

rights, indicate that any present hope for large-scale change can hardly be deemed realistic."

The other solution to legalized sex discrimination most often voiced by opponents of the ERA is piecemeal revision of offending statutes.

"Personally, I like my government close to me," said Pamela Wise, a representative of the Committee for the Preservation of Womanhood. "Change the laws on the state level one-by-one. Tell the federal boys no, this time we'll do it ourselves," continued Wise.

In this way, individual state legislatures could change inequitable laws one by one, in a progressive series of reforms. The article in the Yale Law Journal pointed out that faith in this method "unrealistically assumes a delicacy and precision in legislative

husband and wife are one person in law. The very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband, under whose wing and protection she performs everything."

Today's domestic relations law is largely a confusing web of restrictions against women on the one hand, and special allowances for them on the other.

Domicile

In Black's Law Dictionary, a domicile is defined as "...that place where a man has his true, fixed and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning."

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process which has no relationship to actual legislative capability."

Piecemeal reform would require numerous and separate changes by 50 state legislatures and the congress, by the courts and executive agencies in each one of these jurisdictions, and by similar governmental authorities in numerous political subdivisions. It is not likely that such a monumental, unwieldy effort would be successfully completed within our lifetimes.

A constitutional amendment, then, seems to some to be the only practical means of guaranteeing a single consistent standard of equality under the law, one that deals with the unique characteristics of individuals and not with classifications based on sex.

When asked if he thought the ERA necessary, University law professor Herbert Titus replied, "It is necessary not to defeat it. If it were defeated, steps being taken to eliminate discrimination would be blunted."

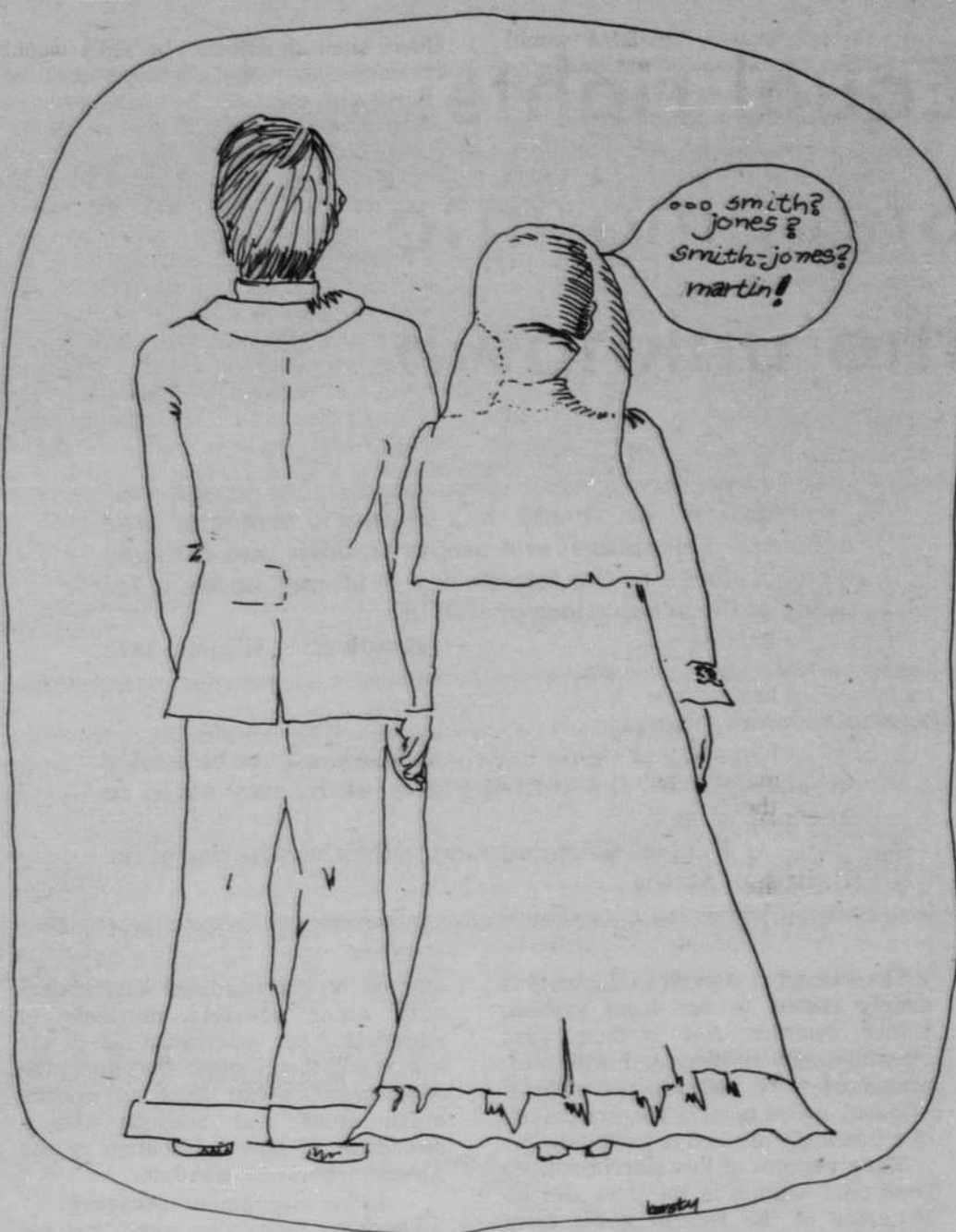
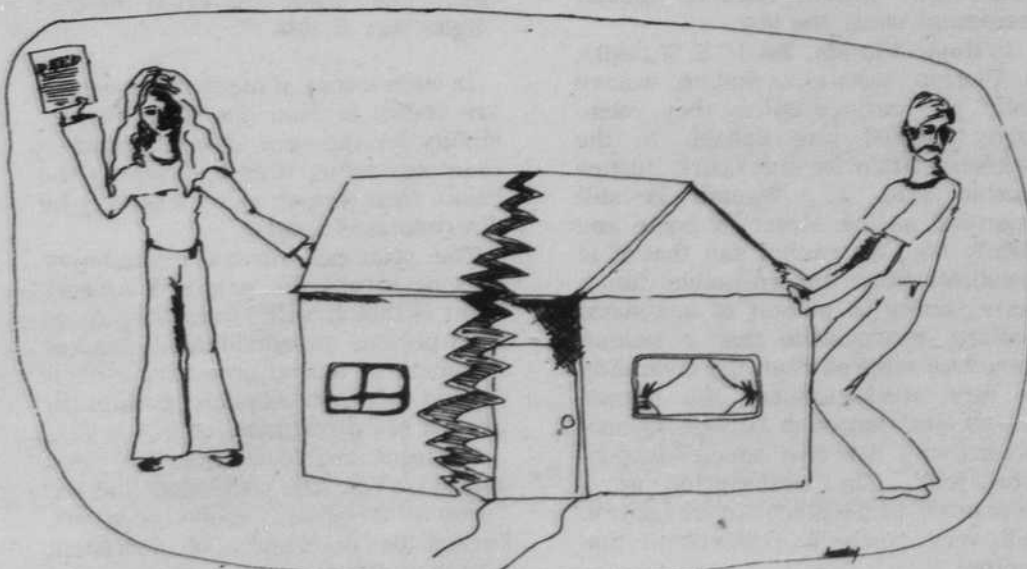
"Ratification of the 27th Amendment would help create a climate in which male and female relationships would be more sensible," said Titus, adding, "Now, males are all screwed up about females. Maybe passage would help us to treat each other as human beings first and sex objects second."

Speculations like these about the psychological impact of the ERA are endless, and depend upon one's point of view. What Sen. Sam Ervin of North Carolina would regard as unspeakable disaster, Titus would see as necessary, healthy change.

So, on a more concrete level, what follows is a subject-by-subject analysis of how the proposed 27th Amendment would affect the existing legislation discriminating between women and men.

Family And Domestic Law

Under the common law, married women literally ceased to have separate legal identities. They were nonpersons. In his famous Commentaries, Blackstone elaborated this idea as follows: "By marriage, the



Even though Black originally turned these phrases back in 1891, his definition and the sexist concept it embodies have withstood more than 80 years of legal revision.

The traditional rule is still that a married woman's domicile is automatically that of her husband. Far from being a mere legal technicality, one's domicile can determine in which state one can vote, run for public office, serve on juries, pay taxes or have one's estate administered.

University women should know that the male-determinate domicile rule can affect their residence status in terms of tuition.

The current Attorney General of Oregon, Lee Johnson, explained this policy when he was asked in 1970 if a female resident would be forced to pay non-resident tuition subsequent to her marriage to a non-resident, even though she remained physically present within her state.

"A woman is deemed to take her husband's domicile," said Johnson in Attorney General Opinions, vol. 35 "...Accordingly, marriage to a non-resident deprives a female student of her resident status for tuition purposes, although marriage to a non-resident has no effect upon the status of a male student."

Johnson thinks this is the right order of things and defends this policy in a masterfully eloquent example of Catch 22 — even though the female's domicile status is based on the notion of male supremacy, the recognition of women's rights doesn't change the policy because our culture is still male supremacist.

"Historically, the rule that a female takes her husband's domicile may be based upon the subservient legal and social status of women," said Johnson. "However, it does not become invalid because of the emancipation of women and recognition of their rights to equality under the law, since it continues to realistically reflect the experience and customs of our present culture."

When contacted about this matter, a University admissions official ex-

plained that an Oregon woman would not lose her residency status if her non-resident spouse wished to become a resident.

When asked what would happen if her spouse didn't want to become a resident, the official looked regretful, drew a deep breath and said, "I'm afraid in that case she'd lose her residency status."

"Though if she didn't ever tell us or make a big deal about it," he added hopefully, "no one here would know. The University doesn't go knocking on doors."

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Only in five states is there now no need for this kind of duplicity. Women in Alaska, Arkansas, Delaware, Hawaii and Wisconsin can now establish their own domiciles for all legal purposes. If the ERA were ratified, all states would be required to follow suit.

Naming

In marriage, a woman takes her husband's last name as her own. This tradition is obviously symbolic of the incorporation of her identity into that of her husband. For that reason, many women today feel it is demeaning to be forced to change their name and resist doing so.

These women who wish to retain their maiden names after marriage are at present not only likely to encounter resistance from the Internal Revenue Service, voting registrars, motor vehicle departments and numerous other non-governmental sources, but they also are likely to find such a plan regarded as actually illegal.

The 1971 edition of American Jurisprudence, 2d, plainly states: "It is well-settled by common law principles and immemorial custom that a woman upon marriage abandons her maiden name and assumes her husband's surname."

Apparently, only under Louisiana law does a married woman keep her maiden name and bear the name of her husband voluntarily, as a matter of custom.

It is most probable that the 27th Amendment would remove the legal barriers against those women who wanted to keep their own names after marriage. Possibly, however, in the interests of providing a common last name for a couple's children, some courts might decide that married couples must choose a common last

name, but that name wouldn't necessarily be the husband's.

Personal injury actions

If a spouse has been seriously injured, for example, in an auto accident, and the case is brought to court, the judge instructs the jury what benefits the uninjured spouse could have expected to receive from the now disabled partner. In most states, these benefits are sex-based. A wife could expect to lose support and a husband to lose personal services, like love and affection, sexual relations, house work, child care. The ERA would require that expected benefits — the projections of what each spouse does for the other — not be defined by sex. Oregon statutes are already written to require this evaluation of individual circumstances.

Ownership of property

There are two major ways of treating property ownership between husband and wife — community property and common law property. In community property states, property acquired by each spouse during marriage is jointly owned. But in most states with a community property ownership system the husband is in charge of this joint