

THE CHAIRMAN: Very well, Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, Delegate Storm, we have had some witnesses testify at hearings with respect to sex or equal rights for women. We could not tell whether they were interested in putting sex in the constitution or taking it out or just in favor of sex. In any event, nobody will deny interest in this subject. I will wait until you finish talking to the other sex. I am not sure whom we really want to protect in this field, sir. We have had a few importunities from women's organizations, but we had none from any men's organizations.

As I say, I am not quite sure who is ahead in the battle of the sexes. Nevertheless, I would say to you that this may be in the same category as race and color and with which I have no real great fight.

If we put sex in, are we going to provide there shall be no discrimination by state action. That would be all right with me too. Someone asked me somewhere along the line, when there is going to be equality of sex. All I could tell him was that a man gets on the witness stand, crosses his legs, and asks for alimony, we might be getting close to it.

It is very hard, you know, to be against motherhood, but I suppose that if we are going to really be serious about it and put sex in here you can add a lot of other things that come along with it, too. Women are still people, and no persons are to be deprived of equal protection under the laws.

Nevertheless, I must say on the face of it, that when these women we talked to, and we have really talked to many, learned what might happen if we eliminated all of the protections that they now have and which they might not otherwise have, they were not so enthusiastic. Sometimes, they find themselves like the bulldog chasing an automobile — what would happen if he caught it?

I urge you to vote against this.

THE CHAIRMAN: Delegate Kiefer, the Chair would like to ask a few questions at this point for clarification, because I do not believe this matter is covered in your memoranda. It may be and I may have overlooked it. If so, you may call attention to it.

If the amendment is adopted, and the language of this section then reads that no person should be subject to discrimination by the State because of sex, would this

make invalid the so-called factory laws of the State providing different work hours for women than for men?

DELEGATE KIEFER: I do not know, sir. I do know that there is a very recent statute which many of you may not be aware of which does prohibit discrimination based on wage and salary discriminations, based on sex, and this provides for equal work for equal pay in any lawful business, industry, trade, or profession. But there are many areas, Mr. Chairman, where there is some doubt as to what would be the status of the law if a provision were put in this Constitution removing all discrimination because it is based on sex. Very frankly, this is one of the reasons why the Committee in studying this turned down this proposition after a considerable debate.

As a matter of fact, a number of questions with respect to alimony and other matters were raised at that time and were subject to such uncertainty that we felt we ought not include it.

THE CHAIRMAN: I am not clear, does the Committee indicate that there is doubt as to such matters, or indicate that there are any decisions. When I say such matters, I mean not merely the so-called factory laws but the different requirements of age of consent for marriage, testamentary capacity, age of contract, and numerous other distinctions.

DELEGATE KIEFER: Yes, sir. We looked into some of these and we felt there would be a considerable confusion if the word sex were added.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Mr. President, I would like to say that the Supreme Court has held that women, or even particular classes of women, may be singled out for special treatment in the exercise of the state's protective power, without violation of the 14th Amendment classification, based on differences in their physical characteristics or in the social conditions which surround their employment.

Now, in the case of *West Coast Hotel Company v. Parrish*, decided in 1937, in 300 U. S. 379, reversing earlier decisions, the Supreme Court upheld a minimum wage law for women in 1937 stating that their unequal bargaining position justified a law only applicable to them.

Again in 1948, the Supreme Court, in *Goesaert v. Cleary*, 335 U. S. 464, held that to forbid women to engage in an occupation where the employment may create special