

Why did the Equal Rights Amendment of 1972 fail to gain ratification? What can we learn?

In March 1972, the Equal Rights Amendment (ERA) successfully passed Congress. Ten years later, despite initial victory in gaining ratification from 35 of the necessary 38 states, and a three-year extension, the ERA fell flat. In examining the main reasons for its failure I hope to shed light on how future attempts may achieve greater success. The usefulness of this assessment however, extends far beyond the ERA. In fact, methods of passing even somewhat controversial change may benefit from this exploration.

Firstly, and too often overlooked, is the fundamental issue of passing any constitutional amendment in the United States. As a result, every avenue ought to be explored and any potential limits, in this case a time-frame, objected to. Next, I examine the role of organised groups - the support, opposition, and church networks - and how these led to the erosion of support for the ERA. Finally, and what this assessment seeks to argue, is that despite the mutual dependency of these factors, the most significant reason for its failure was the time the amendment was proposed, along with the lack of clarity on what the act would achieve. This was a preventable aspect that could have well-been achieved without compromising morals, however, the failure of pro-ERA forces to do so led to its failure.

Contrary to popular opinion today, men at this time were not the main body to oppose Equal Rights legislation. In fact, groups of women bound together to voice their disdain for the proposed amendment. Focus throughout will be on these particular factions. In order to distinguish between supporters and opponents of the proposal, I have separated women into three groups depending on their view of gender and the role of women. These selections have been influenced by Kyvig's proposal of groups and reflect those that existed following the nineteenth amendment, with its guarantee of voting rights regardless of sex.¹ Firstly, there are the traditionalists. Women who saw their role as one of wife, mother and primary care giver. Next, protectionists; although typically agreeing women had a legitimate place beyond the house, protectionists believed women and their children needed legal protection and aid due to the possibility of social, economic and martial exploitation. In my opinion it is this facet that represented the majority of those arguing for equality, but only that which was compatible with female privilege. Lastly, and most importantly in this debate, there was a group of women who wanted total equality, who shall be hereon referred to as revisionist feminists. These women believed, as Kyvig notes, 'without absolute legal equality, women would inevitably remain second-class citizens'.² In 1923, supported by the National Woman's Party, Alice Paul and Crystal Eastman drafted the ERA in an attempt to achieve this goal. The ERA that was eventually passed in 1972 stated 'equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex'.³ These groups persisted for decades. Although those who desired total equality were initially a minority, in light of the position afforded to women during the War, the post-war era saw support for the cause rise. As a result, traditionalists and protectionists united to form the bulk of opposition to the ERA.

Problems with the constitutional passage of the ERA

One of the main aspects that has been neglected in historiography is arguably one of the most important underlying the whole process; the overall difficulty in passing any federal amendment in the United States. In over two hundred years, only twenty-seven amendments have been added to the Constitution. Part of this is because any constitutional amendment in the US requires a two-thirds majority from Congress and three-fourths of states. The difficulties of even gaining the approval of Congress can be seen by the fact the ERA was proposed to Congress in every session from 1923 up until 1972 when it finally passed through both the

¹ David E. Kyvig, 'The Historical Perspective and Constitutional History: Historical Misunderstanding and the Defeat of the ERA', *The Public Historian*, Vol. 81, No. 1 (1996) pp.48-50

² Kyvig, *The Historical Perspective*, p.49

³ Janet K. Boles, *The Politics of the Equal Rights Amendment*, (New York, 1979), p.1

House and Senate.⁴ Gilbert Steiner also notes that ‘three-fourths of the whole is most substantial majority imposed anywhere in the American political system’, even larger than the amount required to form the union initially.⁵ The choice of supporters, therefore, to attempt such change on a notoriously difficult platform appears counter-intuitive given the choice of other alternative methods.

On a state level, however, the process is much simpler. Although it varies state to state, the most common way a state constitution can be revised is through a legislatively referred constitutional amendment. This is used often and explains why, for example, the Maryland State Constitutions Project reported in 2000 Maryland has had ‘almost 150 state constitutions, [which] have been amended roughly 12,000 times.’⁶ This shows ERA supporters may have had more luck targeting states individually instead of a federal level. On a state level, twenty-eight states eventually incorporated the ERA in some form or another, showing how if persistent, success could have been achieved.⁷

Furthermore, supporters never called for state conventions to ratify the amendment. Gallup polling found support for the ERA never dipped below 56 per cent, suggesting activists may have been more successful in a convention given the majority.⁸ Of course this figure is dubious as studies by Bokowski and Clausen blame nominal public ignorance and misperception about the ERA contributed to skewed results.⁹ However, the Gallup poll produced similar results to Sandra Gill’s study in which the 1977 National Opinion Research Centre survey was used. This survey sample used a wide breadth of the US population unlike that produced by scholars such as Scott for example and ensured only individuals who had read or heard about the ERA responded.¹⁰ As a result, a direct vote by the population could have allowed popular preference to prevail, as seen in 1933 with the twenty-first amendment. A state convention would also mean supporters no longer had to leave the decision up to a predominately male state legislature that was constantly attacked for their opinions and fearing political re-election. Doing so, could have prevented the failure of the ERA.

Finally, one of the key problems that was later to be debated, was the imposition of a seven-year time limit. A time limit was first used with the eighteenth amendment, but for some reason not with the nineteenth, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth or twenty-seventh amendments. In this case, problems lie in the overconfidence of supporters who thus, did not voice serious objections to a limit. Representative Martha Griffiths, for example, who had overseen several amendment ratifications said ‘Personally I have no fear that this amendment will be ratified as quickly as was the 18-year-old vote’, that being 100 days.¹² Griffiths neglected to realise though that a time limit meant only a few state legislatures would have to hold out against pro-ERA voices in order to block the amendment. In the end, it was not enough that they had apparent majority support; they also needed to be politically effective in order to persuade the state legislatures that the issue would not disappear even if the ERA failed initial ratification. It took the twenty-

⁴ Alice Paul Institute, ‘The ERA: A Brief Introduction’, The Equal Rights Amendment: Unfinished Business for the Constitution, N/A. <<http://www.equalrightsamendment.org/overview.htm>>. Accessed on 31st March 2015.

⁵ Gilbert Y. Steiner, *Constitutional Inequality: The Political Fortunes of the ERA*, (Washington, 1985), p.95

⁶ N/A, ‘The NBER/ Maryland State Constitutions Project’, Completed State Constitutions, 2000, <<http://www.stateconstitutions.umd.edu/index.aspx>>. Accessed on 30th May 2015.

⁷ David Berman, *State and Local Politics*, (New York, 2000), p.78

⁸ Gallup poll from October 1974 to August 1982 cited by Louis Bolce, Gerald De Maio & Douglas Muzzio, ‘The Equal Rights Amendment, Public Opinion & American Constitutionalism’, *Polity*, Vol. 19, No. 4 (1987), p.552.

⁹ Deborah Bokowski & Aage R. Clausen, ‘Federalism, Representation and the Amendment Process: The Case of the Equal Rights Amendment’, *Annual Meeting of the Midwest Political Science Association*, (Chicago, 1979), p.15

¹⁰ Wilbur J. Scott, ‘The ERA as Status Politics’, *Social Forces*, Vol. 64, No. 2 (Dec 1985), pp.499 – 506.

¹¹ Sandra K. Gill, ‘Attitudes towards the ERA: Influence of Class and Status’, *Gettysburg college: sociological perspectives*, Vol. 28, No. 4, (October 1985), pp. 441-462

¹² Representative Martha Griffiths, 117 Congressional Record, (1971) cited by Allison L. Held, Sheryl L. Herndon & Danielle M. Stager, ‘The Equal Rights Amendment: Why the ERA remains legally viable and properly before the states’, *William & Mary Journal of Women and the Law*, Vol. 3, No.1, (1977).

seventh amendment 202 years to gain ratification - maybe all they needed was time.¹³ In hindsight, had they attempted to target state constitutions without a time limit imposed, or even tried the alternative state convention method of ratification, the ERA may have been more successful, pushed through the political process and lay in the constitution today.

Organised groups & Church Networks

The role of formal groups and meetings also played a part in preventing the ratification of the ERA. Although there were several groups who opposed the ERA, the largest, and the one of focus here will be STOP-ERA. Their success is surprising given their lack of influential figures. Supporters counted Nixon, Ford & Carter as allies. Arguably, however, the most successful attribute of STOP-ERA was their committed and highly persuasive leader, Phyllis Schlafly, an icon of the New Right antifeminist movement. In *The Phyllis Schlafly Report*, Schlafly wrote an article called 'What's wrong with Equal Rights for Women?'¹⁴ This helped to galvanise united support against the ERA by attracting both traditionalists and protectionists. To the traditionalists she stated: 'Why should we lower ourselves to equal rights when we already have the status of special privilege? ... We are the beneficiaries of a tradition of special respect for women which dates from the Christian age of Chivalry.'¹⁵ To protectionists, Schlafly believed whilst women were different from men, there was no problem with this, and they ought to be protected as such. She argued that the woman's movement would destroy the family and harm those who depended on it most - women and children: 'The family gives a woman the physical, financial and emotional security of the home - for all her life'.¹⁶ Schlafly closed the article with a bold statement: 'Tell your Senators NOW that you want them to vote NO on the ERA'.¹⁷ This persuasive attitude and bold determination generated much needed support for the group as Schlafly knew precisely who to target and how to attract them.

However, it is interesting to note that it was not only anti-ERA groups that damaged the ERAs image and contributed to the failure of ratification. Defenders of the ERA marred its reputation too. The competing conferences hosted by pro and anti-ERA forces in Houston (1977) exemplifies this damage. Pro-ERA forces were part of the new revisionist liberal feminist movement of the sixties, largely sparked by the works of Betty Friedan.¹⁸ Their united commitment was key for the ERA progressing as far as it did. However, in 1977 Austin, it irrevocably broke down. Schlafly writes that 'the women's Lib movement sealed its own doom by 'deliberately hung around [their] own neck the albatross of abortion, lesbianism, pornography and Federal control' - publicly voicing their support for such issues.¹⁹ Not only did this create division among existing supporters, as Critchlow notes, it meant they failed to reach beyond their 'narrow circle of feminists into Middle America; critical to winning the ERA.'²⁰ The issues they praised so actively were very contentious in society. In regards to abortion, for example, the the recent 1976 Hyde amendment to appropriation bills would, opponents of the ERA claimed, provide state-funded abortions. Gilbert Steiner had warned of this danger in 1975, writing 'public financing of abortion is to the [modern] ERA campaign ... what protective labour legislation was to the [earlier] ERA campaigns.'²¹ In other words, a significant dividing point in public opinion and something that would cause people to switch from support to

¹³ John J. Patrick, Richard M. Pious & Donald A. Ritchie, *The Oxford Guide to the United States Government*, (New York, 2001), p.561

¹⁴ Phyllis Schlafly, 'What's wrong with 'Equal Rights' for Women?' *The Phyllis Schlafly Report*, Vol. 5, No.7, (1972): pp.1-4.

¹⁵ Schlafly, 'What's wrong with 'Equal Rights' for Women?', pp. 1-4

¹⁶ Schlafly, 'What's wrong with 'Equal Rights' for Women?', pp.1-4.

¹⁷ Schlafly, 'What's wrong with 'Equal Rights' for Women?', pp.1-4.

¹⁸ Zillah R. Eisenstein, *Feminism and Sexual Equality*, (New York, 1984), p.2

¹⁹ P. Schlafly cited by 'Interview with Phyllis Schlafly.' Interview by M. DePue. ALPL Oral History Program, Illinois, 5 Jan. 2011.

<http://www.illinois.gov/alplm/library/collections/oralhistory/illinoisstatecraft/era/Documents/SchlaflyPhyllis/Schlafly_Phy_4FNL.pdf>. Accessed on 31st March 2015.

²⁰ Donald T. Critchlow, *Phyllis Schlafly & Grassroots Conservatism*, (New Jersey, 2005), p. 247

²¹ Gilbert Y. Steiner, *Constitutional Inequality: The Political Fortunes of the ERA*, (Washington, 1975), p.103

opposition. It helps to provide a reasonable explanation for why, three months later, pro-ERA forces had to apply for an extension of time.

Though this is true, what many ERA historians such as Critchlow neglect to mention here, however, is that there is another reason behind such a large swing in opposition. By voicing support for abortion, lesbianism, pornography etc. the ERA was increasingly incompatible with conservative church networks. With the high levels of religion in the States, it is unsurprising that the ERA thus failed ratification. Tedin's data collected in Texas 1975, for example, found a strong connection between political behaviour and religious affiliation, and found that social and demographic factors only marginally reduced this relationship.²² This is evidenced by his survey - 49.4 per cent of pro-ERA women were affiliated to religion, whereas 100 per cent of surveyed anti-ERA activists listed some sort of religion.²³ Thereby suggesting religion is the most fundamental reasons for opposition to the ERA. The main issue with Tedin's data is that by only using activists he paints a radical picture opposed to a general one. However, Tedin himself notes 'given the magnitude of the coefficients reported here, we suspect that the results of this study would hold up reasonably well in other states too'.²⁴

It is clear too that communities in some states were motivated through church networks to reject the ERA. To give an example of this, Neil Young demonstrates how the Mormon Church was responsible for the defeat of the ERA in Utah, Nevada and Idaho. With 1.3 million Mormons residing in these three states, their influence was sizeable.²⁵ Young goes on to explain the tactics used by the Mormons to ensure defeat in these states, and his arguments are very convincing. In Utah, for example, thirteen thousand Mormon women arrived at the International Women's Year Conference and 'in keeping with church directive by harassing various speakers, voting on platforms before discussion and soundly defeating every proposal'.²⁶ This move was initiated by the Church as every ward was required to send at least ten women. In addition to this, in 1975, a day before Utah legislature's opening session, the Mormon Church published a statement against the ERA writing how men and women were made different by a Divine Creator and how the proper gender roles included the submission of women. Further, they added that the ERA was 'not only imperfect but dangerous' and 'so broad that it is inadequate, inflexible and vague and would work to the disadvantage of both men and women'.²⁷ The church reiterated that earthly activity would further your chances of reaching the highest celestial kingdom, and since the church asked for their support, followers wanted to assist this cause. In Nevada, Mormons made up a mere ten per cent of the population and so chances of them deciding the referendum being held on the ERA seemed unlikely. However, gathering in Las Vegas, where fifty per-cent of Nevada's population lived, the Mormon church spoke of the negative new world the ERA would create.²⁸ As a result, Mormons began door-to-door canvassing. On the day of the state referendum, (one of the few states to use this method), Young notes how '95 per cent of all eligible Mormons in Nevada showed up ... rousing two-to-one defeat'.²⁹

Although Young puts forward a very convincing argument, and the Mormons were undeniably influential in these areas, in ERA historiography, religion is too often equated with the failure of the ERA. It was possible for the ERA to gain ratification even with twelve states opposing it. The fact Mormons only impacted state-level affairs therefore suggests in reality they contributed very little to the overall failure of the ERA. Also, it

²² Kent L. Tedin, 'Religious preference and pro/anti activism on the ERA issue', *Pacific Sociological Review*, Vol. 21, No. 1 (1978), p.64

²³ Tedin, *Religious preference*, p.60

²⁴ Tedin, *Religious preference*, p.65

²⁵ Neil J. Young, 'The ERA is a Moral Issue: The Mormon Church, LDS Women, and the Defeat of the Equal Rights Amendment', *American Quarterly*, Vol.59, No.3, (2007), pp. 623-641.

²⁶ Neil J. Young, *The ERA is a Moral Issue*, p. 623

²⁷ Mark E. Petersen, 'Equal Rights Amendment', *LDS Church News supplement in Desert News*, (1975).

²⁸ Neil J. Young, *The ERA is a Moral Issue*, pp. 623-641

²⁹ Neil J. Young, *The ERA is a Moral Issue*, pp. 636 - 637

is important to note that not all religious influence was negative, or supported simply because the church deemed it so. For example, Janet Allured examines the United Methodist Church in Arkansas and the influence they had on their followers' opinion of the ERA.³⁰ The official stance was that of positive support given 'God created all men equal', yet even though national leaders advocated this in a top-down approach, the membership in Arkansas was not necessarily supportive of this view and there were few activists heavy to spread their message. In fact, it was thought to have caused a decline in membership. Allured predicts after anti-ERA Northern Arkansas Conference in 1975, they lost 1 per-cent of their members, and after the Little Rock Conference of 1981, where United Methodist Church members gathered to discuss ways to prevent states rescinding their votes of support for the ERA, a further 1.9 per cent left, equating to a 72,000 fall in membership over this period.³¹ It is important too to highlight the difference between the leadership of the Mormon Church and the United Methodist Church. In the Mormon Church, the role of officials is one of spiritual leadership, the head of the Church is seen as a somewhat prophet who can even add to the bible. On the other hand, the Methodist Church is much divided in their opinions, even amongst higher members of the Church, they are seen more to manage the church than shape it.

Overall, though key events and key individuals, such as Houston and Schflay in organised groups, or Nevada and the formal leadership of the Mormon Church in religious groups were significant, this was not enough. What was key to success or failure for the ERA was not how many supporters you had, nor how much money you could raise, but how many members were active. People needed to agree your debate was important, and want to do something about it. This is where anti-ERA forces succeeded, as seen by the number of Mormon voters that turned out in Nevada for example.

Timing & Consensus

Finally, the timing of the proposition, along with a lack of consensus on what it would achieve, is the final and main reason the ERA failed to gain ratification. J. Allen Smith wrote: 'It is impossible to secure amendments to the Constitution unless the sentiment in favour of change amounts almost to a revolution.'³² To supporters of the ERA, recent change in the 1960's had amounted to somewhat of a revolution. With laws such as the Civil Rights Act including a provision to prohibit employment discrimination on the basis of gender, the 1960s saw a surge in revisionist feminist thought. Groups such as the National Organisation of Women (NOW) emerged as the century progressed. With the Civil Rights Movement creating a society concerned with personal freedoms and rights, these groups found members on college campuses, middle-class suburbs and so on. By 1967, women accounted for one-third of the labour force with a median age over forty.³³ By the end of the sixties, NOW were the most powerful female rights organisation and the women's liberation movement appeared to be in full swing. The ERA was the central demand of this group and it became clear the traditional role of women as mothers and wives attending to their male breadwinner counterparts was out of date. There appeared to be a need to change the definition of gender and parental roles. In 1972, convinced by the apparent transformation in ideals, Congress left behind traditionalism and protectionism to embrace these new groups, shown by the passing of the ERA in both the House and the Senate.

However, although the timing here appears perfect, given it seemingly coincides with radical change, the main problem with this timing was that although the majority of the population appeared to be in favour of the ERA, this did not reflect widespread support. Critchlow attributed this to a cause of their failure, writing 'optimistic as they were, they sometimes failed to realize that they were challenging male privileges and

³⁰ Janet Allured, 'Arkansas Baptists and Methodists and the Equal Rights Amendment', *Arkansas Historical Quarterly*, Vol. 43, No.1 (1984) pp.55-66

³¹ Janet Allured, 'Arkansas Baptists', pp.55-66

³² J. Allen Smith, *The Spirit of American Government*, (New York, 1907), p.46

³³ Jo Freeman, 'Social Revolution and the Equal Rights Amendment', *Sociological Forum*, Vol.3, No.1, (Winter 1988), p.147

gender norms built up over centuries, so some fear and anxiety was inevitable'.³⁴ The refusal of southern states to ratify the ERA demonstrates this further (see figure 1, p. 8). As Buechler rightly notes, successful ratification needs widespread consensus, cannot be overtly threatening to those affected and ought to be rooted in a sense of necessity and urgency.³⁵

The lack of consensus can be attributed to the 'innocuous wording of the amendment', as mentioned by opposition leader Phyllis Schlafly.³⁶ The fact the ERA merely stated that 'equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex', led debate to arise over what this actually meant.³⁷ In reality, it appears there were three versions of the ERA. The first interpretation, intended by revisionist feminists, demanded total equality in society, from the draft, to abortion rights, with the intent of positively removing differences between genders. The second interpretation, however, intended by moderates and likely the interpretation initially taken by Congress, was that the ERA would re-enforce ideals already being implemented in society recently. In this interpretation, the ratification of the ERA was merely to protect policies such as the Equal Pay Act of 1962 and the Equal Employment Opportunity Act of 1972 from being reversed in the future. Finally, traditionalists and protectionists interpreted the ERA as a radical proposition that, as Schlafly puts it, 'whilst pretending to benefit women, actually took away the rights they already had.'³⁸ Overall, equality did not involve the same rights and duties to each group. Even within these groups there were further sections.

It is because of this I feel the ERA lost huge amounts of support when it didn't necessarily need to. Advocates of the ERA did not stress enough to the opposition that laws on privacy and the need of the individual could still provide them with protection. The ERA simply meant there was no reason for gender to be taken into account. In 1977, Noel Myricks summarised legal concerns based on the speculative impact alimony, child support, child custody, property ownership, divorce and rights of consortium could have on family life.³⁹ However, as Mansbridge writes, 'both sides tended to argue from basic principles, eliminating the possibility of compromise or negotiation'.⁴⁰ For example in regards to child support, opponents of the ERA thought common law presumption that a man ought to provide for a child born out of wedlock meant the women would now too have the same role. This of course scared people and contributed to the failure of the ERA as it exemplified the worst-case scenarios of what could happen. In reality, as Myricks highlights, it would not necessarily mean the female was now responsible, but instead the incomes of both parents and the needs of the child would be taken into consideration (e.g. *Kaper v Kaper* of 1974 in Pennsylvania under state ERA).⁴¹ The opposition also feared the ERA would encourage homosexual marriage, however, as senator Bitch Bayh, sponsor of the federal ERA said, this was not the case, and instead, the ERA meant 'if a State legislature makes a judgement that is wrong for a man to marry a man, then it must say it is wrong for a woman to marry a woman'.⁴² Ultimately, supporters of the ERA should have pushed the fact that where laws

³⁴ Donald T. Critchlow, *Phyllis Schlafly & Grassroots Conservatism*, (New Jersey, 2005), p. 247

³⁵ Steven M. Buechler, *Women's Movements in the United States: Woman Suffrage, Equal Rights and Beyond*, (New Brunswick, 1990), p.193

³⁶ 'The Equal Rights Amendment', *Firing Line*, Narr: William F. Buckley Jr, Guest: Phyllis Schlafly and Ann Scott. PBS. Recorded March 30th 1973, Washington DC.

<<http://hoohila.stanford.edu/firingline/programView2.php?programID=575>>. Accessed on 5th May 2015.

³⁷ Janet K. Boles, *The Politics of the Equal Rights Amendment*, (New York, 1979), p.1

³⁸ 'Phyllis Schlafly speaks on doing the impossible: Defeating the Equal Rights Amendment', Eagle Forum Education & Legal Defence Fund, (Florida, March 2007).

<<https://www.youtube.com/watch?v=VLMICpeZBXg&index=2&list=PLbkgp5hstJGllI6B8wzWY4AFsRiXK4lhKU>>. Accessed on 30th March 2015.

³⁹ Noel Myricks, 'The ERA: Its potential impact on Family Life', *The Family Coordinator*, vol. 26, No. 4, (October 1977), pp.321 - 324

⁴⁰ Jane Mansbridge, *Why we lost the ERA*, (Chicago, 1986), p.193

⁴¹ Myricks, *ERA Family Life*, pp.321-324

⁴² 92d Cong. 2d sess. 21st March 1972, Congressional Record 118:S4389 cited by Janet K. Boles, *The Politics of the Equal Rights Amendment: Conflict and the Decision Process*, (New York, 1979), p.35

conflicted with the ERA, they could either be extended to both sexes, or invalidated, it did not necessarily mean women would suffer.

Supporters of the ERA could have further eased the concerns of protectionists by highlighting that their fear of things such as joint public toilets, prisons, barracks, colleges etc. could still be maintained under right to privacy established by the fourteenth amendment.⁴³ To me, this appears to be the compromise protectionists and revisionist feminists had been searching for. Revisionist feminists would have rather seen the legislation fail than have an amendment enshrined forever in the constitution that acknowledge women as being somewhat different. However, this allowed women to be protected in some sense, not because of their stereotyped 'weak and inadequate gender', but because of the individuals right to privacy and levels of need. This could have been the difference between support and opposition for the ERA, and thus the deciding factor on whether states ratified the amendment.

It is important to note it was not simply forgetfulness or unwillingness of ERA supporters to raise these points. A lot of their attempts to push these ideas were overshadowed by Samuel Ervin, North Carolina Senator and one of the first major anti-ERA proponents. In leading arguments against the ERA, he ignored those who preached the benefits and focused on gaining support. Ervin then called to Schlafly for help, and after researching the topic, gained her support. Schlafly 'organised a counter-movement as she discovered how many white middle and working class people were feeling anxiety about changes in family life, gender and sexuality'.⁴⁴ Together they quickly targeted those who had not yet succumbed to revisionist feminism – the protectionists and the traditionalists. Magazines such as *Human Events*, a renowned conservative publication, used terms like 'wall to wall weirdo's' and 'loaded with lesbians' to help rally opposition and portray supporters of the ERA as lunatics of some sort.⁴⁵ However, if supporters of the ERA had realised the importance of consensus from the outset, they could have ensured, before opposition arose, that the ERA did not mean the end of protection. Overall, the failure of ERA supporters to fully explain the intended effects of their proposed amendment can be clearly linked to the failure of the Equal Rights Amendment given the vast level of opposition created that merely stated reasons such as unisex toilets or loss of child support as their justification for opposition.

Conclusion

Sadly, the Equal Rights Amendment fell three states short of the required threshold for ratification in the United States, and the time limit in place meant frequent public debate was brought to a close and the issue was put to rest for most. Personally, I feel ERA historiography lacks sufficient hindsight as most scholars mentioned throughout wrote around the time, if not shortly after, the ERA failed. These historians therefore typically fail to grasp the wider picture, one of confusion and misunderstanding. I feel the ERA predominately failed ratification because of the differing views on what equality would entail and how this would then shape everyday affairs and legal situations. It was then constitutional difficulties, such as the aforementioned time limit, that prevented the bill from fully being understood before it was dismissed. It would be highly interesting to see how the amendment would fare today if they targeted states, removed the time limit or tried a convention.

I believe the initial success of the ERA can be attributed to the positive interpretation of it by ratifying states. The reason why remaining states failed to ratify the amendment, and why some states later rescinded their vote (though the validity of these is questionable) was the result of formalised opposition. This opposition took a short-while to mobilise their response, and only did so after the initial movement achieved some success. This was not helped by what I regard as stupidity on behalf of some ERA supporters. In isolating

⁴³ Barbara A. Brown, *Women's Rights and the Law: The Impact of the ERA on States Laws* (New York, 1977), pp.88-89

⁴⁴ Donald T. Critchlow & Nancy Maclean, *Debating the American Conservative Movement: 1945 to the present*, (Maryland, 2005), p.152

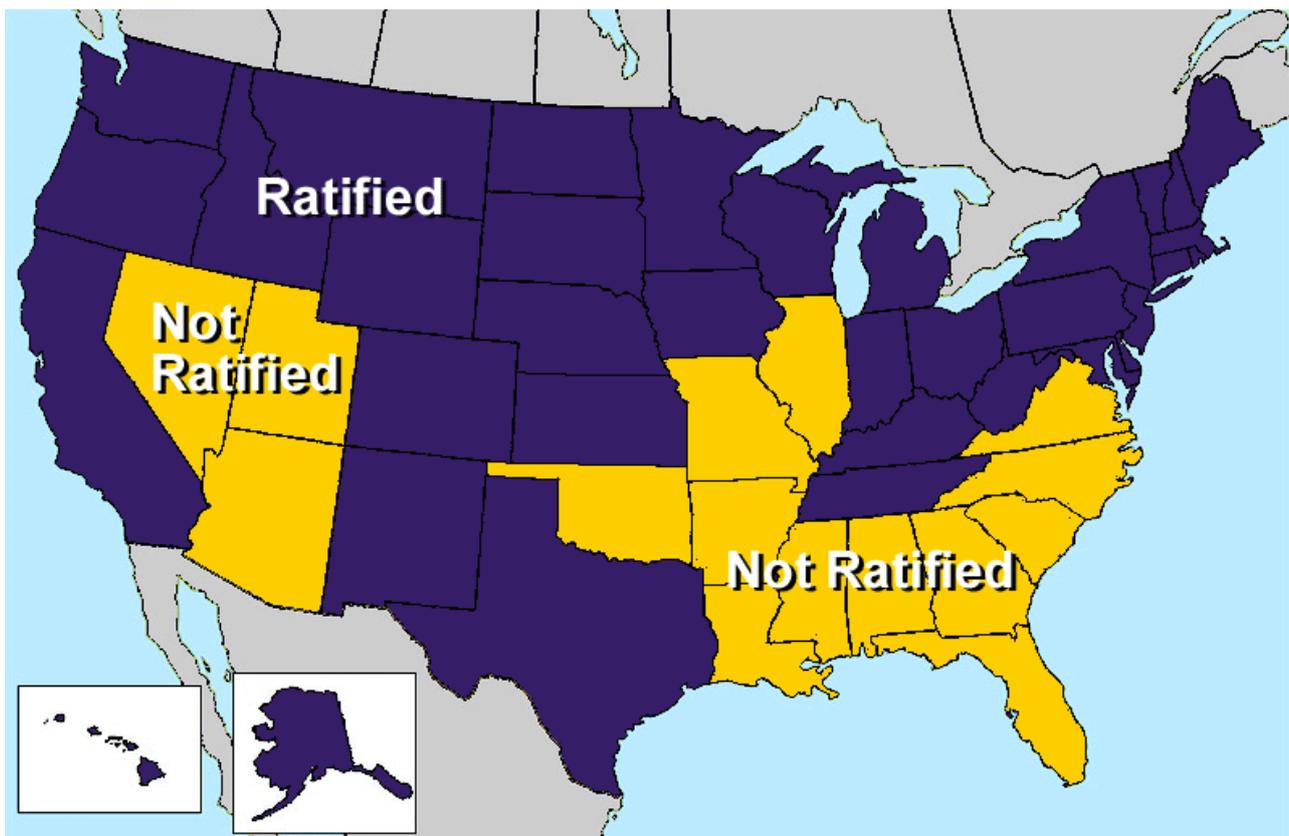
⁴⁵ Critchlow & Maclean, *American Conservative Movement*, p.160

the population by pushing the amendment too far, including issues such as abortion and federal control, the opposition could thus present the ERA as a radical proposition intended to interfere with religious practices and remove the legal rights of females. No state legislators wanted to appear to support the removal of rights, especially given the importance of women in elections.⁴⁶ It was better to stick with the status quo than initiate controversial change, thus preventing the super-majority required for ratification.

Overall, it is clear that although the ERA failed to gain ratification, efforts for equality were not in vain as many of the theories behind it live on. Certainly the debate over it increased understanding and awareness of gender. There is also evidence to suggest that increased use of the fourteenth amendment means gender is not so much as the forefront of law, instead, it is the equal protection clause. For example *Reed v Reed* (1971) extended the clause to protect females from gender discrimination.⁴⁷ In addition to this, as mentioned previously, many states have added laws that somewhat mirror the broad language of the ERA. Finally, and most importantly, it is vital to examine why the ERA failed as it provides a historical basis to learn from for future attempts at amendment, particularly regarding timing and consideration of differing constitutional passages. As Kyvig puts it, ‘consulting historians, they are likely to discover, is not merely prudent, it is indeed very wise’.⁴⁸

Word count: 4377

Figure 1: N/A, ‘Map showing location of states that ratified the ERA’, Equal Rights Amendment Website, <<http://www.equalrightsamendment.org/states.htm>>. Accessed on 5th May 2015.



⁴⁶ Women have higher turnout rates and the increasing presence of a gender gap was of concern.

⁴⁷ N/A, ‘*Reed v. Reed*, 404 U.S. 71 (1971)’, Supreme Justia, <<https://supreme.justia.com/cases/federal/us/404/71/case.html>>. Accessed on 5th May 2015.

⁴⁸ David E. Kyvig, *The Historical Perspective and Constitutional History: Historical Misunderstanding and the Defeat of the ERA*, *The Public Historian*, Vol. 81, No. 1 (1996) p.63

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