On February 8, 1964, Howard J. Smith, Democrat of Virginia, grinning broadly, rose to address the United States House of Representatives.

It was no usual practice for the House to meet on a Saturday. This urgent schedule had been set two days earlier, when the House resolved itself into the Committee of the Whole House, under the leadership of the Committee Chairman, rather than the Speaker.

But then the legislation before the House was no usual bill. It was the Civil Rights Act of 1964, intended to end discrimination against minority groups in voting, public accommodations, public facilities, public education, federally assisted programs, and private employment. The language of the bill, as it stood that fateful Saturday morning, prohibited such discrimination “on the basis of race, color, religion, or national origin.”

The bill had actually been introduced in 1963, a year marked by dramatic and violent events in the eight-year civil-rights campaign by black Americans. In April, Dr. Martin Luther King, Jr. had been jailed in Birmingham, Alabama for leading anti-segregation protests. In June, civil-rights activist Medgar Evers had been shot to death in Jackson, Mississippi. In August, King had delivered his electrifying “I Have a Dream” speech to a record crowd of 250,000 on the Mall in Washington, D.C. In September, four young black girls had been killed in a Birmingham church bombing. Racial demonstrations and confrontations had swept the South, with no end in sight. The nation feared worse to come.
And November 1963 had brought the assassination of President John F. Kennedy, who had been—at least in public—a strong civil-rights advocate. This shocking crime left the presidency in the hands of former vice-president Lyndon Johnson, who had earlier, as a senator from Texas, opposed the expansion of civil rights for blacks. But now, in February 1964, the pragmatic Johnson would face re-election on his own civil-rights record in nine months.

For white segregationists like Howard Smith and his Southern colleagues in the House, the writing was on the wall. The Civil Rights Act, as it stood that morning, would be passed and signed into law. There was only one hope left: a “killer” amendment.

**Smith’s “Sex” Amendment**

As Chairman of the House Rules Committee, Smith was a master of parliamentary procedure and maneuver. He fixed his cunning on Title VII of the Act, covering “Fair Employment Practices”—by far the longest and most complicated of the eleven titles that made up the bill, and the one with the greatest economic consequences. This title prohibited discrimination in private employment “on the basis of race, color, religion, or national origin.”

The ensuing actions and discussion are set forth in the Congressional Record for February 8, 1964:

Mr. SMITH of Virginia. Mr. Chairman, I offer an amendment.
The Clerk read as follows:
Amendment offered by Mr. SMITH of Virginia:
On page 68, line 23, after the word “religion,” insert the word “sex.”
On page 69, line 10, after the word “religion,” insert the word “sex.”
On page 69, line 17, after the word “religion,” insert the word “sex.”
On page 70, line 1, after the word “religion,” insert the word “sex.”
On page 71, line 5, after the word “religion,” insert the word “sex.”
Mr. SMITH of Virginia. Mr. Chairman, this amendment is offered to the fair employment practices title of this bill to include within our desire to prevent discrimination against another minority group, the women, but a very essential minority group, in the absence of which the majority group would not be here today.
Smith went on to assure the House of his constructive intentions:

Now, I am very serious about this amendment. It has been offered several times before, but it was offered at inappropriate places in the bill. Now, this is the appropriate place for this amendment to come in. I do not think it can do any harm to this legislation; maybe it can do some good. I think it will do some good for the minority sex. . . .

I think we all recognize and it is indisputable fact that all throughout industry women are discriminated against in that just generally speaking they do not get as high compensation for their work as do the majority sex. Now, if that is true, I hope that the committee chairman will accept this amendment.

Smith then read aloud portions of a letter he had received from a woman protesting the excess of American females over American males revealed by the 1960 census (90,992,000 females versus 88,331,000 males). It urged legislative action to correct this imbalance. Choosing his excerpts skillfully, Smith warmed to his audience:

“Just why the Creator would set up such an imbalance of spinsters, shutting off the ‘right’ of every female to have a husband of her own is, of course, known only to nature. But I am sure you will agree that this is a grave injustice—”

And indeed I do agree, and I am reading you the letter because I want all the rest of you to agree, you of the majority—

“But I am sure you will agree that this is a grave injustice to womankind and something the Congress and President Johnson should take immediate steps to correct—”

Drowned out by laughter, Smith struggled to get to the Congressional bottom line:

And you interrupted me just now before I could finish reading the sentence, which continues on:

“Immediate steps to correct, especially in this election year.”
Were any House members not taking this issue seriously? Check your arithmetic, urged Smith:

Now, I just want to remind you here that in this election year it is pretty near half of the voters in this country that are affected, so you had better sit up and take notice.

In conclusion, Smith asked the House to heed the call of justice:

I read that letter just to illustrate that women have some real grievances and some real rights to be protected. I am serious about this thing. I just hope the committee will accept it. Now, what harm can you do to this bill that was so perfect yesterday and is so imperfect today—what harm can this do to the condition of the bill?

The CHAIRMAN. The time of the gentleman from Virginia has expired.

**Women in 1963**

As Smith's remarks suggested, there had been previous attempts to include women within Federal civil-rights legislation. For example, an “equal rights amendment” to the Constitution had been proposed repeatedly since 1923. However, this controversial measure had never been approved by the House Committee on the Judiciary.

In 1963, on the other hand, Congress had finally passed the Equal Pay Act—originally proposed in 1951—which guaranteed women the same pay as men for the same jobs. Because of a perceived threat to the traditional family, this measure had been strongly opposed by the white, male, and generally elderly Southern delegation. However, most high-paying American jobs were still in practice closed to women—by statute, rule, custom, or social disapproval. The Equal Pay Act had therefore been widely viewed as a low-cost sop to feminists, a political gesture carrying no serious economic consequences for men.

In addition to supporting and signing the Equal Pay Act, President Kennedy had also established a Commission on the Status of Women, chaired by Eleanor Roosevelt. It included illustrious women and men from a wide variety of racial, ethnic, religious, and professional backgrounds,
together with key Cabinet members. The Commission submitted its report in the autumn of 1963, anticipating that the Congress would later respond to its recommendations through specialized legislation separate from the pending Civil Rights Act.

The year 1963 also saw publication of a book, *The Feminine Mystique*, written by an unknown, middle-aged journalist named Betty Friedan. It claimed that American women, unhappy in their “suburban prisons,” suffered from “the problem that has no name.” The book sold 600,000 copies, bringing Friedan the media attention, national publicity, and celebrity status she had always craved. Even so, most men took it as a joke.

**Pro-Family Democrats**

Emanuel Celler, Democrat of New York, Chairman of the House Judiciary Committee, and a lifelong civil-rights advocate, had been alerted in advance to Smith’s ploy:

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.  
Mr. SMITH of Virginia. Oh, no.

Celler had been chosen by a liberal, bipartisan civil-rights coalition to shepherd the Civil Rights Act through the House, with instructions to oppose any amendment that might delay the bill or jeopardize its passage. He continued:

Mr. CELLER. Mr. Chairman, I heard with a great deal of interest the statement of the gentleman from Virginia that women are in the minority. Not in my house. I can say as a result of 49 years of experience—and I celebrate my 50th wedding anniversary next year—that women, indeed, are not in the minority in my house. As a matter of fact, the reason I would suggest that we have been living in such harmony, such delightful accord for almost half a century is that I usually have the last two words, and those words are, “Yes, dear.” Of course, we all remember the famous play by George Bernard Shaw, “Man and Superman,” and man was not the superman, the other sex was.
Celler then produced a letter of his own, from the U.S. Department of Labor, sent to him that morning by prearrangement. It recommended against the kind of amendment that Smith had offered. Celler resumed:

Of course, there has been before us for a considerable length of time, before the Judiciary Committee, an equal rights amendment. At first blush it seems fair, just, and equitable to grant these equal rights. But when you examine carefully what the import and repercussions are concerning equal rights throughout American life you run into a considerable amount of difficulty.

You will find that there are in the equality of sex that some people glibly assert, and without reason serious problems. I have been reluctant as Chairman of the Committee on the Judiciary to give favorable consideration to that constitutional amendment. . . .

You know, the French have a phrase for it when they speak of women and men. When they speak of the difference, they say, “vive la difference.”

I think the French are right.

Imagine the upheaval that would result from the adoption of blanket language requiring total equality. Would male citizens be justified in insisting that women share with them the burdens of compulsory military service? What would become of traditional family relationships? What about alimony? Who would have the obligation of supporting whom? Would fathers rank equally with mothers in the right of custody to children? What would become of the crimes of rape and statutory rape? Would the Mann Act be invalidated? Would the many State and local provisions regulating working conditions and hours of employment for women be struck down?

Despite current sociology, Celler did not hesitate to refer to “biological differences”:

You know the biological differences between the sexes. In many states we have laws favorable to women. Are you going to strike those laws down?
(Un)Foreseeable Consequences

Then, in a prophetic statement, Celler cautioned:

This is the entering wedge, an amendment of this sort. The list of foreseeable consequences, I will say to the committee, is unlimited.

Perhaps Celler meant to say “unforeseeable,” since that is clearly what he had in mind. Either way, the truth of these remarks might still, in 1964, have been honestly challenged. Celler therefore proceeded to an additional point that he believed was beyond argument:

What is more, even conceding that some degree of discrimination against women obtains in the area of employment, it is contrary to the situation with respect to civil rights for Negroes. Real and genuine progress is being made in discrimination against women. The Equal Pay Act of 1963, for example, which became law last June, amends the Fair Labor Standards Act of 1938 by prohibiting discrimination between employees on the basis of sex, with respect to wages for equal work on jobs requiring equal skill, effort, and responsibility.

Finally, tongue in cheek, Celler questioned Smith's motivation for introducing his amendment:

It is a little surprising to find the gentleman from Virginia offering the language he does offer as an amendment to the pending measure. The House knows that this is the language of a proposed constitutional amendment introduced in the House.

Mr. SMITH of Virginia. Mr. Chairman, will the gentleman yield?

The two men eyed each other, Southern Gentile and New York Jew; they had little in common except their seniority. The humor of the situation was not lost upon either:

Mr. CELLER. It is rather anomalous that two men of our age should be on opposite sides of this question.

Mr. SMITH of Virginia. I am sure that we are not. But I know the
gentleman is under obligation not to submit any amendments other than those that are agreed upon by the coalition of the Republicans and Democrats that is controlling the movement of the committee. I wanted to ask the gentleman to clarify what he said. I did not exactly get what he stated about Negroes. He said he was surprised.

Mr. CELLER. I was a little surprised at your offering the amendment. Mr. SMITH of Virginia. About what?

Mr. CELLER. Because I think the amendment seems illogical, ill timed, ill placed, and improper. I was of that opinion, the amendment coming from the astute and very wise gentleman from Virginia.

Mr. SMITH of Virginia. Your surprise at my offering the amendment does not nearly approach my surprise, amazement, and sorrow at your opposition to it.

Mr. CELLER. As long as there is a little levity here, let me repeat what I heard some years ago, which runs as follows:

“Lives there a man with hide so tough
Who says, ‘Two sexes are not enough.’”

Celler concluded by agreeing with the President’s Commission on the Status of Women:

The Commission says, wait until mature studies have been made. I say, wait, indeed, until more returns are in before we attempt to do anything like this on this bill. In any event, it should not be done piecemeal, it should be done generally and universally.

**Enter the Feminists—and the Swedes**

These jocular parliamentary maneuvers might seem a strange introduction to the consideration of so serious and far-reaching an issue. But the opportunity was not lost on Congresswoman Martha Griffiths, Democrat of Michigan, and a veteran of the earlier Equal Pay Act debate. After the initial bantering that followed Celler’s remarks, she sprang to the attack:

Mrs. GRIFFITHS. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I presume that if there had been any necessity to
Blanchard, *Insert the Word “Sex”*

have pointed out that women were a second-class sex, the laughter would have proved it.

Challenging Celler’s contention that black Americans were worse off than white American women, Griffiths invoked earlier sociological research:

Mr. Chairman, I rise in support of the amendment primarily because I feel as a white woman when this bill has passed this House and the Senate and signed by the President that white women will be last at the hiring gate.

In his great work, “The American Dilemma,” the Swedish sociologist pointed out 20 years ago that white women and Negroes occupy relatively the same position in American society.

Griffiths was referring here to *An American Dilemma: The Negro Problem and Modern Democracy*, by the radical Swedish economist and social reformer Gunnar Myrdal. This detailed and influential study of American race relations, commissioned by the Carnegie Corporation in 1937, was published in 1944.

In a notable appendix to that work, Myrdal drew a parallel between the low status of blacks, on the one hand, and of women and children on the other. Declaring these dilemmas to be closely related, he traced them to the economic and social power white men have traditionally held over blacks, women, and children in a patriarchal society—power conferred, above all, by male domination of the family.

This analysis reflected not only Gunnar Myrdal’s views, but also those of his wife Alva, an ardent feminist and social activist in her own right. Because of an ideologically charged childhood, Alva had resolved that she would never be without work, never be dependent upon a man for money, and “never be tied to a housewifely existence that would center on a man.” Until her death in 1986 at the age of 84, she served as a role model for generations of highly educated career women.

Earlier, from 1934 to 1938, the Myrdals had brilliantly promoted a set of sweeping social reforms designed to transform the structure of the Swedish family by reducing women’s economic dependence upon
men—e.g., through increased career opportunities for women and by state support of child care. However, the full impact of the Myrdal reforms in Sweden, and the lessons they would carry for other societies, would not become obvious until the 1980s.

**White Women at the Bottom?**
Griffiths asked Celler how Title VII, in its unamended form, might protect the employment rights of women—particularly white women. Not satisfied with Celler’s answers, she resumed:

> Now, Mr. Chairman, I would like to proceed to some of the arguments I have heard on this floor against adding the word “sex.” In some of the arguments, I have heard the comment . . . that this makes it an equal rights bill. Of course, it does not even approach making it an equal rights bill. This is equal employment rights. In one field only—employment.

Griffiths then stressed the unamended bill’s possible impact on white women:

> And if you do not add sex to this bill, I really do not believe there is a reasonable person sitting here who does not by now understand perfectly that you are going to have white men in one bracket, you are going to try to take colored men and colored women and give them equal employment rights, and down at the bottom of the list is going to be a white woman with no rights at all.

Griffiths called attention to the exclusion of women from high-paying jobs:

> Some people have suggested to me that labor opposes “no discrimination on account of sex” because they feel that through the years protective legislation has been built up to safeguard the health of women. Some protective legislation was to safeguard the health of men, too. Most of the so-called protective legislation has really been to protect men’s
rights in better paying jobs.

Finally, Griffiths evoked the memory of the Suffragist fight for the right to vote:

But white women alone did not secure that right. White men voted for that right; but white people alone did not secure that right. Colored men voted for that right, and colored women were among the suffragettes. Sojourner Truth, a Detroit woman, was the greatest of all of these.

Sojourner Truth was not a 20th-century Suffragette from Detroit, but rather a 19th-century abolitionist and feminist from New York State. Accuracy, however, was not essential to Griffiths’ rhetorical summation:

Mr. Chairman, a vote against this amendment today by a white man is a vote against his wife, or his widow [sic], or his daughter, or his sister.

If we are trying to establish equality in jobs, then I am for it, but I am for making white women equal, also.

Congresswoman Katharine St. George, Republican of New York, rallied to Griffiths’ cause. In reply to claims that women’s rights were already protected by many state laws, she returned to the issue of high-paying jobs:

Mrs. ST. GEORGE. . . . In most States and, in fact, I figure it would be safe to say, in all States—women do not get equal pay for equal work. That is a very well known fact. Protective legislation prevents, as my colleague from the State of Michigan just pointed out—prevents women from going into the higher salary brackets. Yes, it certainly does.

St. George pointed out how women are thus “protected” from high pay:

Women are protected—they cannot run an elevator late at night and that is when the pay is higher.
They cannot serve in restaurants and cabarets late at night—when the tips are higher—and the load, if you please, is lighter.

So, it is not exactly helping them—oh, no, you have taken beautiful care of the women.

But what about the offices, gentlemen, that are cleaned every morning about 2 or 3 o’clock in the city of New York and the offices that are cleaned quite early here in Washington, D.C.? Does anybody worry about these women? I have never heard of anybody worrying about the women who do that work.

So you see the thing is completely unfair.

The rest of Mrs. St. George’s speech well illustrates the “rhetoric of oppression” that had already, through the writings of Simone de Beauvoir, Betty Friedan, and other feminists, become a powerful tool of the women’s movement:

And to say this is illogical. What is illogical about it? All you are doing is simply correcting something that goes back, frankly, to the Dark Ages. Because what you are doing is to go back to the days of the revolution when women were chattels. Of course, women were not mentioned in the Constitution. They belonged, first of all, to their fathers; then to their husbands or to their nearest male relative. They had no command over their own property. They were not supposed to be equal in any way, and certainly they were never expected or believed to be equal intellectually. Well, I will admit from what I have seen very frequently here, I think the majority sex in the House of Representatives may not consider us mentally quite equal, but I think on the whole considering what a small minority we are here that we have not done altogether too badly.

I think for that reason, if for no other, we would like to be given more opportunities.

I can assure you we can take them.

I can assure you that we have fought our way a long way since those days of the Revolution. We have fought our way a long way even since the beginning of this century. Why should women be denied equality of opportunity? Why should women be denied equal
pay for equal work? That is all we are asking.

Indeed, no man on the House floor was to provide any answer to these questions in the course of the debate. Surpassing even Martha Griffiths in the rhetoric of entitlement, Mrs. St. George concluded:

We do not want special privileges. We do not need special privileges. We outlast you—we outlive you—we nag you to death. So why should we want special privileges?

I believe that we can hold our own. We are entitled to this little crumb of equality. The addition of that little, terrifying word “s-e-x” will not hurt this legislation in any way. In fact, it will improve it. It will make it comprehensive. It will make it logical. It will make it right.

Clear Heads at Last

Edith Green, Democrat of Oregon, was the first woman to declare her opposition to the amendment:

Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I suppose this may go down in history as “women’s afternoon,” but the women of the House, I feel sure, recognize that you men will be the ones who finally make the decision.

Noting that Smith and his Southern colleagues were among those who had most strongly opposed the Equal Pay Act, she continued:

I do not know whether I am in the minority or whether I am in the majority earlier referred to by the gentleman from Virginia and I do not know whether, after I leave the floor today, I shall be called an “uncle Tom”—or perhaps an “aunt Jane.” However, as the author of the equal pay bill and as a member of the President’s Commission on the Status of Women, I believe I have demonstrated my concern and my determination to advance women’s opportunities in every reasonable way possible. But—I do not believe this is the time or the place for this amendment.
Green acknowledged discrimination against women in American life and included instances from her own experience. Nevertheless:

After I have said all of this, Mr. Chairman, I honestly cannot support the amendment. For every discrimination that has been made against a woman in this country there has been 10 times as much discrimination against the Negro of this country. There has been 10 times maybe 100 times as much humiliation for the Negro woman, for the Negro man and for the Negro child. Yes; and for the Negro baby who is born into a world of discrimination . . .

Green summarized the primary purpose of the bill:

Whether we want to admit it or not, the main purpose of this legislation today is to try to help end the discrimination that has been practiced against Negroes. This becomes almost a way of life. May I submit to my women colleagues, while I join with you in objecting to the discrimination against women, may I say that in all fairness the discrimination against the female of the species is not really a “way of life” and, I repeat, it is a way of life against Negroes in many parts of the country and has been for far too many years. And I must admit to my male colleagues that sometimes, in some ways, maybe women do get some advantages.

Like every other Representative on the House floor, Green knew very well why Smith had introduced his amendment:

As much as I hope the day will come when discrimination will be ended against women, I really and sincerely hope that this amendment will not be added to this bill. It will clutter up the bill and it may later—very well—be used to help destroy this section of the bill by some of the very people who today support it. And I hope that no other amendment will be added to this bill on sex or age or anything else, that would jeopardize our primary purpose in any way.

Then, in a dramatic shift of emphasis, Green protested the departure
from usual House procedure, calling attention to the fact that there had been no previous committee hearings on the amendment:

May I say, Mr. Chairman, to the best of my knowledge, there was not one word of testimony in regard to this amendment given before the Committee on the Judiciary of the House or before the Committee on Education and Labor of the House, where this bill was considered.

Green pressed her point again:

I repeat—there was not one single bit of testimony given in regard to this amendment. There was not one single organization in the entire United States that petitioned either one of these committees to add this amendment to the bill. There was not one single member of the House who came to the Committee on Education and Labor or who came to the Committee on the Judiciary and offered such an amendment.

Representative Green concluded by reading a letter from the American Association of University Women, which recommended against the adoption of a sex amendment and urged Green “to speak against this and other amendments which could weaken or impede the passage of this very vital legislation. . . .”

Representative James Roosevelt, Democrat of California, the son of Franklin Roosevelt and the late Eleanor Roosevelt, rose in support of Mrs. Green. He explained how the Congress had planned to respond to the report of the President’s Commission on the Status of Women:

Mr. Chairman, I want to pay tribute to the courage and to the objectiveness of the very distinguished lady from Oregon. I want to corroborate what she has said. I want to say simply that before the Committee on Education and Labor there was an agreement that the committee of which my mother had the privilege to be chairman, when it was appointed, it was with the understanding that it would finish its work and after it finished its work and a report came from the administration, then a bill would be considered in the proper
course of events.

Roosevelt then suggested that this systematic procedure would be wiser than the hasty adoption of Smith's sex amendment to the Civil Rights Act.

Representative Thompson of New Jersey, recalling the difficult passage of the Equal Pay Act the year before, also questioned the wisdom of moving so rapidly on similar legislation that might have unforeseen effects:

I have the good fortune to be the chairman of the subcommittee of the Committee on Education and Labor which handled the bill of the gentlewoman from Oregon providing, after years and years of effort on her behalf, equal pay for equal work for women . . . But I think the experience with the Congress had with respect to equal pay legislation might well be thought of carefully here. . . . [W]e do not want to go so fast and so far that the old rule of abandoning ship will be changed and the woman will have to take her place in line rather than to go first . . .

So I thank the courageous gentlewoman from Oregon for her contribution, and I might say that I agree quite clearly with her.

**The Feminists Return**

But the feminists were not finished. Next to speak was Congresswoman Catherine May, Republican of Washington:

Mr. Chairman, I rise in support of the pending amendment.
Mr. Chairman, this indeed seems to be, as my distinguished colleague from Oregon stated, ladies’ afternoon. You have heard eloquent, articulate, logical, and consistent arguments in support of this amendment from my distinguished female colleagues on both sides of the aisle . . .

After commending Representative Green's “courageous stand,” Representative May went on to disagree with her:
. . . I know the gentlewoman is sincere in her convictions, as I am sincere, because we have worked together in this field of trying to get an equal rights amendment to the Constitution. But may I point out to her that I just cannot assume, as she has, that the addition of this important amendment, no matter who offers it, will jeopardize this bill. We have been trying since 1923 to get enacted in the Congress an equal rights for women amendment to the Constitution . . . but we have never gotten the bill out of the Committee on the Judiciary.

May next read excerpts from a letter from the chairman of the National Woman’s Party, expressing alarm over the interpretation that might be given to the words “discrimination on the account of race, color, religion, or national origin” if these terms were not clearly defined in the bill itself. The letter suggested that, in the past, some government officials had interpreted this language in such a way as to discriminate against “the white, native-born American woman of Christian religion.” (This point would, in fact, shortly furnish a central argument for Smith’s Southern supporters.) May continued:

I share the views of my colleague from Oregon in her desire to eliminate the proven discrimination which colored women have suffered, but at the same time feel it is only just and fair to give all women protection against discrimination.

In her conclusion—certainly the most revealing statement to be made in the entire debate—Representative May candidly acknowledged the reason for her support of Smith’s sex amendment:

Mr. Chairman, this is to me the crux of the question before us. As I say, I am supporting the amendment on the basis and on behalf of the various women’s organizations in this country that have for many years been asking for action from the Congress in this field, and who see this as the one possibility we may have of getting effective action. I urge your support of this amendment.
Representative Edna F. Kelly, Democrat of New York, offered an eloquent summation of the feminist position:

My support and sponsorship of this amendment and of this bill is an endeavor to have all persons, men and women, possess the same rights and the same opportunities. In this amendment we seek equal opportunity in employment for women. No more—no less.

I do not want any person to secure more rights than any other, all I want is the same opportunities and rights—on all levels of government, or entities.

I do not want anyone to be denied that which is his or her inherent rights as an individual.

Then Representative Kelly raised an important new point:

It is unfortunate that there is not equal opportunity on account of economic status. It is reaching a point in this country when a person cannot seek public office because one lacks the economic status. This must, too, be corrected by proper legislation. Sure, all Americans do not want this. Furthermore, we do not want opportunities obtained on account of race, color, or creed, social status, or economic status—but on account of merit.

This was the first time in the debate that the question of economic status—insofar as this term might be taken to apply to men as well as to women—had even been mentioned. But Kelly returned immediately to the economic concerns of women:

I admit there are many places of employment I would prefer not to have women employed but I never want to deny them the right if they wish to seek that employment. . . .

I believe in equality for women, and am sure the acceptance of the amendment will not repeal the protective laws of the several States. I therefore urge all to support this amendment and hope it will prevail.
The Southern Tide

Representative Smith and his fellow Dixiecrats, reveling in this display of feminist resolve, rushed to rally their supporters, beginning with Representative J. Russell Tuten, Democrat of Georgia.

Mr. Chairman, I rise to compliment the performance of the brilliant female Members of this great body.

It has been brought out in the debate here today that I am definitely a member of a minority group. In view of . . . the brilliant performance here on the floor today, I accept my place, ladies, as a second-class citizen. Although I am second class and a member of a minority group, I rise to inform the House that I always take my stand for the majority.

I have been vigorously opposed to this bill—not as a racist—but in the interest of the rights of all of the citizens of this country. Since I am a man, which places me in the minority and makes me a second-class citizen—and the fact that I am white and from the South—I look forward to claiming my rights under the terms of this legislation.

But, Mr. Chairman, the main purpose of my rising is this: Some men in some areas of the country might support legislation which would discriminate against women, but never let it be said that a southern gentleman would vote for such legislation. Therefore, Mr. Chairman, I rise in support of the amendment.

The next Southern gentleman to speak was Joe Pool, Democrat of Texas:

Mr. Chairman, I arise in support of the amendment and point out that the interests and welfare of all American citizens, without distinction as to sex, shall prevail. This principle of equality of rights under the law for all citizens without distinction as to sex would therefore safeguard American women from such inequities with regard to their civil rights as are now threatened in the pending civil rights bill.

Representative George Andrews, Democrat of Alabama, rose to warn about possible discrimination against white women in favor of
black women:

If a white woman and a Negro woman applied for the same job, and each woman had the identical qualifications, the chances are about 99 to 1 that the Negro woman would be given the job because if the employer did not give the job to the Negro woman he could be prosecuted under this bill. Failure to employ the white woman would not subject the employer to such action.

Representative L. Mendel Rivers, Democrat of South Carolina, reinforced this view with rhetorical flourish:

I rise in support of the amendment offered by the gentleman from Virginia [Mr. SMITH] making it possible for the white Christian woman to receive the same consideration for employment as the colored woman. It is incredible to me that the authors of this monstrosity—whomever they are—would deprive the white woman of mostly Anglo-Saxon or Christian heritage equal opportunity before the employer. I know this Congress will not be a party to such an evil.

Howard Smith then returned to the debate, expanding upon the argument of Representative Andrews:

I put a question to you in behalf of the white women of the United States. Let us assume that two women apply for the same job and both of them are equally eligible, one a white woman and one a Negro woman. The first thing that employer will look at will be the provision with regard to records he must keep. If he does not employ that colored woman and has to make that record, that employer will say, “Well, now, if I hire the colored woman I will not be in any trouble, but if I do not hire the colored woman and hire the white woman, then the Commission is going to be looking down my throat and will want to know why I did not. I may be in a lawsuit.”

The Southern tide rolled on. Smith was joined by fellow Democrats
Mr. GARY. I wish to associate myself with my colleague in support of his amendment. I believe it is a good amendment and I trust the House will adopt it.

Mr. HUDDLESTON. . . . We have all heard this afternoon from some of the opponents of this amendment a hue and cry that this will do so much damage to the civil rights bill. Those of you who were in the House in 1957 will remember that, at that time, we considered an amendment to allow women to serve on Federal juries. That amendment was offered on the floor. At that time the hue and cry went out from these same partisans to the effect that it would ruin the bill. It did not ruin that bill.

I fail to see any logic in the argument that this amendment would do any damage to the legislation.

Mr. WATSON. Mr. Chairman, I commend my distinguished leader from Virginia for his foresight in presenting this splendid amendment. I join with him and others in the wholehearted support of the amendment. I hope that it will pass to prove to everyone that we believe in equal rights for all people, and especially for the ladies of our Nation.

The debate was not quite over. Liberal Republicans John V. Lindsay of New York and Charles Mathias of Maryland registered their opposition to the amendment. And Mrs. Green returned to the issue of biological differences:

Because of biological differences between men and women, there are different problems which will arise in regard to employment. These should be taken into consideration before any vote is made in favor of the amendment without any hearings at all on the legislation.

Representative Roosevelt rose again, desperate to salvage the situation:
...I want to quote from the President’s Commission on Opportunities for Women of which, as I previously said, my mother was the Chairman...

“Actually situations vary far too much to make generalizations applicable and more information is needed on rates of quits, layoffs, absenteeism, and illness among women workers and on the qualifications of women for responsible supervisory or executive positions.”

This is a clear indication that responsible women themselves recognize the problems that are inherent in any such approach as has now been proposed. I shall have to vote against the proposition.

Representative E.C. Gathings, Democrat of Arkansas, had the last word:

Mr. Chairman, the amendment of the gentleman from Virginia [Mr. SMITH] to protect the employment rights of all women should be agreed to.

There can be no plausible reason that a white woman should be deprived of an equal opportunity to get a job simply because of her sex and a colored woman obtain that position because of her preferential rights as contained in this bill.

Gathings then asserted explicitly what others had implied before—that the only group to be disadvantaged under the unamended bill consisted of white women:

Title VII seeks to make it an unlawful employment practice for an employer to fail or refuse to hire or to discharge or otherwise discriminate against any individual because of race, color, religion, or national origin. The language covers all employees, or would-be employees, except white women. I do not want to discriminate against a job applicant because of her sex and I hope that the Members of this body will approve the amendment of the gentleman from Virginia.

To Smith’s astonishment, his amendment passed easily:
The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SMITH].

Mrs. GRIFFITHS. Mr. Chairman, on that I demand tellers.
Tellers were ordered, and the Chairman appointed as tellers Mr. CELLER and Mrs. GRIFFITHS.
The Committee divided, and the tellers reported that there were—
ayes 168, noes 133.
So the amendment was agreed to.

Thus began, on February 8, 1964, the authority of the Federal Government to end discrimination in employment in America “on the basis of race, color, religion, sex, or national origin.”

On to the Senate—and into Law
Two days later, the Civil Rights Act, as amended, cleared the House by a vote of 290 to 130 and was immediately sent to the Senate. There, liberal Senator Hubert Humphrey, Democrat of Minnesota, marshalled the bill’s supporters, aided by the best organized and most intensive lobbying campaign the Congress had ever seen.

Using strongarm parliamentary tactics, Humphrey blocked all Southern motions to send the House bill to the Judiciary Committee, then chaired by Senator Eastland of Mississippi, and soon had the bill placed on the Senate calendar for floor debate. On March 9, Southern senators began the longest filibuster in Senate history against it.

President Johnson telephoned Humphrey personally, challenging him to produce the 67 votes then required for cloture—thereby shutting off debate—and instructing him to court Republican Senator Everett Dirksen of Illinois, Senate Minority Leader, in order to do so. Dirksen questioned the addition of “sex” to Title VII in February, and again in March. But that was to be the last time that Smith’s sex amendment was seriously discussed, and it remained in the bill. Issues of race dominated the filibuster almost entirely.

On June 10—a day of high national drama—Humphrey produced 71 votes for cloture, four more than needed. One of them was cast by Senator Clare Engle of California. Soon to die of a brain tumor, and already unable to speak, Engle was brought to the Senate floor in a
wheelchair. He recorded his “aye” by pointing to his eyes.

During the three months of debate, hundreds of amendments had been offered. Following cloture, 106 of these were voted down—but 85 other amendments were accepted and incorporated into a revised, Senate version of the bill. By comparison with the House version, the amended Senate version actually increased the power of the Attorney General to intervene in Title VII civil-rights cases.

On June 17, the revised bill passed the Senate by a vote of 76 to 18 and went back to the House. There, Emanuel Celler and his supporters bypassed the Rules Committee, blocked attempts to arrange a House-Senate conference, and forced an up-or-down floor vote on the Senate version.

On July 2, 1964, the House agreed to all the Senate amendments and passed the Civil Rights Act by a vote of 289 to 126. Among those voting “nay” was Representative Howard W. Smith of Virginia—and every other Southern gentleman who had voted “aye” to Smith’s sex amendment less than five months before. President Johnson signed the Act into law that very evening.

Epilogue
Two centuries before, in his Commentaries on the Laws of England, the English jurist William Blackstone had written:

Not that the particular reason for every rule in law can at this distance of time be always precisely assigned; but it is sufficient that there be nothing in the rule flatly contradictory to reason, and then the law will presume it to be well founded.

And it has been an ancient observation in the laws of England, that whenever a standing rule of law, of which the reason perhaps could not be remembered or discerned, hath been broke in upon by statutes or new resolutions, the wisdom of the rule hath in the end appeared from the inconveniences that have followed in the innovation [emphasis added].

From the earliest recorded times, in virtually every society the world has ever known, men have held an advantage in economic power over
women. The economic power held by men has balanced the advantage in sexual power held by women, thus assuring mutually advantageous and stable relationships between the sexes.

But as a result of Smith’s sex amendment, American women would now be given access to the high-paying jobs traditionally held by men—and the Equal Pay chickens would soon come home to roost. The effect of this economic power shift on men had not been considered.

Passage of the Civil Rights Act of 1964 therefore marked the beginning of a social experiment—the feminist experiment—that had no precedent in American life. Because the results of the Swedish experiment had not yet become clear, few men in 1964 could have predicted the outcome. The new insights into human biology and mating strategies that could have furnished such a prediction (and that now explain the outcome) then lay a decade or more in the future.

For women who sought economic and social independence from men—and above all, for women who did not want to establish sexual relationships with men—the “sex” amendment to the Civil Rights Act was the fulfillment of centuries of feminist ambition. No gift from Heaven could have been more warmly welcomed. They would quickly begin to act upon it.

The male representatives and senators in the U.S. Congress would themselves have no cause for worry. Like the kings, sultans, and rajahs of old, these powerful, high-ranking men would always have their pick of women. And more than one, if they wished.

But for millions of other American men—those not at the top of the socioeconomic heap—it was to be a different story. For these men, and especially for the black men the Civil Rights Act was originally intended to help, the feminist experiment would bring disaster, the dimensions of which have now, some two generations later, become abundantly apparent.

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