



STOP ERA EXTENSION

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The Nation's Press Looks At "The Unfairness Doctrine" ...

An Editorial • CEDAR RAPIDS GAZETTE • August 8

Unfairly chasing fairness

Hearings have begun before a Senate Judiciary subcommittee on extending the states' deadline for approval of the Equal Rights Amendment, with full congressional support appearing likely in due course. If that develops as expected, it will be another case of worthy ends (the ERA's adoption) being sought by shabby means.

The central issue in extension of the deadline for another term of years beyond March 22 next year is simply one of playing fair. A basic inconsistency, along with heavy irony, discolors seeking preferential treatment for something that proposes general equality before the law.

This approach would change the rules to benefit one side near the end of the game. It has been likened aptly to football officials' suddenly decreeing a fifth quarter so that the trailing, favored team has a better chance to win.

Even many of the voices always calling loudly for the ERA's approval (ours included) see damages and dangers in this break-through effort at the end.

The New York Times: "The very process of amending the Constitution is at stake. If the ERA were given a second seven-year term for ratification by the states, it would be a clear case of manipulating the process in an effort to achieve a desired result. . . . Any retroactive change, . . . because the set period did not

produce a desired result, would plainly offend the solemn spirit of the amendment process."

The Washington Post: "If Congress is going to give more time for reconsideration by those states that have expressed themselves, in a sense, by not doing anything about the ERA, it should in fairness offer an equal opportunity for reconsideration by those states that have acted affirmatively."

Often blistered by the ERA's worst enemies, these notables among the press are trying to be fair. The Congress, it appears, is not. Nothing in an afterthought extension, anyway, remotely would assure that three more states (at least) will come around to ratify the ERA before its newer deadline falls.

If the Equal Rights Amendment specifying no more sex discrimination is as strong, as worthy and as popular as most of its enthusiasts have reason to believe, another start for it from scratch in Congress would be feasible and fair. If its necessity seems dimmed for some because equality for women has been strengthened on foundations other than the ERA's, the net effect will still be to the good.

In either case, when the goal of the game is assurance of fairness for millions, the way the game is supervised and played should be fair, too.

THE UNFAIRNESS DOCTRINE

"There is nothing sacrosanct about a seven year limit on ratification, but once it has been made a part of a proposal passed by Congress and put before the states it should remain," from an editorial, ST. LOUIS POST DISPATCH, August 17.

"This newspaper has supported the amendment ... But we do not support extending the deadline for ratification, and we hope the Senate rejects the measure. A period of seven years is sufficient," from an editorial, NEVADA STATE JOURNAL (Reno), August 17.

"...the extension is a dubious means to a desirable end," from an editorial PITTSBURGH POST-GAZETTE, August 18.

"If states choose to regard the original joint resolution proposing ERA as a binding contract between them and Congress, they then could maintain that the terms of the contract expire at the end of seven years. The extension resolution amounts to a new contract," from an editorial, BEAUMONT (TX) ENTERPRISE, August 10.

"There was nothing in the joint resolution about extending the deadline if ERA couldn't get three-fourths of the state legislatures to approve within seven years. But because the amendment is still three states short, an extension campaign was organized. It's a political effort by those who want to change the rules because the apparent outcome doesn't suit them," from an editorial, THE SALT LAKE TRIBUNE, August 17.

Talk It To Death

WHETHER or not Congress has the constitutional power to extend the deadline for ratification of the Equal Rights Amendment is a question we hardly feel qualified to answer.

Sam Ervin, who, as a senator from North Carolina, was generally considered the foremost constitutional expert on Capitol Hill, insists that it does not. We are impressed by his arguments, but, of course, Ervin is not the Supreme Court.

If the Senate approves the extension, as the House already has done, it will be the court that has the final say.

We hope the Senate kills the extension.

To begin with, we consider the amendment totally unnecessary.

Congress already has the power, under the 14th Amendment, to pass any legislation it wishes guaranteeing equal rights for women. It already has passed several laws doing so, and government agencies have issued hundreds of regulations spelling out those laws, including such inanities as the ban on all-boys choruses and the ban on father-and-son dinners.

If there are any rights that women's organizations feel the existing legislation does not grant them, they can press for additional laws. This is the proper remedy for any injustices that may now exist.

In pressing for the 39-month extension of the deadline, Rep. Elizabeth Holtzman, D-N.Y., declared: "We are just asking for a reasonable debate." Congress originally voted to provide seven years for debate. How can anyone say that isn't enough?

No amendment has taken more than a couple of years to ratify. The last, the 26th, lowering the voting age to 18, was ratified in three months. The 19th, giving women the right to vote, was ratified in 14.

A constitutional amendment is supposed to represent a consensus. Can an amendment that requires more than 10 years to ratify possibly represent such a consensus? Already there are tens of millions

of Americans who were not of voting age when their state legislatures approved the enactment of ERA. And tens of millions of voters alive then are now dead.

There have been vast changes in public opinion since Congress proposed the amendment on March 22, 1972, as witness the fact that four states that ratified it have rescinded their action.

And this brings up another question. In extending the deadline, the House also denied state legislatures the right to rescind.

Proponents of ERA were given an opportunity to persuade legislatures, which voted down ERA, to change their minds. Opponents were not given the same right to work on legislatures which voted for ERA.

This is manifestly unfair. The House has changed its mind about the deadline. It wants to give legislatures, which rejected ERA, a chance to change their minds. It will not give the same privilege to states which approved ERA.

In all probability, it will take a filibuster to kill the ERA extension in the Senate. That's one filibuster we will applaud.

An Editorial • WISCONSIN STATE JOURNAL • August 17

A one-way extension

It's up to the Senate to decide the future of the Equal Rights Amendment.

On Tuesday, the House voted 233-189 to extend the deadline for ratification of the ERA by 39 months. Thirty-five states have voted in favor of the ERA, but 38 states must approve the amendment before it can become law. Four states have rescinded their earlier approval of the ERA.

(The Wisconsin delegation split 5-4 in favor of the extension. Democrats Les Aspin, Alvin Baldus, Robert Cornell, Robert Kastenmeier and Henry Reuss voted to extend the deadline for approval of the amendment. Democrats David Obey and Clement Zablocki and Republicans Robert Kasten and William Steiger voted against it).

Almost seven years have passed since Congress submitted the ERA to the states for ratification or rejection. The merits (and demerits) of the ERA have been hotly debated up and down the land.

The amendment was quickly approved by more than two dozen

states, but the number of approvals has slowed to a trickle in the last two years. Opposition to the ERA is fierce in some quarters, and it seems highly unlikely that the ERA will become law unless the deadline is extended.

The Wisconsin State Journal strongly supports the ERA and the principle of equal rights and responsibilities for women.

But one tactic adopted by ERA supporters is disturbing.

The House-passed measure would allow additional state legislatures to vote for ratification, but wouldn't allow legislatures to rescind earlier votes in favor of ratification.

If a state which has failed to vote in favor of the ERA can change its mind during the extended period, then a state which has voted in favor of the amendment ought to be allowed to change its mind and rescind its action.

What was fair during the original 7-year period should be fair during the extended period.

More time? No

The ERA, an American tragedy

THE United States needs the Equal Rights Amendment.

But the nation does not need the House-approved extension of the time limit for ratification.

The failure of ERA and the push for more time, in fact, are sad testaments to much of what is wrong with American politics.

First, the extension is needed because American politics collapsed into an embarrassing, chaotic spasm of irrationality under the pressure generated by the fight over ERA.

Extension of the ratification period would violate the nation's basic sense of fairness and it would wound the integrity of the amendment process.

Had the nation been spared the noisy nonsense about single-sex restrooms, homosexual marriage and reductions in widows' Social Security benefits; had the ratification process been able to deliver sensible, mature consideration by state legislatures; had craven and ambitious lawmakers been able to restrain themselves from shameless exploitation of fear, prejudice and misunderstanding

Then ERA would have passed, with states and months to spare.

Instead, the nation was wrung through the agony of seven years of blood-curdling struggle over the ERA, an amendment built on one simple sentence, a measure to establish finally and forever a simple and indispensable principle of national policy:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

So, with the amendment stalled a mere three states shy of the required 38 and the deadline of March 22, 1979, drawing near, the supporters went to Congress for an extension of seven years.

On Tuesday, the House approved an extension of 39 months beyond the deadline. If the bill survives the predictable Senate filibuster, the new deadline will be June 30, 1982.

The campaign to rescue ERA with more time arises from the best of motives. But the effort comes down to another instance of national willingness to sacrifice substance to form. The extension of time violates fundamental principles of fairness.

And in the long run, the violation of substantial fairness is as distressing as the collapse of reason that stalled ERA at 35 states.

Any political system based on consent of the governed demands that people believe that the game is played with an honest deck of cards. People must believe that everyone plays under the same rules.

To grant an unprecedented extension of time is the same as dealing one player new cards in the middle of a hand. The extension would offend the

sorely tried popular confidence in the fairness of the system.

Moreover, the extension would corrupt the process of amending the Constitution.

The first blow to the integrity of the amending process is the House bill's refusal to allow states to rescind their ratifications during the 39 months. The door would be open to state legislatures willing to ratify ERA. The door would be shut to states that want to withdraw their ratification.

The second and deeper wound is the precedent that would be set. An extension of time would say nothing less frightening than this:

"When it comes to amending the Constitution, it isn't the mood of the nation that controls. Nor is it the formal action of the state legislatures. What matters is the willingness of Congress to juggle the rules to produce the desired result."

By extending the time, in other words, Congress would be assuming the power to say which amendment gets a second chance. Such authority, of course, crowds close upon the fundamental power settled in the states and the people, not in Congress: The power to amend the Constitution.

A main argument of the opponents of extension cuts deeper than many realize. This is the objection that the traditional seven years is a span sufficiently short to express the consensus of the nation.

The hidden edge to this argument is that the United States is a nation virtually without consensus. The collapse of consensus politics explains the fail-

ure of ERA to get 38 ratifications in seven years. And it explains the willingness of the House to step with a daring and dangerous arrogation of power to Congress.

Consensus is absent on a range of urgent questions, issues upon which there is no common sense of direction, no essential agreement on what is right. We grow dissatisfied with presidents, governors and mayors almost as quickly as we elect them. Public opinion is so uncertain of itself, its moods so delicate that a zealous minority can frighten the wits out of hundreds of legislators.

Yes, the course of ERA is sad: Fear won. Justice lost.

The nation proved itself blind to the clearest of compass readings. By the hundreds, politicians abandoned a great question to scramble for ignoble safety and mean advantage.

But extending the time would compound the tragedy.

Extension of time would undercut the integrity of the amendment process. It would do so in the service of a cause that is right, but beyond the nation's present capacity for justice.

"To give ERA an extension is as unfair as constantly asking those states which already have voted in the negative to vote again, and again, and again. This is not the way in which amendments should become part of the Constitution, it is amendment by coercion," from an editorial, CARLISLE (PA) SENTINEL, August 2.

"As far as extension of the ratification period goes, proponents of the amendment knew their deadline and should have geared their campaign toward that goal. If they have done this and the amendment has still not reached the ratification stage, then we say end the matter. It is unfair to give an advantage to proponents ... by extending the deadlines," from an editorial, CARTHAGE (TX) PANOLA WATCHMAN, August 13.

ERA Vote in House Illogical

ADVOCATES OF the Equal Rights Amendment have won approval of a 39-month extension to the original ratification deadline which expires next March 22. In quick succession the House of Representatives voted 243 to 171 and 230 to 183 to reject efforts to require a two-thirds vote instead of a simple majority for passage. That paved the way for House approval and sending the measure to the Senate where it is expected to face more determined opposition.

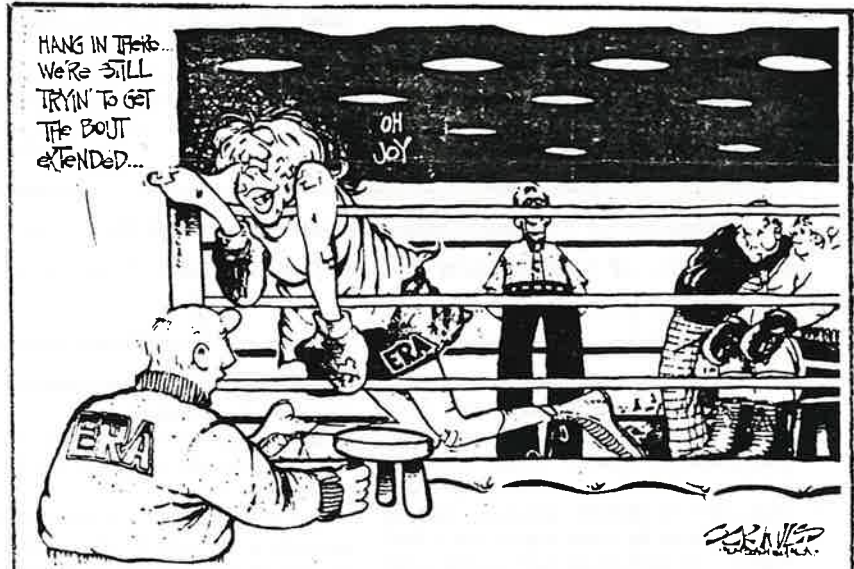
Backers of the ERA in the House were obliged to ignore sound legal procedure to produce the results demanded. Under ordinary circumstances amendments must be approved by a two-thirds vote of Congress. This raised the question, should not an extension also require a two-thirds vote rather than simple majorities? Yesterday's answer, curiously enough, was "no" — the majority rule still holds except in this special instance.

Then there is the question of rescissions by the states, of which there are presently four that want to reconsider earlier approval of the ERA. The House Judiciary Committee and yesterday a vote of the entire body, takes the questionable position that states which want to withdraw their support of the ERA during the 39-month extension period may not do so. But any state that earlier voted against the amendment may decide at any time during the extension to vote "yes."

In other words, the right to switch is one-sided in favor of passage. Rep. Thomas F. Railsback, R-Ill., who favors passage of ERA, offered a "fair play" rescission amendment on the floor of the House, has logic on his side but at this stage of all the clamor for ERA, logic and even-handed treatment have been thrown to the winds.

Unless these issues are dealt with more realistically in the Senate, valuable constitutional precedents will be destroyed. The House has voted to change the Equal Rights Amendment

in important respects. If this can be done without resubmitting the changes to the 35 states which have given their approval, the system of amending the U.S. Constitution stands in danger of becoming a catspaw for other and more dangerous mischief.



The ERA Game

Two stories appearing on page one of Wednesday's edition of the Times point out a contrast between the public and the House's opinions on the Equal Rights Amendment and its extension.

There is no doubt that a majority of the polled public and our representatives are in favor of passing the ERA. However, the split comes over whether there should be an extension on the amount of time the states have to vote on the proposed constitutional amendment.

In the first Associated Press article, 54 percent of the men and women polled favor the ERA. But of those same persons only 34 percent think there should be an extension.

In the second AP story, the House of Representatives voted to approve a 39-month extension.

We wonder if the representatives' votes are truly representative of the American population.

We support the ERA, believing it is important to outlaw discrimination based on sex. On the other hand, we also realize that Congress has never extended the deadline for ratification of a constitutional amendment, although until the prohibition amendment was submitted to the states in 1917, no time limits were set.

By the House's vote Tuesday, the majority of the representatives are changing the rules in the bottom of the ninth inning when the score is obviously close but not in their favor.

ERA: Correct It Or Reject It

Tuesday's House vote extending by 39 months the deadline for ratification of the Equal Rights Amendment raises fundamental questions of fairness and political philosophy. The vote, if seconded by the Senate, also makes it far more likely that the courts, not the states, will ultimately decide the fate of the amendment.

The ERA extension passed by the House would permit states that have rejected ratification, Illinois for example, to change their minds. But the House specifically defeated an amendment that would have allowed the converse: States that have ratified to rescind their action. That rightly strikes many on both sides of the ERA debate as unfair.

Legally, the extension would almost certainly cast the entire ratification process and ultimately the amendment itself into limbo.

Twenty-four of the 35 states that have ratified the ERA indicated at the time of their action

that the original seven-year time limit was a material consideration in their decision. Ten of the states were explicit in their insistence that their ratification was conditioned upon the seven-year limitation.

If the 39-month extension approved by the House becomes law, there can be little doubt that some of the ratifying states and/or ERA opponents will go to court to determine if these ratification actions remain binding. They will have a persuasive case to make.

Indeed, there is even a question of whether Congress, having submitted to the states a proposed constitutional amendment together with its ratification time limit, can extend that limit. This, too, is almost certain to be litigated.

Finally, there is the profound question of the political wisdom of a ratification extension.

The ratification process itself is clearly intended to insure that amendments to the Constitution

enjoy the widest possible popular support as a condition of their addition to the Constitution.

In the case of the ERA, its popular support may be eroding rather than increasing. Certainly, its opposition has grown and deepened in the six and one-half years the states have considered the amendment.

Thirty of the 35 states that have ratified the ERA did so within a year of its submission to the states. Since 1973, only five additional states have ratified and four states that originally approved the amendment have rescinded their action. Three states — Wisconsin, New York and New Jersey — have rejected the amendment in referendum votes on adding it to their state constitutions.

Under these circumstances, we cannot support an extension of the ratification deadline and we urge the Senate to correct it, including the rescinding language, or to reject it.

House Caves In on ERA

The vote of Missouri's congressional delegation is one encouraging note to be salvaged from the House cave-in on extending the time for ratifying the Equal Rights Amendment. Of the 10 Missouri members in the House, 8 voted against the unwarranted and unreasonable 39-month extension. Reps. William L. Clay, D-St. Louis, and Rep. Richard Bolling, D-Kansas City, are the only two Missourians who voted for the extension.

Even some vigorous ERA supporters have expressed opposition to changing the rules in the middle of the game. In that spirit the Senate will do well to let the proposal for

extra innngs die, either through inattention or filibuster.

Constitutional authorities are agreed that apart from one's preferences on ERA, tampering with the process for amending the Constitution should not be permitted.

Fair-minded persons will concede that ERA proponents have had all the time required to push their cause. If ERA were needed or wanted, it would have been adopted long ago. The unfairness of those demanding extra time is compounded by their unwillingness to recognize the right of states that have rescinded ERA to have second thoughts.

We stand for the Constitution of the United States with its three departments of government, each fully independent in its own field.

Why extension would be wrong way to push ERA

Never before has Congress extended the time limit for ratifying a constitutional amendment.

So the nation's lawmakers will be setting a major precedent if the Senate goes along with the House's decision this week to grant a 39-month extension for approving the controversial Equal Rights Amendment.

It's a precedent that would violate the wishes of most Americans and run some serious risks.

Only this week an Associated Press-NBC News poll showed that while 54% of the public favors ERA, 55% of the people are against extending the deadline for ratification.

If that deadline is extended, a poll by Opinion Research Corporation shows 61% of the American people feel the states should be allowed to rescind their previous approval of the amendment.

Yet the House of Representatives pointedly ignored these well-known views even though this body was intended by the Founding Fathers to be particularly sensitive to public sentiment.

If the Senate is wise, it will pay closer attention to this sentiment and shoot down the ERA extension for several important reasons.

The present limit for ratifying the ERA is the same seven-year limit that has been applied to every constitutional amendment in the past 75 years.

The average time for ratification of all the amendments now in the Constitution is only one and one-third years. The longest time ever taken for any of these amendments is three years and 11 months.

By contrast, the ERA has been given six years and five months but is still at least three states short of the 38 needed for ratification.

Thirty of the 35 states that have approved the ERA did so within one year of its submission to the states.

During the past five and a half years, however, only five states have been added to the ratification list — and four

of the previously ratifying states have withdrawn their approval.

More than a year and a half has passed since the last state, Indiana, approved this amendment.

This situation strongly suggests that the ERA is, in effect, dead in the water and that an extension won't accomplish anything except to waste more time and energy.

As The Heritage Foundation notes, there were many unanimous, even voice, votes in the legislatures of the first 30 states that ratified ERA. Many of these states, it seems clear, had little or no substantive debate on the amendment.

By contrast, the ERA has been considered and rejected in committee or on the floor nearly 90 times in the legislatures of the 15 states that have never ratified. In many of these states, annual fights over the ERA dominate much if not most of their legislative sessions.

So it's absurd for ERA advocates to insist, as they do, that the amendment hasn't received enough attention and more time is needed to debate its merits so they can be better understood. And it's manifestly unfair to insist, as they do, that states which rejected ERA can change their minds but states which ratified it can't.

If Congress extends the limit for ratifying the ERA, what's to keep the lawmakers from prolonging all sorts of other squabbles over revising the Constitution? Indeed, if a ratification period can be extended, what's to prevent such a limit from being curtailed? While there's no such inclination now, who can tell what future Congresses might do on the basis of the ERA extension precedent?

In any event, what a sorry contrast the long fight over the ERA presents compared to the broad consensus and agreement that greeted the other 26 amendments that are now part of the U.S. Constitution.

The Senate should spare the nation more needless torment over this divisive issue and get on to other business.

"ERA, like any of the previous 26 amendments, ought to stand on its own merits. If it can't be ratified within the seven-year deadline, then it ought not to become part of the Constitution," from an editorial SPRINGFIELD (OR) NEWS, July 29.

"We support the idea of ERA, but do not believe it should receive special dispensation in the attempt to ratify it. It should stand or fall within the original deadline," from an editorial, SAN ANTONIO NEWS, August 4.

"For the first time in history more time is allowed for pro-amendment supporters to drum up assistance while those who are opposed to it have ... their hands tied retroactively. That's equal rights?" from an editorial, PORTERVILLE (CA) RECORDER, August 8.

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