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Back to the Future: Equal Rights Amendment Bills Offered in Six State Legislatures

It can easily be imagined that by trying hard in this way to make one sex equal to the other, both are degraded; and that from this crude mixture of the works of nature only weak men and dishonest women can ever emerge.

— Alexis deTocqueville, *Democracy in America*, volume 2 (1840)

If you fell asleep in 1979 and just woke up, there's a lot that will frighten you about 2019 — did you know there are 51 "genders?" — but there's activity at a few state legislatures that would be very familiar.

As of February 21, there are at least six states (Arizona, Florida, North Carolina, Utah, Tennessee, and Virginia) currently considering bills calling for the ratification of the Equal Rights Amendment (ERA), an idea that began with a bill passed by Congress and sent to the states in 1972.

Actually, it goes back much further than that. Alice Paul, a feminist activist, introduced an "equal rights for women" bill in 1923. By today's standards of language, the text of Paul's measure might qualify as "transphobic." It reads, "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction." Just men and women? What about the other 49 "genders," Alice?! (Facebook, in fact, offers 51 "gender options").

The current crop of ERA ratification bills have scrapped the sexist language of Paul's original measure and, with some slight variation, include the following three articles:

> Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
>
> Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
>
> Section 3. This amendment shall take effect two years after the date of ratification.

Notice, there's no mention of "men and women," rather the revamped ERA bills advocate the "equality of rights" without regard to "sex."

Lest you think that these bills don't intend to include the concept of "gender equality" in their call for "equality" of the sexes, on the movement's official webpage under "Why," it reads:

> Remaining gender inequities result more from individual behavior and social practices than from legal discrimination, but all can be positively influenced by a strong message when the U.S. Constitution declares zero tolerance for any form of sex discrimination.

Zero tolerance for any form of sex discrimination? How would that be enforced in the private sector?

Would a man who "identifies" as a woman be legally empowered to force his employer to recognize his "choice?"

Obviously, the societal momentum is carrying us toward that chaos and collectivism, but to attach to our union's founding charter a "constitutional" requirement that gender "fluidity" be legally recognized would be burdensome to say the least.

Speaking of burdensome and our union's founding charter, the effect of the ERA on the 10th Amendment will be revolutionary, in the worst sense of that word.

As *The New American* noted on June 1, 2018:

> The ERA would virtually turn the 10th Amendment on its head by transferring the jurisdiction and powers of laws that relate to the family — such as marriage, divorce, adoption, abortion, alimony, public and private education, even restroom and dressing facilities — away from state and local governments over to the federal government. This underscores the threat of the ERA to the U.S. Constitution and the Republic.

There are so many matters that have come under the control of the federal government that, had the delegates in Philadelphia in 1787 or at the ratification conventions later that year and in 1788 imagined such a scenario, not a single man among them would have given his sanction to the proposed Constitution.

Even the so-called nationalists held this view, as is evident from James Madison's recognition of the separate spheres of state and federal authority in *The Federalist*, No. 45:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected.
>
> The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State. The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security.

Should the Equal Rights Amendment be approved, it will grant the federal government extensive authority unimaginable to those who wrote and ratified that document.

This precedent will create a powerful centripetal force, drawing into the central government all and any matters dear to human existence within the purview of the federal government. Faith, family, and all other rights and institutions enjoyed by mankind will be henceforth enjoyed only with the permission of the federal government.

I close with the words of Senator Garrett Davis of Kentucky:

> If it were conceded that the power to amend the Constitution, as established and regulated by the fifth article, would by its terms and letter authorize the proposed change, it would be in fatal conflict with the intent and spirit, and, therefore, according to a universal rule of construction, void and of no effect. It never was the purpose of those who made it [the Constitution] to subject many of its great principles to be expunged by the exercise of this power of amendment. The power to amend is but the power to improve, and any alteration, to be legitimate, should be an amendment.

> The retention by states of their exclusive rights, and the right to ordain, manage and control them, independent of all control or interference by the United States Government any more than of a foreign power, is a great and essential feature of our system, and it cannot be revolutionized, destroyed, by this power of amendment.