MARKUP OF H.J. RES. 79, REMOVING THE DEADLINE FOR THE
RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

Wednesday, November 13, 2019

House of Representatives
Committee on the Judiciary
Washington, D.C.

The committee met, pursuant to call, at 10:11 a.m., in Room 2141, Rayburn Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.


Staff present: David Greengrass, Senior Counsel; John
Doty, Senior Advisor; Madeline Strasser, Chief Clerk; Moh Sharma, Member Services and Outreach Advisor; Julian Gerson, Staff Assistant; James Park, Chief Counsel, Constitution, Civil Rights, and Civil Liberties Subcommittee; Sophie Brill, Counsel, Constitution, Civil Rights, and Civil Liberties Subcommittee; Will Emmons, Professional Staff Member, Constitution, Civil Rights, and Civil Liberties Subcommittee; Brendan Belair, Minority Staff Director; Bobby Parmiter, Minority Deputy Staff Director/Chief Counsel; Jon Ferro, Minority Parliamentarian/General Counsel; Paul Taylor, Minority Chief Counsel, Constitution Subcommittee; Erica Barker, Minority Chief Legislative Clerk; and Andrea Woodard, Minority Professional Staff Member.
Chairman Nadler. The Judiciary Committee will please come to order, a quorum being present.

Without objection, the chair is authorized to declare a recess at any time.

Pursuant to Committee Rule II and House Rule XI, Clause 2, the chair may postpone further proceedings today on the question of approving any measure or matter or adopting an amendment for which a recorded vote for the yeas and nays are ordered.

Pursuant to notice, I now call up H.J. Res. 79, Removing the Deadline for the Ratification of the Equal Rights Amendment, for purposes of markup, and move that the committee report the resolution favorably to the House.

The clerk will report the resolution.


Chairman Nadler. Without objection, the resolution is considered as read and open for amendment at any point.

[The resolution follows:]
Chairman Nadler. I will begin by recognizing myself for an opening statement.

H.J. Res. 79, introduced by Representative Jackie Speier with 217 co-sponsors, would ensure that the Equal Rights Amendment, or ERA, can become part of our Constitution if and when a sufficient number of States ratify it. Specifically, this short and straightforward measure provides that notwithstanding the ratification deadline that Congress set for the ERA in 1972 and extended in 1978, it "shall be valid to all intents and purposes as part of the Constitution whenever ratified by the legislatures of three-fourths of the several States." I would hope that there is little dispute about the need for enshrining in the Constitution a clear and firm statement guaranteeing equal rights under the law regardless of sex.

In 1971 and 1972, the House and Senate, respectively, passed the ERA by well more than the constitutionally-mandated two-thirds majority in each chamber, the House by a 354-24 margin, and the Senate by an 84-4 margin. It contained these simple words, "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex." In the years that quickly followed, dozens of States ratified the ERA through their legislatures. By the end of the 1970s, the ERA was just a few States short of full ratification. But then progress on
ratification slowed, and the deadline Congress had set for ratification passed. There is renewed momentum behind the ERA, however, and this legislation would ensure that no arbitrary deadline will stand in way of equality once a sufficient number of States ratify the ERA.

Almost 100 years ago, Alice Paul, who helped lead the campaign to secure women's right to vote, proposed the first version of the Equal Rights Amendment. Her heroic efforts on behalf of women's suffrage culminated in adoption of the Nineteenth Amendment. Yet she and the other courageous women who led that movement soon recognized that ratification of women's suffrage was only the start. They knew that if women were to achieve true equality, our Nation's founding document needed to be amended to reflect that core principle.

We have, of course, made important strides, in large part thanks to a brilliant legal strategy pioneered by now Justice Ruth Bader Ginsburg. The courts have recognized that the Fourteenth Amendment prohibits many forms of outright discrimination. Critically, the ERA would strengthen and further secure these existing constitutional and other legal guarantees of women's equality. Unfortunately, despite existing protections, in troubling ways women's rights have begun to slide backwards in recent years. For instance, the Trump Administration continues an onslaught of threats to women's rights on a regular basis, whether by trying to roll
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back laws that prohibit health insurers from charging more to women just for being female, or by allowing women's healthcare choices, including choices about their reproductive healthcare, to be dictated by their employers' religious beliefs. Also, women still have uneven protections against other forms of discrimination and harassment in the workplace.

In a similar way, the Administration has aggressively sought to undermine measures to protect against discrimination on the basis of sexual orientation and gender identity. Make no mistake, the ERA's prohibition of the denial or abridgement of "equality of rights under the law on account of sex" includes discrimination based on sexual orientation and gender identity. With ongoing efforts by the Federal and State governments to undermine equality under the law based on sex, it is clear that an equal rights amendment to the Constitution is more important than ever.

Thankfully, the momentum behind ratification has picked back up. As we learned back in April in the hearing on the ERA before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties, Nevada led the revised effort to ratify the ERA in 2017, the 36th State to ratify it, with Illinois following suit last year. With Virginia on the cusp of potentially becoming the 38th State to ratify the ERA next year, we may at long last make the ERA the twenty-eighth
Meanwhile, women have been elected to office in unprecedented numbers, including in this Congress. Now for the first time ever, more than 100 women are serving in the United States House of Representatives, 105, in fact. Some of the women who are part of this inspiring wave are on this committee, and they are helping to lend their voices to the critical effort to ratify the ERA.

Some may argue that we do not need an ERA or that Congress cannot change the deadline for ratification retroactively. Both arguments are clearly wrong. As a straightforward moral matter, our Constitution should explicitly guarantee equality of rights under the law regardless of sex. Moreover, while the Constitution has been interpreted to provide a considerable level of protection against sex discrimination already, those interpretations can always change for the worse. The ERA would secure and potentially enhance these existing protections. As to Congress' authority to change or eliminate the ratification deadline, Article V of the Constitution, which governs the constitutional amendment process, does not provide for a ratification deadline of any kind.

Article V also contemplates that Congress alone is responsible for managing the constitutional amendment process, given that it assigns only to Congress an explicit
role in the amendment process and does not mention any role for the executive or judicial branches. The Supreme Court made clear in Coleman v. Miller that Article V contains no implied limitation period for ratifications, and that Congress may choose to determine "what constitutes a reasonable time and determine accordingly the validity of ratifications" because such questions are "essentially political."

The Court concluded that, in short, Congress "has the final determination of the question whether by lapse of time its proposal of an amendment has lost its vitality prior to the required ratifications." Similarly, when this committee considered an extension of the ratification deadline in 1978, it concluded that "Rescissions are to be disregarded" based on the generally-agreed view of constitutional experts that "the decision as to whether rescissions are to be counted is a decision solely for the Congress sitting at the time the 38th State has ratified it as part of its decision whether an amendment has been validly ratified."

We are on the verge of a breakthrough for equality in this country despite all the obstacles in our current political and social climate. Alice Paul's equal rights amendment was introduced in both Houses of Congress in 1923, but 96 years later, the United States Constitution still does not explicitly declare that women have equal rights under the
law. Adopting the ERA would bring our country closer to truly fulfilling our values of inclusion and equal opportunity for all people. Adopting this legislation would help make this a reality.

I now recognize the ranking member of the Judiciary Committee, the gentleman from Georgia, Mr. Collins, for his opening statement.

Mr. Collins. Thank you, Mr. Chairman, and I appreciate your yielding time, and I appreciate your statements. There is no disagreement on the fact of equality, and the need for it, and the work that has been done. I applaud that. The only thing is, again, here today what we are doing will not help anybody who showed up today and will not help anything going forward. It is a good discussion point, I guess, but this is a problem.

You know, it failed to be ratified, as you have already stated. The ERA failed to be ratified by three-quarters of the States under a congressionally-mandated deadline, and explicitly relied upon by the States during the States during the State ratification debates. The deadline expired in 1979, and Congress lacks any power to retroactively revive a failed constitutional amendment. It is really interesting you stated in your opening statement that it is up to Congress to do this, and Congress did do this. The put a deadline on it, and, as you stated in your opening statement,
that is the purview of Congress. And Congress did put a
deadline on this, which is fully within its right to do.
The U.S. Supreme Court recognized just that in 1982 when
it stated that the issue was moot since the deadline for ERA
ratification expired before the requisite number of States
approved it. The next year, the Democratic leadership of the
House, acting on the same understanding, started the entire
process of the ERA approval over again. The new attempt with
ERA also failed to achieve the required two-thirds majority
margin on the floor of the House on November 15th, 1983. And
I am glad that you mentioned Justice Ginsburg because even
Supreme Court Justice Ruth Bader Ginsburg, a longtime
supporter of the ERA, said just a few weeks that "I hope
someday we will be starting all over again on the ERA,
collecting the necessary States to ratify it."
Today in defiance of a historical reality and all
relevant participants' in the original debate clear
acceptance of the situation, the chairman of this committee
is bringing forward a resolution that denies the obvious.
Now that the Democrats control the Virginia legislature, the
proponents of this joint resolution want to convince their
base that if it passes both Houses of Congress by a simple
majority vote and signed into law, then Virginia alone can
pass a resolution to allegedly ratify the 1972 ERA, and it
will become part of the Constitution. Congress, however,
does not have the constitutional authority to retroactively
revive a failed constitutional amendment and subject citizens
in all 50 States through the current political trend in just
one State. The Supreme Court has already recognized that.
The past Democratic leadership of the House recognized that.
And apparently leadership on this committee, however, is
intent on trying to rewrite history.

If you support the language in the 1972 ERA, you only
have one constitutional option, and that is even from Justice
Ginsburg herself: to start the whole process over and make
your case to the current voters nationwide. You must obtain
the required two-thirds vote in each of the Houses of
Congress, then win ratification individually from 38 States,
which is not likely to happen because it is well understood
that the language used in the ERA would not protect women,
but will prevent States' voters from enacting any limits on
abortion up to the moment of birth.

Just in the last few years, an increasing number of
leading pro-abortion advocates have openly argued that the
language of the 1972 ERA would require unlimited abortions
with no restriction whatsoever nationwide regardless of the
views of the voters. To take just a single example, in a
national alert sent out on March 13th, 2019, NARAL Pro-Choice
America stated flatly, "The ERA will reinforce the
constitutional right to an abortion. It would require judges
to strike down any anti-abortion laws."

Let's face it. On our side, basically we are not offering amendments because there is no way you can fix a bad bill. You can't fix something that is inherently wrong, that is inherently bad. You can have every want of saying that behind this, and I would agree with both sides, that the intent behind it is fine. But you cannot put forward a bill that simply the Supreme Court has already said you can't do, your own leadership years ago have said you can't do, and just simply waving a wand and saying it matters doesn't help. And so we can all disagree about this, but we have done this in this committee before. We put out false hope on things that are not going to work instead of actually working on things that we could work on.

So with that, hopefully this will go quickly. You will get your vote. You have your votes. We will go with that. But do not, anyone in this audience, or anyone on this dais, or anyone watching, who happens to be probably not watching, where we should be if we are going to move through an impeachment, actually should be here, not over in Longworth, but we were cut out of that process.

So if we want to do this, fine, Mr. Chairman. I appreciate you calling it. Let's move through this as quickly as possible because this is going nowhere. I yield back.
Chairman Nadler. I now recognize the chairman of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties, the gentleman from Tennessee, Mr. Cohen, for his opening statement.

Mr. Cohen. Thank you, Mr. Chair. I strongly support H.J. Res. 79, which will remove the arbitrary ratification deadline for the Equal Rights Amendment imposed in 1972 and ensure equal treatment under the law regardless of sex. I am an original co-sponsor of the measure along with 216 other members of Congress.

Unlike my friends on the other side, I don't get stymied on process. I stand on principle, and you try to do things to make the American Congress better, the American public better, and the lives of Americans better, and you try to work through process. You don't use process as an excuse for not taking women forward, for not reforming our Constitution, and for not making progress. The same type of activities they are using over in Longworth to oppose impeachment: process, not the truth that the President has abused his powers, subverted the Constitution, and tried to help a foreign power, Russia, work its way against Ukraine unless Ukraine helped him with his political fights against Biden.

So process is not the answer. It is an excuse, and it has been an excuse for centuries with the party on my left.

The ERA was, in fact, approved in both the House and
Senate by overwhelming bipartisan majorities in 1971 and 1972, respectively. Republicans even voted for it then, the Grand Old Party. The Constitution instructs that after a proposed amendment receives the required two-thirds of the vote in both the Houses, it has to be ratified in three-quarters of the States. In the decade after the ERA was sent to the States in 1972, it was ratified by 35 of the 38.

But for decades that progress towards equality stalled. A well-organized counter-movement scared the American people into thinking that a guarantee of equality would somehow harm women who stay at home to raise their children and would erode American families. That same well-organized counter-movement destroyed the Grand Old Party and made it the party that it is today. What started as a matter of broad consensus became yet another divisive issue in the culture wars.

Today we know better. We know that in the year 2019, it is unacceptable that women still are not paid equal wages for equal work. We know that no Republican voted for that bill that we had to equal pay. We know that when women are treated with equal dignity and respect in the workplace, and the home, and by our institutions of government, our society at large, all the people stand to benefit. And we know that a simple, but fundamental, guarantee of equality should be welcomed rather than feared. At the same time, it is now
more important than ever to affirm that women have an equal place under the law, and especially under our Nation's Constitution. There is a play on Broadway about how important it is for women and for young girls to see that their Constitution respects them. That is the way we should be here in Congress, too, and try to achieve.

Although women have achieved some measure of equal status under the Fourteenth Amendment, that progress is fragile. As the Supreme Court has moved to the right, it could backtrack from foundational decisions as it has in other areas and jeopardize the many advances that women have made. Meanwhile, there are dark currents in our politics and culture seeking to undermine women's status in our society, whether it is by threatening their healthcare, which I submit, no Republican voted for the Affordable Care Act. Even though they say they are for your healthcare, they don't vote for it. They say they are for eliminating the prohibition on preexisting conditions, but they don't vote for it. So they objectify women in the workplace, and they ignore and even condone gender-based violence.

In the face of these challenges, I was heartened by the witnesses and the extraordinary attendance at our hearing on the ERA of the Subcommittee on Constitution, Civil Rights, and Civil Liberties back in April. We learned from that hearing the U.S. Constitution was the only major written
constitution in the world that lacked the provision of
equality of the sexes, which Professor Kathleen Sullivan
properly described as "national embarrassment to the world's
leading democracy." We also learned Article IV of the
Constitution largely commits to Congress the authority to
determine when an amendment has been validly ratified once
the requisite three-fourths of State legislatures have
ratified it, including the authority, self-imposed time
limits to ignore any rescission of ratifications. Yes, the
Constitution gives Congress that right, just like it gives
Congress the right to determine what is impeachable.

A few years ago, Justice Ruth Bader Ginsburg was asked
in an interview what amendment she would most like to add to
the United States Constitution. She answered it would be the
Equal Rights Amendment. As she explained, the ERA means that
women are people equal in stature before the law, and the
principle is in every constitution written since the Second
World War. Justice Ginsburg said she would like her
granddaughters when they pick up the Constitution to see that
this is a basic principle of our society, the same as Heidi
Schreck said. I look forward to that day.

The ERA was first proposed almost 100 years ago, and
Congress passed it overwhelmingly, almost 50 years ago. Now
with the 38th State poised to potentially ratify the ERA,
process must stop us when we know the process is really on
our side. Congress must once again do its part and repeal
the arbitrary ratification deadline and help honor Justice
Ginsburg's wishes, and I am sure those of Abigail Adams, too,
if she were around to speak and wish that the Constitution
explicitly state the basic moral principle that men and women
are equal before the law.
I strongly urge the committee to report H.J. Res. 79
favorably to the full House and bring the Constitution and
women into the 21st century. I yield back the balance of my
time.
Chairman Nadler. I thank the gentleman. I now
recognize the ranking member of the Constitution
Subcommittee, the gentleman from Louisiana, Mr. Johnson, for
his opening statement.
Mr. Johnson of Louisiana. Thank you, Mr. Chairman. I
am just struck by some of the comments this morning. I just
want to say to my friend, Mr. Cohen, unfortunately process is
a critical component to maintaining the rule of law in a
constitutional republic. You can decry it, but process is
essential to who we are as a people.
The Equal Rights Amendment, the ERA, was first
introduced in Congress in 1923. It was passed on to the
States by Congress in 1972, incidentally, the year I was
born. This goes back a long way, but it wasn't ratified by
the required three-fourths of the States before its
expiration. In 1983, the ERA was reintroduced, as it had to be, following its failure to be ratified before the congressionally-set deadline, not arbitrary, made by vote of the duly-elected representatives of the people. It was a deadline that was explicitly relied upon by the States, and it was the subject of 5 hearings in the House Subcommittee on Civil and Constitutional Rights, including 1 hearing called by the minority. It was last debated and marked up in the House Judiciary Committee here on November 9th, 1983. The ERA subsequently failed to pass the House of Representatives by the required two-thirds vote.

If the ERA is ever to become part of the Constitution, the process has to start all over again with a new introduction in Congress and new issuing out of an amendment to the States with a two-thirds vote of each House, and ratification of that new amendment by three-quarters of the States. Justice Ruth Bader Ginsburg has been quoted here a lot this morning already. She was a prominent supporter of the ERA at its inception, of course, and it may still be her dream that it be enacted. But she said publicly in September of this year at a gathering at Georgetown University, in her speech, she said, "I hope someday we will be able to start over again on the ERA, collecting the necessary States to ratify it." So it is clear the ERA will have to be passed again by Congress and the States under the Constitution's
supermajority requirements before it becomes part of the
Constitution.

As a result, this effort to retroactively erase the
original deadline relied upon the States during the previous
ratification debates is just patently unconstitutional.
Beyond that, the ERA itself should not become part of the
Constitution for a lot of reasons. You have heard some of
them summarized here this morning, but one that is at the top
of our list of concerns is the bipartisan Hyde Amendment
prohibits the use of Federal funds for abortions except in
cases of rape, incest, or when the life of the mother is
endangered. And we think the Hyde Amendment would be greatly
jeopardized by the passage of the ERA.

It is not just us. The Supreme Court upheld the Hyde
Amendment's abortion funding restrictions as constitutional
in *Harris v. McRae* that the people's right to protect the
unborn would be eliminated under the ERA. Back in the early
1980s, our colleague, Representative Sensenbrenner, requested
that Congress' independent research arm, the Congressional
Research Service, provide the committee with its own
evaluation of that question. As he said at the 1983 markup
of the ERA, "The executive summary of the CRS report says
that under strict scrutiny, the pregnancy classification in
the Hyde Amendment would probably be regarded to be a sex
classification under the ERA," meaning that under the ERA,
Today, however, with the benefit of more recent history, we can see that the concerns of Representative Sensenbrenner in 1983 were fully justified. Five years later, in 1988, the Colorado Supreme Court held that Colorado's ERA in its State constitution prohibits discrimination on the basis of pregnancy. Ten years later in 1998, the Supreme Court of New Mexico took the next step and relied on New Mexico's State-level ERA to strike down a State regulation restricting State funding of abortions for Medicaid-eligible women. Those cases made clear what the advocates of the ERA, or at least many of them, actually support. Recently, NARAL Pro-Choice America in a March 13th, 2019 national alert that went out over all the internet, admitted their belief that their Equal Rights Amendment would "reinforce the constitutional right to abortion. It would require judges to strike down anti-abortion laws."

Of course, women should be protected from discrimination based solely on their sex, and that is the law today. The Supreme Court has significantly ratcheted up the standard the government must meet in order to discriminate based on sex since the 1980s. For example, in U.S. v. Virginia, the Court stated that "Parties who seek to defend gender-based action must demonstrate an exceedingly persuasive justification for that action." The Court also stated, "The burden of
justification is demanding, and it rests entirely on the
State." As Justice Rehnquist noted in his concurrence in
that case, the Court had, in effect, made the government's
burden much more difficult than it had been previously.
Justice Scalia in his dissent pointed out that the
standard governing review of the government's actions that
discrimination based on sex that had previously been in place
was "a standard that lies between the extremes of rational
basis scrutiny and strict scrutiny. We have denominated the
standard intermediate scrutiny, and under it have inquired
whether the statutory classification is substantially related
to an important governmental objective." Yet in U.S. v.
Virginia, Justice Scalia pointed out that the majority in
that case had "executed a de facto abandonment of the
intermediate scrutiny that has been standard for sex-based
classifications for decades," and they replaced it with a
higher standard, which is the law today.
The majority opinion in U.S. v Virginia, it should be
noted, was written by Justice Ginsburg. In the 1970s, she
was imminently involved in the preparation of a report
published by the U.S. Commission on Civil Rights in 1977 that
specifically supported the Federal ERA, along with the
ramification of its adoption, which include the elimination
of terms "fraternity and sorority chapters" and the required
sex integration of the Boy Scouts and the Girl Scouts, among
many other things I think most Americans today would object to. As I mentioned previously, even such an outspoken advocate of the ERA as Justice Ginsburg realizes, this effort before us today is illegitimate and doomed to fail.

Further, at the Constitution Subcommittee hearing on the ERA earlier this year, I asked all the witnesses invited by the Democrats the following question. I said, "Some people are arguing in the Supreme Court this term, as we all know, that the word 'sex' in the Federal civil rights law includes self-professed gender identity. Is it your understanding that the term 'sex' in the ERA includes self-professed gender identity?" Ms. Kathleen Sullivan, the top legal expert invited by the Democrats responded, "I think the proper textual reading of the term 'on account of sex' does include discrimination on the basis of sexual orientation or transgender identity." I then asked Dr. Pat Spearman if she agreed with that, and she said, "Yes, I do." Then I asked Ms. Patricia Arquette, and she said it would be argued in court, but that she would like it to include gender identity.

As a result, we know the intent on the part of the ERA's most prominent supporters is to enshrine the infinitely fluid concept of gender identity, not only in Federal statutory law -- recall our debate on H.R. 5 -- but also in the Constitution itself with the resolution before us today. As was fully discussed during the debate on H.R. 5, the result
would be to require doctors to perform treatments and surgeries on minors that render them permanently infertile without parental involvement, the requiring of biological men to invade the private spaces of women, and the domination of biological males in female sports. And in doing so, the Equal Rights Amendment would ironically and tragically completely erase women's protections under the law. I urge all my colleagues to join me in opposing this resolution, which is anti-life, anti-female, and patently unconstitutional. The process does matter, and I yield back.

[Disturbance in hearing room.]

Ms. Lofgren. Mr. Chairman?

Chairman Nadler. The gentleman yields back. Without objection, all other opening statements will be included in the record.

[The information follows:]
Chairman Nadler. I now recognize myself for purposes of offering an amendment in the nature of a substitute.

The clerk will report the amendment.

Ms. Strasser. Amendment in the nature of a substitute to H.J. Res. 79, offered by Mr. Nadler. Strike all that follows after the resolving clause and insert the following:

"that notwithstanding any time limit contained in House Joint Resolution 208, 92d. Congress, as agreed to in the Senate on March 22nd, 1972, the article of amendment proposed to the States in that joint resolution shall be valid to all intents and purposes as part of the United States Constitution whenever ratified by the legislatures of three-fourths of several States."

[The amendment in the nature of a substitute of Chairman Nadler follows:]
Chairman Nadler. This amendment simply makes a technical correction to clarify that the ERA is an amendment to the United States Constitution, just in case someone thought maybe we were talking about the French Constitution.

[Laughter.]

Chairman Nadler. Otherwise, it makes no substantive changes, and I urge adoption of the amendment. And before I yield the floor, I want to comment, and I am glad my Republican colleagues agree that denying women access to abortion is inherently unequal treatment, and that abortion is an issue of equality. I hadn't heard that from them before.

[Laughter.]

Chairman Nadler. A vote for the ERA is a vote for the full equality of every American regardless of sex or gender. The ERA is not limited to any one issue. Bringing up the abortion issue is a red herring designed to divide us over what should be a basic and obvious consensus about the equality of the sexes. The Supreme Court has already repeatedly held that the Constitution already, without the ERA, protects the right to have an abortion. This reasoning has long been based on the fundamental right to privacy and does not hinge on the passage of the ERA.

By talking about abortion in the context of the ERA, I take the minority to be acknowledging that the right to full
equality includes the right of each woman and man to make
their own decisions about their reproductive choices. I
agree that equality means the right to control one's own
body, and I congratulate my Republican colleagues for finally
coming around to this point of view.

I will now recognize the ranking member, the gentleman
from Georgia, Mr. Collins, for any comments he may have on
the amendment in the nature of a substitute.

He doesn't have an amendment.

Are there any amendments to the amendment in the nature
of a substitute? For what purpose does the gentlelady from
California seek recognition?

Ms. Lofgren. To strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Lofgren. I just wanted to make a few comments here
because we have talked about the history of the ERA and the
extension, and I actually worked on the ERA in 1971, and I
see Ellie Smeal, who was here and worked on that. Don
Edwards was the chairman of the Subcommittee Number 4 of the
Constitution and was called the father of the Equal Rights
Amendment. And the picture of that man back there, Emanuel
Celler, was chairman of the committee. He was opposed to the
Equal Rights Amendment, and he didn't want to act on it, and
finally he had to act on it because there was a discharge
petition filed. And I remember he started the hearings with
a prayer that began, "Thank God I was born a man." He wanted to put a 1- or 2-year limit on ratification, and we ended up with a 7-year ratification.

I was right out of college when I worked on the ERA, but I was a young lawyer on Don Edwards' staff in 1978 when I worked on the extension. And at the time, there was substantial discussion -- we ultimately did pass the extension -- of whether the extension was even necessary because if you look at Article V, there is no limitation on time. And it is not clear that Congress can limit the time.

Now, there is a case, Coleman v. Miller, that addresses this, but it was not directly argued on that basis. And so I am happy to support the extension today because if constitutionally you can't limit the time, and, therefore, the extension is unnecessary, that constitutional principle will be true whether or not Congress extends the time. Better to be safe than sorry. I would just note that this constitutional amendment is as important today as it was when I worked on it in 1971. Women do not yet have full rights under the Constitution, and I think that it is long past due for the Equal Rights Amendment to be made part of the Constitution. I am hopeful that Virginia will ratify, and when they do, it is my position that the Equal Rights Amendment will, in fact, become part of the Constitution.

So I appreciate the gentleman's clarifying amendment. I
am happy to support the bill, but I also want to make sure that we leave our legal options open, which is without the extension, the amendment is ratified when two-thirds of the legislatures have approved. And with that, Mr. Chairman, I yield back.

Chairman Nadler. I thank the gentlelady. Who seeks recognition? The gentlelady from Texas, Ms. Jackson Lee.

Ms. Jackson Lee. I thank the chairman very much, and I rise to support the chairman's amendment. And I am delighted to hear the question of process because here we are in the Judiciary Committee responding to the redundancy of process, and we are fixating on process. And we are fixating it with a bipartisan legislative initiative first introduced by Congresswoman Speier with Republican and Democratic members to do something that Congress is authorized to do.

My good friends on the other side have not indicated a prohibition of what we are doing today. There is no constitutional prohibition of what we are doing today, and the language, in particular, says that "Notwithstanding any time limit contained in the previous deadlines passed by Congress for ratification of the ERA, the ERA shall be valid to all intents and purposes whenever ratified by the legislatures of three-fourths of the several States." That same resolution has been introduced in the United States Senate. And for all those who, in essence, suggest that they
are in support of it -- more than half of the American people
-- I would find it difficult for the Senate not to pass this
bill as the House will pass this bill, and for the President,
whoever it might be, to sign this legislation.

Just for a chronological history, in the late 1960s, the
National Organization of Women devised a strategy of pushing
for equal rights through a combination of impact litigation
and advocacy for the ERA. I am particularly connected to
this time frame because my recollection serves me well that
the first women's convention was held in Houston, Texas. My
predecessor, the Honorable Barbara Jordan, was there and many
of you in the audience.

In 1970, Representative Martha Griffiths filed a
discharge petition in the House to bring the ERA to the floor
after the Judiciary Committee consistently refused to act on
it. My memory serves me well that unlike the array of
individuals on this committee, I don't believe there was a
woman on that committee. That evidences the crux of the ERA.
Over the decades of being left out, the discharge petition
was adopted. The ERA passed the House by a wide margin even
in that climate.

The Senate Judiciary Committee also held several days of
hearings in 1970 on its version of the ERA, but it failed to
gain enough votes that year. On October 12th, 1971, the
House voted 354-24 to approve a version of the ERA that
stated, "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of each House concurring therein, that the following articles are proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified."

The irony of where we are today is for the rights that women have fought for and died for, for women have died in battle over the last 50 years wearing the uniform, something that they have really done over the decades of wars. You will find women were in the Revolutionary War, Civil War, in capacities that have been documented and undocumented. But the very basic question of the equality of the sexes is a question that should not have to be asked in 2021 or 2020. The very fact that this is not a respecter of one's income, one's region, and that you are discriminated against because of a natural act that none of us can differ, it is your birth, it is your right.

And so on the centennial of the Nineteenth Amendment, we are dealing with process. Process has life or death impact. Process is just an angle of a document that is now sacred and sober and somber, and is being utilized to uphold the rule of law. And this committee, the Judiciary Committee, may ultimately decide and discern that the Constitution, in a few weeks, the acts of a participant under Article II and whether
those were constitutional or unconstitutional. Can we not sit here today and correct process and hold this sacred and powerful document, of which we clearly are able always -- thank you, Mr. Cohen -- to be able to hold up? All these past days and weeks, I take it around, and I indicate to schoolchildren and faith groups and civic groups that this is a document that we should reintroduce ourselves to. And I think I can turn the pages and find nothing that is prohibiting Mr. Nadler's resolution from going forward and the introduction of the legislation by Jackie Speier.

Today, let us do our process that has been claimed as an angle to enhance our democracy, and let's do it to be able to uplift this sacred and somber document that the ERA now is a part of the Constitution of the United States. I support this amendment to the legislation, and I yield back.

Chairman Nadler. I thank the gentlelady. For what purpose does the gentlelady from Pennsylvania seek recognition?

Ms. Dean. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Dean. Thank you, Mr. Chairman. Thank you for bringing us together to vote on this important legislation, H.J. Res. 79. And I thank Representative Speier for her continuing work on this legislation.

I have to tell you, it is an honor to serve in this
committee at this time on this historic day. It has been nearly a century since the first constitutional amendment to guarantee equal treatment for women was introduced in 1923. Since then, 37 States have ratified the ERA, including my home State of Pennsylvania in 1972, and then as we learned today, of course, most recently Nevada in 2017 and Illinois in 2018. Virginia attempted to be that 38th State earlier this year, but the resolution came up short. The election, however, this election year, the Virginia legislature has changed, and we are optimistic that so will the results of ratification. Elections matter.

This resolution gets us so much closer to the basic rights so many in this country have fought for a century, to be equal in the eyes of our Constitution, something I carry with me every day as well. We are so very close to finally enshrining the principle of equality for women as a fundamental tenet of our society. I was looking at the motto of Susan B. Anthony's newspaper. It was, and I quote, "Men, Their Rights and Nothing More. Women, Their Rights and Nothing Less." And today we again say that women will accept nothing less than equality.

And fittingly, before her passing in 1906, Susan B. Anthony reveled in the progress and contributions that women would continue to make, saying, "Oh, if I could but live another century and see the fruition of all of the work for
women. There's so much work to be done." Though it may have taken longer than a century after her passing, moving the Equal Rights Amendment builds on the work of Anthony and of so many others, like Jeannette Rankin, Alice Paul, Ida B. Wells, and that we, the most diverse Congress in American history, will continue that progress.

Mr. Chairman, I am a mother to three sons and a grandmother to two granddaughters. And like Anthony, I, too, am filled with joy of the progress of this generation, that those will accomplish after us, young women of our future, like my granddaughters, Aubrey and Ella. Again, I am grateful for the chairman and Representative Speier's leadership on this issue, and I look forward to the passing of this resolution out of this body and certainly out of our Congress. Thank you, Mr. Chairman. I yield back.

Chairman Nadler. I thank the gentlelady, and I want to congratulate her for her new granddaughter. The gentlelady from Washington, Ms. Jayapal.

Ms. Jayapal. Thank you, Mr. Chairman. This is a great and important day. I am so proud of this Judiciary Committee as we finally take up, and I hope pass with bipartisan support, this resolution that will eliminate the ratification deadline for the Equal Rights Amendment.

I call to mind the testimony of Senator Pat Spearman of Nevada when she testified on the ERA in April of this year.
She said, "Equality is not debatable. We are born with it. All we are asking for is for it to be recognized." So to women across this country who are watching this hearing, and those of you advocates and activists in the room who have been fighting for this for so long, let me say we see you, we stand with you, and today we take a step towards equal rights under the law.

First proposed almost a century ago and passed by Congress in 1972, the Equal Rights Amendment would enshrine in our Constitution a ban on discrimination on the basis of sex. It seems hard to imagine that we still need to do this. Decades after our sisters in the Civil Rights Movement fought to pass this amendment through Congress, we are today just one State away from ratifying it. And with last week's election results in Virginia, we now have the momentum we need to actually make the Equal Rights Amendment a reality.

The new Democratic-controlled legislature in Virginia now has the opportunity to become the 38th and the final State needed to ratify the amendment, and I want to thank today the powerful, brave women who stood up, ran, and won in tough districts across Virginia, including the first openly transgender lawmaker, the first Latina delegates, the first female Asian-American delegate, and the first Muslim woman elected to the Virginia State legislature, for giving women across the country a deep and abiding sense of hope that we
will win what is deeply owed to us all: equality in our Constitution. Virginia's 28 female delegates that were sent to the legislature last week now have the power to finally ratify the ERA.

What a great moment in history this is as we prepare for that next great moment to advance justice for all women across the country. We all know that we have a long way to go in achieving equality for all women. The gender pay gap continues with women of color bearing a particularly great burden. Women who work full time year round still only make 82 cents on the dollar for men's earnings, amounting to an annual wage gender gap of over $10,000. Black women only make 62 cents, Latina women make 54 cents, and Native women make 58 cents for every dollar paid to white men, and close to two-thirds of minimum wage workers are women.

Not only are women more likely to earn minimum and sub-minimum wages, they are also subjected to exploitation and sexual harassment in the workplace and on the streets. The objectification and the diminishment of women in all roles and industries continues, and in spite of #MeToo, and Time's Up, and the great work that women across this country have been doing, we still have men in the highest offices of this land continuing that very same objectification and diminishment.

The Equal Rights Amendment is about equality, pure and
simple. It is about ending the second-class status of women in America. It could also provide additional constitutional protection for parents in many ways, including with respect to discrimination based on pregnancy, childbirth, and caregiving responsibilities. Right now, pregnant workers can be placed on an unpaid leave or forced out of their jobs because of a pregnancy. This is allowed under the law, and the ERA would strengthen constitutional protections for pregnant workers across the country by ensuring that discrimination on the basis of pregnancy will be considered incompatible with the guarantee of equality of rights for women under the law. A vote for the ERA is a vote for families.

In 1972, Washington State voters, my great State, passed an amendment to our own State constitution to guarantee rights on the basis of sex and ratified the ERA a year later. And yet today, we are 1 of only 25 States across the country whose constitution provides either inclusive or partial guarantees of equal rights on the basis of sex. It is time for us to extend this basic human right to all people across the country. And that is why I am so proud, Mr. Chairman, today to be able to vote in favor of House Joint Resolution 79, which will pave the way for the 38th and the final State to ratify the Equal Rights Amendment.

I urge my colleagues on both sides of the aisle to join
us in this joyful moment. Thank you. I yield back.

Chairman Nadler. I thank the gentlelady. For what purpose does the gentlelady from Texas seek recognition?

Ms. Garcia. Mr. Chairman, I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Garcia. Thank you, Mr. Chairman, and I, too, thank you for convening this very important and historic hearing. For me, it brings back a lot of memories. I remember back in 1972 being a bright-eyed, bushy-tailed college student, looking as good as I look today, I might add --

[Laughter.]

Ms. Garcia. -- walking into the Texas capitol for the first time to be involved and engaged in legislative advocacy. I was there for an ERA hearing. I could not have been prouder than to see what Texas was doing and see that Texas did pass it. But then again in 1977, I was a Texas delegate to the International Women's Year Convention held in Houston, and I was proud then, too, to stand shoulder to shoulder with Ann Richards, who was then not governor -- she was the treasurer of Texas -- stand shoulder to shoulder with her when she stood up and made a speech in favor of a resolution for the ERA. I remember some of the Pink Ladies, the opposition that were there, but Ann stood tall, much like all of us stand tall even today, to support this amendment.
and to support this bill.

So I ask you, Mr. Chairman, what is the problem? Why are we more focused on process instead of the principle, as Mr. Cohen said? I have been a steadfast supporter of the Equal Rights Amendment from day one, and I will continue to do that today and tomorrow and every day until it gets into this book, as the congresswoman, my colleague from Houston, said, because, frankly, it is shocking that almost a century later, we are still trying to affirm the importance of this very important amendment. It is worth so much more than adhering to a 7-year deadline. It is about pay equity. It is about protection against violence. It is about paid maternal and paternal leave.

When women are empowered, the Nation is empowered. We are long, long overdue in guaranteeing equality for all Americans, and when I say "all," I mean all. There has been important legislation to guarantee equal protection under law, much of which has come out of this Congress, but we can do more and we must do more because our young women everywhere are depending on it. By passing the ERA under this committee today, we will show all women and the trans community that their voices do matter, and, if ratified, there will be a solid constitutional foundation on which to rely on for justice and equality for all.

At the end of the day, it will be up to the States to
ratify the ERA, so our job today is empower the States to make the right decision. And on that point, I hope my colleagues across the aisle do join us in supporting this initiative. They need to remember their daughters, their sisters, their mothers, and their grandmothers. They need to remember that justice is a fact for all. Thank you, Mr. Chairman, and I yield back the remainder of my time.

Chairman Nadler. I thank the gentlelady. For what purpose does the gentlelady from Pennsylvania seek recognition?

Ms. Scanlon. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Scanlon. I want to offer thanks to Alice Paul, who drafted the first ERA in 1923. She graduated from Swarthmore College, which is located in the heart of the district that I represent now. Many of us have mentioned personal connections to this fight. I was 12 when the ERA passed, and I have waited my entire adult life to see us get to the finish line. So on behalf of myself, my sisters, my daughter, our foremothers, our daughters and granddaughters yet to be, my female colleagues who are disproportionately seated on this side of the aisle, and on behalf of the overwhelmingly female audience here today, I say we have waited long enough to have full recognition of our rights, whether in the workplace, in the courts, in our healthcare,
or in our Constitution. So I proudly support this bill, and
I yield back.

Chairman Nadler. I thank the gentlelady. Are there any
further --

Mr. Neguse. Mr. Chairman?

Chairman Nadler. Oh, I am sorry. For what purpose does
the gentleman from Colorado seek recognition?

Mr. Neguse. Thank you, Mr. Chairman. I move to strike
the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Neguse. Thank you, Mr. Chairman. I will be brief,
but I am just very grateful for the chairman's leadership in
holding this hearing today, and, of course, I am proud to
cast my vote in support of Representative Speier's
resolution. And I don't know that I could put it any better
than my colleague from the great State of Texas, Ms. Garcia.
I think we truly have a unique opportunity to look into the
future and decide what place in history we would like to
have, and whether we wish to stand ultimately for the
equality of opportunity on which our Nation was founded.

And for us to pursue the affirmation of equality before
us today is not radical and it should not be difficult. Our
actions today are straightforward, and in my view and in the
view of so many of our colleagues, we know that it is long
past time for us to act. Inclusion of the ERA in our
Constitution is not for us, but for the next generation and all those who will follow, including my daughter, who is 14 months old. It is not for today, but for tomorrow and for her, and the assurance that the fundamental equality of women will not be subject to the ever-changing congressional and judicial representation.

And let us be clear. This is not based on any partisan ideology, but on that foundational understanding of freedom and of justice which each of us here share, that we are all created equal, endowed by our Creator with certain unalienable rights. I hope that my colleagues will join me in ensuring that those rights are extended and guaranteed to all peoples with unquestioning resolve.

I want to just close by quoting one of the mothers of the suffragist movement. My distinguished colleague from Pennsylvania mentioned her earlier, and that was the author of the ERA, Alice Paul, who said, "I never doubted that equal rights was the right direction. Most reforms, most problems are complicated. But to me, there is nothing complicated about ordinary equality." On behalf of ordinary equality, I urge you to support this legislation, and with that I yield back.

Chairman Nadler. The gentleman yields back. For what purpose does the gentleman from Louisiana seek recognition?

Mr. Richmond. I move to strike the last word.
Chairman Nadler. The gentleman is recognized.

Mr. Richmond. Let me thank the chairman for moving so promptly on this important issue. And as a black male who has gone to some remarkable colleges, I will just cite three of my most intellectual and moral role models, which is my mother and my two grandmothers, and they would always say, "Nothing beats a failure but a try." And we hear the argument acrobatics from the other side about we support women's rights. Well, if you do, then let's get straight to the point.

The Equal Rights Amendment says, "Equality of rights under the law shall not be denied or abridged by the United States or by any other State on account of sex." That is very simple. It is very straightforward. There is no other argument out there. Either you are for that sentence or you are against it. And if your concern is about the Supreme Court, then let the Supreme Court do what the Supreme Court does. But the question is right now today, what side of history you are going to fall on, and I never thought I would be in a position to make that decision. And as I studied in my grade schools, including Morehouse where I often go back and look at history to see who was on the other side when we were talking about equality for African-Americans, who was on the other side when we were talking about all of these civil rights issues, the question I ask is in 20 years, do you want
a kid or grandkid to pull up the tape and see that on the day we were fighting to prevent discrimination on the basis of sex, that somehow and for some reason you were against it?

And we have thrown out a number of issues, and I don't necessarily want to go down the red herring road of abortion. But I want to say that the day of being righteous and saying I am pro-life until the baby is born needs to be addressed because if you are pro-life, you would be for equal pay for women. You are a sentencing a baby born to a single mother who has to work two jobs to make what a man makes, who can't be there to nurture them when they get home. We don't support adoption. We don't adopt single parents. We don't do any of the things we are supposed to do, and all of a sudden we always hide behind "I am pro-life."

And so let me just say that there will be a day where someone somewhere, and it could be my son, it could be my granddaughter, who will ask me on the day that this was argued and you all passed this legislation to allow the Equal Rights Amendment to become law, when Virginia does what Virginia is supposed to do, Daddy, Granddaddy, what was the argument against protecting women? And I hate to say I am going to say I don't know because when you are supposed to stand up and do what is right, you just do what is right.

And I would ask that we put partisanship on the side, join hands together, stand up for the women in the United
States, those that are not born, those that will be born, and pass this legislation in a bipartisan manner. With that, I yield back.

Chairman Nadler. The gentleman yields back. For what purpose does the gentleman from Rhode Island seek recognition?

Mr. Cicilline. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Cicilline. Thank you, Mr. Chairman, for holding this markup of such an important piece of legislation to pave the way for the ratification of the Equal Rights Amendment. "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." This is not a radical idea. Nearly every major industrialized nation has an equal rights amendment. The United States, however, is not one of them. This is a shameful stain on our Nation's history that can be remedied with action today. Equality, after all, is a founding principle of this great country.

Article V of the U.S. Constitution states that "An amendment proposed by Congress shall be valid to all intents and purposes when ratified by the legislatures of three-fourths of the several States." But nothing in the Constitution limits ratification of a constitutional amendment to any particular period of time. In fact, most
constitutional amendments contain no express deadline for ratification. It took the States 3 years and 340 days to ratify the Twenty-Second Amendment, which set presidential term limits. And most notably, the Twenty-Seventh Amendment was not ratified by the States until 1992. That is 203 years after it was first introduced by James Madison in 1789.

Ratification of the Equal Rights Amendment must not be further delayed because of some arbitrary deadline. Discrimination on the basis of sex remains a real issue facing women all across this country. Women are more likely to forego healthcare services due to costs compared to men. According to research by the Institute for Women's Policy Research, women working full time earn 82 cents on the dollar per men's earnings in 2018. If change continues at its current pace, it will take 40 years, or until 2059, for women to finally reach pay parity. And the effects of gender discrimination cut deeply across racial, ethnic, and gender lines.

To be clear, our Nation's courts have already recognized that women are entitled to equal protection under the law, but this is not enough. Supreme Court Justice Antonin Scalia said, and I quote, "Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It does not." This statement exemplifies why the Equal Rights Amendment is needed now.
Ratifying the Equal Rights Amendment would affirm our Nation's values by codifying an express prohibition against sex discrimination in our Nation's foundational document, and ensure that vital protections implemented into law and correctly recognized by the courts are not undone.

It is on us to support a pathway to ensure that the States can ratify this important amendment. We should do all that we can to guarantee that regardless of judicial or political ideology, women are treated the same as men in all respects of their public lives, including making a living, obtaining healthcare, and accessing public services.

And while we may not be able to prevent all discrimination, we can stand up for what is right and ensure that people who are discriminated against based on their sex have all the legal tools necessary to protect themselves from discriminatory behavior and hold bad actors accountable.

We should also remember when any person is discriminated against, it not only harms that individual who may be denied the ability to realize their full potential, but it harms the entire community, who is robbed of all that individual could do free of discrimination.

The Constitution provides Congress with the power to remove the arbitrary deadline in the ERA. A vote for H. Res. 79 is a vote for equality. I urge my colleagues to support this resolution, and I yield back.
Chairman Nadler. I thank the gentleman. For what purpose does the gentleman from Maryland seek recognition?

Mr. Raskin. Move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Raskin. Mr. Chairman, first of all, thank you for your terrific leadership on bringing the ERA forward, and I want to say how moved I am by all of the eloquent statements of our colleagues this morning. And I think it is impressive that we have such a robust turnout on the committee to come for this historic moment.

In Democracy in America, Tocqueville said that democracy is always either contracting, or it is expanding. And we can look at other places in Government today to see how democracy has been contracting and languishing, and we are in a struggle to defend the Constitution even as it is. But one of the best ways to defend the Constitution is to expand the Constitution and to elaborate the meanings that are implicit within it.

The whole trajectory of our constitutional development is about expanding democracy to include people who had been subordinated or marginalized or kept outside of equality. When we began, we did not live up to Lincoln's beautiful vision of government of the people, by the people, for the people. We were a slave republic of Christian white male property owners over the age of 21, but it has been through a
process of social struggle and constitutional amendment and change that we have opened America up. So after the Civil War, the Thirteenth Amendment abolished slavery, and the Fourteenth Amendment gave us equal protection and due process in the States. The Fifteenth Amendment said no race discrimination in voting. The Seventeenth Amendment shifted the mode of election of U.S. Senators from the State legislatures to the people, and the great Nineteenth Amendment, whose birthday we observe next year, whose centennial anniversary we will observe, gave us women's suffrage. The Twenty-Third Amendment gave people in Washington, D.C., the right to participate in presidential elections. The Twenty-Fourth Amendment abolished poll taxes in elections so that we didn't have essentially a wealth qualification test for voting. The Twenty-Sixth Amendment lowered voting to age 18. So the whole movement of our democracy can be read through the Constitution and the 17 amendments we have had since the Bill of Rights were adopted. And everything has moved toward greater expansion and inclusion of people who had not been treated as equals before. The Equal Rights Amendment is an historical imperative from that perspective to build gender equality right into the heart of our Constitution.
Mr. Chairman, I saw a wonderful play by a woman I suspect may be your constituent named Heidi Schreck, called "What the Constitution Means to Me." And in the play, she talks about how when she was a kid, her mom would take her to American Legion competitions to talk about what the Constitution meant to her, and she would talk about it and speak about it. But then the play takes a dark turn for a moment because it turns out that her mother and pretty much all of the women and girls in her family were victims of sexual and domestic violence and physical violence. And the play is really about her connecting this trauma in the household to what she was doing talking about the Constitution because she said, ultimately, the Constitution did not include her. And that basic gender imbalance in the original Constitution filtered all the way down to the way that police officers and prosecutors and judges treated women in domestic violence cases and marginalized the voices of women.

And so my takeaway from that play was there is nothing better we could do than to give ourselves a new Constitution in the new century than to pass the Equal Rights Amendment. So I am thrilled that we are going to overcome the rather arcane process objections being made.

As you point out, Mr. Chairman, under Article V of the Constitution, this is a political question. It is up to
Congress to define what the methodology is for adopting a constitutional amendment. The Supreme Court has said that it is a political question. And in Coleman v. Miller, it rejected the idea that Article V contained some kind of implied limitation on what Congress can do in the adoption of constitutional amendments.

I am very proud of my neighbors across the Potomac River in Virginia for what a women-led movement did in the most recent election. One of my former constitutional law students, Eileen Filler-Corn, has just been elected the new speaker of the Virginia House. And I think it will be her great honor to preside over the passage of the Equal Rights Amendment in the 38th State as a fellow graduate of American University's Washington College of Law, along with Alice Paul, who introduced the very first Equal Rights Amendment back in 1923.

So I am very proud to speak in support of this resolution, and I yield back, Mr. Chairman.

Chairman Nadler. I thank the gentleman. For what purpose does the gentlelady from Arizona seek recognition?

Mrs. Lesko. Thank you, Mr. Chairman, to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Mrs. Lesko. Thank you, Mr. Chairman.

Members, I am a pro-life congresswoman, and I put that
out there when I was elected that I was pro-life, and the majority of my constituents elected me as a pro-life congresswoman. And so one of the questions that is important to me is would the Equal Rights Amendment create a nationwide right to abortion?

And so I am just going to quote a few different opinions from different groups. First one is from Concerned Women for America, who says, "Adding an equality amendment based on sex allows Federal courts and legislatures new powers to reinterpret every law making a distinction based on sex or gender. Any limits on abortion or denying taxpayer funds for abortion could be seen as a form of sex discrimination and a violation of this amendment."

Then Susan B. Anthony List says, "The Equal Rights Amendment to the U.S. Constitution, as proposed in 1972 and as interpreted to date by a wide range of legal scholars, by several lower courts, and even by certain advocates of the amendment, would install a legal mandate for abortion on demand, funded with taxpayer dollars into our Constitution."

Then the United States Conference of Catholic Bishops says, "At least two States, New Mexico and Connecticut, have construed their own Equal Rights Amendments with language analogous to that of the Federal ERA to require government funding of abortion."

The National Right to Life says, "There is now essential
agreement between pro--I am sorry--between key pro-life
and pro-abortion groups that the language of the 1972 ERA is
likely to result in powerful reinforcement and expansion of
abortion rights."

For example, NARAL Pro-Choice America, in a March 13,
2019, national alert, asserted that the ERA would reinforce
the constitutional right to abortion. It would require
judges to strike down anti-abortion laws.

Beginning in 1983, pro-life Members of Congress have
insisted that a simple abortion neutralization clause must be
added to any new ERA before it is sent out to the States.

I just had a new grandchild last week, born early, 36
weeks. Then I was looking on Twitter and saw a tweet that
said that many States allow abortions through 37 weeks.

This year, we have seen radical efforts in States like
New York and Virginia to expand abortion on demand through
the moment of birth and even infanticide of babies born alive
after a failed abortion. Every leading Democratic candidate
for President backs this extreme agenda, as well as many
House Democrats, led by Speaker Pelosi, who have blocked more
than 80 requests on the floor of the U.S. House of
Representatives to vote on the Born Alive Abortion Survivors
Protection Act.

Now this bill is trying to change the rules to bring
back an expired, outdated amendment that would rewrite our
Constitution to enshrine a right to unlimited taxpayer-funded abortion. This bill hijacks the language of equal rights to deny unborn girls the most fundamental right of all, life. I urge my colleagues to reject this bill, and I yield back my time.

Chairman Nadler. I thank the gentlelady for yielding back. For what purpose does the gentlelady from Texas seek recognition?

Ms. Escobar. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Escobar. Thank you, Chairman.

I am so grateful to you for bringing this resolution before us. I am grateful to Representative Speier for her work on it. I grateful to all of you in the audience, in this packed house of smiling faces, looking to us for leadership, looking to us for hope, expecting that we will stand with you and stand with women in this country.

I am very grateful to be in this historic moment alongside with you and with my distinguished colleagues, many of whose remarks I associate myself with.

You know, it is a privilege and a tragedy that we are here together in this room today. It is a privilege because we get to be a part of history, and we have the opportunity to right generations of wrongs. But it is a tragedy because it has taken so long.
I think about my mother, Isabel, who is the hardest-working person I have ever met in my life, and all of the opportunities denied to her, all of the extra obstacles that she had to face. I think about my daughter, Eloisa, who is the strongest advocate for justice that I have ever met, and the potential and opportunity that she has ahead of her. And I think about so many other women, women who came before us, women who work silently beside us, who deserve more than being second-class citizens. Our country has a real struggle, and what we struggle with is recognizing the dignity, the grace, the opportunity, the potential, and the power of each individual.

My community has seen that struggle with the way that we have had to bear witness as to how immigrants have been treated in our country. But all of us have long had to bear witness and participate in a system that treats women as second-class citizens.

And so it is, again, with deep gratitude that I am here today alongside all of you to support this. Let it not be a tragedy going forward if we fail to pass this. This should be an absolute no-brainer.

Thank you, Chairman. I yield back.

Chairman Nadler. I thank the gentlelady. For what purpose does the gentlelady from Florida seek recognition?

Ms. Mucarsel-Powell. Mr. Chairman, I move to strike the
Chairman Nadler. The gentlelady is recognized.

Ms. Mucarsel-Powell. Thank you, Mr. Chairman, and thank you to Congresswoman Jackie Speier for introducing this legislation.

I am so proud to speak in support of this joint resolution and the Equal Rights Amendment. For far too long, women have had to fight to be treated equally in our society. While we have made a great amount of progress, we still have a long way to go.

Compared to men, women have far fewer healthcare options. There is little support to accommodate women who are pregnant at the workplace. I have been there with two pregnancies. Few public services exist to support and help us raise our children.

There is a large wage gap between men and women. Women, on average, earn about $10,000 less than a man doing the same job every single year. That is about 80 cents for every dollar earned by a man, and Latinas earn only 53 cents paid to every dollar.

Women are underrepresented in high-level positions at companies and in politics. Right now, we only have 33 Fortune 500 CEOs who are women. And I am so proud to be part of this historical class of women where we elected the most number of women than any other Congress before us, but we
I am the first South American-born woman to be elected to Congress, and that shouldn't be a fact that I should be proud to give. There should have been so many more before me. It is 2019, and it is far past time that we recognize women as equals.

It is shameful that the Equal Rights Amendment has not been ratified. It is far past time that we give women the equal respect, recognition, and the resources that we all deserve.

And that is why I support this resolution. It would ensure that we give States the time and the opportunity to weigh in on the Equal Rights Amendment. It would remove an arbitrary deadline and give States the ability to fully consider this amendment.

And at the very heart of this amendment is equality. We should not have to rely on a patchwork of laws and regulations. We would be recognized as equal to men under the eyes of the law in our country's most fundamental governing principles. Our equality would be guaranteed. I don't think that is too much to ask in the 21st century.

The Equal Rights Amendment will finally include women in our Constitution. I urge my colleagues from all sides of the political spectrum to vote in favor of this resolution.

Thank you. I yield back.
Chairman Nadler. I thank the gentlelady for yielding back. And I now recognize -- for what purpose does the gentlelady from Georgia seek recognition?

Mrs. McBath. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Mrs. McBath. I would like to thank our colleague, Representative Jackie Speier, for this very timely legislation and just really so grateful for her work.

Women have been fighting tooth and nail for decades to be recognized as equal in the eyes of the law. America's women have fought for the right to vote, the right to equal education, and the right to financially provide for our families and be compensated the same as men. While we have made significant gains, it is time for full constitutional equality.

Because of that ongoing fight and that history of discrimination, I am co-leading the bipartisan Pregnant Workers Fairness Act, along with Chairman Nadler, Congressman Katko, and Congresswoman Herrera-Beutler. Bills like these are critically important at protecting women, but they simply are not enough. We need the Equal Rights Amendment because all Americans deserve to be treated equally.

In 1886, Frances Ellen Watkins Harper, a free-born black woman, addressed the National Women's Rights Convention in
New York City. She said, and I quote, "Justice is not fulfilled so long as woman is unequal before the law. We are all bound up together in one great bundle of humanity. Society cannot afford to neglect the enlightenment of any class of its members."

Her words are still so true today. We are all bound up together, and the Constitution must declare the equality of all of us for our society to continue to make the progress that it has made. And I am so proud to be a cosponsor of this measure and to take another step toward equality with this markup today.

And I yield back the balance of my time.

Chairman Nadler. I thank the gentlelady for yielding back.

Are there any further amendments to the amendment in the nature of a substitute?

[No response.]

Chairman Nadler. The question then occurs on the amendment in the nature of a substitute. This will be followed immediately by a vote on final passage of the resolution.

All those in favor of the amendment in the nature of a substitute will respond by saying aye.

Opposed, no.

In the opinion of the chair, the ayes have it, and the
amendment in the nature of a substitute is agreed to.

A reporting quorum being present, the question is on the motion to report the resolution, H.J. Res. 79, as amended, favorably to the House.

Those in favor, respond by saying aye.

Those opposed, no.

And the ayes have it. The resolution is ordered reported favorably.

Mr. Collins. Roll call.

Chairman Nadler. A recorded vote has been requested.

The clerk will call the roll.

Ms. Strasser. Mr. Nadler?

Chairman Nadler. Aye.

Ms. Strasser. Mr. Nadler votes aye.

Ms. Lofgren?

Ms. Lofgren. Aye.

Ms. Strasser. Ms. Lofgren votes aye.

Ms. Jackson Lee?


Ms. Strasser. Ms. Jackson Lee votes aye.

Mr. Cohen?

Mr. Cohen. Aye.

Ms. Strasser. Mr. Cohen votes aye.

Mr. Johnson of Georgia?
Ms. Bass?  
Mr. Richmond?  
Mr. Jeffries?  
Mr. Jeffries.  Aye.  
Ms. Strasser.  Mr. Jeffries votes aye.  
Mr. Cicilline?  
Mr. Cicilline.  Aye.  
Ms. Strasser.  Mr. Cicilline votes aye.  
Mr. Swalwell?  
Mr. Lieu?  
Mr. Raskin?  
Mr. Raskin.  Aye.  
Ms. Strasser.  Mr. Raskin votes aye.  
Ms. Jayapal?  
Mrs. Demings?  
Mr. Correa?  Mr. Correa?  
Mr. Correa.  Aye.  
Ms. Strasser.  Mr. Correa votes aye.  
Ms. Scanlon?  
Ms. Scanlon.  Aye.  
Ms. Strasser.  Ms. Scanlon votes aye.
Ms. Garcia?
Ms. Strasser. Ms. Garcia votes aye.
Mr. Neguse?
Mr. Neguse. Aye.
Ms. Strasser. Mr. Neguse votes aye.
Mrs. McBath?
Mrs. McBath. Aye.
Ms. Strasser. Mrs. McBath votes aye.
Mr. Stanton?
Mr. Stanton. Aye.
Ms. Strasser. Mr. Stanton votes aye.
Ms. Dean?
Ms. Dean. Aye.
Ms. Strasser. Ms. Dean votes aye.
Ms. Mucarsel-Powell?
Ms. Mucarsel-Powell. Aye.
Ms. Strasser. Ms. Mucarsel-Powell votes aye.
Ms. Escobar?
Ms. Escobar. Aye.
Ms. Strasser. Ms. Escobar votes aye.
Mr. Collins?
Mr. Collins. No.
Ms. Strasser. Mr. Collins votes no.
Mr. Sensenbrenner?
Mr. Chabot?  
Mr. Gohmert?  
Mr. Gohmert. No.  
Ms. Strasser. Mr. Gohmert votes no.  
Mr. Jordan?  
Mr. Buck?  
Mr. Ratcliffe?  
Mrs. Roby?  
Mrs. Roby. No.  
Ms. Strasser. Mrs. Roby votes no.  
Mr. Gaetz?  
Mr. Johnson of Louisiana?  
Mr. Johnson of Louisiana. No.  
Ms. Strasser. Mr. Johnson of Louisiana votes no.  
Mr. Biggs?  
Mr. Biggs. No.  
Ms. Strasser. Mr. Biggs votes no.  
Mr. McClintock?  
Mrs. Lesko?  
Mr. Reschenthaler?  
Mr. Reschenthaler. No.  
Ms. Strasser. Mr. Reschenthaler votes no.  
Mr. Cline?  
Mr. Cline. No.  
Ms. Strasser. Mr. Cline votes no.
Mr. Armstrong?
Mr. Armstrong. No.
Ms. Strasser. Mr. Armstrong votes no.
Mr. Steube?
Mr. Steube. No.
Ms. Strasser. Mr. Steube votes no.
Chairman Nadler. The gentleman from Louisiana?
Mr. Richmond. Aye.
Ms. Strasser. Mr. Richmond votes aye.
Chairman Nadler. The gentleman from California?
Mr. Lieu. Aye.
Ms. Strasser. Mr. Lieu votes aye.
Chairman Nadler. The gentleman from Georgia?
Mr. Johnson of Georgia. Aye.
Ms. Strasser. Mr. Johnson of Georgia votes aye.
Chairman Nadler. The gentlelady from Arizona?
Mrs. Lesko. No.
Ms. Strasser. Mrs. Lesko votes no.
Chairman Nadler. Has every member who wishes to vote voted?
[No response.]
Chairman Nadler. The clerk will report.
The gentleman from California?
Mr. McClintock. No.
Ms. Strasser. Mr. McClintock votes no.
Mr. Chairman, there are 21 ayes and 11 noes.

Chairman Nadler. The ayes have it. The resolution, as amended, is ordered reported --

[Applause.]

[Gavel sounding.]

Chairman Nadler. Everyone, please -- everyone will please suspend.

The ayes have it. The resolution, as amended, is ordered reported favorably to the House. Members will have 2 days to submit views.

The resolution will be reported as a single amendment in the nature of a substitute, incorporating all adopted amendments. And without objection, staff is authorized to make technical and conforming changes.

This concludes our business for today. Thanks to all our members for attending.

Without objection, the markup is adjourned.

[Whereupon, at 11:32 a.m., the committee was adjourned.]