

Statehouse sidelights . . .

Hot ERA issue keeps simmering in Idaho

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The Equal Rights Amendment—which appeared dormant in Idaho after passage and then questionable rescission—is back on the political scene.

Attorney General David H. Leroy tossed the issue on the front burner last week when he announced in a full-dress press conference that he would challenge federal contentions that a state cannot rescind approval of an amendment.

He added he also would challenge Congress' right to extend the ERA's ratification period from the original cutoff date of March 22, 1979, to 1982.

Of course it's a smart political play on the part of Leroy because there is little question the ERA approval is not exactly No. 1 on the Idaho hit parade.

Leroy, however, conveniently overlooked one flaw which makes the Idaho case for rescission doubly weak. In his conference of last April 24 he did not mention this, although asked for comment.

The Idaho Legislature approved the ERA in 1972, the sixth state to do so and before the opponents realized what was happening. The Idaho League of Women Voters spearheaded the movement and it passed both chambers by overwhelming majorities.

After several attempts for rescission since then, the Idaho Legislature voted for rescission in 1977, but only by an 18-17 vote in the Senate, and 44-26 in the House. The action was taken on a concurrent resolution which needs only a majority vote and no action by the governor.

The key point is then posed: how can a state approve a constitutional amendment by two-thirds but seeks a rescission by only a majority vote? In the rescission, the two-thirds majority was lacking in both chambers.

When Leroy was asked this question, he blandly answered that a Legislature can make its own rules, which is no answer at all.

These procedures will be ruled on either by the U.S. Supreme Court or Congress, or both, not Idaho, and Leroy knows this. He shrugs this off as inconsequential but constitutional attorneys agree it is an important point.

a state approves a proposed amendment which hardly appears fair. However, it has never been tested in court. There is also criticism in changing rules of the game by the apparent loser when Congress voted an extension. This is hardly cricket, old boy.

Others contend the extension of the ERA's ratification from the end of the historical seven-year amending period of March 22, 1979, to 1982, is unconstitutional and any state ratification in the extended period is legally questionable. Most contend if and when 38 states ratify the amendment the decision on rescission will be made first by Congress sitting at the time.

Proponents and opponents

have read extraneous arguments on the ERA, even such silly ones as women must use the same toilets as men in public restrooms.

The ERA amendment is simple. This is all it says: "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; and Section 3, This amendment shall take effect two years after the date of ratification."

Many believe ERA or not, women get their way anyway.



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ERA enemy

REP. RUSTY BARLOW, R-Pocatello, successfully sponsored rescission of the Equal Rights Amendment in the 1977 Idaho Legislature. The move is under legal question, but Attorney General David H. Leroy has filed a lawsuit intended to legalize rescissions.