10-1974

Stanton v. Stanton

Lewis F. Powell Jr.

Judge--The supplemental memo indicates the points made in the motion to dismiss (which is next to useless). The author of the supplemental memo recommends a note, and the Conference may well settle on that. Your vote should be guided by your position on the appropriate scope of review in sex discrimination cases. That issue will be one of the topics for summer study. After you have analyzed that, you may want to develop an overall position for dealing with all these cases. Jack

Note
await
[illegible]
[illegible]

Justice Powell:
I will be treating this in the summer memo. I would recommend noting the case.
pc

See my notes on attached memo.

Utah statute establishes ages of majority: female 18, male 21.
Divorced wife sued father who had stopped paying support money for daughter when she reached age 18. No
SUMMARY & SUPPLEMENTAL MEMO

Summer List
No. 1, Sheet 1

No. 73-1461 Kelly

STANTON [Mother] Appeal to Utah Sup Ct (Crockett for unan. ct) Timely

v.

State/Civil

STANTON [Father] NPJ

1. FACTS: Appellant and appellee were divorced 13 years ago. Their two children, a boy and a girl, were awarded to appellant but appellee was ordered to pay support until the children reached majority. In Utah females reach majority at 18 and males at 21. Utah Code §15-2-1. When his daughter reached 18 appellee ceased making payments and appellant brought this action to strike down the statute and regain the payments until the daughter reached 21. The Utah Courts held that the statute did not unconstitutionally discriminate on the basis of sex. It was a rational classification.

2. ISSUES: Which equal protection test should be used here? Whether §15-2-1 violates equal protection of the laws?

3. DISCUSSION: Appellant cites Reed v. Reed, 404 U.S. 71 (1971) and Frontiero v. Richardson, 411 U.S. 677 (1973) claiming sex is a suspect classification and the discrimination should be struck down. Appellee cites the Utah SC reasoning that males normally are the breadwinners and in order to fulfill this duty they should be supported further into adulthood to get an education, and that females generally mature and marry earlier than males, thus they do not need support beyond 18. The Utah SC concluded that these notions were reasonable enough to constitute a rational basis for the classification. It also noted that this is a political question, better left to the legislature. The question is close enough for this Court to deal with it.

What?

There is a motion to dismiss and a brief in opposition.

NPJ Kelly Utah SC Op in Motion to Dismiss.

6/24/74
PW

Done 5-14-74 - (CFR) Affirming or Dismissed

Utah statute prescribing age of minority to extend to 21 for males & 18 for female — upheld by Utah S/Ct. Rational basis — not Reed v Reed or Frontiero. I am inclined to agree with author of this note that Cts should not "knee jerk" to every difference bet. the sexes, after all they are different — thank the Lord!

PRELIMINARY MEMO

May 17, 1974 Conf.
List 1, Sheet 1

CFR

No. 73-1461 — Appeal to Utah Sup Ct (Crockett for unan. ct)

Owens

STANTON

v. — State-civil

STANTON — Timely

1. This case presents a challenge to a law establishing the age of minority in Utah. In Utah, the period of minority extends in males to age 21; in females to age 18. The Utah Supreme Court upheld the statute as based on rational grounds.

2. FACTS: Section 15-2-1 of the Utah Code 1953 provides:

One further consideration I'm inclined to Note - appellant appears to have accepting as legitimate the State's asserted interests

> "The period of minority extends in males to the age of 21 years and in females to that of 18 years; but all minors obtain their majority by marriage."

Appellant Thelma Stanton and her husband, James Stanton (appellee), were divorced after nine years of marriage on November 29, 1960. The marriage produced two children, Sherri and Rick, who were placed in the custody of their mother. The divorce decree required appellee to pay $100 per month alimony and $100 per month for the support of each child. Appellee made these payments until February 1971 at which time he ceased paying for Sherri who had reached the age of 18.

Appellant sought a judgment for support payments for Sherri accruing since that time. The trial court accepted the Utah statute's definition of minority. The Utah Supreme Court affirmed.

3. UTAH SUP CT: In a unanimous opinion, the court found a rational basis for the statutory distinction. The court took notice of "changing conditions" but stated that it was "remarkable how some of [the] old notions do continue to prevail as to numerous interesting differences" between the sexes.

> Included among them is the belief held by many that generally it is the man's primary responsibility to provide a home and its essentials for the family; and that however many exceptions and whatever necessary and proper variations therefrom may exist in differing circumstances, it is a salutory thing for him to get a good education and/or training before he undertakes those responsibilities.
>
> Perhaps more important than this, there is another widely accepted idea: that girls tend generally to mature physically, emotionally and mentally before boys, and that they generally tend to marry earlier.

But surely there's another statute that cuts off support when child marries! Verify?

Acknowledging, however foolishly, that "as a court made up of men, there is a possibility of masculine bias," the court went on to risk the observation that appellant's contentions involved "matters upon which reasonable minds might entertain different opinions." The court concluded: "It is our judgment that there is no basis upon which we would be justified in concluding that the statute is so beyond a reasonable doubt in conflict with constitutional provisions that it should be stricken down as invalid." The court stated that appellant's contentions were properly left "to public scrutiny and debate, and action to be taken thereon by the representatives of the people." *Then usually make sense*

The Utah court apparently preferred to ignore the recent line of cases from this Court commencing with Reed v. Reed, 404 U.S. 71 (1971), and Frontiero v. Richardson, 411 U.S. 677 (1973).

4. CONTENTIONS: We've been through this before this year, so I'll keep it short. Appellant argues, of course, that the Utah court erred in its standard of review. Instead of the "beyond-a-reasonable doubt-in-conflict-with-a-constitutional-provision" standard, the court should have applied Reed and Frontiero to invalidate the statute. The statute not only acts to deprive a mother of child support but also affects males and females differently with respect to many rights and privileges in Utah: the right to contract (15-2-2 Utah Code Ann. 1953); the right to purchase alcoholic beverages (32-7-15 Utah Code Ann. 1953); exemption from earnings from execution (78-23-1 [12] U.C.A. 1953); and access to the courts (Rule 17(b), Utah Rules Civ. Pro.).

yes

Appellant argues that the Utah Court merely "surmised" the basis of the statute since it was enacted in 1888. She adds that Utah has many other

statutes establishing other age limits for both males and females: 21-welfare; 21-support for children(?); 21-gifts to minors; 19-tobacco purchases; 18-voting. She says "surmising" legislative intent is precluded by Frontiero.

Appellant notes the analysis of the Utah court conflicts with that found in several federal circuit court cases.

5. DISCUSSION: My guess is that the Utah court intentionally avoided this Court's recent line of cases. They're trying to tell us something. And I think it's basically that the Court shouldn't knee jerk at every instance where the legislature differentiates on the basis of sex. ? ?

There is no motion to affirm or to dismiss.

5/7/74 Knicely

Op Utah
Sup Ct in
juris. st.

Conference 10-7-74

Court Utah Supr[illegible] Ct.

Argued ....., 19...

Submitted ....., 19...

Voted on ....., 19...

Assigned ....., 19...

Announced ....., 19...

No. 73-1461

THELMA B. STANTON, Appellant

vs.

JAMES LAWRENCE STANTON, JR.

4/1/74 Appeal filed.

J. Brennan: Will not agreed to vote at conf. of 10/11 as scheduled. There no Stewart agrees with Brennan - but asked this case eliminated any motion filed by Pl. 9.

Note

(But White by letter of 10/10 requested Relisting)

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING	
Rehnquist, J.						✓	for WANT							
Powell, J.				✓										(Standing in also open)
Blackmun, J.						✓	for WANT							
Marshall, J.				✓										
White, J.				✓										
Stewart, J.						✓	for WANT							
Brennan, J.						✓								
Douglas, J.				✓										
Burger, Ch. J.				✓										

Conference 10-18-74

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on ....., 19...
Assigned ....., 19...
Announced ....., 19...

No. 73-1461

STANTON

vs.

STANTON

RELIST

Noted

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING	
.....														
Rehnquist, J.														
Powell, J.														
Blackmun, J.														
Marshall, J.														
White, J.														
Stewart, J.														
Brennan, J.														
Douglas, J.														
Burger, Ch. J.														

No. 73-1461 STANTON v. STANTON Argued 2/19/75

Utah sex discrim. statute.

~~Jurisdiction~~

Justiciability: The mother clearly has an interest. Only she may sue ~~for~~ to recover support she had paid.

Estoppel

Roe (for Pet.)

The application of Uniform Support Act was argued to Ct. below ~~by S~~ but. S/Ct of Utah did not discuss this statute.

~~& J~~ J Blackmun asks whether the proper age will be 21 or 18 if Pet wins? Blackmun suggests we would have to remand on this issue.

~~The~~ The Decree incorporated the statute defining attaining of majority. (Brennan thinks, ~~this~~ since parties agreed to this, there has been agreement

What about this?

Roe (Court - for Peter)

C/J suggests there was an incorporation by reference of state statute. [But Potter notes that S/Ct of Utah did not construe the ~~case~~ decree this way; rather it addressed the Const. issue]

Recent case

Parent who paid the support has rt. to sue.
Anderson 528 Pac 2d (1974)
(May not be in Brief)

Frederick (Rank)

Appellant asserts her own interests as a member of class: mothers with daughters under 21.

Conceden that case still involves 3 years of support money

lfp/ss 2/3/75

MEMORANDUM

TO: Penny Clark DATE: February 3, 1975

FROM: Lewis F. Powell, Jr.

No. 73-1461 Stanton v. Stanton

This is the Utah case in which a divorced wife attacks the validity of Utah's statute which provides that the "period of minority" extends for males to age 21 and for females only to age 18.

I have no difficulty with the merits, as the statute in my view is clearly discriminatory and invalid under the rational basis test.

The principal issue argued in appellee's brief is lack of standing by the divorced wife and mother to attack a statute which does not discriminate against appellee on account of her sex, but rather is discriminatory against the daughter. Appellant's rather cryptic discussion of the standing issue relies primarily on a Utah case which apparently says:

> "Alimony relates to the support of the divorced wife, and support money relates to compensation to a spouse for the support of children."

The divorce decree in this case provides that the support money shall be paid to the mother and no doubt she has a financial interest. This would seem to afford sufficient interest to provide standing; yet, her complaint is not that she has been discriminated against because of her sex. The discriminatio

results from the sex of the daughter. I am inclined to think that standing exists, as appellant is not able to collect the agreed support money in view of the discriminatory provisions in the statute. But I would welcome advice on this issue.

Appellees also argues that there was a stipulation between the parties which works "estoppel" (Appellee's Brief p. 7). I do not find the stipulation in the appendix, although the trial court's findings of fact and the divorce decree both referred to a "stipulation" with respect to property rights. Perhaps we should take a look at the stipulation in the record. In any event, appellee in his affidavit (apparently the equivalent in this proceeding to an answer) did not rely on the stipulation (see Appendix p. 13).

Finally, there is an alleged issue of mootness - although in view of appellant's pecuniary interest in the litigation, I see no basis for this argument.

L.F.P., Jr.

ss

[c. 2/9/1975]

Supplemental Memorandum

Stanton v. Stanton

From PC

A relatively thorough review of Utah law reveals no Utah case law before the Utah Supreme Court's decision in Stanton, giving any indication of the age at which a divorced father's child support obligation terminated. The case law simply makes vague references to support of "minor children."

At the time the divorce was granted, there were three relevant statutes: § 15-2-1, the statute at issue here, which says nothing about support obligations and appears in a chapter titled "Legal Capacities of Children"; the Uniform Civil Liability for Support Act, which explicitly governed a parent's support obligation and set a uniform age of 21 as the termination date; and a criminal nonsupport act using age 16 as the point beyond which a father was not criminally liable for failing to support his children.

In that context, and in the absence of case law applying § 15-2-1, it would be speculation for the Court to say that the Stantons must have contracted their divorce stipulation with reference to the 18-year cutoff for female children.

Penny

No. _____

73-1461 STANTON v. STANTON

Conf. 2/21/75

The Chief Justice Passed on first call. Now joined Reversed.

No standing or mootness problem.

Kahn v Shevin supports appearance on rational basis test.

Fact that Utah Ct treated this as Const. Q., no reason for us not to decide on other issue. There might have been agreement - caused decree.

Case is of no importance - will grind it for any solution

Douglas, J.

Out

Brennan, J. Reverse

Utah Ct held that statute governed - regardless of what parties may have stipulated.

There is standing. Mother entitled to sue

Statute is unconst.

Need not say whether rule or should be 15 or 21. Leave to Utah Ct on remand.

Stewart, J. Reverse

Agree with Brennan

White, J. Reverse

Agrees with Brennan

Reverse

Marshall, J.

Reverse 2/27/75 memo

Blackmun, J. Reverse

Wish ct on remand can decide whether 18 or 21 is appropriate age.

Powell, J. Reverse

Agree with Brennan

Rehnquist, J. Affirm

No standing.

If reach merits, statute is OK

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Powell
Mr. Justice Rehnquist

From: Blackmun, J.

Circulated: 3/13/75

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1461

Thelma B. Stanton, Appellant, v. James Lawrence Stanton, Jr. } On Appeal from the Supreme Court of Utah.

[March —, 1975]

Received 3/13 Join

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the issue whether a state statute specifying for males a greater age of majority than it specifies for females denies, in the context of a parent's obligation for support payments for his children, the equal protection of the laws guaranteed by § 1 of the Fourteenth Amendment.

I

Appellant Thelma B. Stanton and appellee James Lawrence Stanton, Jr., were married at Elko, Nevada, in February 1951. At the suit of the appellant, they were divorced in Utah on November 29, 1960. They have a daughter, Sherri Lyn, born in February 1953, and a son, Rick Arlund, born in January 1955. Sherri became 18 on February 12, 1971, and Rick on January 29, 1973.

During the divorce proceedings in the District Court of Salt Lake County, the parties entered into a stipulation as to property, child support, and alimony. The court awarded custody of the children to their mother and incorporated provisions of the stipulation into its Findings and Conclusions and into its Decree of Divorce. Spe-

cifically as to alimony and child support, the decree provided:

> "Defendant is ordered to pay to plaintiff the sum of $300.00 per month as child support and alimony, $100.00 per month for each child as child support and $100.00 per month as alimony, to be paid on or before the 1st day of each month through the office of the Salt Lake County Clerk." App. 6.

The appellant thereafter remarried; the court, pursuant to another stipulation, then modified the decree to relieve the appellee from payment of further alimony. The appellee also later remarried.

When Sherri attained 18 the appellee discontinued payments for her support. In May 1973 the appellant moved the divorce court for entry of judgment in her favor and against the appellee for, among other things, support for the children for the periods after each respectively attained the age of 18 years. The court concluded that on February 12, 1971, Sherri "became 18 years of age, and under the provisions of 15-2-1 Utah Code Annotated 1953 thereby attained her majority. Defendant is not obligated to plaintiff for maintenance and support of Sherri Lyn Stanton since that date." App. 23. An order denying the appellant's motion was entered accordingly. *Id.*, at 24–25.

The appellant appealed to the Supreme Court of Utah. She contended, among other things, that § 15-2-1, Utah Code Ann. (1953), to the effect that the period of minority for males extends to age 21 and for females to age 18

[1] "15-2-1. Period of minority. [illegible]

is invidious, discriminatory and serves to deny due process and equal protection of the laws, in violation of the Fourteenth Amendment of and of the corresponding provisions of the Utah Constitution, namely, Art. I §§ 7 and 24, and Art. IV, § 1. On this issue, the Utah court affirmed. 30 Utah 2d 317, 517 P. 2d 1010 (1974). The court acknowledged: "There is no doubt that the questioned statute treats men and women differently, but not that people may be treated differently so long as there is a reasonable basis for the classification, which is related to the purposes of the act, and it applies equally and uniformly to all persons within the class." 30 Utah 2d, at 318, 517 P. 2d, at 1012. The court referred to what it called some "old notions," namely, "that generally it is the man's primary responsibility to provide a home and its essentials" *ibid.*, that "it is a salutary thing for him to get a good education and training before he undertakes those responsibilities," 30 Utah 2d, at 319, 517 P. 2d at 1012; that girls tend generally to mature physically, emotionally and mentally before boys; and that "they generally tend to marry earlier." *Ibid.* It concluded that

> it is not palpably clear that there is no basis upon which we would be justified in overturning that the statute is unfair and unreasonable. So not to conclude would, contrary to our established principle, require that it should be stricken down as invalid." 30 Utah 2d, at 320, 517 P. 2d, at 1013.

Finally, Chief Justice Crockett said: "[I]t is appropriate to call to the attention of the [appellant] that [he] ... [30 Utah 2d, at 320, 517 P. 2d, at 1013] has appellant, plaintiff, failed to support his ... claim for ... [equitable] relief. In view of the fact that no effort was made to support [his] claim ... [30 Utah 2d, at 320, 517 P. 2d, at 1013]

We noted probable jurisdiction, 419 U. S. [illegible] (1974).

II

The appellee initially suggests that the support issue is moot and that, in any event, the appellant lacks standing. These arguments are related and we reject both of them.

A. The mootness suggestion is based on the propositions that both the appellant and Sherri are now over 21 and that neither possesses rights that can be affected by the outcome of this proceeding. Brief for Appellant 9. At the time the case was before us on the Jurisdictional Statement the appellee suggested that the case involved a nonjusticiable political question. Appellee's Motion to Dismiss 6-7. Each approach, of course, overlooks the fact that what is at issue is support for the daughter during her years between 18 and 21. If appellee, under the divorce decree, is obligated for Sherri's support during that period, it is an obligation that has not been satisfied and there is an amount past due and owing from the appellee. The obligation issue thus plainly presents a real, not hypothetical, case or controversy. It is ripe, not moot, for us.

B. The suggestion as to standing is that appellant is devoid of the age group affected by the Utah statute, and that she therefore lacks a personal stake in the resolution of the issue. It is said that, when the appellant signed the stipulation, she gave up her statutory right to [illegible] concerning the right to support payments after the daughter attained age 21.

We are satisfied that [illegible] the appellant's interest [illegible] under the divorce decree [illegible] ages 18 and 21 [illegible]

appellant or as that of a fiduciary. The Utah court has described support money as "compensation to a spouse for the support of minor children." *Anderson* v. *Anderson*, 110 Utah 300, 306, 172 P. 2d 132, 135 (1946). And the right to past due support money appears to be the supplying spouse's, not the child's. *Larsen* v. *Larsen*, 5 Utah 2d 224, 228, 300 P. 596, 598 (1956). See also *Baggs* v. *Anderson*, — Utah 2d —, —, 528 P. 2d 141, 143 (1974). The appellant, therefore, clearly has a "personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U. S. 186, 204 (1962); *Flast* v. *Cohen*, 392 U. S. 83, 102 (1968). We see nothing in the stipulation itself that is directed to the question when majority is reached for purposes of support payments or that smacks of waiver. In addition, the Uniform Civil Liability for Support Act has been in effect in Utah since 1957. Laws of Utah, 1957, c. 110, now codified as U. C. A. §§ 78-45-1 through 78-45-13. Section 78-45-4 specifically provides: "Every woman shall support her child." This is in addition to the mandate contained in § 78-45-3: "Every man shall support his wife and his child." "Child" is defined to mean "a son or daughter under the age of twenty-one years." § 78-45-2 (4). And § 78-45-12 states: "The rights herein created are in addition to and not in substitution for any other rights."

The appellant here thus had a legal obligation under Utah law to support [illegible] until Sherri became 21. That obligation [illegible] any right she might have against the appellee under the divorce decree. Her interest in the controversy [illegible] assures that "concrete adverseness" and proper standing in this case.

III

We turn to the merits. The appellant argues that Utah's statutory prescription establishing different ages of majority for males and females denies equal protection; that it is a classification based solely on sex and affects a child's "fundamental right" to be fed, clothed, and sheltered by its parents; that no compelling state interest supports the classification; and that the statute can withstand no judicial scrutiny, "close" or otherwise, for it has no relationship to any ascertainable legislative objective. The appellee contends that the test is that of rationality and that the age classification has a rational basis and endures any attack based on equal protection.

We find it unnecessary in this case to decide whether a classification based on sex is inherently suspect. See *Weinberger* v. *Wiesenfeld*, — U. S. — (1975); *Schlesinger* v. *Ballard*, — U. S. — (1975); *Geduldig* v. *Aiello*, 417 U. S. 484 (1974); *Kahn* v. *Shevin*, 416 U. S. 351 (1974); *Frontiero* v. *Richardson*, 411 U. S. 677 (1973); *Reed* v. *Reed*, 404 U. S. 71 (1971).

Reed, we feel, is controlling here. That case presented an equal protection challenge to a provision of the Idaho probate code which gave preference to males over females when persons otherwise of the same entitlement applied for appointment as administrator of a decedent's estate. No regard was paid under the statute to the applicants' respective individual qualifications. In upholding the challenge, the Court reasoned that the Idaho statute accorded different treatment on the basis of the sex and that it "thus establishes a classification subject to scrutiny under the Equal Protection Clause." *Id.*, at 75. The clause, it was said, denies to States "the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute." *Id.*,

marketplace and the world of ideas. See *Taylor* v. *Louisiana*, [illegible] U. S. [illegible], [illegible] n. 17 (1975). Women's activities and responsibilities are increasing and expanding. Coeducation is a fact, not a rarity. The presence of women in business, in the professions, in government and, indeed, in all walks of life where education is a desirable, if not always a necessary, antecedent is apparent and a proper subject of judicial notice. If a specified age of minority is required for the boy in order to assure him parental support while he attains his education and training, so, too, it is for the girl. To distinguish between the two on educational grounds is to be self-serving: if the female is not to be supported so long as the male, she hardly can be expected to attend school as long as he does, and bringing her education to an end earlier coincides with the role-typing society has long imposed. And if any weight remains in this day in the claim of earlier maturity of the female, with a concomitant inference of absence of need for support beyond 18, we fail to perceive its unquestioned truth or its significance, particularly when marriage, as the statute provides, terminates minority for a person of either sex.

[illegible] Only Arkansas, so far as our investigation reveals, remains with Utah in fixing the age of majority for females at 18 and for males at 21. Ark. Stat. Ann. § 57-103. See *Petty* v. *Petty*, 252 Ark. [illegible], 482 S. W. 2d 119 (1972). Furthermore, Utah itself draws the 18-21 distinction only in § 15-2-1 and in § [illegible] (females [illegible] to marriage without the consent of parent or guardian; see also § 30-1-2 [illegible]) [illegible] the [illegible] 21. Elsewhere in the [illegible] and statutes [illegible] [illegible] the same [illegible] [illegible] the [illegible] Likewise, the State's [illegible] provides that the rights of [illegible] [illegible] [illegible]

abridged on account of sex," and that "[b]oth male and female citizens . . . shall enjoy equally all civil, political and religious rights and privileges," Art. IV, § 1, and, since long before the Nation's adoption of the Twenty-sixth Amendment in 1971, did provide that every citizen "of the age of twenty-one years and upwards," who satisfies durational requirements, "shall be entitled to vote." Art. IV, § 2. Utah's statutes provide that any citizen over the age of 21 who meets specified nonsex qualifications is "competent to act as a juror," U. C. A. § 78–46–8, may be admitted to the practice of law, § 78–51–10, and may act as an incorporator, § 16–10–48, and, if under 21 and in need, may be entitled to public assistance, § 55–15a–17. The ages at which persons may serve in legislative, executive, and judicial offices are the same for males and females. Utah Const., Art. VI, § 5, Art. VII, § 3, and Art. VIII, § 2. Tobacco may not be sold, purchased or possessed by persons of either sex under 19 years of age. §§ 76–10–104 and 76–10–105. No age differential is imposed with respect to the issuance of motor vehicle licenses. § 41–2–10. State adult education programs are open to every person 18 years of age or over. § 53–30–5. The Uniform Gifts to Minors Act is in effect in Utah and defines a minor, for its purposes, as any person "who has not attained the age of twenty-one years." § 75–15–2.11. Juvenile court jurisdiction extends to persons of either sex under a designated age. §§ 55–10–64 and 55–10–77. Every person over the age of 18 and of sound mind may dispose of his property by will. § 74–1–1. And the Uniform Civil Liability for Support Act, noted above and in effect in Utah since 1957, imposes on each parent an obligation of support of both sons and daughters until age 21. §§ 78–45–2 (4), 78–45–3 and 78–45–4.

This is not to say that § 15–2–1 does not have impor-

[illegible]

[illegible] application. A minor may disaffirm his contracts. § 15-2-2. A guardian must appear in court by guardian or guardian ad litem. Rule 17(b), Utah Rules of Civil Procedure. A minor has a right of action for injury to or wrongful death of his father child. § 78-11-6. A minor is under the age of majority is not competent or permitted to serve as an administrator of a decedent's estate. § 75-3-414 or as the executor of a decedent's will. § 75-3-203(1). The statute of limitations is tolled while a person is entitled to bring an action is under the age of majority. § 78-12-36. Thus the distinction drawn in § 15-2-1 protects other rights and duties. It has persuasive content, both direct and collateral.

We therefore conclude that under our test every ellipse state interest, or rational basis of something in between. § 15-2-1, in the context of child support, does not survive an equal protection attack. In that context no valid distinction between male and female may be drawn.

IV

[illegible] § 15-2-1 denies the equal protection of the laws as guaranteed by the Fourteenth Amendment, does not give relief to the [illegible] between this appellant and the appellee. With the [illegible] differential held invalid [illegible] mine when the appellant's obligation to his children's support, pursuant to the divorce decree, terminates under Utah law. The appellant [illegible] and the [illegible] [illegible] effect [illegible] applies and that [illegible]

[illegible]

contend, for the age of majority to boys' suits and females at 21. The appellee's view is that any unconstitutional inequities between sexes would be remedied by treating males as adults at age 18, rather than by withholding the privileges of adulthood from women until they reach 21. This plainly is an issue of state law to be resolved by the Utah courts on remand; the point was noted, parenthetically, by the Supreme Court of Utah. 30 Utah 2d at 319, 517 P. 2d, at 1003. The appellant, although prevailing here on the federal constitutional issue, may or may not wish to pursue further his suit. See *Harrison* v. *District Court*, 25 Ida. 540, 511 P. 2d 822 (1973); *Commonwealth* v. *Butler*, Pa. , 328 A. 2d 851 (1974); *Shapiro* v. *Oklahoma*, 316 U. S. 535, 542, 543 (1942).

The judgment of the Supreme Court of Utah is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case.

Penny ● What to ● Hmm?

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 14, 1975

Re: No. 73-1461, Stanton v. Stanton

Dear Harry,

I am glad to join your opinion for the Court in this case.

Sincerely yours,

Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 14, 1975

Re: No. 73-1461 - Stanton v. Stanton

Dear Harry:

Please join me in your opinion in this case.

Sincerely,

Mr. Justice Blackmun

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM J. BRENNAN, JR.

March 17, 1975

RE: No. 73-1461 Stanton v. Stanton

Dear Harry:

I agree.

Sincerely,

Bill

Mr. Justice Blackmun

cc: The Conference

March 14, 1975

No. 73-1461 Stanton v. Stanton

Dear Harry:

Please join me.

Sincerely,

Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 18, 1975

Re: No. 73-1461 -- Thelma B. Stanton v.
James Lawrence Stanton, Jr.

Dear Harry:

Please join me.

Sincerely,

T. M.

Mr. Justice Blackmun

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

April 7, 1975

Re: 73-1461 - Stapton v. Stanton

Dear Harry:

Please join me.

Regards,

Mr. Justice Blackmun

Copies to the Conference

[illegible]
[illegible]

[illegible]

Dear [illegible]:

Please [illegible] for your

[illegible] of [illegible] v. [illegible], 78-[illegible].

William O. [illegible]

Mr. [illegible]
cc: [illegible]

THE C. J.	W. O. D.	W. J. B.	P. S.	B. R. W.	T. M.	H. A. B.	L. F. P.	W. H. R.
						3/3/75		
Join HAB 4-7-75	Join HAB 4-14-75	Join HAB 3-17-75	Join HAB 3-14-75	Join HAB 3-18-75	Join HAB 3-18-75	1st draft 3/13/75 2nd draft 4-9-75	Join HAB 3/14/75	Dissent 1st draft 4-2-75
					73-1461	Stanton v.	Stanton	