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Ms. Jo Ann Elferink
Assistant to Midge Costanza
The White House
Washington, D.C. 20500

Dear Jo Ann:

I have the Abigail Van Buren letter and have enclosed a memo highlighting each of the points raised by Phyllis Schlafly and answering each one in a factual way. Most of the points raised in the Stephen Teller letter may be answered in the same manner, with one important addition: while the State ERA in Pennsylvania is comprehensive and does a terrific job in combatting sex discrimination, most of the women in this country do not live in Pennsylvania. Pennsylvania is one of 16 states with their own ERA. It is many of the other 34 states that still have onerous discriminatory laws. The inclusion of the ERA in the U.S. Constitution will mean these laws must be changed, and it would guarantee that no state legislature in the future could invalidate equal rights.

I hope I've been helpful.

Sincerely

Marie

V. Marie Bass
Campaign Director

VMB:aw

Encl.

MEMORANDUM FOR ABIGAIL VAN BUREN

The claim that Section 1 of the ERA "would mandate a unisex society" is not the intent formed by Congress in the legislative history of the Amendment. The truth is that ERA would do away with statutes -- not courtesies or individual rights -- which are discriminatory solely because of sex. Section 2 of the Amendment is not a 'federal grab for power.' States will continue to have the right, and responsibility, to legislate in areas traditionally reserved to their jurisdiction, such as marriage laws.

The so-called "Ervin Amendments" were introduced by Senator Sam Ervin to weaken the ERA. Congress will continue to have the power to exempt anyone it wants to exempt from the draft (should it be re-instated) or from combat duty; wives, mothers, and widows will in no way be forced out into the work world; the individual family will remain intact and maintain the right to work out its own source(s) of income. The Supreme Court has consistently ruled on the right to privacy, based on the First, Third, Fourth, Fifth and Ninth Amendments -- ERA will not legislate co-ed bathrooms or dorms, hospitals or prisons. Laws which differentiate on the basis of true, well-founded physiological differences will not be invalidated by ERA, as is stated consistently in the legislative history of the Amendment.

In response to Phyllis Schlafly's specific points:

Social Security: Inequities exist in the Social Security System which are discriminatory on the basis of sex, primarily because of the lack of recognition of the non-wage-earning wife's contribution to the financial well-being of the family. While it is true that "homemakers get Social Security benefits although they never paid any taxes into the system," they only receive such benefits on the coattails of their husbands. Moreover, a woman's rights in the arena of social security benefits are dependent upon the husband filing for such benefits.

Taxes: Regarding farm inheritance taxes, in many farm states, when a husband-farmer dies before his wife, the wife must pay an inheritance tax on the land she has worked, while on the other hand, if a wife-farmer should pre-decease her husband, the state recognizes the husband as the owner of the land; thus, he pays no inheritance tax (How could he? He is not "inheriting" the land, while she would be). While the Tax Reform Act of 1976 has been of significant help to farm families from a federal tax viewpoint, it is equally important

for state tax laws to be non-sex discriminatory.

Divorce: Schlafly states that "Under ERA, women won't be entitled to any support at all (in event of divorce) because that would be sex discrimination!" (parentheses added) Due to the fact that our legal system is based on English Common Law, under which women were treated no better than chattel or slaves, many presumptions of that system still pervade American jurisprudence. I feel here Ms. Schlafly is attempting to confuse the issue of divorce. Is she addressing the matter of alimony or child support? The legal concept of "support" is interpreted by legal beagles to imply child support. If this is the case, then the impact of ERA on child support laws will be to rid the legal system of the presumptions inherent in it -- one of them being that one spouse is necessarily, all the time the better spouse to assume custody of the children while the other is best able to financially contribute to their well-being. In no circumstance, under ERA, will the child lose the right to financial security.

If, on the other hand, Ms.Schlafly is implying that ERA will do away with alimony laws, she is distorting the impact of the Amendment: in most states with no-fault divorce laws, alimony is available to either husband or wife, depending on need and ability to pay. Some states, however, continue to allow alimony only to the wife. Under ERA, alimony, when available at all, would be available to the dependent spouse regardless of sex.

Benefits which are true benefits will not be unilaterally wiped out by passage of the ERA. In the case of benefits which are discriminatory based on sex, such as the Florida property tax exemption, the benefit will not necessarily be wiped out --but extended to cover all persons regardless of sex.

The second to last paragraph of Ms. Schlafly's letter probably refers to the Gilbert v. G.E. decision rendered by the Supreme Court. Ms.Schlafly mistakenly says that the Court ruled that for a health plan to cover pregnancy, it is not sex discrimination against "both male employees and non-pregnant female employees." In fact, the Court ruled that it is discrimination against male employees and non-pregnant persons, thereby creating a new class of individuals: non-pregnant persons. The major argument offered against the opinion is that while G.E. does not provide financial benefits to its pregnant female employees -- pregnancy being a uniquely female status -- it does provide financial benefits to its male employees for vasectomies -- a uniquely male status.