

Book Review

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Gretchen Ritter. *The Constitution as Social Design: Gender and Civic Membership in the American Constitutional Order*. Stanford: Stanford University Press. 2006. Pp. xi, 381. Cloth \$70.00, paper \$29.95.

"This book is about gender and civic membership in American constitutional politics, from the adoption of the Nineteenth Amendment through second wave feminism," writes Gretchen Ritter. "Civic membership," she explains, involves not only individuals' "legal and political status" but "also refers to the broader political, legal, and social meanings that attach to one's place within the polity" (p. 3). Ritter's goal is to "create a more historically and theoretically comprehensive account of the role of governing institutions in shaping the terms of civic membership for men and women in the United States" (p. 13). Historians will recognize her book as a work of historically informed constitutional criticism and social theory, and Ritter's approach will most appeal to readers who welcome sentences such as "embodiment can bring things to civic membership that are positive and productive, such as relationality and the potential for particularity" (p. 309). 1

Historians will readily accept Ritter's argument that "prior to the Nineteenth Amendment, women's civic membership was conceived of in relational terms and they were represented in the public realm by male family members" (p. 63). Ritter offers an insistently downbeat view of the importance of the Nineteenth Amendment's guarantee of female suffrage, arguing that the Reconstruction era's separation of civil rights from political rights meant that by 1920 "voting was an insignificant aspect of citizenship and democracy" (p. 27). Scholars familiar with the African American freedom struggle may cavil at that claim, and at Ritter's further assertion that "voting was not regarded as a defining aspect of one's civic status" in the pre-World War II era (p. 63). Historians who have portrayed women's labor force involvement during that war as a liberating experience may disagree with Ritter's argument to the contrary. "New validations of labor status and military status worked to elevate the civic position of American men over women," she writes, notwithstanding how after the war "veterans' rights were available to all veterans regardless of their sex" (pp. 5, 209). 2

Large segments of Ritter's book are devoted to extensive recountings of significant twentieth century Supreme Court opinions, and readers who are largely unfamiliar with U.S. constitutional history will find Ritter's case accounts richly informative. But Ritter's interest in constitutional cases is primarily doctrinal rather than more broadly historical. Her account of *Griswold v. Connecticut* (1965), the landmark decision that struck down state criminalization of married couples' use of contraceptives, for example, accurately summarizes the judicial opinions but misidentifies one of the two appellants, Planned Parenthood League of Connecticut medical director Dr. C. Lee Buxton, as "Timothy Buxton" (p. 271). 3

Ritter's treatment of second wave feminist achievements during the 1960s and 1970s is comprehensive and straightforward. Equality may have been that era's most widely shared ideal, but "for the courts, political officials, and the American public, the commitment to equality was qualified and ambivalent when it came to women" (p. 217). As Ritter rightly observes, "the equality approach was limited by the ways in which the courts found women to be irreducibly different from men" (p. 259). Her treatment of reproductive rights case decisions is solid if unremarkable, but many abortion rights activists may angrily dispute her claim that 4

choice "is a male concept, rooted in a notion of autonomy and mental supremacy that clashes sharply with our understanding of the position of a pregnant woman" (p. 294).

The book's final concluding chapter disappointingly fails to articulate a compelling synthesis of Ritter's argument. Instead, readers looking for a clear summation of Ritter's perspective must return to portions of her first two chapters, where Ritter declares that "the search for equality within liberal political structures will always lead to problematic and limited outcomes for women" (p. 64). 5

In her introductory pages, Ritter states that American women's "autonomous legal and political status" is "still not fully recognized" and says "women still face resistance to the idea that their sex does not matter to their civic membership." But Ritter's argument that "it remains uncertain what it would take for women to secure a civic membership that provides them with equal rights and status" (p. 3) seems increasingly problematic at a time when Representative Nancy Pelosi has become Speaker of the House and Senator Hillary Rodham Clinton is universally acknowledged as a leading presidential contender. 6

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