

Sex Disqualification (Removal) Act 1919

I am grateful to Peter Snow and Mrs Fortin (13 December 1979) for supplementing the information contained in my article on the Sex Discrimination (Removal) Act 1919 [1979.005]. Mrs Fortin is however mistaken in saying that I suggested the 1919 Act made the Sex Disqualification Act 1975 unnecessary. I suggested no such thing, it would have been very foolish of me to do so. What I did say, and is undoubtedly true, was that *in some respects* the 1919 Act went further in emancipating women than does the 1975 Act. I detailed these with great care in the concluding portion of the article, and I invite Mrs Fortin to look again at this. She will find that what I say there is not only right but important for those fighting in the women's movement. Incidentally, Mrs Fortin is also mistaken in claiming as an advantage of the 1975 Act that it 'prohibits discrimination on the ground not only of sex but of marital status in the field of employment'. The 1919 Act outlaws disqualification generally on grounds of marriage as well as sex.

What people concerned with women's liberation need to realise is that the 1919 Act is still a fully operative Act of Parliament. There is no doctrine of desuetude applying to it. Moreover its interpretation is not subject to any crippling decisions by the House of Lords or even the Court of Appeal.

Judicial attitudes are (one hopes) more enlightened now than they were in the 1920s. There is some prospect therefore that modern judges would give the wide words of the 1919 Act the meaning they plainly bear.

I am told that there is a case awaiting report in which the Employment Appeal were asked to apply the 1919 Act to a woman excluded by one of the many exceptions contained in the 1975 Act. That shows that some people at least are alive to the possibilities offered by the 1919 Act. The history of its ineffectiveness is a disgraceful story of prejudice and inertia triumphing over reform. There is still time to redeem this, even though the absence of remedial machinery from the Act is undoubtedly a serious drawback. An action for a declaration seems to be the only method by which the Act might be applied directly, though the fact that breaches of it are unlawful can be turned to account from a defensive point of view.