

July 14, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN
FROM: FRED MALEK
SUBJECT: Equal Rights Amendment

As you know, I have been directing a program to recruit women to high-level posts in government. These efforts have inevitably drawn us into discussions of other issues important to women. The Equal Rights Amendment is one such issue which has frequently been brought to our attention. Therefore, the purpose of this memorandum is to review the background, current status and Administration position on the Equal Rights Amendment, and to suggest a change in our position.

BACKGROUND

The proposed Equal Rights Amendment to the Constitution provides that "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 complete text as introduced in the House and Senate in 1971 is at Tab A.)

Resolutions proposing an Equal Rights Amendment have been introduced in every Congress for the past 48 years. Interest has steadily mounted, and in 1970 the Amendment passed the House on August 10 by a vote of 350 to 15. Subsequently, the Senate attached two controversial provisions, and the Amendment died on the Senate floor.

CURRENT STATUS

Reintroduced in both Houses in 1971 (H. J. Res. 208 and S. J. Res. 9), the Equal Rights Amendment was reported by the House Judiciary Committee on June 23. However, the Committee added a section proposed by Rep. Wiggins (R-Calif.) providing that any law which exempts women from the draft or which "reasonably promotes the health and safety of the people" remains valid. Of the 19 members voting for the proposal,

14 were Republicans. This vote is crucial since the women's groups supporting the Amendment are uniformly opposed to the Wiggins proposal. Because the majority of those voting for the proposal were Republicans, supporters of the Amendment have apparently concluded that the Republican Party and/or the Administration ordered the vote. (Those Members voting for and against the Wiggins Amendment are listed at Tab B.) H. J. Res. 208, as amended, is expected to be brought to the floor of the House prior to the August 1 recess. (H. J. Res. 208 as amended is at Tab C.)

SUPPORT FOR THE AMENDMENT

Support for the Amendment is thought to be fairly widespread among women. A number of women's organizations have been active in supporting the Equal Rights Amendment, notably the National Federation of Business and Professional Women's Clubs, the National Federation of Republican Women's Clubs, and the Intercollegiate Association of Women Students. These three groups alone represent about one million women. A partial list of groups which have formally supported the Amendment is at Tab D. A summary of the Amendment's impact is shown at Tab E.

THE ADMINISTRATION POSITION

The Administration position on the Equal Rights Amendment is ambiguous at best. Although various White House staff people have been involved from time to time, it appears that no single individual has had responsibility for formulating a position and monitoring the progress of the issue. Thus, our current posture appears to reflect a lack of interest and attention rather than a clear-cut strategy. This rather ambiguous posture is the result of a series of events.

1. The President took a position in support of the Equal Rights Amendment during the 1968 campaign.
2. Assistant Attorney General William H. Rehnquist testified before House Judiciary Subcommittee #4 on April 1, 1971. His statement reaffirmed the President's support of the Equal Rights Amendment, but also highlighted a number of potential difficulties. The testimony was interpreted as a negative treatise by most observers.

3. The Republican members of the House Judiciary Committee cast the majority of votes for the Wiggins proposal two weeks ago. Supporters of the Equal Rights Amendment have assumed that this action represents the Administration's position, and rumors that the White House ordered the Republican vote have added to this interpretation.

RISKS IN OUR POSITION

The dangers inherent in our current position are becoming very clear:

1. The issue of women's equality is gathering momentum and will undoubtedly be a factor in the 1972 election.
2. Specifically, the Equal Rights Amendment has become a unique symbol of equality to many women, and the emotions touched by the issue are strong and deep. Because of the depth of feeling, no compromise in language is acceptable to the Amendment's supporters, and legitimate concerns about technical problems and fine points of law are nearly always interpreted as opposition to the concept of equal rights for women. Our ambiguity is being increasingly interpreted in this way.
3. Among supporters of the Amendment, our posture on this issue has seemingly tarnished our credibility in other activities of concern to women, i. e. recruiting more women for high-level government posts.

In summary, by maintaining our ambiguous-to-negative posture, we risk incurring for the President the hostility of a sizeable segment of women voters in 1972.

RECOMMENDED ACTION

A change in our current position is clearly required. Because of the symbolic significance of the issue, the only viable alternative appears to be a positive stance. To accomplish this shift, the following steps are recommended:

1. The President should make a strong statement reaffirming his interest in equal opportunity for women and his support of the Equal Rights Amendment as it was introduced, without amendments. For the most timely impact, this statement should be made prior to the floor vote in the House, i. e. probably within the next week or so.

Agree _____
Disagree _____

2. The Administration should actively work to have the Wiggins amendment deleted when H. J. Res. 208 reaches the floor. This implies informing Congressmen of our position and requesting them to vote for deletion.

Agree _____
Disagree _____

cc: Robert H. Finch
Donald Rumsfeld