cies among the Justices both to lessen and to increase the burden of governmental justification of sex classifications.

In *Reed v. Reed*,[1816] the Court held invalid a state probate law that gave males preference over females when both were equally entitled to administer an estate. Because the statute "provides that different treatment be accorded to the applicants on the basis of their sex," Chief Justice Burger wrote, "it thus establishes a classification subject to scrutiny under the Equal Protection Clause." The Court proceeded to hold that under traditional equal protection standards—requiring a classification to be reasonable and not arbitrarily related to a lawful objective—the classification made was an arbitrary way to achieve the objective the state advanced in defense of the law, that is, to reduce the area of controversy between otherwise equally qualified applicants for administration. Thus, the Court used traditional analysis but the holding seems to go somewhat further to say that not all lawful interests of a state may be advanced by a classification based solely on sex.[1817]

It is now established that sex classifications, in order to withstand equal protection scrutiny, "must serve important governmental objectives and must be substantially related to achievement of those objectives." [1818] Thus, after several years in which sex distinctions were more often voided than sustained without a clear statement of the standard of review,[1819] a majority of the Court has ar-

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[1816] 404 U.S. 71 (1971).

[1817] 404 U.S. at 75–77. *Cf.* Eisenstadt v. Baird, 405 U.S. 438, 447 n.7 (1972). A statute similar to that in *Reed* was before the Court in Kirchberg v. Feenstra, 450 U.S. 455 (1981) (invalidating statute giving husband unilateral right to dispose of jointly owned community property without wife's consent).

[1818] Craig v. Boren, 429 U.S. 190, 197 (1976); Califano v. Goldfarb, 430 U.S. 199, 210–11 (1977) (plurality opinion); Califano v. Webster, 430 U.S. 313, 316–317 (1977); Orr v. Orr, 440 U.S. 268, 279 (1979); Caban v. Mohammed, 441 U.S. 380, 388 (1979); Massachusetts Personnel Adm'r v. Feeney, 442 U.S. 256, 273 (1979); Califano v. Westcott, 443 U.S. 76, 85 (1979); Wengler v. Druggists Mutual Ins. Co., 446 U.S. 142, 150 (1980); Kirchberg v. Feenstra, 450 U.S. 455, 461 (1981); Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 723–24 (1982). *But see* Michael M. v. Superior Court, 450 U.S. 464, 468–69 (1981) (plurality opinion); id. at 483 (Justice Blackmun concurring); Rostker v. Goldberg, 453 U.S. 57, 69–72 (1981). The test is the same whether women or men are disadvantaged by the classification, Orr v. Orr, 440 U.S. at 279; Caban v. Mohammed, 441 U.S. at 394; Mississippi Univ. for Women v. Hogan, 458 U.S. at 724, although Justice Rehnquist and Chief Justice Burger strongly argued that when males are disadvantaged only the rational basis test is appropriate. Craig v. Boren, 429 U.S. at 217, 218–21; Califano v. Goldfarb, 430 U.S. at 224. That adoption of a standard has not eliminated difficulty in deciding such cases should be evident by perusal of the cases following.

[1819] In Frontiero v. Richardson, 411 U.S. 677 (1973), four Justices were prepared to hold that sex classifications are inherently suspect and must therefore be subjected to strict scrutiny. Id. at 684–87 (Justices Brennan, Douglas, White, and Marshall). Three Justices, reaching the same result, thought the statute failed the traditional test and declined for the moment to consider whether sex was a suspect