifical or not. This tax lasted until 1950, when it was repealed because of a strong public demand.

Taxation has also been used to prevent the consumption of harmful commodities. In 1914 Congress imposed a tax of $300 a pound on the manufacture of opium for smoking purposes. Today there is a question whether prohibitive taxes have the effect of stamping out the drug evil. Liquor taxation is clearly beyond the principal objective of raising revenue. Whether it serves the purpose of controlling the liquor traffic is also open to question.

Is the inheritance tax an instrument for raising revenue, or is it actually a tax on capital, designed for the redistribution of wealth? Its origin in the United States probably came about because of the agitation for the limitation of inheritances. This tax, together with the gift tax, is actually a policeman, as are the various corporation excess profits and undistributed profits taxes. These taxes bring in revenue, but their most important function is to prevent the accumulation of exorbitant profits.

The contest between the two theories of taxation has always been bitter. The proponents of taxation for revenue argue that tariff measures were invalid because they admittedly had the purpose of encouraging and protecting manufacturers, whereas Congress could levy customs for revenue only. The Supreme Court, however, said: "So long as the motive of the Congress and the effect of its legislative actions are to secure the revenue for the benefit of the general government, the existence of other motives in the selection of the subjects of taxes cannot invalidate Congressional Action." (J. W. Hampton, Jr., and Co. V.U.S. 276 394, 412-1928.)

In World War II, taxes rose to unprecedented levels, but still there was insufficient money. Many felt that others were escaping their just share of taxes. Income taxes were payable in the year following the receipt of income, and in many cases this income was spent, leaving nothing with which to pay the tax. In March, 1942, Mr. Beardsley Ruml, Treasurer of W.H. Macy and Co. Inc., New York City, and Chairman of the Federal Reserve Board of New York, published a pamphlet advocating "Pay as You Go Income Tax Plan." This plan was debated at great length, and Mr. Ruml argued: "If we accept a rising national income as axiomatic, the Treasury could collect more dollars under this system than under the existing system in the twenty-year period January 1, 1943 to December 31, 1962. This could be proved by examining the position of the Treasury on Judgment Day when the books would finally be closed. Under our present system," Mr. Ruml asserted, "the Treasury would have billions owing from the taxpayers. These would be bad debts in any case. Since the government is not concerned about any final loss on Judgment Day, the government is able to turn the tax clock ahead; make all taxpayers current; eliminate income tax debt; and do it with increased revenue and with no additional burden on the taxpayer." Mr. Ruml stated that he had submitted his argument to a group of members of the American Institute of Accountants who had agreed that he was right.

The Current Tax Payment Act of 1943 put salary and wage earners on a withholding basis of tax collection begining July 1, 1943. Many people, particularly those in the lower wage levels, were greatly alarmed at the prospect of having twenty per cent of their salaries withheld from them. As a means of transition to the current payment system, the act provided for the cancellation of 75% of one year's taxes, the lower of 1942 or 1943, or $50.00, whichever was lower. The unforgiven taxes were payable in two installments on March 15, 1944, and March 15, 1945. In this way, income tax payments became current, and our system of withholding became a part of our daily life.

Most tax measures have been adopted in response to emergencies. We now realize that tax policy has gone beyond revenue considerations, and taxes are used to achieve social and economic results. The government is more and more our brother's keeper assuming responsibility for emergencies formerly met by the individual or by private charity.

Obtaining the necessities of food, clothing and shelter in the waning years of life has always been a problem facing aged persons. A generation ago people accepted without question the responsibility for their

indigent relatives. Our economy was agricultural and people lived in big houses with room for an aged relative. Today we live in an industrial society, and are housed in modern efficiency apartments where there is no place for an aged parent.

The great depression of the 1930s focused public attention on the problem. In 1929 the President appointed a Committee on Recent Social Trends, composed of leading economists and sociologists, to study and survey social legislation, including old age pensions, unemployment insurance and related matters. The report of this committee in 1933 showed that the decline in opportunities for earning a living and the tremendous losses of savings during the depression had resulted in destitution to the point that private charities, municipal authorities and finally state governments had exhausted their means of meeting this need. In 1935 Congress passed the Social Security Act. Over the years this Act has been amended, chiefly to broaden the opportunities for eligibility and to increase money benefit payments.

The Social Security Act covers the dependency of aged persons, survivors, and children. Assistance programs, including old age assistance and aid to dependent children, were established and financed in part by Federal grants in aid to individual states, territories and certain island possessions. Old age assistance was regarded as a diminishing program, to be replaced by what we now call Federal Old Age Benefits.

Financing of Federal Old Age Benefits has been and is now provided by a special tax on employees, employers and the self employed. The money from these taxes flows into the general funds of the United States, and annual appropriations are made to a trust fund for the payment of benefits. Although the Social Security taxes were not legally earmarked for this specific purpose, nevertheless Congress regarded them as having been levied for the support of this program.

Originally our Social Security Act provided payments of old age assistance to the needy and to those 65 years of age or older. The various states provided limitations, such as the maximum amounts of various kinds of property the applicant could own and still receive assistance. Various government publications have often stated that public assistance is "Paid as a matter of right based on showing of need." From this idea many people have come to believe that old age assistance is a matter of right regardless of need on reaching age 65. This is definitely not the case, as assistance is based on need.

Title II of the Social Security Act "Federal Old Age Benefits" was designed as a permanent program which would in time benefit all aged workers. To acquire the right to these benefits, conditions of eligibility must be met covering a record of employment, a minimum income, and a minimum period of employment. Many changes have been made in this Act since its origin in 1935. More and more people have become eligible for benefits, and benefits have been changed again and again.

The right to benefits under Title II is statutory and conditional. This fact is widely misunderstood, and the general idea seems to be that this is a form of insurance in which the individual has an inalienable right. The original Social Security Act of 1935 at no place contained the word "insurance." In none of the publicity immediately subsequent to its passage was the word "insurance" employed. The reverse of the social security card distributed to millions of workers, referred to the program under Title II as "Federal Old Age Retirement Benefits." On May 24, 1937, the Supreme Court upheld the constitutionality of Title II, and at no place is this program referred to as insurance. The defendent, the United States Government, in its brief stated: "The Act cannot be said to constitute a plan for compulsory insurance within the accepted meaning of the term "insurance." Notwithstanding such statements, the former Chairman of the Social Security Board, in a press conference on the following day, stated: "The decision handed down yesterday by the U.S. Supreme Court completely validates the Unemployment Compensation and the Federal Old Age Insurance provisions of the Social Security Act."

In 1939 the reverse side of the Social Security cards carried by individuals referred to the Title II program as "Federal Old Age Insurance." In 1952 an official pamphlet stated: "Your card is the symbol of your insurance policy under the Federal Social Security Law." In spite of such misleading statements, and a wide misconception of the status of Federal Old Age Benefits, this program is not an insurance program, and Congress has reserved the right

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THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION (Part V)

By SARAH JANE M. CUNNINGHAM, Lincoln, Nebraska

1956 Republican Platform

We recommend to Congress the submission of a constitutional amendment providing equal rights for men and women.

1956 Democratic Platform

We recommend and endorse for submission to Congress a constitutional amendment providing equal rights for women.

And by reading the proposal it seems possible to determine certain things that the amendment will not do.

Prevent enactment of protective legislation for "classes" of citizens (i.e., mothers, widows, wives, children). Veterans' legislation is an example of legislation for a "class". Legislation for farmers is another example. It will not *require* more *extensive* testing by the courts than any other new law.

It will not *affect social customs*—applies to legal matters only.

It will not affect *Equal Pay or F. E. P. C.*, both of which require specific legislative enactments.

There have been written and spoken many more ideas as to what this proposal will and will not do. Some of the more common will be set forth here with comments as to their validity or reasonableness.

"EQUAL RIGHTS" means accepting men's standards in everything. Under the Amendment, each state would adopt its own standards, but the standard in any one state would apply equally to men and women. When suffrage was won, California equalized its law by abolishing poll tax for men while Mississippi equalized its law by extending poll tax to women.

Wives would be responsible for their husbands' support and husbands compelled to render services in the home if the Equal Rights Amendment were passed. Today, under the laws of many states, husbands and wives owe each other mutual support and assistance. One-third of the states have such laws. In none of these states is the husband relieved of his responsibility. The majority of wives in every state now contribute to the support of husbands and families through their labor and services in the home, although such support is accorded no legal recognition. Under the Amendment, each state could set its own standard of support.

The Amendment would not do away with alimony. The Amendment would require that the husband and wife be treated equally in the matter of support by the other on dissolution of the marriage or during divorce proceedings. This is already the case in several states, where either husband or wife may now be allowed alimony, at the discretion of the court. No unfortunate results have occurred in states where equality on this subject has been established.

The Amendment would adversely affect divorce laws. It would require both parties to the divorce to be treated alike, with the same grounds for divorce for husband and wife. In a majority of states, divorce laws are now different for husband and wife.

Laws pertaining to women would be invalidated between the time this Amendment is adopted and the time Congress passes legislation to enforce it. The process of adopting an amendment to the Constitution is not a rapid one. It would require action by three-fourths of the States. There would be sufficient time, between passage and ratification by the necessary number of states to bring state laws into harmony with the Amendment. After passage of the Suffrage Amendment, there was no difficulty in this respect.

Congress would decide what constitutes equality under the Law. The court—ultimately, the Supreme Court—would decide. Whether the court decides a given law, such as the wage or hour regulations, should or should not apply to either men or women, women would benefit for they would be protected against unfair competition, which protection is the purpose of the Amendment.

The Amendment would require uniformity of laws among the states. On the contrary, it would leave each state free to have any kind of laws desired provided only they did not discriminate between the rights of men and women.

The Amendment would cause confusion and litigation. To quote Charles Norris, a distinguished Connecticut lawyer: ". . .

If fear of litigation is a valid argument, no legislation would ever be proposed, since any legislation, either in the form of a constitutional amendment or amendment by legislature, is subject to review by the courts to ascertain whether or not it conforms to constitutional requirements."

The Amendment is in harmony with our system of government. In the words of Chief Justice Waite, "The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power."[46]

The Amendment would not deprive the states of the power to "classify" for the protection of the health, safety, morals, and welfare of the community. The only way this power could be touched, would be that states could no longer set up the arbitrary basis of sex as a classification. They would be bound by the restrictions now applying to legislation affecting men—that classification may not be arbitrary, unreasonable, or capricious, or be used as a basis of discrimination.

Women do not need a special code of safety and health laws. Safety and health laws should apply to all workers in an industry and should be based on the nature of work, not the sex of the worker.

The Amendment would interfere with maternity laws. Maternity legislation is similar to legislation for veteran soldier's benefits; it is for a special service rendered to society. It is not sex legislation as it does not apply to all women any more than veteran soldier legislation applies to all men. Both types of legislation are legitimate forms of classification, and neither violates the principle of the equal protection of the law.

The Amendment would not change the liability of women for military service. Congress, which is responsible for laws relating to compulsory military service, already possesses the power to include women in any conscription at its own discretion. The Amendment would not affect the authority of Congress in this respect. Presently it appears that the only discrimination in regard to conscription for military service is in the Administration of the draft in that women are not included. However, it might well be shown that enough women volunteer for military service so that it is unnecessary in the case of women to resort to the draft to fill the needs.

46. *U.S. v. Cruickshank,* 92 U.S. 542, 555.

There are some members of both the Senate and the House who, emphasizing the biological differences between men and women, insist that basic citizenship rights, such as equal rights under the law, need to be qualified and watered down before they are extended to women. They would add a rider to the Equal Rights Amendment, which would provide that it should not be construed "to impair any rights, benefits or exemptions, now or hereafter conferred by law on persons of the female sex."

This would annul the amendment, and worse than that would write sex discrimination into the Constitution of the United States. The effect of such a rider would be to put women in a class apart and open the door wide to all kinds of controls on the grounds of potential motherhood and health. "Benefits and exemptions," as designated in the rider, could be variously and widely interpreted so that women would have no protection whatever from the police power of any state. Acting in the name of public welfare it could restrict women's right to work and to professional or technical training or forbid the employment of married women.[47]

The origin of the Rider remains somewhat of a mystery. The "Daily Worker", of New York, organ of the Communist Party, came forth in support of the Rider when it was first introduced, and it was the only paper to do so, as far as is known. Elizabeth Gurley Flynn, of the National Committee of the Communist Party, wrote in the "Daily Worker", March 9, 1950, after the Rider had been attached to the Equal Rights Amendment by the Senate:

> "The legislation (the Equal Rights Amendment) now goes to the House. The danger is that the Hayden Amendment will be chopped off there or disappear in the final agreement on proposed legislation between the two legislative bodies."

At the 1956 Senate Hearing, the chief speaker for the Equal Rights Amendment, Mrs. Emma Guffey Miller, Democratic Committeewoman from Pennsylvania, said:

> "I was told the other day that many prominent organizations have approved the Hayden Rider. Well, after a very careful search, the only prominent organization that we could find that had endorsed the Rider was the

47. Lutz, Alma, "A Guarantee Against Discrimination", The Christian Science Monitor, Boston, Wednesday, March 26, 1958.

Communist paper, 'the Daily Worker', . . ."

It is not clear as to why the group connected with the Daily Worker, or why certain labor unions are so actively interested in the Hayden Rider—but one thing is clear; women did not propose the Rider, and do not want it.

The Hayden Rider was first proposed in 1950, in the Senate, without consultation with women's organizations or with Senate sponsors. It was introduced in a similar way in the Senate in 1953.

Senator Alexander Wiley, of Wisconsin, Republican Leader of the Judiciary Committee, spoke against the Rider when it was introduced. He said:

"With all due respect to my able colleague from Arizona, I feel that the Hayden addition is particularly unjustified, because it offers in one breath a Constitutional change and in the next embodies a direct contradiction of that change. In one paragraph, it would grant women equality, and in the second, wipe out that equality by granting special benefits and exemptions. The confusion which would result from the Hayden Amendment would becloud all possible action in the States. I feel that, out of respect for the thirty national women's organizations, with a membership of approximately 40,000,000, we in the Senate should adopt the original Amendment."

When the Rider was proposed the second time, in 1953, Senator Theodore Francis Green, of Rhode Island, endeavored to show the disadvantages for men, as well as for women, in the Rider. He said in a speech to the Senate:

"It seems to me that the members of both sexes are equally entitled to have their personal rights respected. This, (the Hayden Rider), limits the protection to the female sex. It is particularly inexplicable when the whole subject matter is supposed to deal with the equality of the sexes . . . It provides that no right shall be taken away from the female sex. There should be an equal obligation to take nothing away from the male sex."

However, in spite of these and other appeals, the Rider was added to the Amendment by the Senate in 1950 and 1953, and the Amendment was sent to the House of Representatives with the Rider incorporated in it. No action was taken by the House.

The Rider was submitted to the Senate Judiciary Committee for the first time in 1956, and the Committee held a Hearing on both the Equal Rights Amendment and the Rider. After the Hearing, the Committee reported the Equal Rights Amendment favorably, *without the Rider*. In Congress, the Committee again reported the Amendment favorably, *without the Rider*, on August 27, 1957.

The Honorable Katherine St. George, Chief Sponsor of the Amendment in the House of Representatives made the following statement February 17, 1958:

"The Hayden Rider, which was attached to the Equal Rights Amendment when it last passed the Senate, is certain to be offered from the floor again.

I object to this Rider for the following reasons:

The Rider defies interpretation. If it is argued that the Amendment would be difficult to interpret, what court or legislature could interpret the combined language of the Amendment and the Rider?

Who determines what 'rights, benefits or exemptions' include? I think it is my right to work all night on a job and get the extra pay involved. Some states say I cannot do this but a man can. Consequently, I am forced to take a lower job because my 'job availability' is restricted. Is this a benefit? Not to me nor my family.

What are 'exemptions'? No state law covering and regulating the hours of work for women ever includes charwomen. Is this an 'exemption' or a convenience? Most industries covered exempt office employees who work for management. Is this exemption a benefit and, if so, for whom? Is the exemption for the good of the female employee thus exempted?

The Hayden Rider, by specifically referring to the female sex, immediately sets women apart as a special group. The original Amendment applies equally to men and women".

No women's organization that is working for equality of rights for women has ever given its support to the Rider, as far as is known. The reaction of women to the Rider was summed up in a "Jingle" by a woman printer and member of a Typo-

graphical Union, Fannie Ackley, who wrote, out of a long experience in earning a living for herself and others:

"The point vital in this jingle
Is that women — wed or single —
Should regard the Hayden Rider
As the fly regards the spider".

Since 1937, The National Federation of Business and Professional Women's Clubs, Inc., has supported the Equal Rights Amendment to the United States Constitution as the most effective means of assuring equal legal rights to women, and of adjusting legal inequalities based on sex which exist in the United States.

One of the most zealous workers for the passage of this proposed Amendment has been Miss Hazel Palmer, Past National President of the Business and Professional Women's Federation. In an article appearing in the April 1957 issue of THE NATIONAL BUSINESS WOMAN, Miss Palmer said:

"Our Federation believes that restrictive work laws for women only (minimum hours, wages, and conditions of work applying to women only) serve to make employment of women a matter of additional burden to employers, and result in discriminations in the employment of women. Women know that the Equal Rights Amendment would not force anyone to hire a woman, but they do know that it would give women the *legal* right to be hired if someone did wish to employ them, where such employment is now prohibited in some states under the guise of 'protective legislation' for women."

The Equal Rights Amendment would not prevent enactment of protective legislation for "classes" of citizens—that is, mothers, widows and children. Veterans' legislation, legislation for farmers, legislation for our elderly people, constitute examples of legislation for a "class" of citizens.

Such legislation is not based on sex, but on the circumstances of a group of citizens. We believe there is a real need for supplanting current protective legislation exclusively for women by new and broader laws protecting both men and women without discrimination. All workers should be assured favorable working conditions regardless of sex, and legislative progress in this direction would be more rapid if working men and women enjoyed equality under this Constitutional Amendment.

Efforts toward legal equality have proven successful. Federal law during the past World War placed women in the service on an equal basis with men in relation to pay, status and benefits. This gave impetus to the acceptance and utilization of women's capacities, and proved the value of women as an integral part of the service. Our country needs the intelligent acceptance of responsibility by all of its citizens. More than 50 per cent of the American people are women. With women under legal disability, this means that over one-half of our citizens are prevented from making their maximum contribution to the solution of the critical problems which face us.

The Equal Rights Amendment would give women equal rights in such areas as inheritance, guardianship of children and property rights. These are urgent matters that need to be corrected. We recognize that the intangibles of social inequality cannot be solved by legislation. Nevertheless, it can hardly be doubted that non-discriminatory law is basic to the achievement of a just society, and the only apparent way the several states can be assured of non-discriminatory laws and permanency of them is by the passage of the Equal Rights Amendment to the United States Constitution."

During the years in which the passage of this Amendment has been sought many arguments pro and con have been set out. Here, we now briefly state the 13 strongest and most often used arguments of those favoring the Equal Rights Amendment and the 13 strongest and most often used arguments of those opposing the Equal Rights Amendment. No attempt will be made to support the arguments on either side beyond what has already been set forth in this paper.

Arguments Favoring the Equal Rights Amendment.[48]

1. Although women are now full citizens and have the right of suffrage, there are still many instances of gross inequality in the rights of women as contrasted with those of men under both Federal and State laws. These inequalities are contrary to the basic principles of democratic government. The Constitution should carry a positive guarantee of equality under law, regardless of sex.

48. Brewer, *op. cit.*, pp. 229-231; 234-236; Bruton, *op. cit.*, pp. 10-16 *Congressional Digest*, April 1943 pp. 107-108; Dec. 1946, pp. 302-320; *Christian Science Monitor*, June 30, 1949; Connecticut Committee for the Equal Rights Amendment, "Equal Rights Amendment versus Status of Women Bills," 1949 (?), 2 p., offset printing.

2. The amendment would remove the common law stigma of inferiority and provide a standard by which to measure policies and customs not directly controlled by law.
3. The amendment would remove women from their present classification with minors and give them control of their own lives and an opportunity to fulfill the responsibilities of citizenship.
4. Recognition in common law of the husband as the sole support, without recognition of the wife's services as part of that support, is unsound. Recognition of the wife's contribution would strengthen the family as a unit. The husband would no longer enjoy special status as the sole provider even when the wife was also earning.
5. Women occupy a secondary position as parents in 14 States which give preference to the father as guardian of the minor children. Unequal marital status under State laws affects property rights, right to operate own business, and right to control own earnings. The amendment would force States to bring their own laws into line within a certain period.
6. Progress has made protective legislation for women obsolete. Such legislation operates to the disadvantage of women in many cases where employment preferences and overtime are involved. Many State laws discriminate against women under the guise of safety and welfare legislation. Women can now protect themselves by organization.
7. A national amendment is the most effective way to establish equality of rights for men and women. Both Federal and State governments would be compelled to observe the principle of equal rights. Existing discriminatory legislation would be overridden and future discrimination would be prevented.
8. The amendment would establish equality of rights as permanently as possible. State laws are easily changed. It is difficult to reverse a Constitutional amendment. The proposal is too important to be left to the States to neglect if they see fit.
9. Removal of discriminatory State laws one by one would take too long a period of time, even if all the States were willing. There would be no protection against future discriminatory legislation.
10. The amendment would encourage a revision of State labor laws along more realistic lines, based on the nature of the work rather than the sex of the worker. Safety and health regulations should apply to both men and women. Adult working women are entitled to use their judgment as to hours and type of work.
11. The amendment would be in harmony with the principles of the United Nations Charter and the Universal Declaration of Human Rights. It is important for the United States to remove discrimination within its own borders if it wishes to influence world opinion against similar or related types of discrimination.
12. Social insurance systems which fail to grant equal benefits to the family of a woman worker are unjust. Equalization would give greater justice to husbands, wives, and children.
13. Maternity legislation would not be affected since it is based on function and special service.

Arguments Opposing the Equal Rights Amendment.[49]

1. As Carrie Chapman remarked: "prejudices will not melt away because the Constitution decrees equal rights." The equal rights Amendment would not affect major, basic discriminations rooted in custom and prejudice. Employers would not be compelled to hire women.
2. The amendment would destroy all the protective legislation achieved over the course of years. State wages and hours laws would be overridden, encouraging the return of the sweatshop. Essential health legislation would be destroyed. The need to protect women remains. Mass production methods cause strain. There is still the temptation to exploit young inexperienced women. It will be a long time before State legislatures will extend to men the same protection now given women. The elimination of special labor laws would in reality destroy the equality achieved for men and women.
3. Social security legislation would be endangered. Congress and the State leg-

49. Brewer, *op. cit.*, pp. 232-236; Bruton, *op. cit.*, pp. 12-13; *Congressional Digest*, April 1943, pp. 118-128, Dec. 1946, pp. 302-320; N. J. Small, "Select List of Arguments Against the Proposed Equal Rights Amendment," Legislative Reference Service, Library of Congress, April 22, 1942, typescript 2 p.

islatures would have to wipe out special benefits for wives and widows or else provide similar benefits for husbands and widowers. This would "unbalance" the Social Security system.

4. The amendment would destroy the safeguards society has erected around the wife and mother as the center of the family. Equality in family headship would tend to disintegrate the family. The courts would be forced to place the same responsibilities for support of the family on mothers with young children as on the father. If the family is to be preserved, the right of the married woman to support by her husband must be retained.
5. There are real differences, both physically and socially, between men and women. Nature cannot be amended. The legal position of women cannot be stated in a single formula as their relationships are so varied. Absolute legal equality is impossible. Where there are real physical or social differences, identity of treatment is itself a form of discrimination. Identical treatment also deprives the state of the right to protect itself by safeguarding women as potential mothers of future generations.
5. The amendment is not needed. Legal discriminations in State Laws and constitutions will be changed as fast as enough women in those States want them changed. The vote gives them that power. In any case, the amendment would not be self-executing; each State would have to change its laws one by one. It would be a tremendous task even to determine exactly which laws needed to be changed or repealed.
7. Federal legislation cannot reach intrastate service industries. State protective legislation has opened the way for improved conditions for all workers. The proposed amendment threatens the standards of all working people and the labor movement as a whole.
8. Adoption of the amendment would cause a period of great confusion in constitutional law. Innumerable changes in State laws would be required. Courts would be overburdened trying to work out definitions of "rights" and "duties". The amendment is a device to save us from thinking by dumping the burden on the courts. It is undemocratic to take from the legislatures and give to the courts the power to decide questions of social policy.
9. Because the amendment would provide women with equal rights to hold civil and political offices, it is special legislation, in the legal sense of that expression, and therefore has no place in the Constitution. It would add practically nothing to the equal rights clause of the 14th amendment, anyway.
10. The amendment would attempt to achieve a uniform status for women in all 48 States, whereas diversity may be not only unavoidable but also desirable. The terms of the amendment are vague and do not indicate whether equality is to be achieved by lowering the privileges now accorded to men or by raising the privileges of women. Will the age of majority be raised to 21 for the female or lowered to 18 for the male?
11. The amendment would create greater centralization in the Federal Government, which would be forced to legislate on "countless matters of daily life." This would be a serious invasion of States' rights, forcing policies on the States which they did not see fit to adopt. A new and larger Federal bureaucracy would be created.
12. The amendment would prohibit botb State and Federal Governments from exercising their inherent police power to safeguard the welfare of the state should it conflict with this principle.
13. It would be difficult to remove the amendment if it proved to work to the detriment of women. State laws, on the other hand, can be removed more easily.

A study of the pro and con arguments as set out above would indicate that basically the arguments can be boiled down into one concise statement for each side of the issue.

Proponents of the Equal Rights Amendment argue that it would eliminate discrimination in both Federal and State Laws at one swoop in the most effective way possible.

Opponents claim that the amendment by removing all special protective legislation would worsen the present condition of women, and would create great confusion in the courts which would be called upon to decide social policy. Disagreement is not concerned with the objective of removing legislation discriminating against wom-

en, but rather with the methods to be employed.

In addition to organizations that have been in favor of the Equal Rights Amendment and those opposed, many State Governors of both parties have expressed their approval at one time or another. At least two State legislatures, New York and North Dakota, have presented favorable memorials to the Congress. Support in the Congress has been bipartisan. The amendment was originally sponsored by Republicans, but a considerable number of Democrats have supported the measure. The Republican Party gave its endorsement of the amendment in its 1940, 1944, 1948, and 1952 platforms. The Democrats also endorsed the proposal in their 1944, 1948, and 1952 platforms.

"It is strangely unsympathetic for opponents of an equal rights amendment to suggest removing the thousands of inequities and injustices by slow and piecemeal work in the 48 State legislatures while women are born, living their lives, and dying without the justice for which they have been waiting since the time of the cave man."[50]

The foremost thought in the minds of the women who are so urgently seeking this Amendment must be that women assume the obligation of fulfilling their responsibilities, not as subjects of men, but as equally important members of the community of humanity. Women in seeking equal legal rights must ever be ready to share equally in the duties and burdens of society. Yes, women must, as always, go a step further and take the lead in the assumption of the duties of full citizenship.

Enactment of the Equal Rights Amendment is the only way permanently to rectify the multitudinous inequalities existing in the legal status of women. It will eliminate the artificial handicaps placed on women. It will encourage good legislation for the promotion of the welfare of men and women alike—industrial laws written on the only logical basis—the nature of the job, not the sex of the worker. It will wipe out an unbecoming hypocrisy in American life and give to women the full protection of that instrument they defend and cherish, the United States Constitution.[51]

What then is meant by legal equality between the sexes? "MEN THEIR RIGHTS AND NOTHING MORE: WOMEN THEIR RIGHTS AND NOTHING LESS."

50. Thomas, Dr. M. Carey, former President of Bryn Mawr College.
51. "Shadowed By The Girl She Was", *National Business Woman*, July 1957, p. 4.

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to alter, amend, or repeal any provisions of this act.

In 1950 certain rights were terminated when those who had been receiving benefits developed selfemployment occupations after retiring. At the same time, selfemployed persons were placed under social security so that they became eligible for future benefits.

The deeper we go into taxes, the more complicated the subject becomes. Today there is no doubt that our taxes are used to achieve social and economic results. Immediately the question arises: What kind of a social system do we want? What is the American Way of Life about which we hear so much? Is it entirely a system of free enterprise, or have our conceptions changed through the years? What is our responsibility to the rest of the world?

Until the end of the 18th century, mankind accepted the view that poverty and want were no more to be questioned than death. It is assumed that in the pyramid of society, some would be born to wealth and power; a very few might rise to them. But for the mass of mankind, a person's station was fixed by tradition, or divine providence, or both. The vast majority could hope at best for mere subsistence.

Rebellion against this conception came first in the western world with the spread of the industrial revolution. It is now world wide. We experience the urgency of this rebellion against poverty during the depression of the 30s, but our gap between wealth and want was comparatively narrow. The gap is very wide in the newly developing areas of the world, and the demands for diminishing that gap takes on increasingly revolutionary overtones. Americans cannot stand aloof from this revolution in the world any more than we could stand aloof from our own economic dislocations of the 30s. The loom of our foreign policy turns on the fateful question: By what means will the newly developing peoples seek their ends? As accountants we cannot brush aside these questions. It is true that our primary concern is with the problems of our clients and their taxes, but as members of the community, we have further responsibilities.

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TIPS FOR BUSY READERS

By S. MADONNA KABBES, CPA, Chicago, Illinois

Improvements in External Reporting by Use of Direct Costing—by Robert E. Seiler. Accounting Review—Vol. XXXIV —January, 1959, p. 59.

The application of direct costing procedures to external reporting is advocated by the author as a means by which financial statements may more adequately reflect the company's financial position, and the results of a given period's operations.

The direct costing concept assigns only variable costs to production and treats all fixed costs as period costs. The article includes examples which contrast the application of this concept with the results obtained under full absorption costing. One of the most serious objections which has resulted from the use of the latter method is unit costs have varied inversely with production. This result has been partially counteracted by the use of "normal" burden rates under which inventory includes only "normal" burden costs, and any over- or under-application of manufacturing expense is charged to the year in which it was incurred. One of the difficulties connected with this procedure, however, has been in selecting the capacity to be considered as "normal".

The author recognizes one of the problems under direct costing is to establish criteria to determine which costs shall be considered as fixed, and which as variable. He explains that generally, fixed costs include all those necessary to provide and maintain a specific capacity to produce; variable costs include only those which the company elects to incur currently, in order to effect the schedule production.

Opponents of direct costing contend this procedure results in an inventory valuation that does not reflect the full cost to produce. The author feels that only variable costs reflect the actual working capital of the company which has been tied up in inventory. Under direct costing procedure, fixed costs will enter directly into determination of net profit, instead of being detoured through working capital via the inventory. The effect on inventory valuation should thus be considered a distinct merit of direct costing, since it would aid in the analysis of the company's working capital.

The author feels the use of the direct costing technique may result in more informative financial reports and feels that any method which will improve this basic purpose should be thoroughly investigated by the profession. This becomes increasingly important with the ever expanding interest being shown in such reports by many groups other than stockholders.

(Note—This paper was presented at the Southwestern Section of the American Accounting Association in Dallas on April 5, 1958. R. E. Seiler is Assoc. Prof. at University of Texas.)

Top Management Takes a Second Look at Electronic Data Processing—by Harold Koontz—Business Horizons—Vol. 2, No. 1—Spring, 1959, p. 74.

(Published quarterly by School of Business, Indiana University, Bloomington, Indiana).

In spite of the ever-increasing number of installations of electronic data processing machines, some management heads are pausing to consider if the benefits justify the enormous expenditures required.

Among the questions being asked by top management are these:

1—Are we ready for EDP?

2—What can we expect EDP to do?

3—Can we approach EDP step-by-step or must we start with an integrated system?

4—How can we be sure of making it pay?

Certainly EDP has many advantages including speed, and the capacity to store great volumes of information which can be quickly retrieved. If such capacities can be used in properly designed reports, then management can secure control reports which will not tell them what *has* happened, but will give them projections of what *will* happen. The machine, however, cannot design reports.

While great publicity has been given to the clerical cost savings achieved through mechanization of procedures, careful analysis will often reveal that the real savings are achieved in the redrafting of procedures before putting them on a machine. In such cases most of the savings could have been effected without the expenditure for the machine.

Many of those who have been disillusioned concerning their machine installations have found costs of operation were

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TAX NEWS

By LOUISE A. SALLMAN, C.P.A., Oakland Chapter

Investment Clubs are the latest fad. They are becoming as popular as Pancake Houses are now, and Drive-In Theatres were several years ago.

The subject of how tax laws affect Investment Clubs is an interesting one; so much so, that we will cover only one phase at this time, and will touch on other aspects at a later date.

Since the membership in any one Investment Club is generally made up of individuals associated socially or in business, the tax considerations affect each member similarly. The members, therefore, have to decide the advantages of a partnership versus an association, taxed as a corporation, status.

If the club is taxed as a partnership, its' income is taxed only once. Each member reports his proportionate share of dividend income as if the dividends and capital gains or losses were received by him, after offsetting the club's expenses against such income. He reports this income in the same year the club receives it.

If the club is treated as an association for tax purposes, and is therefore taxed as a corporation, it is taxed at 30% on its first $25,000.00 of income and 52% on income in excess of that amount. But first its net long-term capital gains are segregated and taxed at not more than 25% of the gain. If the balance of income is from dividends, the corporation is taxed on only 15% of such income by reason of the 85% dividends received deduction. When the member sells out or the club liquidates he is taxed again. However, the limit of his tax would be 25% of his gain if he had held his shares for more than six months. Unless the income tax bracket of the individual members is sufficiently high, the partnership status is advantageous in the long run.

If club members' top bracket income falls within the 30% bracket, the total tax burden, if the club were taxed as a corporation, would be eventually about 50% higher than if it were taxed as a partnership. At the 43% bracket the tax would be 22% higher and at the 59% to 62% bracket, it is definitely advantageous to be taxed as a corporation.

To assure an association status, taxable as a corporation, it is best to incorporate under the state law. To preclude a club being treated as a corporation for income tax purposes, even though it is not incorporated under state law, formal articles of co-partnership should be drawn. The National Association of Investment Clubs will furnish prospective new clubs with a recommended agreement form.

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higher than anticipated, economies have been lower, delays have been encountered in installation, and the fear of automation has led to employee resistance.

Properly used EDP should provide a powerful tool for effective management, but in order to achieve greater efficiency and managerial control, members of top management must be aware of the problems which may arise with such installations.

(Mr. Koontz is Chairman and Prof. of Business Policy and Transportation of the Graduate School of Business Administration of UCLA).

STATEMENT REQUIRED BY THE ACT OF AUGUST 24, 1912, AS AMENDED BY THE ACTS OF MARCH 3, 1933, AND JULY 2, 1946 (Title 39, United States Code, Section 233) SHOWING THE OWNERSHIP, MANAGEMENT, AND CIRCULATION OF

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MARGUERITE REIMERS, Editor

Sworn to and subscribed before me this 2nd day of September, 1959.
[SEAL]

Mabel E. Chute
(My commission expires October 23, 1960)