

STATE OF MICHIGAN  
IN THE SUPREME COURT

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PEOPLE OF THE STATE OF  
MICHIGAN,

Plaintiff-Appellee,

v

ANDREW MICHAEL  
CZARNECKI,

Defendant-Appellant.

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MSC No. 166654

COA No. 348732

Wayne County Circuit Court  
No. 16-010813-FC

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**TABLE OF CONTENTS**

	<u>Page</u>
de Shweinitz & Frost, Achieving the 26 <sup>th</sup> Amendment: A History with Primary Sources (1st ed 2024) .....	4
Franchise of Freedom .....	4
Arguments For & Against Youth Suffrage.....	27
Congress & the 26th Amendment.....	44
<b>Keating</b>	
Summary of Adolescent Developmental and Neurodevelopmental Science in re Juvenile Life Without Parole (March 2024).....	61

# “Franchise of Freedom”

## A Brief History

When Representative Jennings Randolph, Democrat of West Virginia, and Senator Arthur H. Vandenberg, Republican of Michigan, proposed amendments to the Constitution that would extend “the right of citizens of the United States, who are eighteen years of age or older, to vote,” in October of 1942, lowering the voting age had already been a topic of discussion in some classrooms and student newspapers, and among noted youth and education experts.

Two years earlier, with much of the world at war in Europe and Asia, President Franklin Delano Roosevelt had signed a joint resolution by Congress setting aside the third Sunday in May as what became known as “Citizenship Day.” To support the new day of civic commemoration, the Immigration and Naturalization Service sponsored radio programs that promoted patriotism and national unity.<sup>1</sup> It was local communities, however, that became the focal point for events celebrating those who, through naturalization or coming of age, had achieved the status of full American citizens. Most communities concentrated on newly eligible youth voters. Some held “study meetings” or forums on civic topics, sponsored speeches and essay contests, and featured parades and fairs. Festivities generally centered around gathering youth who had turned 21 during the last year to pledge, as one Wisconsin newspaper put it, their “undying allegiance to the institutions and ideals that make American democracy.”<sup>2</sup>

The idea to recognize new voters purportedly derived from an ancient Athenian custom. It seemed fitting to the country’s leaders, especially as they looked with alarm at events unfolding across the globe, to recover a tradition from the birthplace of democracy. One Kentucky newspaper lauded Citizenship Day as “a means of reawakening intelligent participation in community government.... Founded on the belief that the way to save democracy is to prove that democracy works,” it anticipated that public commemorations would build “in average American citizens a deeper appreciation and understanding of what democracy means.” That the banner headline at the top of the page read: “LONDON UNDERGOES HEAVIEST ATTACK,” made the reasons for heightened attention to civic mindedness clear.<sup>3</sup>

The new citizen “induction” ceremonies for first-time voters often took place around the time of graduation and in cooperation with local high schools and colleges. They also specifically encouraged young Americans, those who had come of age, as well as those looking forward to the privileges of full citizenship, to “live up to their civic responsibilities by voting.”<sup>4</sup> For years, politicians and a host of observers had worried over America’s low voting rates. The sparse turnout of the youngest eligible voters was of particular concern. That so few 21-to-24-year-olds made it to the polls stirred doubts about youth’s commitment to democracy, and troubled politicians and political parties looking for support.<sup>5</sup> Citizenship Day didn’t appear to produce higher rates of voting among the youngest cohort of voters, but it did lead some people, both young and old, to wonder whether lowering the voting age to 18—closing the three-year gap between high school graduation and when young Americans became full-fledged citizens—might help. Being able to take on the most important responsibility of their civic lives before they forgot their training and lost enthusiasm, younger voters might, as a Wyoming high school principal suggested, “infuse a new vitality into American citizenship”—and at a time in which America, and the world, seemed to, as he put it, “depend on the faith of our young people in their country and its ideals.”<sup>6</sup>

The timing of those first proposals to lower the voting age reveals that America’s entry into World War II brought heightened attention to questions of youth citizenship. As Congress moved to lower the draft age to meet the nation’s military needs, it seemed reasonable to reconsider whether the 18-, 19-, and 20-year-olds who were being asked to shoulder such heavy responsibility in the fight for “our democratic life” abroad should be granted the right to vote “to defend the American way” at home.<sup>7</sup> “Old enough to fight, old enough to vote” became the foundational argument for the 18-year-old vote.

Most Americans believed that minimum voting age restrictions coincided with historical links between “the citizen and the soldier.” Conventional wisdom held that 21 had always marked the age for both suffrage and soldiering in America’s past. Historians have since complicated that view. During the American Revolution, for instance, young men could officially serve in militias at age 16, and there was no age minimum for the Continental army.<sup>8</sup> But in the early United States, property ownership, biological sex, and race, not a particular age, nor military service, measured one’s civic capacity and determined one’s access to the ballot box. By the 1840s, spurred by the era’s emphasis on the “common man,” and competition for popular support and electoral advantage, politicians had continued to exclude Black men, and all women, but turned to the chronological age of 21 as the standard for gauging independent citizenship in white men.<sup>9</sup>

By World War II, first Black men, through the 14th and 15th Amendments, and then America’s women, through the 19th Amendment, had won the right

## 6 “Franchise of Freedom”: A Brief History

to vote. Notably, African American men’s military service in the Civil War and women’s patriotic contributions during World War I helped to justify voting rights for these groups of once-excluded Americans. Native American men’s participation in World War I also helped push through the Indian Citizenship Act in 1924, which granted (although did not guarantee) voting rights for America’s indigenous peoples.

Randolph, Vandenberg, and other Congressional advocates of a lower voting age, passionately argued that young Americans who were “mature enough to fight for their country” were certainly “mature enough to vote for the preservation of its institutions.” That 25 percent of the Army, 37 percent of the Navy, and more than 50 percent of the Marine Corps did not enjoy what Randolph called the “franchise of freedom” seemed a tragic shortcoming of American democracy. Telling poignant stories about young men like Private John McEachern of Massachusetts and Private Everett Sparks of Ohio, who gave their lives for the cause of democracy on the “battlefields of the globe” before ever being able to cast a ballot, they asked, “How can we fail to give them at home the same right for which they are fighting so valiantly abroad?”<sup>10</sup>

Opponents countered that soldiering required physical and psychological traits distinct from those that made one “man enough to vote.” As Representative Emanuel Celler, Democrat of New York, the most ardent Congressional foe of the 18-year-old vote from the 1940s through 1970, bluntly put it: “voting is as different from fighting as chalk is from cheese.”<sup>11</sup> A *Washington Post* editorial more thoroughly explained that “the qualities which, according to the generals, make young men under 21 desirable as soldiers—impressionability, pliability, automatic response to stimuli—are the very reasons that should make them undesirable as voters.”<sup>12</sup> Plus, some critics demanded, didn’t advocates realize that a lower voting age would also bring 18-to-20-year-old *girls* to the polls?<sup>13</sup>

They did. Indeed, while such challenges, and the repeated use of “girls” to talk about young women in this age group, revealed that the 19th Amendment had not eliminated gendered ideas about citizenship and political maturity, when advocates talked about youth as important defenders of democracy, they included the vital contributions of young women. Those voteless “girls” were serving as nurses; in support agencies and auxiliary services like the WACS; or were filling essential positions in factories and on the nation’s farms. Deeply invested in national affairs, America’s young women, like their brothers in arms, were “devoting their full-time energies to the defense of the nation” and deserved the right to the franchise.<sup>14</sup>

Mary Lou Barger, an Ithaca, New York high school student, explained that lowering the draft age to 18 had brought questions about the minimum age for voting “into prominence.”<sup>15</sup> Such questions were prominent not just among political elites, but also among young people themselves. After all, as lower-voting age advocates insisted, the era’s young people, the majority of whom were now graduating from high school, were better educated and attuned to

political matters than any previous generation. The pages of “the American High School weekly,” *Scholastic*, corroborated the rising generation’s general political literacy—filled as it was with in-depth coverage of national and international events and issues, and detailed information about the mechanics of government and contemporary candidates. Moreover, during the 1940s, *Scholastic* featured a series of articles on the voting age. Since educators chose the proposition, “That the legal voting age should be reduced to eighteen years,” for the 1944–1945 high school debate topic, it would have been difficult for young people growing up during World War II to avoid voting age discussions.<sup>16</sup>

High school and college students offered their own assessments of the foundational argument. Barger, for instance, noted that “the young men who have fought on the sands of Africa crouched in the fox holes of Bataan, tramped through the jungles of Guadalcanal, [or] gone down to the sea in submarines” were hardly indifferent to civic matters. Whether serving their country “home or abroad,” young men and women of the current generation were, she pointedly claimed, “proudly, efficiently, courageously,” demonstrating that “youth is accepting all the responsibilities of maturity at the age of 18, *except* that of voting.”<sup>17</sup>

Like their elders, youth were hardly of one mind. Ocala, Florida student John Walker explained that while young American men between the ages of 18 and 20 certainly constituted “one of the greatest fighting groups in the world...that doesn’t make him a good voter.” “Dare-deviltry” and “recklessness,” he said, might be good for the battlefield but not for the voting booth. Walker also asserted his belief that young people’s current “zeal for public affairs” would “diminish” at the end of the war. If youth were well-informed and committed to civic matters now, in a few years cultural figures like jazz musicians Benny Goodman and Tommy Dorsey would capture their attention. Furthermore, he warned, “in Italy and Germany the voting age was under 21, and look what *they* got.”<sup>18</sup>

Young people like Mary Lou and John often centered their arguments about the voting age on the relationship, or lack of relationship, between voting rights and the responsibility to act in defense of the nation. But as some of the comments above suggest, debates about “the proper age for suffrage,” whether among youth or adults, always included broader discussions about contemporary young people and the qualities deemed desirable, or threatening, in an electorate.<sup>19</sup>

Discussions about lowering the voting age resulted in a wave of proposals, in Washington D.C. as well as in states across the nation. In 1943 alone, some 30 states considered legislation designed to lower the voting age. But only Georgia succeeded in enacting a lower minimum voting age.

Georgia’s new governor, Ellis Arnall, advanced the full range of arguments as he campaigned for 18 as the age at first vote. But like other supporters, he especially highlighted the idea that “a young man lying in a foxhole,” and a young woman laboring in “our airplane factories...must have an interest in our Government.”<sup>20</sup> What one contemporary called a “peculiar political situation,”

however, led to Georgia’s success; Arnall was elected on a reform platform thanks to the help of students across the state who mobilized to support his campaign and defeat the incumbent. The former governor, Eugene Talmadge, had threatened the accreditation of state universities—and the value of the degrees they conferred—by pressuring education officials into firing faculty he deemed too soft on communism and not committed enough to white supremacy. Georgia’s college students demonstrated against Talmadge’s political interference in the state’s university system and played vital roles in the Democratic primary that ousted him.<sup>21</sup> By including a lower voting age in the package of reforms he passed, Arnall rewarded those who brought him to power and enfranchised a segment of the population he assumed would support him and his more progressive agenda in the future. Rather than the logic or emotional appeal of “old enough to fight,” or any other arguments, Georgia’s lower voting age represented the importance of political calculations, and the activism and organizing of youth, to the success of lower voting age legislation. In essence, young Georgians, moved to political action by issues they cared about, had won for themselves the right to vote.

Georgia modeled one way of changing voting age restrictions. As Congress and the public debated the merits of lowering the voting age, they also argued about how it could *or should* be done—through state or federal action. Article I, Section 2 of the Constitution specifies that “The House of Representatives shall be composed of Members chosen every second year by the people of the several states, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.” Article I, Section 4, stipulates that “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations.” In other words, the power to regulate elections belongs to the states, but Congress “may” step in.

In *Minor v. Happersett* (1874), the U.S. Supreme Court confirmed the general “power of the State” as “supreme” on election matters, but also upheld the ability of Congress to act. Historically, Congress did act with the 14th, 15th, and 19th Amendments.<sup>22</sup> The 17th Amendment, ratified in 1913, which provided for the direct election of Senators, also represented federal involvement in elections. And in 1944, in *Smith v. Allright*, the Supreme Court again affirmed limits to state authority over elections when it overturned state provisions that provided for “white only” primaries. Advocates would pursue state and federal strategies throughout the 30-year campaign for youth voting rights. But conflicts over states’ rights versus federal power shaped discussions about and limited opportunities for achieving a lower voting age.

In part because of such conflicts, states proved the most promising battlegrounds for expanding youth voting rights. Throughout the postwar period, state



legislatures continued to entertain proposals to lower the voting age. Most campaigns failed. But in 1954 the territory of Guam passed the 18-year-old vote. Kentucky followed in 1955, and in 1959 Alaska and Hawaii gained statehood, with minimum voting ages set at 19 and 20, respectively. That youth suffrage found early success in places like Guam, Alaska, and Hawaii fit with patterns that had emerged during the woman’s suffrage movement; western territories and states were the first to enfranchise women. Historians have offered a number of reasons why the West more quickly embraced women as full citizens. Those reasons included the desire of western territories and states to attract new settlers, frontier conditions that broke down traditional gender roles and hierarchies, and the fact that territorial leaders were engaged in creating new constitutions—and hence determining voter qualifications—after women began pressing for the right to vote, and their exclusion could no longer be taken for granted. As frontier outposts, far removed from the contiguous United States, Guam, Alaska, and Hawaii were not only engaged with constitution writing; each had played essential roles in America’s World War II efforts. All three had seen their populations soar and their communities transformed with the mobilization of U.S. troops. Moreover, U.S. soldiers had actually fought the Axis in each of these territories. The escalating Cold War meant that they continued to be strategic locations with substantial military populations. “Old enough to fight, old enough to vote” carried with it more significance under such circumstances.<sup>23</sup>

Alaska, Hawaii, and Guam, as well as Kentucky, also enacted lower voting age requirements after the president of the United States came out in support of such measures. The Cold War meant that America’s youth still had a vital stake in the world of politics. The outbreak of the Korean War and the establishment of universal military service in 1951 intensified appeals for youth voting rights. In his 1954 State of the Union Address, President (and former General) Dwight D. Eisenhower argued that draftees deserved the right to vote: “They should participate in the political process that produces this fateful summons.” The president’s proposal spurred further conversations about the issue. High school debaters again took on the topic of the 18-year-old vote, and coverage in a range of national and local newspapers and magazines, as well as *Scholastic* and other school curricular materials, increased. Moreover, Congress and multiple states moved lower voting age proposals through the legislative process.

On May 21, 1954, the Senate defeated Eisenhower’s proposed constitutional amendment to lower the voting age to 18. Georgia’s Senator Richard B. Russell led the opposition against it, which included 24 Democrats, most of them Southerners. Although his own state had enfranchised younger voters, Russell explained: “I cannot conceive of any man who is sincere in his protestations for states’ rights voting for this amendment.”<sup>24</sup> Beyond the constitutional questions involved, states’ rights held particular significance for southern Democrats at the time. In the late 19th and early 20th century, southern legislatures passed a variety of statutes, such as poll taxes, white primaries, and literacy tests, which

effectively stripped Black men of the right to vote. Southerners also had been the most consistent and vociferous opponents of a woman’s suffrage amendment, fearing that to yield Congress authority over any voter qualifications, or to further open the polls in any way, could jeopardize this discriminatory legislation. After Reconstruction, the federal government had abandoned its power to protect Black male voters, but subsequent voting rights amendments—whether for women or youth—could prompt broader efforts to enforce the right to vote.<sup>25</sup>

As they debated the merits of a lower voting age during the first few months of 1954, Congress considered the range of requirements that individual states used to determine voter eligibility. States, their deliberations showed, varied widely when it came to qualifying voters. Residency requirements ranged from six months to two years; some states did not require voters to register while others required yearly registration; property qualifications still limited voting rights in three states; some imposed educational or literacy tests; and poll taxes sometimes appeared in state lawbooks as did prohibitions against voting for a range of particular groups of people, including criminals and the “insane.”<sup>26</sup>

National attention to state voter qualifications alarmed southern politicians like Russell, especially since the federal government had started to use its power to chip away at institutional racism, whether in the form of executive orders like Harry Truman’s directive to desegregate the military in 1948, or Supreme Court rulings, like the one handed down in the *Brown v. Board of Education* case on May 17, 1954. Russell explained to the press that although not opposed to 18-year-olds as voters, he regarded the voting age amendment as an “inexcusable infringement on states’ rights.” Infuriated by the Court’s ruling from a few days before, which held that segregation in public schools violated the Equal Protection clause of the 14th Amendment, Russell bitterly complained that even if the voting age measure had been an executive order or had been “offered as simple legislation” (which would have passed since it did not require a two-thirds majority), “the present Supreme Court would have seen fit to try to enforce’ such a statute.”<sup>27</sup> In defeating the voting age amendment, southern Democrats demonstrated their resistance to both federal authority and to the growing movement for Black freedom.

Also telling in the vote tally on the amendment was its backing by Republicans. Although youth voting rights enjoyed bipartisan support throughout the history of efforts to lower the voting age, the Republican National Party officially endorsed the 18-year-old vote and launched a concerted “drive to lower the voting age in all states from 21 to 18” shortly after Eisenhower and his young vice president, Richard Nixon, took office in 1953. Their win came after Democrats had held the presidency for two decades. During the 19th century, at a time of high voting rates and intense party competition, courting first-time voters had been an important electioneering strategy, especially for the party out of power.<sup>28</sup> It was one Eisenhower’s campaign employed with success, winning 57 per cent of the under 30 vote. The press reported on the political considerations



### Tomorrow's World

Our Nation's young men and women have the greatest stake in today's decisions. What is done today will affect their tomorrows; will determine what kind of world they can expect as their heritage. Fresh from the classroom or from the armed services, youth offers both politics and Government new vitality. They have the right to determine that honest, efficient Government by men of integrity and ability be continued; that there shall be no return to the era of stumbling and bumbling, of five percenters, of dishonesty in high places.

“18 Year Old Voting: Our Battle for the Ballot!” Republican Party Pamphlet, 1954. Courtesy of John Olsen. Photo by Bruce Haraguchi.

that inspired the Republican focus on youth at mid-century: “During the campaign of 1952, young voters in large number flocked to the Eisenhower standard. The G.O.P. will do all it can to hold on to them and it is proposing to make an appeal to some 63 million still younger voters.”<sup>29</sup> Such political factors were also at play on the state level. The minority party in the state in the 1950s, Republicans were key instigators of Kentucky’s successful campaign to lower the voting age.

At the same time politicians began to appreciate the potential of youth on election day, young people were becoming more prominent political actors in other ways as well. The *Brown v. Board of Education* ruling, which had shaped southern Democrats’ response to federal youth voting rights initiatives, put young Americans on the front lines of the nation’s political battle over racial equality. In the wake of the ruling, southern Black youth pushed their recalcitrant communities into compliance. Media outlets recorded the heroic efforts of Dorothy Counts, Elizabeth Eckford, Ernest Green, and other Black youth to make good on the promises of *Brown*. Witnessed by Americans throughout the country, they

inspired a political awakening in the rising generation.<sup>30</sup> Student Nonviolent Coordinating Committee (SNCC) activist Julian Bond captured this development when he explained that he “had been a happy-go-lucky teenager,” enthralled with the stylish,

mostly Italian American youngsters who danced five afternoons a week on ABC’s *American Bandstand*. . . . But suddenly the nine brave young people of Little Rock’s Central High School—the Little Rock Nine—replaced my former idols. . . . [T]hey possessed something the *Bandstand* dancers did not—grace and courage under great pressure.<sup>31</sup>

Starting with the lunch counter sit-ins that began with four North Carolina A&T State students on February 1, 1960, and spread quickly across the South, youth activism became synonymous with the decade of the 1960s. SNCC grew out of those 1960 demonstrations and took up a range of other initiatives that challenged the limits of American democracy and further set the example for youth protest and organizing across the country. The year 1960 also marked the formation of Students for a Democratic Society (SDS) on the left, and Young Americans for Freedom (YAF) on the right. The activity of these and other student-centered organizations, such as the National Student Association, Northern Student Movement, and Southern Student Organizing Committee, shattered the image of political complacency—whether it had been deserved or not—among America’s youth.

A young civil rights activist, Lolis Elie, explained some of what had changed: “The fact that there was that decision [*Brown*] coinciding with the fact that there were probably more young black kids in college than any other time. . . there was something bigger than your neighborhood.”<sup>32</sup>

There weren’t just more Black kids in college. There were more kids, thanks to the baby boom which added 75 million youth to the U.S. population. Their sheer numbers made them more visible and influential as a generational cohort. There were also a lot more kids in college. College enrollments grew steadily in the 1940s and 1950s. But in the 1960s, the number of college students doubled so that more than 8 million young people were enrolled in two- or four-year institutions when Congress passed the 26th Amendment. By then, nearly 80 percent of American youth graduated from high school, and almost 59 percent of 18-to-21-year-olds were enrolled in colleges and universities.<sup>33</sup>

High college enrollments impacted efforts to lower the voting age in myriad ways. Contemporary youth were clearly more educated than any generation in American history; “smart enough to vote” became a key argument for advocates of a lower voting age. University life also connected like-minded youth, provided organizational spaces, introduced them to ideas and theoretical frameworks, and presented specific issues that directly affected and mobilized students. In particular, the Free Speech Movement, which began at Berkeley in the fall of 1964, challenged the *in loco parentis* model that limited students’ citizenship rights on

campus. Significantly, students who had spent the summer working with SNCC and other civil rights organizations in Mississippi, and were trying to continue anti-racist work in their campus communities, led the revolt against the suppression of student speech. Demonstrations against restrictions on student political activity, and students' growing use of protest tactics to address the issues they cared about, raised questions about the limits society placed on youth voice inside, as well as beyond, the college setting. Discussions about young people's legitimate interest in campus, national, and world affairs, and how universities and other institutions might facilitate rather than try to silence youth perspectives, influenced public thinking about how voting age qualifications forced young people to act outside of traditional political channels. "Perhaps," Indiana Senator Birch Bayh, one of the period's most important Congressional Vote 18 supporters, explained, "we should let this force be utilized by society through the pressure valve of the franchise."<sup>34</sup>

Bayh's comment suggests that there was a growing sense, not merely that America might tame disruptive youth by giving them access to traditional "tools of expression," but that young people had something important to offer. Young activists certainly saw themselves as socially conscious agents of democratic change. Social scientists like Margaret Mead also heralded the unique perspectives of the rising generation. Society had entered "a new phase of cultural evolution" wherein society's elders could no longer effectively prepare the young for what lay ahead. "Nowhere in the world," she said, "are there elders who know what their children know." Under such conditions youth understandably questioned traditional authority and institutions; they expected to be heard and to make their own path to the future. Lower voting age supporters turned the "generation gap," into positive reasons for the youth vote; since the young were more "at home in *this time*," the country needed their "bold thinking and exciting ideas."<sup>35</sup>

President John F. Kennedy had expressed similar sentiments earlier in the decade. His own youthful vigor, willingness to take on issues of poverty and racial justice, and his call to "ask what you can do for your country" inspired many young Americans to act on their idealism through politics and public service.<sup>36</sup> Pressured by young people to follow-up on the concept, Kennedy's administration created federal programs like the Peace Corps and Volunteers in Service to America (VISTA) to which thousands of idealistic and "resourceful action-oriented" young people eagerly joined.<sup>37</sup> Advocates of the 18-year-old vote would point to the passionate participation of young Americans in these and other programs as they made the case that youth, as responsible citizens dedicated to "American institutions" and to solving "problems of the real world," deserved the right to vote.<sup>38</sup>

In addition to opening channels for constructive youth engagement, Kennedy also helped open the path to the 26th Amendment through his Presidential Commission on Registration and Voting Participation which, in its final 1963 report, listed "voting by persons 18 years of age" as one of the "standards" it recommended be adopted in every state.<sup>39</sup> The Commission recommended 20 other

14 *“Franchise of Freedom”: A Brief History*

reforms designed to eliminate barriers to voting including the prohibition of poll taxes, literacy tests, and the frequent purging of voter rolls; shorter residency requirements; longer voter registration periods; reduced restrictions on absentee voting; and expanded polling hours on election day. The Commission’s call for these reforms encouraged a more expansive view of American voting rights and signaled the federal government’s commitment to challenging practices that kept or deterred citizens from exercising their right to the franchise. Soon Congress would act on some of its most important recommendations.

Inspired and propelled by civil rights activism, especially that of young people working at the grassroots level, the 1965 Voting Rights Act reopened the voting booth to Black Americans who had been systematically disenfranchised by state election laws and practices. This landmark civil rights legislation also affirmed federal authority for securing the right to vote. After its passage, college and high school students continued to play central roles in the civil rights movement, and especially in voter registration work. Students, some of whom did not have the right to vote themselves, did the still dangerous work of helping Black Southerners realize their right to the franchise. With major discriminatory provisions removed, community organizing in full swing, and federal registrars on hand, by the end of 1966 at least 50 percent of eligible African American voters were on the rolls in 9 out of 13 southern states.<sup>40</sup>



Freedom Christmas Voter Registration Student Training, 1965, Jackson, Mississippi. Courtesy of photographer Jim Lemkin, who, at the time, was a 19-year-old student at the University of Rochester volunteering with the National Student Association in conjunction with SNCC, Mississippi Freedom Democratic Party, and other civil rights organizations.



President Lyndon Johnson had considered “lowering the age limit” as part of the 1965 Voting Rights Act, but had not wanted to “bog the bill down” with less pressing matters.<sup>41</sup> To be sure, in the first half of the 1960s, some young people, like University of Connecticut students Joseph Dolan and Joline Breton, were pressing the issue of youth voting rights. Stirred by the spirit of youth activism coming out of the civil rights movement and by Kennedy’s challenge to “seize the ‘burden and glory of freedom,’” their statewide VOTES (Vindication of Twenty-Eighteen Suffrage) organization aimed “to demonstrate that college and high school-age youths have a responsible interest in government and should be allowed to vote.” Focused on state action, VOTES partnered with state legislators and groups like the League of Women Voters to make their case.<sup>42</sup> Though unsuccessful, their campaign was just that—a campaign. Young people were organizing for the vote.

Moreover, over the course of the decade, youth issues were becoming more pressing for the president, and the country. While Johnson’s “war on poverty” initiatives reflected the idealism and values of many young Americans, and created additional pathways for constructive community and national service, the president’s decision to send ground troops to Vietnam in 1965 released the floodgates to a different kind of youth political engagement. Faced with the prospect of fighting in Vietnam, or sending off their friends and siblings to do the same, young Americans increasingly criticized U.S. policy in Vietnam. Young people asked important questions and explained the stakes for them in forums, teach-ins, on the streets, in the nation’s capital, and in the pages of student newspapers:

Are we stemming the tide of aggression, or are we merely preventing the very thing that formed this country? Are we protecting our own interests, or are we protecting the people of S.E. Asia?...This is no debate over the dress code, over whether or not there should be more freedom given to students.... This is a pressing question of the future of mankind for generations to come.<sup>43</sup>

The escalation of the war in Vietnam led directly to new conversations about the voting age. Supporters reasserted the foundational argument of youth voting rights. As New York Representative Benjamin S. Rosenthal exclaimed: “We are asking our young soldiers to die for our democracy; yet we deny them an electoral vote in the operation of that democracy.”<sup>44</sup> But advocates generally favored broader lines of reasoning about youth responsibility and legal status—18-year-olds worked and paid taxes, they married and raised children, they were judged as adults in criminal court, and they entered civil service and volunteered in government programs. While youth-vote advocates sought to paint a collective portrait of young Americans as responsible citizens who undertook multiple duties associated with adulthood, they also pointed to growing youth frustration as a rationale for lowering the minimum voting age. One University of Michigan student explained: “Left without the voice of the vote, young men and women

have recourse only to defiance, [and] civil disobedience...as a means of influencing government or informing people of their position.”<sup>45</sup> As the Vietnam War and protests against it raged on, the idea that demonstrations might be replaced with the “direct, constructive, and democratic channel” of the vote played an increasingly prominent role in discussions about the age at first vote.<sup>46</sup>

Fears about youth radicalism and what the young might do with the power of the vote generally tipped the scales against referendums that would have enfranchised under 21-year-olds. From 1966 to 1970, voters would repeatedly reject the notion of youth voting rights as a “safety valve” for otherwise responsible young people, defeating state measures to lower the voting age across the country.<sup>47</sup> In the aftermath of unsuccessful outcomes in North Dakota, Nebraska, and Hawaii, Georgetown student Maine Shafer expressed his sense of the main reason for defeat: “The fatal liability of those of us who have worked for the 18-year-old vote has been the antagonism felt by middle-class suburbia toward students and youth.”<sup>48</sup> The 1968 film, *Wild in the Streets*, exaggerated, but also captured something of the fears that shaped the fate of state voting-age initiatives. Its storyline played out a worst-case scenario for what would happen if the country adopted a lower voting age; a 15-year-old becomes president, everyone over age 35 is sent to reeducation centers, and hippie-fascist youth assume control of governments across the world.<sup>49</sup>

Despite such negative impressions of youth, and pessimistic projections for their political behavior, more young people, whether they could vote or not, were already turning to electoral politics to make their voices heard. Over the course of the postwar era, political parties were gradually making a place for youth in campaigns and party structures. Johnson’s actions in Vietnam, which directly impacted youth and stripped resources from young people’s other political priorities, such as poverty and the environment, drove them to the campaign trail. Electoral politics seemed an especially important arena to pursue after the January 1968 Tet Offensive, when North Vietnamese troops invaded the capitol of Saigon and it became clear that the president had not been honest about the progress, costs, or nature of the war.

When Senator Eugene McCarthy announced he would challenge the president’s bid for reelection on a peace platform, youth, including many under the age of 21, eagerly supported his campaign. They dressed up, shaved their beards, and got to work. The students who got “clean for Gene,” won McCarthy an unexpected 42 percent of the vote in the New Hampshire primary. Subsequently, Senator Robert F. Kennedy, who also appealed to the values of youth, launched his own primary challenge. In an unprecedented move, the president withdrew from the race. Young people had effectively “dumped Johnson” from the Democratic ticket. Although their impact was decidedly less straightforward, 21-year-old Ann Palmer described her perceptions of youth involvement on the other side of the political aisle: “Young people have much more enthusiasm....

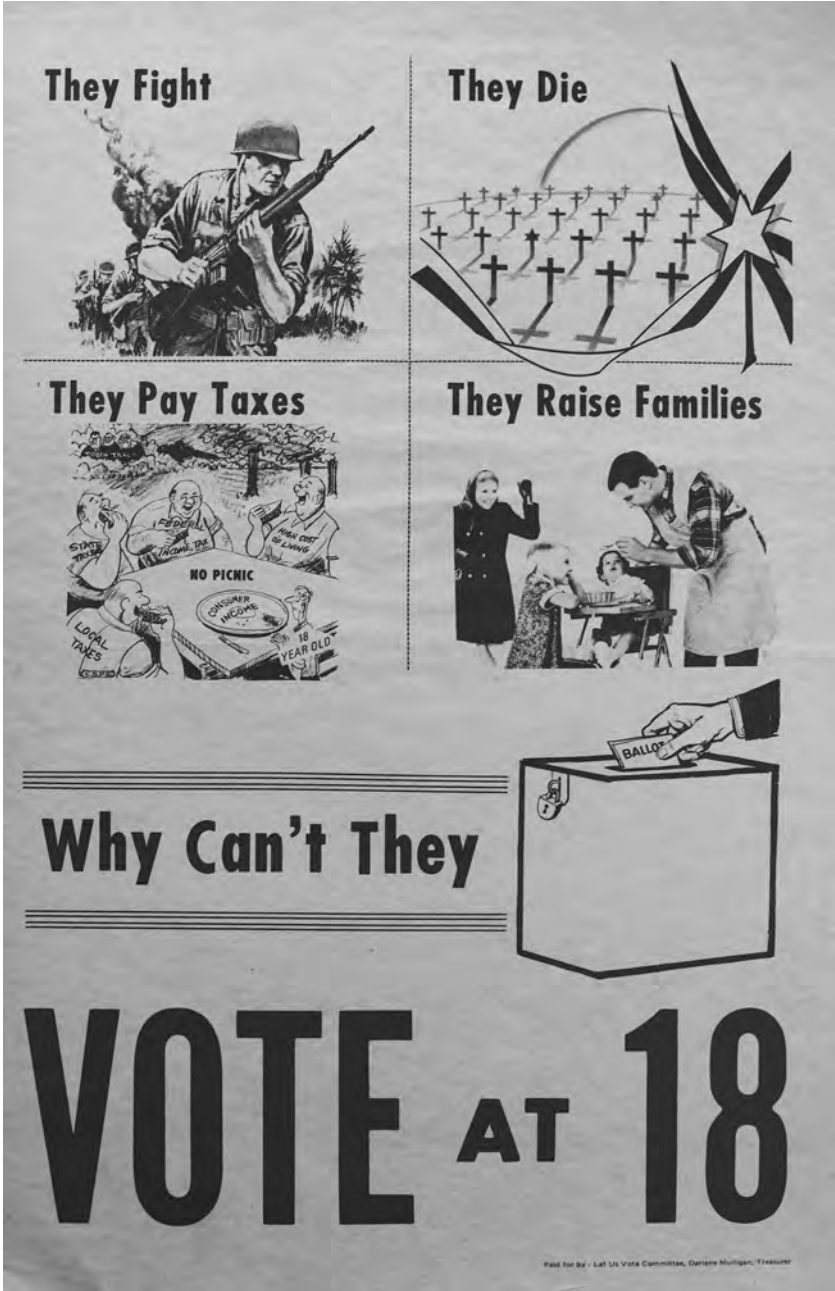


You don’t see any older people here [at a Republican rally for candidate Nelson Rockefeller] tonight, you see kids....Kids pay much more attention to what’s going on in the world.”<sup>50</sup> In 1968, young people proved both their interest in electoral politics, and that they weren’t kids playing games. They were a political force to be reckoned with.

Just as youth were more fully engaging with the political system to address their concerns, the ongoing Vietnam conflict, the assassinations of Martin Luther King Jr. and Bobby Kennedy, the release of the National Commission on the Causes and Prevention of Violence report, and contentious Democratic and Republican national conventions generated a growing sense of crisis. Pat Keefe, who had lost her brother in Vietnam and campaigned for Bobby Kennedy explained: “I came out of the 1968 [Democratic] convention distraught, a loss of faith in politics as such.”<sup>51</sup> The rising cynicism of youth was palpable, but with all that was wrong with America, that disillusionment also seemed justified. Youth-vote supporters emphasized that extending voting rights to young people could bring, as Republican Representative Dan Kubiak of Texas put it, “new blood, new ideas, and clearer vision to American government.” Opening the ballot box to 18-to-20-year-olds wouldn’t just channel their activism into more traditional and manageable forms; it also could help avert a larger “national crisis of confidence in our institutions.” Enfranchising youth wasn’t a dangerous experiment, it was a recipe for the “regeneration of democracy.”<sup>52</sup>

Putting aside her own disillusionment, Pat Keefe started working on a “Vote 19” campaign in her home state of Ohio. Lowering the voting age seemed to her “like a change in the system that would empower young people” and give them real political leverage.<sup>53</sup> She wasn’t the only one. Across the nation young people formed grassroots organizations or encouraged the youth-oriented organizations to which they already belonged to take up youth voting rights. Just as importantly, in late 1968 the National Education Association (NEA), which had long voiced support for a lower voting age, moved from passing resolutions on the issue to dedicating resources and mobilizing its members, especially its student members, to achieving that single objective.

“Project 18” leaders set to work to take advantage of the historical moment, noting the “unquestioned influence” of youth on the most recent election, that public opinion on the 18-year-old vote issue had reached 64 percent, and that there was a growing sense that lowering the voting age “could have a therapeutic effect on our nation.”<sup>54</sup> Organizers mobilized more than the resources of the NEA. Creating the Youth Franchise Coalition (YFC), they harnessed the collective power of multi-issue national organizations interested in a lower voting age, such as the AFL-CIO, the Southern Christian Leadership Conference’s Citizenship Education Program, the Youth Division of the NAACP, the National Student Association, the YMCA, and Young Democrats and Young Republicans, as well



A poster from the Let Us Vote Committee highlighting 18-year-old Americans as responsible adults, fulfilling important roles and obligations associated with citizenship and, thus, deserving of the right to vote, circa 1969. Courtesy of John Olsen. Photograph by Bruce Haraguchi.

as that of more localized groups and single-issue organizations, like Ohio’s Vote 19, and the newly formed Let Us Vote (L.U.V.), based in Stockton, California. At its height the YFC represented an estimated 8 million individuals through their organizations.<sup>55</sup>

Just as woman’s suffrage organizations had done in their successful campaign to win the vote for women, the YFC worked on both the state and national levels, helping to establish and support state coalitions and referendums at the same time its staff worked behind the scenes with congressional partners and key labor and civil rights figures in Washington D.C. Fittingly, the NAACP sponsored what might be considered the YFC’s opening salvo, a “National Youth Mobilization to Lower the Voting Age.” The April 1969 two-day event brought more than 2,000 young people from 33 states, representing 40 different organizations to the nation’s capital. There, young organizers listened to political allies, attended workshops, visited and lobbied their respective members of Congress, and shared ideas.<sup>56</sup> The program’s final speaker, Representative Louis Stokes, a Democrat from Ohio, lamented that, unlike other contemporary youth “mobilizations,” massive rallies filled with protesters, the young people the coalition gathered in D.C., who were working to achieve “their aims through the democratic process,” went almost unnoticed by the press.<sup>57</sup> But the same had been true for much of the important labor of young civil rights activists earlier in the decade. Tougaloo student Anne Moody, for instance, regarded the March on Washington as something of a vacation from the less visible day-to-day activities of the movement. As she recalled in her 1968 autobiography, the famous march had been “the first time in well over a year I had been away from my work in the Movement....I had even gone to a movie.”<sup>58</sup> For the youth franchise movement, as for the civil rights movement, the media would often miss the complexities of the work that expanded American democracy.

The quiet, behind-the-scenes efforts of YFC staff on Capitol Hill also went unnoticed. But at the same time as young people were building political networks and momentum in states across the country, the YFC headquarters team strategized with key congressional allies to make progress in Washington. With no signal of support from the states (multiple state referendums in the period failed), Congress was reluctant to act on a constitutional amendment. Les Francis, the first director of Project 18, explained the conundrum: “Congress isn’t going to act unless it feels the heat from home.”<sup>59</sup> There were also other obstacles to an amendment. Since states wouldn’t pass their own initiatives, would they refuse to ratify such a measure and perhaps even refuse to reelect those who supported it, should it pass? Already angered by the “evil” legislation that had ended white supremacy’s hold on elections in the South, many southern members of Congress continued to raise the battle cry of “states’ rights” on any federal action related to elections.<sup>60</sup> Representative Emanuel Celler, who had been arguing that younger voters would be too easily misled by demagogues since 1942, chaired

the powerful House Judiciary Committee. In addition, President Nixon had not expressed his support for a voting age amendment.

But the Civil Rights Act of 1965, and subsequent court rulings, like *Katzenbach v. Morgan* (1966), had affirmed that Congress “may” indeed step in to protect the right to vote. Building on that foundation, Massachusetts Senator Edward M. Kennedy proposed and the YFC promoted a bold new approach for achieving youth voting rights: by federal statute rather than constitutional amendment—the “simple legislation” Senator Russell had alluded to back in 1954. In 1970, Congress needed to extend the 1965 Voting Rights Act, which was set to expire. The 18-year-old vote, Kennedy argued, should be added to that bill. Although many members of Congress, and the president, disagreed with this proposal, the urgency of extending the Voting Rights Act compelled its passage. The youth vote, what many supporters called the “next great step in the march of democracy,” became even more directly connected to the struggle for Black freedom.<sup>61</sup>

President Nixon signed the Voting Rights Act of 1970, but compelled by concerns about the separation of powers and with a presidential election coming up in 1972, called for a constitutional test. Oregon and Texas answered the call, later joined by two additional states. They sued the U.S. Attorney General, John Mitchell, seeking an injunction against enforcing the 18-year-old vote provisions. In a split decision, the Supreme Court handed down its ruling in *Oregon v. Mitchell* in December of 1970: Congress could set the voting age for federal but not for state and local elections. Longstanding tensions between state and federal rights continued to shape the path of the 18-year-old vote. Rosalyn Hester, a graduate of Southwest Texas State College who had spent a year in a political science graduate program before joining the YFC leadership team, identified the tasks ahead: “To translate the franchise into meaningful political participation and to give young people the right to vote on all levels of government.”<sup>62</sup>

The second proved much easier than the first. “Political pros” predicted that “lowering the voting age for federal elections will speed the lowering of the age of state and local elections.” Vote 18 advocates and state officials alike pointed out the “illogical” prospect of allowing youth to vote for president but not for offices closer to home. But the real “heat from home” centered on the logistical and financial challenges of managing two sets of voters’ rolls and running separate elections for federal and other contests. What observers called “government pragmatism” prevailed.<sup>63</sup> Congress passed the 26th Amendment with little dissent on March 23, 1971, and the states ratified it in record time. On July 5, the 26th Amendment to the Constitution became the law of the land.

To make the 26th Amendment meaningful, youth-vote advocates again mobilized, this time to get 25 million new voters (11 million 18–20-year-olds and another 14 million who had turned 21 since November 1968) on state election rolls in time for the 1972 presidential election. National and local groups launched nonpartisan registration drives across the country, employing new strategies to reach young Americans. Beaches, shopping malls, recreation centers, and rock

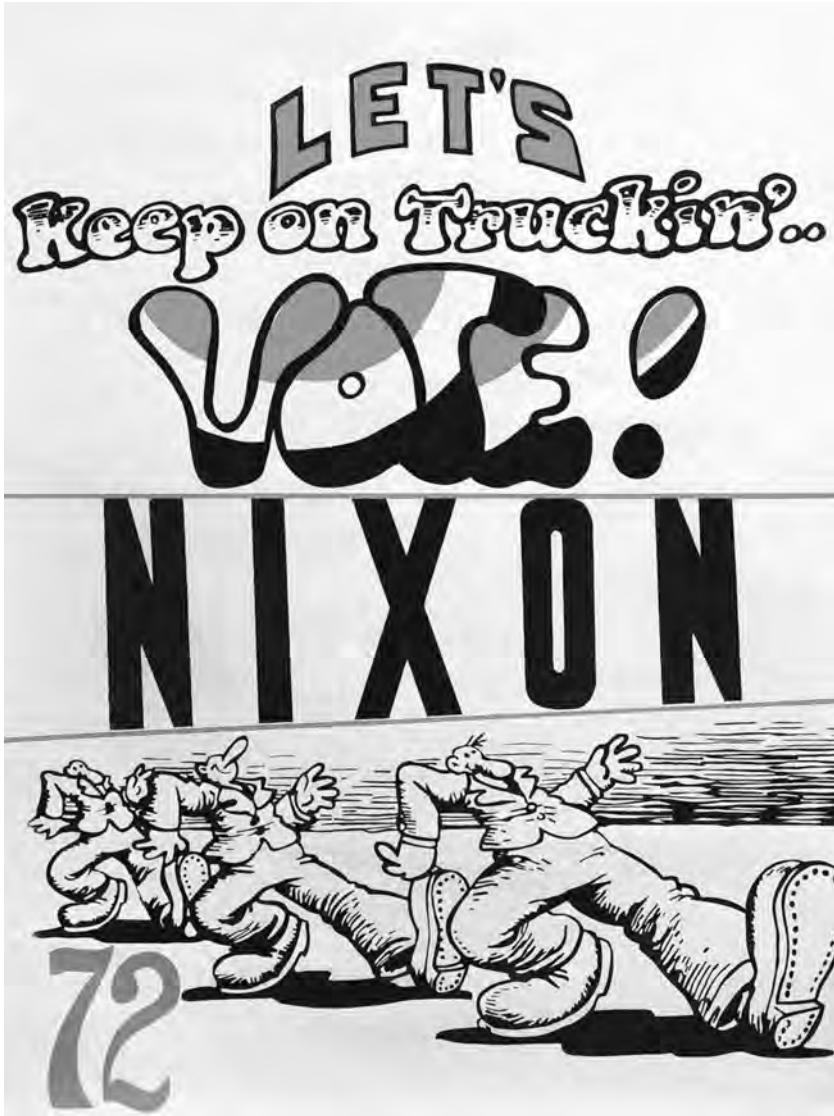
concerts became voter registration sites.<sup>64</sup> By March of 1972, the Beach Boys had registered 80,000 young voters, and cultural figures like comedian Mort Sahl were on the radio pitching, “you’ve got the power this time.”<sup>65</sup> Understanding that college students were “much more accessible” than other youth, some groups targeted high schools, factories, and union halls, stressing the power of the vote to address the economic and employment concerns of young people.<sup>66</sup> In what *Scholastic* called the “scramble for implementing the new youth vote,” organizers identified and addressed obstacles to youth voting, as well as the main issues—including peace, racial justice, and the environment—that seemed to drive youth participation.<sup>67</sup>



McGovern Campaign Poster, issued by California Students for McGovern and featuring a photograph by Brian O’Dowd, 1972. Courtesy of Color Blaze. Notably, this student design highlights the candidate’s support for issues that observers, polls, and young people themselves, identified as the political priorities of American youth.

Candidates and parties also sought out youth, for their votes, campaign muscle, and the image and energy they brought with them. Running for reelection, President Nixon faced the Democratic challenger, Senator George McGovern of South Dakota, and both focused on motivating and mobilizing young voters. Although the majority of the newly enfranchised voters aged 18 to 20 cast their ballots for McGovern, Nixon won the overall youth vote up to age 29. Organizers and observers concluded that “the new voters are hardly monolithic or easy to

control.” Although voter turnout among young Americans had been disappointing, “in the first big test of the new voters,” their participation as full citizens had shaped American political culture and the substance, as well as the style of the campaign. It was clear “young people have the voting strength to change” politics as usual in America, and that was true especially on the local level.<sup>68</sup>



Nixon Campaign Poster, based on cartoonist Robert Crumb's widely popular Do-Dah men, 1972. Courtesy of Color Blaze.



With the 1972 election, young Americans aged 18 and up were now full members of the U.S. electorate. Included as first-class citizens in the democratic system, they could have their voices heard within it. Enacting youth suffrage recognized the promise and potential of young Americans. Although youth turnout would rise and fall over subsequent decades, the youth vote has mattered very much for U.S. politics and elections since the turn of the 21st century. For Jennings Randolph, later named the “Father of the 26th Amendment,” young people deserved a role in shaping the “vast undertakings and important discussions of the future.” The franchise of freedom provides the opportunity to do that, and the actions and voices of many Americans over three decades is what made this historic opportunity possible.

## Notes

- 1 C.C. Harvey, “The Question of Age Limit for Future Voters,” *School Activities* 14 (December 1942), 128; U.S. Citizenship and Immigration Services, “I’m an American: INS’s Foray into Radio Broadcasting,” <https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/im-an-american>. While some communities scheduled Citizenship Day events closer to the official commemoration day, others scheduled them for earlier or later depending on local proclivities.
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- 3 “The Sun-Glass,” *The Paducah Sun-Democrat* [KY] (Oct. 9, 1940), 1.
- 4 Harvey, “The Question,” 129.
- 5 See, for instance Floyd W. Reeves and Howard Bell, *American Youth Faces the Future: Responsibilities and Opportunities for Youth in the World of Today and Tomorrow* (Washington D.C.: National Education Association, 1912), 48–49.
- 6 Harvey, “The Question,” 129.
- 7 Joy Elmer Morgan, “Old Enough to Fight: Old Enough to Vote,” *The Journal of the National Education Association* (February 1943), 35.
- 8 Caroline Cox, *Boy Soldiers of the American Revolution* (Chapel Hill: University of North Carolina Press, 2016), 12.
- 9 See Corinne T. Field, *The Struggle for Equal Adulthood: Gender, Race, Age, and the Fight for Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 2014), chapter 2.
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- 11 Celler comments in “Constitutional Amendment Introduced Providing That No Citizen under 21 May Have the Right to Vote,” 83rd Cong., 2nd sess., *Congressional Record* 100 (March 10, 1954), 3050.
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- 13 David Lawrence, “Second Look at President’s Plan to Allow 18-year-Olds to Vote Creates Problems,” *Kingston Daily Freeman* (January 11, 1954), 1.

24 “Franchise of Freedom”: A Brief History

- 14 Julia E. Johnson, ed., *Lowering the Voting Age* (New York: H.W. Wilson, 1944), 210; Kilgore, “Old Enough,” 6, 18.
- 15 “What Town Meeting Has to Say,” in Bower Aly, ed., *Youth Suffrage: The Eighteenth Annual Debate Handbook, 1944–1945* (Columbia, Missouri: Lucas Brothers, Publishers, 1944), 118 [hereafter cited as *Debate Handbook*].
- 16 Bower Aly, “Introduction: Studying Youth Suffrage,” in *Debate Handbook*, 9; “Shall We Lower the Voting Age to Eighteen?” *Scholastic* 42, no. 3 (February 15–20, 1943), 15–16; James N. Holm, “The Legal Voting Age Should Be Reduced to Eighteen Years,” in *Debate Handbook*, 164–165.
- 17 “What Town Meeting Has to Say,” in *Debate Handbook*, 116–118. Emphasis added.
- 18 *Ibid.*
- 19 “Project 18 Bulletin” (February 25, 1969), Box 2709, Folder 3, National Education Association Papers, Estelle and Melvin Gelman Library, Georgia Washington University, Washington D.C. [hereafter cited as NEA Papers].
- 20 See Ellis Arnall, 1943 House hearings, 6–13.
- 21 *Debate Handbook*, 135–138.
- 22 Notably, *Minor v. Happersett* also affirmed that only male, and not female, citizens of the United States enjoyed a constitutional right to vote.
- 23 On Women’s suffrage in the West, see, for example, Rebecca J. Mead, *How the Vote Was Won: Woman Suffrage in the Western United States, 1868–1914* (New York: New York University Press, 2004). In 1960, another U.S. territory, American Samoa, established 20 as the minimum voting age.
- 24 “Sen. Russell Attacks Ike’s Vote Plan,” *Bristol Virginia-Tennessean* (May 21, 1954), 2.
- 25 On the South and women’s suffrage, see, for instance, Elaine Weiss, *The Woman’s Hour: The Great Fight to Win the Vote* (Penguin Books, 2018). Section 5 of the 14th Amendment and section 2 of the 15th Amendment specifically give Congress the authority to enforce the rights they outline.
- 26 “Lowering the Voting Age,” *The Congressional Digest* 33 (March 1954), 69–96.
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- 29 James Deakin, “Congress Showing Concern for Nation’s Youth—and Incidentally for Its Votes,” *St. Louis Post-Dispatch* (February 16, 1957), 1; Lincoln Gould, “G.O.P. Launches Drive for 18-Year-Old Vote,” *Washington Star* (May 28, 1953), A8.
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- 35 Margaret Mead, *Culture and Commitment: A Study of the Generation Gap* (New York: Natural History Press/Doubleday & Company, Inc., 1970) 1, 54–59; “Democratic Platform on the 18-year-old vote” (1968), Box 2699, Folder 8, NEA Papers.
- 36 President John F. Kennedy, “Inaugural Address” (January 20, 1961). Available at: <https://www.archives.gov/milestone-documents/president-john-f-kennedys-inaugural-address>.
- 37 “Statement of Kevin Lowther” [Peace Corps Volunteer in Sierra Leone, 1963–1965], *Hearings Before the Sub Committee on International Development of the Committee on International Relations, House of Representatives, 95th Cong., 1st sess.* (September 29, 1977), 73.
- 38 1968 Senate hearings, 43. Kennedy did not live to see VISTA implemented but his successor included it in the Economic Opportunity Act of 1964.
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- 40 National Archives, “Milestone Documents: Voting Rights Act” (1965), <https://www.archives.gov/milestone-documents/voting-rights-act>.
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- 42 Charles Corden, “Students Start Organization to Lower State’s Voting Age,” *Connecticut Daily Campus* (October 31, 1962), 1; “Youth Vote Rally Draws Attention of Other Groups,” *Hartford Courant* (August 23, 1962), 20; Joseph S. Dolan, *Report to the President’s Commission on Registration and Voting Participation on Lowering the Voting Age to 18 and the Commission’s Recommendations: The Results of a 3-Year Study on 18-Year-Old Suffrage* (Storrs, Conn.: University of Connecticut, 1964), 1; Joseph S. Dolan, *A New Suffrage Movement is Beginning* (Wethersfield, Conn.: VOTES National Committee, 1964).
- 43 Robert Postma, “Vietnam,” Letter to the Editor, *The Independent* [Newark State College, now Kean University] (April 22, 1965), 2.
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- 46 1968 Senate hearings, 2.
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- 49 *Wild in the Streets* (American International Pictures, 1968).
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26 “Franchise of Freedom”: A Brief History

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- 55 Paul Myer, interview with Jennifer Frost (August 10, 2019).
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- 64 Steven V. Roberts, “Will the New Youth Vote Make Any Difference?” *Saturday Review* (May 6, 1972) 53; Charlotte Roe, “Frontlash-1972: A Report,” January 3, 1973, 1, Box 2, Folder 25, Frontlash Records 1968–1997, George Meany Memorial Archives, formerly at the National Labor College, now at the University of Maryland, College Park, Maryland [hereafter cited as Frontlash Records].
- 65 Nat Freedland, “Record Cos. Into Public Aid Stance,” *Billboard* (March 11, 1972), 58; “Registration Spots,” Box 7, Folder 49, Frontlash Records.
- 66 Roberts, “Will the New Youth Vote,” 54.
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### 3 Arguments For & Against Youth Suffrage

Numerous arguments for youth voting rights emerged over the 30 years of efforts, campaigns, and the eventual movement. Young Americans had the maturity and education to vote. Their participation would strengthen democracy and government in the United States. Most influentially, the rallying cry “old enough to fight, old enough to vote” emerged during World War II, grew louder with the Korean War, and louder still with the American War in Vietnam. Since by the age of 18, youth were fulfilling the responsibilities of citizenship in the military, as well as through tax-paying and volunteering, they were entitled to the rights of citizenship. Over these years, student activism in civil rights and other social movements showed young people engaged in the important issues of the time. In the mid-1960s, proponents turned to a new, “safety valve” argument: without the right to vote, young people turned to protest; with the vote, they would turn to politics. Advocates advanced their arguments in speeches, in writing, and in images. Opponents responded to each of these arguments and turned them to their own ends. But by drawing upon multiple arguments proponents were able to reach different audiences and make the most persuasive case for the 18-year-old vote.

- 1 Jennings Randolph, “Pro: Should The Legal Voting Age Be Reduced to 18 Years?” *Congressional Digest* (August–September 1944), 202, 204.

*Jennings Randolph, Democrat from West Virginia, has rightly earned the title “Father of the 26th Amendment.” Starting in 1942 as a member of the House of Representatives and then continuing in the Senate, Randolph made it his goal to achieve voting rights for 18-, 19-, and 20-year-olds. In 1971 he fulfilled that goal, when his proposed constitutional amendment became the law of the land. Randolph began advocating for the 18-year-old vote after Congress lowered the draft age to 18 during the first year of U.S. involvement in World War II. If the draft age dropped to 18, then in fairness it should be*

*matched by a lowered voting age. Randolph offered multiple arguments in support of youth suffrage, but his foremost argument was that fulfilling citizenship responsibilities earned the rights of citizenship. Summarized in the slogan "old enough to fight, old enough to vote," this argument became the foundational argument for lowering the voting age to eighteen.*

**I**N essence this resolution proposes that the Constitution of the United States shall be amended so that the voting rights now extended to young men and young women of 21 years of age shall be extended to citizens 18 years of age.

"I am very firmly convinced...that young men and young women of 18 years of age today are in most instances more capable of deciding clearly and accurately the issues presented by the candidates, or the theories advanced by political parties, than were the youth of the country shall we say, 25, 50, or 100 years ago, at the age of 21.

"Through the development of our processes of civilization, through the stepped-up methods of communication, through the advances in education and the increase in educational facilities, through the increased tempo of transportation, today we have a great youth population within this age bracket which is in most instances as intelligent and as well informed as men and women many years their senior. They are, therefore, entirely capable and eager for participation in Government as voters. When I was teaching I found that the group from 18 to 21 in the classes over which I presided had well-ordered minds....

"Youth's point of view should be made a part of today's vast undertakings and important discussions of the future....Nearly everywhere there is unmistakable need for reform, and reform calls for strenuous effort. Who are better prepared to engage strenuously in this task than young men and women? Reform means change, and mature minds do not take up change as readily as fresh, unprejudiced young minds....

"Mere youthfulness in years is not sufficient. But with youth, there are qualities of imagination, enthusiasm, self-reliance, initiative and personality which make them sorely needed in a world seething with uncertainties, turmoil, and challenging opportunities.

"The country is ready and waiting for an infusion of new thoughts and plans from a new group of pioneers with the ambition and courage to put them into action....

"I don't believe we should be tied down to any tradition, which in this instance I believe to be meritless, which would continue the voting age at 21 rather than 18....

"I strongly feel one of the very cogent reasons why we should consider this proposal today is that the impact of war on our society has lifted, through the processes of the draft, from our home front millions of young men and women in the age bracket of 18 to 20 inclusive....

“It has been found that almost 25 per cent. of the enlisted personnel of the Army falls within the 18-to-20 year bracket. In the Navy, the figure rises to 37 per cent., and 50 per cent. of the Marine Corps were aged 18 to 20....

“Youth, old enough to fight and die for their countries, are, assuredly, mature enough to participate in the processes of Government....Who will say they are old enough to use bullets, but too young to use ballots?”

“I believe that these youth are a tremendous factor in bringing victory to the United States, and I believe also that we should decide now to give the citizens in this age group...the opportunity and responsibility to become a deciding factor in rebuilding for good our Nation in the post-war world.”

- 2 Edith B. Joynes, “No One Knows Why 21,” *Parents’ Magazine* (December 1943), 18.

*From the very start, a range of civic, community, professional, and union organizations weighed in on the merits of youth suffrage. The most important and influential of these was the National Education Association (NEA). Founded in 1857, NEA provided an organized voice for public school educators across the country. Its leaders emerged as strong advocates for lowering the voting age during World War II, continued over the decades, and played a prominent role in achieving the 26th Amendment. NEA advanced multiple arguments but emphasized educational attainment most of all; President Edith B. Joynes made the case in 1943.*

THE VOTING age should be reduced to eighteen. The adoption of the age of 21 for full legal accountability...has been maintained for centuries through the legal fiction that a human being attains maturity on his twenty-first birthday. Neither physiology nor psychology substantiates the tradition. Democracies have always regarded the suffrage both as a responsibility and a right. The 18-year-olds of 1943 are much better equipped to assume the responsibility of voting than the 21-year-olds who were vested with suffrage at the beginning of our Republic. They are much better educated. In 1789 a goodly percentage of the youth of 21 years of age signed their names with a mark. In 1943 most of the youth of 18 years of age have been enrolled in or have finished high school. They are informed of events by newspapers and magazines, and motion pictures and radio not available to the voters of our pioneer days. The experience of today’s youth includes travel and contact with people, and knowledge of social and political conditions that their ancestors never dreamed of. Certainly today’s 18-year-olds have every claim to the right of the vote. They are fighting that their country may live. In the Nation’s factories and fields they participate in the productive life of their country. Simple justice demands that they be permitted to take part in determining what kind of life it shall be. A youth who is old enough to fight and to work is old enough to vote.

- 3 Sidney Silvian, "America's Town Hall Meeting of the Air," April 15, 1943, reprinted in "Con: Should the Legal Voting Age Be Reduced to 18 Years?" *Congressional Digest* (August–September 1944), 221.

*Sidney Silvian had recently graduated from high school in Cincinnati, Ohio, where he had been a very active member of the student body. He served as president of the Current History Club, a member of the school debate team, co-president of the school's Radio Guide, and business manager of the school newspaper. On April 15, 1943, he appeared on a radio broadcast, "America's Town Hall Meeting of the Air," to argue the negative on the question "Should the voting age be lowered to 18?" In the process, he demonstrated that not all young Americans supported their own or their peers' enfranchisement.*

“ONE of the central arguments thus far seems to be that because the 18-year-old is old enough to fight he is also old enough to vote. The connection between the two, however, is not as clear as some would have us believe. For it is false logic to assume that because a person can fire a gun, or bomb a convoy, or sink an enemy ship, he automatically has qualified himself as a voter. In fact, the very qualities that make the 18-year-old an excellent fighter tend to ‘wash him out’ as an intelligent voter....

“Now, to deal with the problems of government, I think we will all agree that we must have citizens who can boast of more than a theoretical knowledge of what’s to be done—more than the knowledge that we get in the classroom; but rather individuals who have lived in the community as wage earners and know from experience the kind of laws best suited to their needs.

“Modern society, however, has kept increasingly larger numbers of youths in school. High schools in this country today have more than twice the enrollment of 40 years ago, in proportion to population. So that, while the individual is better educated and from that standpoint might well meet the qualifications for suffrage, his first hand experience as a member of the community is proportionately decreased. Yes, his education in the classroom is satisfactory, but his education in the workshop of the world has scarcely begun. The 21-year-old, on the other hand, with those added years of social experience, of day-to-day contact with the world, can go to the polls with an assurance and confidence in himself that the younger voter could not possibly possess....

“Political scientists have been trying for some time to decide at what age a person is politically developed, but they do not seem to agree. If anything, I think that the age of political maturity in this country should be raised instead of lowered.”

- 4 Eleanor Roosevelt, "My Day" Columns, 1943–1951, Eleanor Roosevelt Papers Project, George Washington University, <https://erpapers.columbian.gwu.edu/my-day>

*Eleanor Roosevelt, wife and then widow of President Franklin D. Roosevelt, strongly believed that young Americans deserved the right to vote.*

*Committed to social justice, she participated in a wide array of activities and organizations during her lifetime, and she had a longstanding interest in young people and in ensuring their voices were heard. From World War II through the Cold War, she advocated for the 18-year-old vote. Although she advanced the foundational argument of "old enough to fight, old enough to vote," she always understood young women and men not serving in the military as deserving of the franchise as servicemen. Eleanor Roosevelt's statements of support for lowering the voting age appeared on multiple occasions in her widely syndicated newspaper column, "My Day," which she signed "E.R."*

JANUARY 21, 1943

...I have noticed lately a number of articles in the papers, and even some cartoons on the subject, as to whether we should lower the voting age, since we have lowered the draft age. This question has been academically discussed for some time, but now it becomes more than an academic question.

If young men of eighteen and nineteen are old enough to be trained to fight their country's battles and to proceed from training to the battlefields, I think we must accept the fact that they are also old enough to know why we fight this war. If that is so, then they are old enough to take part in the political life of their country and to be full citizens with voting powers.

E.R.

JUNE 7, 1946

HYDE PARK, Thursday—I see in the paper this morning that the Administration draft-extension bill has been passed by the Senate and, if the House passes the same bill, Selective Service will be continued until May 15, 1947. The House, it is said, may cut out the drafting of 18-year-olds....

Many young people in different states are asking to be allowed to vote at 18, and in Georgia a law to that effect has already been passed. That is an indication that young people feel able to accept the responsibilities of citizenship at that age....

At the present time, the continuation of Selective Service seems essential, and I think the young people themselves would prefer to have it apply to 18-year-olds.

E. R.

JUNE 23, 1951

HYDE PARK, Friday—I was glad to see that the President signed the draft and Universal Military Training bill the other day. The new law makes the draft age 18 ½ and extends the right to draft until July 1, 1955. It also lowers physical and mental standards and tightens up the deferment provisions. The term of military service is to be for two years and we can only hope that these measures will take us through our present difficulties with the Soviet Union.

The new law should help us to reach the point where the Soviets will recognize that we intend to stay strong, that we do not intend to give them an opportunity to take over the world for communism, and that we will prevent their political and military influence from spreading.



I think this draft bill, however, has sharpened up the question of a change in the voting age. It seems to me unfair to consider that men are old enough to be trained to fight and, if necessary, to die for their country and still that they are not old enough to have a voice in the government. If the voting age is changed it will, of course, include girls as well as boys. Girls are, however, as a rule more mature at that age than their brothers and, I think, granting to young men and young women this right of participation in their government will tend to make them more thoughtful and more responsible.

It has taken me a long time to be won over to Universal Military Training, but in the present situation it seems to me the only fair thing to do.

E. R.

- 5 High school students, "Should 18-Year-Olds Be Given Vote?" *Los Angeles Times* (April 12, 1953), 11.

*In 1953, the Junior Statesmen of America, an organization that prepares high school students to participate in politics and government, organized a petition to amend California's constitution to lower the voting age. Students in Los Angeles sounded off to a local reporter, stating both their support of and opposition to youth voting rights.*

"If we are going to be drafted we should be given a voice in the action."

"My brother went into the Navy at 18; he had to wait to vote but not to fight. We want to vote now."

"I'm not sure about girls, but if boys at 18 are old enough to fight they are old enough to vote."

"Half of graduates go to work and three years is too long for them to wait to vote on things that affect their lives."

"Many young people are marrying at 18 and if they are old enough to have families, they should have the privilege of voting."

"Today's youth is getting a good education and I think they know more about national and world affairs than a lot of adults."

"We study government in class and conduct our own elections, and I'm more interested in politics now than I'd be after a three-year recess."

"Our studies make us as qualified as most adults."

"Although I think 18 is a little too young and believe we might value the privilege more if we were older, I still must favor the proposal to cut the voting age."

"Most 18-year-olds are not mature enough to vote...and would not take the responsibility seriously."

"Half of the 18-year-olds may be ready to vote, but not the rest. They need more experience—maybe from business, maybe from Army service, or maybe from life itself. This is the age we learn fastest and we will know more at 21."



“I don’t think most people at 18 care enough about elections to dig into the issues.”

“18 is an impressionable age and youths would be more gullible and subject to the influence of radical students found on many college campuses.”

- 6 Dwight D. Eisenhower, Annual Message to the Congress on the State of the Union, January 7, 1954, [www.presidency.ucsb.edu/documents/annual-message-the-congress-the-state-the-union-13](http://www.presidency.ucsb.edu/documents/annual-message-the-congress-the-state-the-union-13)

*President Dwight D. Eisenhower became the most prominent proponent of youth voting rights in the 1950s. Most often he cited “old enough to fight, old enough to vote” in support of his position. Eisenhower’s status as Allied Commander during World War II and ongoing Cold War leadership lent legitimacy to his use of the foundational argument. In addition, from his experience as president of Columbia University, just prior to running for the Oval Office, he knew young people well and believed their maturity and education had much to offer. Eisenhower first offered his endorsement as a candidate in 1952. In 1954, he went even further, using his second State of the Union Address to call for congressional action. This presidential call for a constitutional amendment was a historic first.*

## SUFFRAGE

My few remaining recommendations all relate to a basic right of our citizens—that of being represented in the decisions of the government....

For years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons. I urge Congress to propose to the States a constitutional amendment permitting citizens to vote when they reach the age of 18.

- 7 “Eighteen is Too Young,” *New York Times* (May 23, 1954), E10.

*The New York Times published its first editorial on the 18-year-old vote in response to President Dwight D. Eisenhower’s endorsement in his 1954 State of the Union address. The editorial board of the nation’s leading newspaper would confirm its oppositional stance in 1967, but by the following year it would come to support youth suffrage.*

President Eisenhower argued in his State-of-the-Union Message last January that if citizens of 18 are called into the armed forces they ought to be able to “participate in the political process that produces this fateful summons.” But the muscular resilience that makes a man a better fighter at 18 than at 28 or 38 or 48

does not imply mature judgment. Furthermore, if prospective soldiers were to vote on their country's foreign policies they would obviously have to begin at 15 or 16 years in order to influence the particular politics that would prevail when they were mobilized.

On the whole, it would seem more important to get citizens over 21 to go to the polls regularly than to throw out the dragnet for citizens under 21. Eighteen is not a hopeless age or condition. If we live, as most of us do, we get over it all too soon.

- 8 Leo V. Savage, "Nomination and Election of President and Vice President and Qualifications for Voting," *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary, United States Senate, 87th Cong., 1st sess., May 23, 26, June 8, 28, 29, July 13, 1961, 344–345.*

*Leo Savage, a college student from Ohio, testified at the 1961 Senate hearings on election and voting reform on June 27, 1961. Chaired by Senator Estes Kefauver, Democrat of Tennessee, this was the fourth time that the U.S. Congress held hearings on youth suffrage. These hearings occurred in the first year of the presidency of John F. Kennedy, who won the 1960 election on a Democratic Party platform of action and progress. Kennedy's campaign had connected his candidacy to the 1960s. Campaign slogans such as "Leadership for the '60s" and "A New Leader for the '60s" captured that connection and appealed to young Americans like Leo Savage.*

Senator KEFAUVER. Our last witness today is Mr. Leo V. Savage. Mr. Savage is a student from Findlay College, Findlay, Ohio, who has been reading about and learning from these hearings.

He has come to Washington at his own expense for the purpose of testifying on the subject of the 18-year-olds voting....

Mr. SAVAGE. It is an honor to be able to voice my opinion on a proposal before the Congress of the United States regarding the constitutional amendment to give 18-year-old American citizens the right to vote.

At the outset, I should like to express agreement with those who participated in the 1960...White House Conference on Children and Youth. The conference endorsed the proposal that the voting age be lowered to 18, because it was felt that the 18-year-old citizen was mature enough to assume the duties of full citizenship.

We tell the 18-year-old generation that it will someday make our country's policies and administer its great powers. I am confident that you will agree with me that the very life of America depends upon the wisdom and resourcefulness which they bring to the basic problems with which they will then be confronted....

This generation of Americans has a burning fire of interest in the affairs of state. Let me urge you, Senators, to take the means of keeping it lighted.

In his momentous inaugural address, President Kennedy said: And so, my fellow Americans, ask not what your country can do for you; ask what you can do for your country.

By providing the youth of this Nation with the right to vote, you will have answered the President's call to action. Because of our outstanding educational system, the 18-year-old American citizen is qualified to vote....

Senator KEFAUVER. Is it true that some young people when they reach the age of 18 have been enthused with the idea of participating in politics, and in government?

Mr. SAVAGE. Yes, sir.

Senator KEFAUVER. And yet they are quite discouraged because they have to wait 3 years before they have any say-so about things at the ballot box?

Mr. SAVAGE. Yes sir. The interest is built to a great deal in high schools in the Nation, and then once they are acquainted with the proper procedure of government, then this interest must wait until the age of 21 to be applied. This seems unfair to me.

Senator KEFAUVER. Do you find that young people are taking an interest in and working in political campaigns more than they used to?

Mr. SAVAGE. I think the last election was a good indication of that fact, sir. They definitely took part in the last election, and they were very much interested in the last presidential election as well as many congressional elections. The youth of this Nation have been deeply interested in the outcome.

- 9 Charles C. Diggs, "Should the Voting Age Be Lowered to 18? Yes," *The American Legion Magazine* (November 1966), 8.

*Congressman Charles C. Diggs Jr., a Democrat from Detroit, symbolized the vital connection between youth and Black voting rights. Over the 1950s and 1960s, the civil rights movement grew in strength and size and paved the way for youth voting rights. When Diggs won election to the House of Representatives in 1954, he was the first African American to represent the state of Michigan in Congress. Committed to civil and voting rights for African Americans and young Americans, he proposed his very first bill just two days into his first term in office. It called for a constitutional amendment to lower the voting age to 18. A decade later The American Legion Magazine invited him to make the case for the merits of youth suffrage.*

Throughout my 16 years of service both in the Michigan legislature and in the United States Congress, I have been a strong advocate of voting rights for 18-year-old citizens.

Beginning in 1955, I have continually introduced legislation to amend the U.S. Constitution to make first-class citizens of our 18-to-21-year-olds.

We consider a youth of 16 and over responsible enough to be judged by his peers in courts of law should he be charged with violating citizen responsibility.

We consider a youth of 18, 19 or 20 mature enough to hold a job, pay taxes, marry and raise a family, operate an automobile, be sued and make wills.

It seems greatly inconsistent that we consider a youth to be grown up enough to accept these responsibilities and then declare him too immature for involvement by voting participation in the very processes of Government which have at the same time just held him a responsible citizen.

American youth today are better prepared for political responsibility through education and exposure to mass media.

We should encourage participation in civic affairs of people at an age when they are enthusiastic and interested in Government and politics...

The archaic minimum voting age of 21 was established over 150 years ago and has its roots in the English tradition of common law....This serves no positive function in our modern society.

According to a Gallup Poll taken in 1965, a majority of America's adults believe that that voting age should be lowered....

Should we deny America's youth the right to help determine the Government whose actions and decisions it is morally and legally obligated to support?

**10** "Vote Yes on Proposal 1," *Michigan Daily* (November 6, 1966), 10.

*In the 1960s, shaped by the decade's events and social movements, young Americans came to feel the effects of their disenfranchisement until age 21 more deeply. New student-led organizations dedicated to youth suffrage sprang up and worked for amendments to state constitutions. In 1966, Michigan students successfully pushed for a referendum to lower the voting age to 18. They lobbied the state legislature, organized on campuses and in communities, gave talks and press conferences around the state. Their ad published the day before the election made their case and shared their endorsements and support.*

THE AMERICAN DAILY  
 FRIDAY, NOVEMBER 4, 1965  
 THIS POLITICAL ADVERTISEMENT

# Vote YES on Proposal No. 1 LOWER THE VOTING AGE TO 18

• **21 IS AN ARBITRARY AGE** . . . in the 18th century we adopted 21 because of tradition. That tradition was partly based on the fact that a man couldn't become a knight until he was 21. No information is available to prove that one voting age is better than another. The question should become . . . do citizens who share in the government's burdens, deserve to participate in its decision making processes. The arbitrary line should be drawn to include citizens who do share in the government's burdens.

• **18-YEAR-OLDS ARE GIVEN ADULT RESPONSIBILITIES** . . . the government subjects 18-year-olds to the draft. It also considers them old enough to be treated as an adult by the federal courts. Many 18-19-20-year-olds pay income and property tax. And the minimum age under the civil service is 18.

• **18-YEAR-OLDS ARE BETTER EDUCATED** . . . in September, 1965, 45% of the 10-12 million Americans between the ages of 18 and 20 were enrolled for degree credit in colleges. Our educational systems have greatly improved, even during the last decade. And they are turning out students who are more aware of political issues and have the potential of accepting political responsibility and using it wisely at the polls.

• **THE GAP BETWEEN 18 AND 21 LEADS TO FRUSTRATION AND APATHY** . . . it is to the benefit of both the democratic and educational processes to lower the voting age to 18. The schools have accepted the role for teaching a student about citizenship and how to accept its responsibilities. This type of education would have greater value if the voting age was lowered. Hubert Humphrey stated that the value of education comes from its association with responsibility.

• **IT IS NOT A RADICAL CHANGE** . . . the trend toward extending suffrage is in the American tradition. Some of the original 18th century voting requirements stated you had to be male, white, a property owner and over 21. We have come a long way since the 18th century. Today Negroes, women and non-property owners have won their right to vote. Four states already have a voting age under 21. In fact, if this proposal passed, it would add less than 400,000 to Michigan's potential voting population.

*They Share Its Burdens—Let Them Participate In Its Decisions*  
**GIVE 18, 19, 20-YEAR-OLDS THE RIGHT TO VOTE**

## *18-Year-Old Vote Endorsed by:*

**GEORGE ROMNEY . . .**  
 "Young people get greatly interested in public affairs ahead of their 18th birthdays. If they could become involved in a more meaningful way at that age — through the right to vote I believe they would be more likely to remain active."

**JEROME P. CAVANAGH . . .**  
 "The young people of this nation have clearly demonstrated their ability to assume additional responsibility by their great contributions to the national purpose. Their work in the Peace Corps is just one example. We should welcome them as voters at 18."

**ROBERT F. KENNEDY . . .**  
 "By the time a person has reached 18 he should be mature enough to assume the responsibility of voting. I am confident that the granting of this privilege would generate a mature response."

**EVERETT DIRKSEN . . .**  
 "Citizens aged 18 should be granted the right to vote . . . We come back to what Abraham Lincoln said long ago. He said that he believed that all who assist in bearing the burden of government should share in its privileges."

*others*

- DEMOCRATIC PARTY
- REPUBLICAN PARTY
- PRESIDENT LYNDON B. JOHNSON
- FORMER PRESIDENT DWIGHT D. EISENHOWER
- GOVERNOR NELSON A. ROCKEFELLER

- LATE PRESIDENT JOHN F. KENNEDY
- GOVERNOR MARK HATFIELD
- SENATOR MIKE MANSFIELD
- FORMER SENATOR BARRY GOLDWATER
- SENATOR MARGARET CHASE SMITH

# Vote YES on Proposal No. 1

- 11 Charles S. Desmond poem, quoted in Richard L. Madden, "Convention Keeps Voting Age at 21; Proposals for Suffrage at 19 and 20 Lose in Albany," *New York Times* (July 18, 1967), 134.

*When the New York state Constitutional Convention of 1967 took up the question of whether or not to lower the voting age, the debate lasted four hours. One delegate, Charles S. Desmond, from Eden, New York, composed his argument for the 18-year-old vote in verse. His "plea through poetry" won him laughter and applause but few votes, and the convention chose to keep the state's voting age at 21.*

At age 18 he can drive a car,  
Own his home or drink in a bar.  
He can work and pay taxes and go to college,  
High school courses provide the knowledge.  
He can go to war and he can marry,  
Heavy burdens we let him carry.  
Let him pull his oar in the civic boat,  
Let's trust him and give him the right to vote.

- 12 Senators Birch Bayh and Spessard L. Holland, "Lowering the Voting Age," *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary, United States Senate, 90th Cong., 2nd sess., May 14, 15, and 16, 1968, 1–4 and 29–35.*

*The 1968 Senate hearings on lowering the voting age were the first congressional hearings on youth suffrage since 1961 and the most substantive up to that time. Senator Birch Bayh, Democrat of Indiana, chaired the Judiciary Committee's Subcommittee on Constitutional Amendments and from this powerful position advocated for and advanced the 18-year-old vote. Senator Bayh had already steered through Congress the 25th Amendment setting out the process for presidential and vice presidential succession; that amendment was ratified in 1967. The most vocal opponent at the hearings was Senator Spessard Holland, Democrat of Florida.*

Senator BAYH. The subcommittee will please come to order...

In almost every aspect of American life today, there is discontent with the status quo. Americans in all walks of life are searching vigorously and vocally for a realization of the American dream. Indeed, we are made painfully aware of the necessity of making certain changes for the better in our country. If America is to continue to grow and to prosper and to improve, we must recognize the need for positive change....

The generation of young Americans in the 1960's, this generation, is no longer docile, passive, and uninvolved. They are deeply involved in the issues of our time, the issues of war and peace, freedom and equality for all Americans, and uncompromising fulfillment of the promise of our Nation. Like any involved and active group in the United States, the young people of today have among their number a few extremists, whether they be the flower children dropouts or the ultramilitant anarchists. It is unfortunate that these few attract the bulk of headlines and national attention when, in fact, the vast majority of young people today are working incessantly, if less obtrusively, toward making our Nation an even better place in which to live. They are working actively for political candidates of both parties. They are working for civil rights and equal opportunity movements; they are working for peace, whether as members of the Armed Forces of the United States or as civilian commentators in debating the merits of American foreign policy. They are students, husbands, wives, workers—anyone who has observed the young people in the Peace Corps and VISTA must be convinced of this....

No longer are young Americans content to sit idly by and watch the passing scene from the grandstand. They want to be down on the field. They have made it abundantly clear that they intend to participate in the game. No longer should older Americans be content to leave this vigorous and exciting force on the sidelines. This force, this energy, is going to continue to build and grow. The only question is whether we should ignore it, perhaps leaving this energy to dam up and burst and follow less-than-wholesome channels, or whether we should let this force be utilized by society through the pressure valve of the franchise....

It seems to me to be in keeping with the tradition of expansion of the franchise, as well as recognition of the greater role played by American youth in our lives today, that we should now allow the Constitution to reflect what has already become a fact of life in our land: that our young people today are well bred, well educated, and extremely well aware of the positions and needs of our Nation, and that they should now be permitted to participate in the building of our Nation through the most valued American right, the right to vote....

Senator BAYH. We reconvene our committee meeting this morning.

We are privileged to have with us the distinguished senior Senator from Florida. He has testified before this subcommittee previously on other subjects, and his judgment we always like to consider when we are dealing with proposals to make basic changes in the bedrock law of the land.

Senator Holland, thank you for taking the time to be with us this morning. We are looking forward to hearing your thoughts.

Senator HOLLAND. Thank you, Mr. Chairman.

I appear before your subcommittee in opposition to any proposal to lower the voting age requirement by Federal constitutional amendment or, for that matter, any such proposal to take over this field by the Federal Government, thus taking from the States their right to determine this question for themselves....



Mr. Chairman, a great deal has been made of the argument that those old enough to fight are old enough to vote. I do not subscribe to that theory for the draft age and the voting age are as different as night and day. For soldiers are called upon to be obedient to command and to follow the strictest of military rules and orders. They are not in a position to determine matters of policy for themselves. For this reason to draw a parallel between the draft age and the voting age is utterly fallacious for no such parallel exists....

Mr. Chairman, lowering the voting age would confer political rights and responsibilities upon minor persons not generally considered to be sufficiently mature to be held fully responsible legally for their actions....

Mr. Chairman, one reason in particular that should make us want to move slowly in lowering age requirements for voting is the thought of political organizations moving into our college campuses, which they would do with a vengeance if the students were voters. This would be a most dangerous situation since the years 18 to 21 are now, as they have been in previous years, formative years where youth is reaching maturity during which time his attitude shifts from place to place and are the years of great uncertainties, which are a fertile ground for demagogues, for youth attaches itself to promises rather than to performance. Those years are the years of rebellion, as had been indicated on the college campus today, rather than reflection.

**13** Ohio Vote 19 campaign pamphlet, 1969. Courtesy of Patricia Keefer.

*In the spring of 1969, the Ohio General Assembly approved a voting age amendment to the state constitution, which would now go before the voters in a referendum. The amendment would have lowered the voting age to 19, but it failed to win a majority vote. A student-led coalition, Ohio Volunteers for Vote 19 (Vote 19), was at the forefront of the campaign. This grassroots groups had local, bipartisan leadership. Patricia Keefer, a graduate of the University of Cincinnati, leader in the Ohio Young Democrats, and very active in the antiwar movement, and Clark W. Wideman, an Ohio State University student and former leader of the Ohio Young Republicans, co-directed Vote 19. The campaign pamphlet presented the foundational argument for the 19-year-old vote in both words and image.*





SOME 19 YEAR OLDS WILL NEVER VOTE

- 14 New Jersey Voting Age Coalition, Flyer, September 30, 1969, Rutgers Special Collections and University Archives, © 2020, Rutgers, The State University of New Jersey.

*In 1969 New Jersey held a referendum on lowering the voting age to 18, the same year as Ohio's referendum on the 19-year-old vote. The New Jersey campaign shared many characteristics with Ohio's Vote 19. A student-led organization, the New Jersey Voting Age Coalition (VAC), spearheaded the campaign, and it, too, failed to win a majority of the vote. This flyer summarized the arguments VAC made to convince voters of their case for the 18-year-old vote.*

RUTGERS UNIVERSITY LIBRARY  
SEP 30 1969

We urge the voters of New Jersey to VOTE YES on the november 4th referendum concerning the granting of the voting privilege to 18 year old citizens. Below are reasons we feel justify an affirmative vote.

VAC

1. EDUCATION\* The 18-20 year old group has the highest level of education of any other group in the population. According to the Gallup Poll; in 1939 33% of the pop. bet. 25-34 were high school graduates. In 1967 75% of the pop. bet. 25-34 were high school graduates.
2. WELL INFORMED\*--Due to the effects of the mass media todays youth are exposed continually to national and international issues. New Jersey is losing many educated and well informed voices by prohibiting them from voting until they are 21, because by that time they have lost much of their enthusiasm.
3. RESPONSIBILITY-Youth has shown deep social responsibility in their active participation in welfare groups such as the Peace Corps,Vista, and free stores, which give food and clothing to the poor inhabitants of the major cities. Their fervent support and participation in the last Presidential capaign proves their political responsibility.
4. FINANCIAL INDEPENDENCE--60% of the populace bet. 18-20 work full time and pay all the taxes (local, state, and federal) that the voting citizens pay; yet they have no say in the expenditure of their hard-earned money. This clearly constitutes "TAXATION WITHOUT REPRESENTATION;"one of the founding principles of the country.
5. LEGAL STATES-At 18 a person may be arrested, tried, imprisoned, and evenexecuted without ever having a decision in the laws under which he was prosecuted..
6. SERVICE TO COUNTRY-Eighteen year old people are allowed to fight and die for a country which denies them the right to vote. This is morally and politically unjust. 1,000 New Jersey boys have given their lives for a country in which they are not even voting citizens.

NOTE: The referendum is located at the FAR RIGHT of the ballot, so when you vote be sure to cast your referendum vote.  
Thank you,  
Voting Age Coalition

Comments (1961)

### **Questions for Discussion & Classroom Activities**

- 1 Examining these documents as well as the images on pages 11 and 18, what changes in arguments do you notice over these years? What is happening in the United States that contributes to those changes?
- 2 Prominent proponents of youth voting rights during World War II and the Cold War advanced multiple arguments (Documents 1, 2, 4, and 6). Who were they and why were they motivated to lower the voting age to 18?
- 3 What was the foundational argument—captured in the slogan “old enough to fight, old enough to vote”—and why was it so important? What did early opponents (Documents 3 and 7) think of this argument? In their counterarguments, do opponents convey an understanding of the fairness of balancing citizenship responsibilities, like military service, with rights to vote?
- 4 Students had opinions both pro and con about youth suffrage (Documents 3, 5, and 8). Which ones do you find most convincing and why? Why did student proponents think having to wait for three years after high school to be able to vote at 21 would lessen interest in voting?
- 5 During the 1960s, inspired by the civil rights movement, young people committed to their own and others’ enfranchisement started to organize campaigns on campuses and at the state and local levels. One place this happened was in the state of Michigan, where students had important political support by 1966 (Documents 9 and 10). An argument they emphasized was that the social meanings attached to an age are not set in stone, but instead can vary and change depending on time and place. What do you think of that?
- 6 What arguments for the 18-year-old vote appear in Documents 11 and 14? What “heavy burdens” is the New York convention delegate in Document 11 referring to? Why did New Jersey’s VAC highlight the phrase “taxation without representation” in their flyer?
- 7 A new argument for youth voting rights emerges in the middle years of the 1960s: the safety valve argument (Documents 10 and 12). What was this argument? What did opponents, like Senator Spessard Holland, think of this argument?
- 8 Analyze the image from the Ohio Vote 19 pamphlet (Document 13) as visual historical evidence. What message is it conveying? Who was the intended audience? How does this image and caption support the foundational argument for youth voting rights?
- 9 As a classroom activity, students also can make a list of pro and con arguments and discuss which ones they find most convincing and why.

## 7 Congress & the 26th Amendment

In 1970, the momentum and movement for youth voting rights reached a high point of influence and effectiveness, pressing Congress to act to advance youth suffrage. Hearings on lowering the voting age were held again in the Senate. Resolutions for a constitutional amendment were proposed and gathered co-sponsors. New arguments were made and old arguments revised to fit the new decade. And members of Congress took up a new strategy to achieve the 18-year-old vote through legislation. With the Voting Rights Act of 1965 coming up for extension, proponents succeeded in adding an amendment to lower the voting age. Challenges to this legislation came from opponents in Congress, President Richard M. Nixon, and then the Supreme Court. At stake once again was the question of states' rights versus federal power to determine voter qualifications. The year 1970 was also a remarkable referendum period, with voters in sixteen states and two territories having the opportunity to enfranchise or not their young citizens. These events created a confusing set of conditions that necessitated an amendment to the U.S. Constitution setting a uniform national voting age.

- 1 Margaret Mead, "Lowering the Voting Age," *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary, United States Senate, 91st Cong., 2nd sess., February 16, 17, March 9, 10, 1970, 222–223, 225.*

*Senator Birch Bayh's Subcommittee on Constitutional Amendments held another set of hearings on lowering the voting age in 1970. The Senate subcommittee achieved near unanimity on support for a national 18-year-old vote; no witnesses spoke in opposition and only two written submissions expressed opposition. One witness was acclaimed anthropologist and public intellectual Margaret Mead. An expert on youth maturity, she had just published a book entitled Culture and Commitment: A Study of the Communication Gap. Mead updated earlier arguments for youth suffrage to fit American culture and society in 1970.*

Dr. MEAD. Mr. Senator, I have been working for quite a long time on the relationship of youth to the political and social process and I am speaking, therefore, as someone who has worked with comparative cultures since 1925, and who has watched a considerable change in this country...

In addition to the arguments that have been presented to this committee—and I have been impressed by the unanimity of virtually all of your witnesses in emphasizing the fact that we are asking young people to fight, pay taxes, to work and to support families; we are holding them subject to criminal proceedings, but we are not letting them vote.

I think it might be useful for me to particularly emphasize the fact that they are not only the best educated generation that we have had, and the segment of the population that is better educated than any other group, but also they are more mature than young people in the past...

So, we have a group of young people better educated, more experienced, more alert and more interested than we have ever had before....

As long as they are disenfranchised they are placed in an anomalous position of weakness when they ought to have strength, they are outside the system when they ought to be inside the system....

They are feeling like adults with all of the demands made of them that we make on adults, except the right to vote. It breeds a kind of despair, a kind of distrust of the system, which we could stop, in part, at least, by channeling their efforts back into the system.

- 2 Ian MacGowan and Philomena Queen, “Lowering the Voting Age,” *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary*, United States Senate, 91st Cong., 2nd sess., February 16, 17, March 9, 10, 1970, 45–46, 152–153.

*The 1970 Senate hearings also prioritized young speakers. Two of those speakers were Ian McGowan, executive director of the Youth Franchise Coalition, who testified on February 16th, and Philomena Queen of the National Association for the Advancement of Colored People (NAACP), who testified on March 9th. The NAACP was a longstanding force for the expansion of voting rights for all American citizens and an organizational member of the Youth Franchise Coalition (YFC). The NAACP’s voting rights work in communities, through the courts, and in Congress prepared the ground for youth suffrage and the YFC’s success at the national level.*

Mr. MACGOWAN. Mr. Chairman and members of the committee, I am Ian MacGowan, executive director of the Youth Franchise Coalition, Inc., the national coordinating campaign to lower the voting age to 18....

Mr. Chairman, as the director of an organization vitally concerned with both State action and the national constitutional amendment, I am appearing before

you to stress the necessity of Federal action due to the inequity and cumbersome nature of individual State action. On a variety of pressing issues we have witnessed the inability of States to move equitably and in a uniformed manner unless cause to do so initiated by the Congress. Therefore, I recommend Federal action...as a means to provide for a lower voting age standard in the United States.

The American democracy has survived for nearly two centuries. A major reason for its durability has been that, increasingly, the American form of government has been able to broaden the franchise so as to continue to be truly representative. It has become increasingly evident that to remain viable, the franchise must again be expanded so that the Government will be reflective and representative of the views of its younger citizens—those aged 18 to 21....

Yet, this group of over 10 million Americans remains without equitable representation.

While America's young people have no voice in their Government, they must, nevertheless, bear the burdens of citizenship in the form of paying taxes, fighting wars, assuming family responsibilities, contributing as adults to the workforce, and bearing the civil and criminal consequences of their actions. Our Government cannot be democratically representative while there remains a group of citizens who must bear the consequences of democratic decisionmaking but have no voice in that process. The Youth Franchise Coalition is working to lower the voting age not only because young people between 18 and 21 are unrepresented, but also because the American political system cannot survive as a viable representative democracy while these young people remain excluded from it....

Miss QUEEN. Good morning, Mr. Chairman and members of Senate Subcommittee on Constitutional Amendments.

I am Philomena Queen, youth regional chairman, Middle Atlantic Region of the National Association for the Advancement of Colored People and one who has yet to reach the age of 21.

It is my distinct pleasure to have this opportunity to appear before you to exercise the democratic process in seeking to bring swift and equitable redress to a grave injustice.

Like the overwhelming majority of young people between the ages of 18 and 21 and many millions of citizens over the age of 21, I strongly feel that the... sacred right to vote should be extended to include young citizens who have reached the age of 18....

There are many philosophical and factual reasons to be presented in support of lowering the voting age, however, the most simple reasons are that we the voteless minority of this country are intelligent, interested, sensitive to the issues of our society, and have earned the right to be included. There is no justifiable reason for keeping us shut out.

We see in our society wrongs which we want to make right; we see imperfections that we want to make perfect; we dream of things that should be done but are not; we dream of things have never been done, and we wonder why not.



And most of all, we view all of these as conditions that we want to change, but cannot. You have disarmed us of the most constructive and potent weapon of a democratic system—the vote.

I want to share with you some specific reasons in support of lowering the voting age to 18.

- 1 Age 21 is both arbitrary and hypocritical. Establishing age 21 is arbitrary in that it is not based on any educational or scientific fact. There never, to my knowledge, has been any evidence to support any conclusions that age 21 confers instant electoral wisdom on a voter; nor to the contrary, that all under age 21 are victimized with automatic electoral imprudence.
- 2 Youth are responsible citizens....
- 3 Young people carry the major responsibility in defense of the country....

We should have a voice and, if given the vote, I believe that young people's frustrations will be channeled along the avenue of constructive change, for then we can no longer say it is you who are running the country, for we will be a constructive part of it.

- 3 Bruce K. Chapman, "The Right to Vote at 18," *Trial Magazine* (February/March 1970), reprinted in "Lowering the Voting Age," *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary*, United States Senate, 91st Cong., 2nd sess., February 16, 17, March 9, 10, 1970, 425.

*Although most of the arguments made by proponents in 1970 repeated and updated older arguments for lowering the voting age, a newer argument was also advanced, one based on the idea of "discrimination." Challenges to racial discrimination in voting, employment, and housing had succeeded in civil rights legislation and legal cases in recent years. One consequence was that age discrimination against 18-to-20-year-olds came to be seen as an injustice that also needed to be righted. Bruce Chapman, former national director of the moderate Republican organization Ripon Society, an organizational member of the YFC, reflected this development in an early 1970 article.*

The law discriminates against youth—particularly against those aged 18 to 21. Adult demands are made on them, but adult rights and privileges are often denied.

These young men and women are subject to trial as adults, but may not serve on juries. Men under 21 may be inducted into military service, but the law prohibits anyone under the age of 30 from serving on a Selective Service Board....

The principal discrimination, however, is the exclusion of otherwise adult young people from legitimate participation in the democratic process. In all but



four states, they may not vote. As Les Francis of the National Education Association has noted, in California a person may teach high school civics before he is able to vote!

The right to vote is society's most conspicuous symbol of adult treatment and adult prestige. The fact that a large share of youth is denied this privilege is a main source of distress.

In practice, close to 12 million American citizens between the ages of 18 and 21 lack a political voice in decisions that could affect them vitally and immediately. Is it not understandable, if not excusable, that many resort to extra-political and even extra-legal methods to make themselves heard?

- 4 Ted Kennedy, "Lowering the Voting Age," *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary*, United States Senate, 91st Cong., 2nd sess., February 16, 17, March 9, 10, 1970, 155–156, 158–158.

*While the 1970 Senate hearings achieved near unanimity on support for the 18-year-old vote, witnesses disagreed over how Congress should go about establishing it. Many still sought an amendment to the U.S. Constitution, yet others spoke in favor of a new strategy: the legislative statute strategy. In 1966, Harvard University Professor of Law Archibald Cox cited recent Supreme Court decisions upholding the Voting Rights Act of 1965 to argue Congress could similarly enact legislation to achieve youth suffrage. Lowering the voting age, Cox contended, could happen without a constitutional amendment. Senator Edward M. "Ted" Kennedy made the case for this new strategy.*

Senator KENNEDY. ...I believe the time has come to lower the voting age in the United States, and thereby to bring American youth into the mainstream of our political process. To me, this is the most important single principle we can pursue as a Nation if we are to succeed in bringing our youth into full and lasting participation in our institutions of democratic government....

Mr. Chairman, for these reasons I believe congressional action on the voting age at this time is both necessary and appropriate. The most obvious method of Federal action is by amending the Constitution, but it is not the only method.

I believe Congress has the authority to act in this area by statute and to enact legislation establishing a uni[form] minimum voting age applicable to all States and to all elections, Federal, State, and local....

The historic decision by the Supreme Court in the case of *Katzenbach v. Morgan* in June of 1966 provides a solid constitutional basis for legislation by Congress in this area. And it is clear that the power exists not only for Federal elections but for State and local elections as well.

There can be no question, of course, that the Constitution grants to the States the primary authority to establish qualifications for voting.

At the same time, however, these constitutional provisions are only the beginning, not the end, of the analysis. They must be read in the light of all the other great provisions of the Constitution, including the Equal Protection Clause of the Four[teenth] Amendment....

In other words, the authority of Congress to reduce the voting age by statute is based upon Congress'[s] power to enforce the equal protection clause by whatever legislation it believes is appropriate....

I am hopeful, therefore, that we can achieve broad and bipartisan agreement on the statutory route to reach our vital goal of enlarging the franchise to include 18-year-olds.

- 5 Mike Mansfield, "Voting Rights Act Amendments of 1969—Submission of Amendment No. 545," *Congressional Record—Senate* (March 4, 1970), S2938.

*On March 4, 1970, even before Senator Birch Bayh had concluded his subcommittee hearings, majority leader Mike Mansfield moved to use the legislative statute strategy to lower the voting age to eighteen. With co-sponsors, including Senators Ted Kennedy and Warren Magnuson, he introduced an amendment to the pending Senate legislation aimed at extending and amending the Voting Rights Act of 1965. Approved by the Senate by a strong majority, what would become Title III of the Voting Rights Act of 1970 still needed the approval of the House of Representatives and the signature of President Richard M. Nixon.*

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. MAGNUSON), the distinguished Senator from Massachusetts (Mr. KENNEDY), and myself I offer an amendment to the pending substitute that would lower the voting age to 18 in all elections—Federal, State, and local....

On page 8, after line 8, insert the following new title:  
"TITLE III-REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

### ***Declarations and findings***

"SEC. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the Fourteenth Amendment of the Constitution; and

“(3) does not bear a reasonable relationship to any compelling State interest.

“(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

### ***Prohibition***

“SEC. 302. No citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if the citizen is eighteen years of age or older.”

## **6** “Enfranchised?” *Wellesley News* (March 19, 1970), 2.

*After the passage of Mansfield’s amendment to the Senate’s version of the voting rights bill, the bill went back to the House of Representatives with the new Title III lowering the voting age to 18, where it faced a number of challenges. The editors of the campus newspaper at Wellesley College succinctly summarized these challenges, while also reminding their readers of the value of youth suffrage.*

...Last week, the Senate passed by a 64–17 vote an amendment, introduced by Senator Mike Mansfield (D-Montana), to its version of the voting rights bill which would lower the voting age from 21 to 18....

It should be stated at the outset that the amendment incorporates a long overdue change in electoral procedure. In addition to the traditional and rather over-used argument that youth who serve the country militarily should be allowed to vote for its leaders, the fact remains that today’s college students are able to be as well-read and politically aware as any older age group—and are often more motivated to be so. Arguments like the one Rep. Emanuel Celler (D-New York) presented in the *New York Times* (March 17)—18-year-olds are “too subject to the emotional appeals, their minds are too malleable”—are themselves emotional appeals, geared to evoke images of a nationally irrational and irresponsible youth.

Unfortunately, but perhaps realistically, political considerations, and fairly valid objectives concerning the legality of the amendment and its effect on states’ rights, have eclipsed the intrinsic worth of the proposed measure. It is not a strictly partisan issue as some might expect; the voters added under the amendment would not necessarily be predominantly Democrat or Republican. The greatest opposition comes from those who think the age should be lowered by constitutional amendment, not by law. Mr. Celler has stated that he thinks the courts would find the legislation unconstitutional. He terms the possibility that the teenage vote could prove a victory margin for the President and the Supreme

Court later declare the amendment unconstitutional “catastrophic.” However, there is no way of practically determining whether the teenage vote or some other vote provided the necessary margin. Questions of constitutionally properly belong to the courts, not to Congress at this point.

Other opponents of the amendment state that it is an invasion of the States’ right to determine voter eligibility; this opposition does not necessarily represent an attack on the lowered voting age (4 states presently allow residents under 21 to vote). Others are concerned that a conference fight over the amendment could jeopardize the civil rights provisions of the voting rights bill itself. Proponents of the amendment were encouraged this week when Mr. Celler, head of the House conferees, who is strongly opposed to the amendment, said that he would accept the voting age proposal, if the House supported it in a full House test vote this week. He had previously opposed a full House vote.

The issue of a lowered voting age must not be obscured by the politics of the legislative process. Many Congressmen are afraid to speak too strongly against the amendment because they are reluctant to lose the youth vote. Even this reluctance...represents an increase in the political influence of youth. *With* the vote, the Federal government would have to respond more substantially to the political desires of college-age citizens.

- 7 Richard Nixon to Speaker McCormack, Majority Leader Albert, and Minority Leader Ford, April 27, 1970, reprinted in “Lowering the Voting Age,” *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary*, United States Senate, 91st Cong., 2nd sess., February 16, 17, March 9, 10, 1970, 386, 389.

*As the House of Representatives begin its deliberations over the voting rights bill, with the new Title III lowering the voting age to 18, President Nixon prepared his own position. On April 27, 1970, he sent a four-page letter to House leaders objecting to the voting age provision, just as a growing number of opponents, like Congressman Emanuel Celler, came to support it. Constitutional questions dominated Nixon’s reasons for opposing Title III, but he also expressed concerns about the negative consequences if it was declared unconstitutional, as he believed it would be. He then proposed what he called “The Path of Reason.”*

April 27, 1970

THE WHITE HOUSE

LETTER FROM THE  
PRESIDENT TO SPEAKER MCCORMACK,  
MAJORITY LEADER ALBERT, AND  
MINORITY LEADER FORD

A constitutional issue of great importance is currently before the House. As you know, the Senate has attached to the bill modifying and extending the Voting Rights Act of 1965 a rider that purports to enable Americans between the ages of 18 and 21 to vote in Federal, State and local elections.

I say ‘purports’ because I believe it would not in fact confer the vote. I believe that it represents an unconstitutional assertion of Congressional authority in an area specifically reserved to the States, and that it therefore would not stand the test of a challenge in the courts. This belief is shared by many of the Nation’s leading constitutional scholars.

I strongly favor the 18-year-old vote. I strongly favor enactment of the Voting Rights Bill. But these are entirely separate issues, each of which deserves consideration on its own merits. More important, each needs to be dealt with in a way that is constitutionally permissible—and therefore, in a way that will work....

#### The Path of Reason

I have recently canvassed many of the Nation’s leading constitutional scholars for their views on the Senate proposal. Some feel that, by a broad reading of *Katzenbach v. Morgan*, the proposal’s constitutionality could be sustained. The great majority, however, regard it as unconstitutional—and they voice serious concern not only for the integrity of the Constitution but also for the authority of the Court, if it should be sustained.

At best, then, it would be enacted under a heavy constitutional cloud, with its validity in serious doubt. Even those who support the legislation most vigorously must concede the existence of a serious constitutional question.

At worst, it would throw the electoral process into turmoil during a protracted period of legal uncertainty, and finally leave our young people frustrated, embittered and voteless.

I therefore urge:

- That the 18-year-old vote-rider be separated from the bill extending the Voting Rights Act.
- That the Voting Rights Bill be approved.
- That Congress proceed to secure the vote for the Nation’s 18-, 19-, and 20-year-olds in the one way that is plainly provided for in the Constitution,

and the one way that will leave no doubt as to its validity: by Constitutional amendment.

Sincerely,  
RICHARD NIXON

- 8 George Andrews, "Extending the Voting Rights Act of 1965," *Congressional Record* 116 (June 17, 1970), 20164–20165.

*President Nixon's intervention in the deliberations over the voting rights bill and the 18-year-old vote empowered opponents in the House of Representatives. Whether or not they thought that young Americans should have the right to vote, opponents in the House agreed with the president that the states should determine voter qualifications. One such opponent was Representative George Andrews, Democrat of Alabama. A southern segregationist and critic of federal intervention to secure voting rights for African Americans, Andrews explained the states' rights position on Title III. In the final votes, however, he and other opponents were decisively outvoted by their colleagues, and the voting rights bill with Title III intact passed the House of Representatives on June 17, 1970.*

Mr. ANDREWS of Alabama. Mr. Speaker, the Senate amendment lowering the voting age to 18 shares a common evil with the 1965 Voting Rights Act, to which it is attached; both trample on the rights of the States....

Since the power to change voting requirements belongs to the States, the only proper way to lower the voting age is by constitutional amendment. Three amendments affecting voter qualifications have already been added to the Constitution.

In addition to the 17th amendment, the 19th amendment guaranteed women's right to vote, and the 24th amendment eliminated the poll tax as a requirement for voting.

Proponents of a voting qualification change by simple statute base their case on an incredibly liberal interpretation of the 14th amendment. They contend that "equal protection of the laws," guaranteed by the amendment, are being denied those under 21 years of age.

Where would such logic end? If 18-year-olds are denied equal protection of the laws, simply by not having the vote, what about 17-year-olds and younger? This pattern of thinking could lead to the abandonment of all age restrictions, as a denial of the amendment's equal protection clause....

The rightness or wrongness of lowering the voting age is a matter of opinion, to which each Member of Congress is entitled, along with every other American, but it is not a matter for congressional statute.

If legislatures in three-fourths of the States decide to lower the minimum age for voting, it will be lowered nationwide, and the Constitution will suffer no damage.

Apart from the improper approach to changing the voting age, there is little evidence to prove that the issue has nationwide approval. Forty-six States now have the 21-year-old minimum, and some 20 States have considered and rejected teenage voting in the recent past. Eleven States will vote on the issue this year.

The question before the House today is, shall we junk the tried and true amendment process for a reckless alternative, born of emotionalism and political expediency? I should hope not.

9 *Oregon v. Mitchell* (1970), [www.law.cornell.edu/supremecourt/text/400/112](http://www.law.cornell.edu/supremecourt/text/400/112)

*After approval by Congress, the voting rights bill with the 18-year-old vote went to President Nixon. Despite his misgivings, he reluctantly signed the bill into law on June 22, 1970. At the same time, he called for a constitutional test of the new law, which quickly proceeded. Argued in October and decided in December, Oregon v. Mitchell delivered a verdict on states' rights versus federal power in elections and voting. The plaintiffs in the case—Arizona, Idaho, Texas, with the state of Oregon in the lead—argued they had the right to determine the minimum age for voting in their states, not Congress. Eight of the nine justices divided evenly, with four in favor of the states and four in favor of Congress. The ninth, Justice Hugo Black, split the difference both ways and delivered the Court's decision.*

MR. JUSTICE BLACK, announcing the judgments of the Court in an opinion expressing his own view of the cases....

For the reasons set out in Part I of this opinion, I believe Congress can fix the age of voters in national elections, such as congressional, senatorial, vice-presidential and presidential elections, but cannot set the voting age in state and local elections. For reasons expressed in separate opinions, my Brothers DOUGLAS, BRENNAN, WHITE, and MARSHALL join me in concluding that Congress can enfranchise 18-year-old citizens in national elections, but dissent from the judgment that Congress cannot extend the franchise to 18-year-old citizens in state and local elections. For reasons expressed in separate opinions, my Brothers THE CHIEF JUSTICE, HARLAN, STEWART, and BLACKMUN join me in concluding that Congress cannot interfere with the age for voters set by the States for state and local elections. They, however, dissent from the judgment that Congress can control voter qualifications in federal elections. In summary, it is the judgment of the Court that the 18-year-old vote provisions of the Voting Rights Act Amendments of 1970 are constitutional and enforceable insofar as they pertain to federal elections, and unconstitutional and unenforceable insofar as they pertain to state and local elections.



- 10 Rosalyn Hester, Youth Franchise Coalition Bulletin, January 25, 1971, Folder: Student Work—Youth Franchise Coalition, 1970, Box 217, Kautz Family YMCA Archives, University of Minnesota Libraries.

*In Oregon v. Mitchell, the Supreme Court judged voting in federal elections a fundamental right for young Americans. Yet the decision set up an untenable situation, requiring a dual-age voting system in most of the country. Young people at 18 would be able to vote in some but not all elections. After referenda were approved in several states in the 1970 elections, the minimum age to vote in federal, state, and local elections now varied from 18 to 19, 20, or 21. This complex and confusing situation contributed to the 26th Amendment. As described by Rosalyn Hester, in the early months of 1971, the YFC joined with members of Congress and state officials to pass and ratify a constitutional amendment lowering the voting age to 18.*

***Youth franchise coalition bulletin***

January 25, 1971

Memo to: Interested Parties

From: Rosalyn Hester, Chairman, Youth Franchise Coalition

As you know the Supreme Court applied the 18-year-old vote statute to Federal elections only. The Y.F.C. was the chief lobbying force behind the statute and now we have undertaken a strategy for the enactment of a U.S. Constitutional Amendment to uniformly set the voting age at 18. Such an amendment would resolve the duality of voting ages quickly and prevent the expenditure of millions of dollars to maintain separate registration and voting lists.

The Leadership of both Houses has assured success for an amendment if an intensive lobbying effort is begun immediately. Senator Jennings Randolph has over 75 cosponsors to a constitutional amendment...Senators Mansfield, Bayh, Kennedy, Scott, Griffen and Cook have agreed on a strategy that hopefully will move the bill out of the Senate by mid-February. In the House, the leadership of both parties is already listed on a constitutional amendment. The list includes new supporters such as Congressman Gerald Ford and Richard Poff, who were opponents of the [legislative statute] measure last time. Also Congressman Emanuel Celler, a long time opponent, will not oppose the bill but may want House hearings on the matter. The strategy is therefore to move quickly, low key in the Senate and then pull a full scale lobbying effort in the House.

Time is of the essence. Please have your members write their Senators and Congressmen in support of a constitutional amendment to lower the voting age to 18. Then, please be available to work on specific legislators. This demands immediate action! Only with a joint effort can we get the legislation out quickly.

Attached is a sample letter to Senators and Congressmen. Use it as a guide only.

*Sample*

Dear \_\_\_\_\_:

The Congress is about to consider a constitutional amendment to establish a uniform 18-year-old voting age. Due to the inequity of a dual voting age, the tremendous cost and difficulty of maintaining separate registration lists and voting procedures I urge you to support this legislation.

If you have not already done so, I hope you would introduce such legislation or co-sponsor an existing piece of legislation as evidence to the people of \_\_\_\_\_ that you are truly interested in youth participating within the system.

Sincerely, \_\_\_\_\_

- 11** Joint Resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age or older, Public Laws, 92nd Cong., 1st sess., General Records of the United States Government, Record Group 11, National Archives.

*Within two months, Congress proposed and passed what would become the 26th Amendment. On March 10th and 23rd, senators and representatives had their say on the joint resolutions. Even with the critical consequences posed by dual-age voting, there was opposition in Congress, including those who felt 18-, 19- and 20-year-olds were not yet ready for this right. But the few dissenters were drowned out by unanimous approval in the Senate and a 401 to 19 vote in the House of Representatives. This accomplishment and the speed with which it took place set it strikingly apart from some 8,000 previous congressional attempts to amend the Constitution.*

S. J. Res. 7

# Ninety-second Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Thursday, the twenty-first day of January,  
one thousand nine hundred and seventy-one*

## Joint Resolution

Proposing an amendment to the Constitution of the United States extending the right to vote to citizens eighteen years of age or older.

*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 article is 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 by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:*

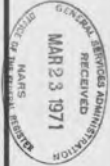
“ARTICLE —

“SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

“Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.”

*Carl Albert*  
Speaker of the House of Representatives.

*Mike Mansfield*  
President of the Senate, *pro Tempore*



- 12 “State Cries ‘Foul’ In Ratifying Race: Did Minn. Jump Gun?,” *Evening Journal* (March 24, 1971), 1–2.

*On March 23, 1971, Congress sent the amendment out to the 50 states for ratification. The speed of ratification was unprecedented. Within three months, the required three-quarters (38 states) had ratified. Vying for first place, five states—Connecticut, Delaware, Minnesota, Tennessee, and Washington—ratified the same day Congress approved it. Front-page news coverage on ratification, such as this article in the Delaware Evening Journal, demonstrate the widespread support for the 26th Amendment as well as pockets of opposition.*

Pawing the mark with impatience, the Delaware General Assembly took off like a streak yesterday to make this the first state to ratify the 26th Amendment to the U.S. Constitution and finished second.

The cry of the Blue Hen was heard throughout the land, screaming “foul.”

Delaware ratified the 26th Amendment, granting 18-year-olds the right to vote in all elections, at 4:51 yesterday, just 16 minutes after the U.S. House had approved the amendment.

**MINNESOTA ratified the amendment at 4:14**, 21 minutes before it officially existed, and claims it is the first state to ratify.

Is this fair? Only a good lawyer would know for sure.

Such are the rewards of perfidy that the history books will almost certainly record, if they record it at all, that Minnesota was the first to ratify the 26th Amendment.

**MINNESOTA—or Delaware—was followed** by Connecticut, Tennessee and Washington, all ratifying the amendment within an hour of its passage by the House.

At least 26 other states were expected to follow soon with their approval. 38 states in all, three-fourths of the total, will have to vote approval for the amendment to become part of the Constitution.

Opposition to the 18-year-old vote amendment was noted in states that have experienced severe student disorders in the past few years. Gov. Ronald Reagan of California had no plans for seeking swift legislative approval of the amendment and said yesterday he would prefer to let the voters decide directly.

**LAST year, Congress approved a law** lowering the minimum voting age to 18 for all elections, but the U.S. Supreme Court struck that down, saying Congress had the right to control voting regulations only for federal elections and a constitutional amendment would be required to force the states to lower the voting age for all elections.

In the last decade, 20 states, including Delaware, have beaten back measures that would have lowered the voting age, but times have changed and ratification is expected to be easy despite that record.

The 26th Amendment will effect no change in Georgia, Kentucky and Alaska, which already allow 18-year-olds to vote. 20 is the minimum voting age in Hawaii, Maine and Nebraska, and 19 in Massachusetts, Minnesota and Montana....

**SEVERAL state legislatures** had phone lines open to their representatives in Washington yesterday as they set themselves to try to be the first to ratify the amendment

Delaware's effort was organized by State Sen. Margaret R. Manning, R-Marshallton.

- 13** "Nation's 18-year-olds get vote: States ratify constitution amendment," *The Michigan Daily* (July 1, 1971), 1.

*Just as there was competition to be the first state to ratify the 26th Amendment, four states—Alabama, Ohio, Oklahoma, and North Carolina—competed for the 38th spot. By July 1, 1971, the 26th Amendment was the law of the land. The cascade of support for youth voting rights halved the record set by the ratification of the 12th Amendment in 1803–1804.*

COLUMBUS, Ohio (AP)—The voting age in all elections was lowered to 18 years last night when Ohio ratified the 26th amendment to the U.S. Constitution, fulfilling the requirement that 38 states do so to make it law.

The Ohio House, with 99 members, ratified the amendment 81–9, one day after the Senate passed it 30–2.

North Carolina and Alabama legislatures approved the amendment earlier in the day. It took only three months—record time—for 38 states to ratify the amendment. The process normally takes 15 months.

### Questions for Discussion & Classroom Activities

- 1 By 1970 new arguments and strategies (Documents 1, 2, 3 and 4) were propelling youth suffrage proponents. What were these, and who was advancing them? Why were they effective in the new decade? Older arguments and strategies still very much mattered, and these documents also provide useful reminders of those.
- 2 Senator Mike Mansfield's voting age amendment (Document 5) is a vitally important piece of legislation that set the stage for the 26th Amendment. How does it reflect the impact of the new arguments and strategies for youth voting rights? Recall that President Johnson had also considered legislating the 18-year-old vote with the Voting Rights Act of 1965 (Chapter 5, Document 4). Why is it important that it was the Senate majority leader who offered this proposal?

- 3 Campus newspapers regularly covered the youth franchise movement and the political deliberations at the local, state, and federal levels. In Document 6, the *Wellesley News* editorialized on the Senate approving the 18-year-old vote, specifically the challenges still facing it. What challenges did the editors lay out? How would you describe the tone of this editorial? Do you get a sense that the editors at Wellesley College were optimistic or pessimistic about the possibilities for lowering the voting age? Can you explain why they might have felt this way within the context of the new decade?
- 4 President Nixon staked a strong position on Title III of what would become the Voting Rights Act of 1970 (Document 7). What does he think about youth suffrage, and what does he think about Title III? Notice that he deemed Title III “the 18-year-old vote-rider.” A “rider” implies that it had no connection to the original voting rights bill. Given that voter qualifications having to do with race, length of residency, and literacy were matters at issue in the Voting Rights Acts of both 1965 and 1970, proponents considered age to be another qualification that had historically been used to deny Americans the right to vote. What do you think of age being included alongside these other matters?
- 5 In Document 8, Representative George Andrews expresses his strong opposition to Title III of the voting rights bill. What reasons does he give for his opposition? He also claims that “there is little evidence to prove that the issue has nationwide approval.” How does this claim stack up against the public opinion polling in Chapter 2, especially Document 8? In his discussion of constitutional amendments concerning elections and voting, he excluded the 15th Amendment. What is the 15th Amendment, and why was Andrews’ exclusion of this amendment significant?
- 6 Justice Hugo Black’s summary of the Supreme Court’s ruling in *Oregon v. Mitchell* (Document 9) conveys what emerged from the deliberations of nine justices, issuing five separate opinions in 184 pages. Explain how Black settled the question of states’ rights versus federal power with regard to the 18-year-old vote.
- 7 Rosalyn Hester, at the time the chair of the YFC, mobilized the YFC’s member organizations for action on a constitutional amendment to lower the voting age to 18 (Document 10). Why did the amendment become necessary? Who were the YFC’s allies in Congress? What strategies was the YFC using to secure passage of the amendment?
- 8 What do you notice about the text of the 26th Amendment (Document 11)? How might the amendment be used to protect the right to vote of older, as well as younger, Americans?
- 9 After reading the two newspaper articles in Documents 12 and 13, what conclusions can you draw from ratification process for the 26th Amendment?

**Summary of Adolescent Developmental and Neurodevelopmental Science  
in re  
Juvenile Life Without Parole**

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**Overview**

In a series of US Supreme Court decisions, evidence from the developmental science of adolescence, including developmental neuroscience, has been cited in support of decisions eliminating capital punishment for adolescents and restricting the use of mandatory sentencing to life without parole for adolescents. This summary is intended to provide a brief descriptive overview of the developmental science used in those decisions, and of the continuing scientific progress in those relevant fields of research.<sup>1</sup> The most recent and ongoing research in these areas has added refinements to the overall picture, but the basics have been reinforced and extended.

*One major extension of the scientific evidence* has been documented and explained in a series of amicus briefs to State Supreme Courts (Michigan, Massachusetts, California), arguing that the current evidence supports *increasing the age* at which life without parole sentences should be given special scrutiny. The Michigan Supreme Court extended this protection to adolescents up to the age of 19 years (People v Parks, July 28, 2022). The amicus briefs filed in that appeal, and for similar cases in Massachusetts and California, have reinforced the basic findings summarized in this document. Based on emergent research, the scientific consensus is that adolescent brain and behavioral development is a transition that is not complete until the early to mid-20s.<sup>2</sup>



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<sup>1</sup> A summary of the developmental science used in *Thompson v. Oklahoma* (1988), *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012) can be found in L. D. Steinberg, (2013): *The influence of neuroscience on US Supreme Court decisions about adolescents' criminal culpability*, *Nature/Neuroscience*, 14, pp. 513-518. This summary draws on that and its citations, along with other publications, including: Keating, D. P. (2012). Cognitive and brain development, *Enfance*, 3, 267-279; Keating, D. P. (2014); Adolescent thinking in action: Minds in the making. In J. Brooks-Gunn, R. M. Lerner, A. C. Petersen, & R. K. Silbereisen (Eds.), *The developmental science of adolescence: History through autobiography*. NY: Psychology Press. (Pp. 257-266); Keating, D. P., Demidenko, M. I., & Kelly, D. P. (2023). Cognition in adolescence and the transition to adulthood. In L. Crockett, G. Carlo, & J. Schulenberg (Eds.), *Handbook of Adolescent and Young Adult Development* (Chapter 5). Washington, D. C.: American Psychological Association.

<sup>2</sup> Steinberg, L., Icenogle, G., Shulman, E. P., Breiner, K., Chein, J., Bacchini, D., & ... Takash, H. S. (2018). Around the world, adolescence is a time of heightened sensation seeking and immature self-regulation. *Developmental Science*, 21(2), 1-13; Shulman, E. P., Smith, A. R., Silva, K., Icenogle, G., Duell, N., Chein, J., & Steinberg, L. (2016). The dual systems model: Review, reappraisal, and reaffirmation. *Developmental Cognitive Neuroscience*, 17103-117. doi:10.1016/j.dcn.2015.12.010; (*Commonwealth of Massachusetts v. Sheldon Mattis, Brief of Amici Curiae Neuroscientists, Psychologists, and Criminal Justice Scholars in Support of Defendant-Appellant Sheldon Mattis, Supreme Judicial Court (SJC-11693)*); *People v. Tony Hardin in the Supreme Court of the State of California (S277487): Amicus Curiae Brief in Support of Petitioner* [Note: Keating is signatory to all of these]).

## **Organization of the Summary**

The summary is organized into eight sections:

1. the relative immaturity of the prefrontal cortex, the executive functions, and the prefrontal governance system (page 3);
2. the elevation of socio-emotional, incentive, and reward systems – the limbic system (page 5);
3. the developmental maturity mismatch (DMM) between those two brain systems (page 7);
4. the implications of current research for the prospects of rehabilitation among adolescent offenders (page 9);
5. the issue of age boundaries, and extending the legal definition of adolescence beyond age 18 years (page 11);
6. the impact of adversity and trauma on the adolescent brain (page 14);
7. resilience and the capacity for further development (page 20);
8. notes on scientific methodology (page 24).

## **1. Relative Immaturity of Prefrontal Cortex (PFC), the Executive Functions (EF), and the Prefrontal Governance System**

- *Executive Function.* The prefrontal cortex of the brain (the PFC) has long been understood to have the principal function of carrying out what are known as the “executive functions” (EF). These include basic functions such as working memory and planning, as well as where we direct our attentional resources (known as “effortful control”) essential for
  - impulse control (also known as the “inhibitory control of prepotent responses”), and
  - decision-making in complex situations. The PFC is known to begin developing in early childhood and to continue that development through the childhood, adolescent, and early adult years, showing full adult maturity in the early to mid-20s.

It is the functioning, and especially its gradual growth toward maturity, that is referenced in discussions of suboptimal adolescent judgment, especially in complex decision-making contexts that include competing demands.

- *Limited capacity.* Another key aspect of the PFC is that it has limited capacity. When fully engaged in one task involving effortful control, it has sharply limited capacity to undertake additional tasks that require judgment. This has two implications: (1) having embarked on a plan to undertake a risky behavior, the execution of that plan may use up the available PFC resources, further

compromising the adolescent's ability to adjust behavior when circumstances warrant; (2) engagement with other activities that demand PFC resources may make the limited PFC resource effectively unavailable, such as dealing with emotionally arousing situations or in the face of peer pressure.

- *Governance of other brain systems.* In addition to the EF developments just described, the PFC shows development in a related function, the governance of other brain systems. This is also a gradual series of developments, as peripheral systems are brought more fully under the direction of the PFC. This is the basis of the colloquial designation of the PFC and its projections to other brain regions as the "top brain." It is not until the early to mid-20s that the ability to delegate tasks efficiently to other brain systems, relieving the PFC of its role to maintain effortful control and freeing up PFC space for other demands. Until that maturation has occurred, the ability of the rational, analytic, judgment, and governance functions of the PFC to override unanalyzed, poor decision-making is limited. This is a gradual process, so the maturational mismatch will on average be more marked the younger the individual, until full maturity is reached in the mid-20s.<sup>3</sup>

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<sup>3</sup> This is found in research (1) on the structure of neural circuitry, (2) in neuroimaging in active performance situations, and (3) in cognitive and behavioral evidence. Section 8 of this Summary provides a brief description of the scientific methods used in the research described here and throughout. The validity of scientific claims is enhanced when converging evidence is reported across multiple modalities, in this case, structural neural development, functional neuroimaging, and cognitive and behavioral domains.

## **2. Elevation of Socio-emotional, Arousal, Reward and Incentive Systems**

- *Incentive systems:* Beginning in early to mid-adolescence, there is a sharp increase in what are termed “incentive systems” that entail complex neural circuitry, including emotional arousal (associated most strongly with the amygdala), sensation seeking (mediated by activity in the ventral striatum), and the heightened experience of rewards (mediated by a sharp increase in dopamine receptors) – a coordinated limbic system often referred to colloquially as the “bottom brain”. These developments also coincide with (and may be partially explained by) significant changes in the hormonal balance associated with biologic pubertal shifts, principally as an activation of the HPG-axis (hypothalamic-pituitary-gonadal) whose endpoint is enhanced production of the steroids testosterone and estrogen, among others, differentially for males and females. These developments (neural hyperactivation and new hormonal set-points) are observed behaviorally and cognitively as a significant increase in exploratory and sensation-seeking behaviors during this same period of development when the governing capabilities of the PFC are limited (a mismatch described further below).
- *Benefits over risks.* There is substantial evidence that the factors above lead adolescents to focus more heavily on the benefits of risky behavior than on the possible negative consequences of their actions. This is not because adolescents are incapable of understanding or evaluating possible consequences of risky behavior, which under conditions of “cold cognition” (where little or nothing

that is upsetting, arousing or incentivizing is activated) is roughly the same as adults. Rather, they value the potential benefits of the behavior more highly than adults, altering the risk/benefit ratio in favor of undertaking unwise risks.

### 3. Developmental Maturity

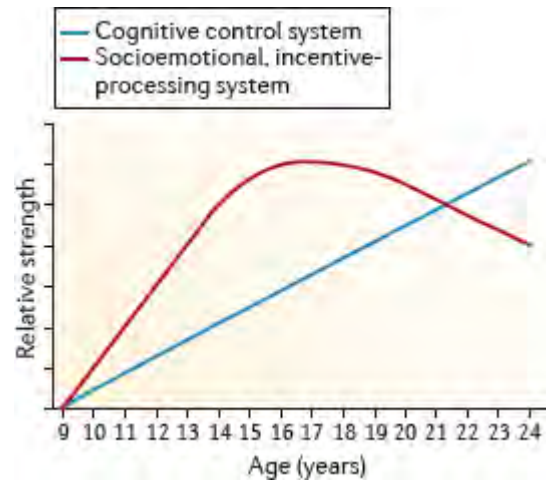
#### Mismatch (DMM) and Dual

#### Process Models

- *Divergent developmental pathways:*

The normative developmental pathways of the “top” and “bottom” brain diverge, with the limbic system

advancing rapidly from early adolescence while the prefrontal system continues to grow, but at a slower pace, not reaching adult levels until the mid-20s. The term used to describe this is a “developmental maturity mismatch” (DMM), with significant consequences for the levels of all kinds of risk behaviors during the adolescent period. A schematic figure illustrates this<sup>4</sup>.



- *Convergence of evidence:* The behavioral and cognitive evidence converges with the developmental neuroscience evidence here, with highly similar age-risk behavior profiles for a number of areas, including crime (the age-crime curve), accidental injuries, serious driving mishaps, and so on. All show peaks by mid-to late adolescence, with gradual drop-offs until they reach an asymptote in the mid-20s.
- *Dual process models:* The DMM is one version of a more general finding, known as dual process models. The research here shows that when performing a complex decision-making task, there are two systems functioning. One is a

<sup>4</sup> This figure is from Steinberg (2013, see fn 1), although different versions of it have appeared in several publications, including in Keating, D. P., Demidenko, M. I., & Kelly, D. P. (2023). Cognition in adolescence and the transition to adulthood. In L. Crockett, G. Carlo, & J. Schulenberg (Eds.), *Handbook of Adolescent and Young Adult Development* (Chapter 5). Washington, D. C.: American Psychological Association.



rational, judgment-based system that takes considerable cognitive effort. The second is a more automatic, “intuitive”, non-analyzed system that is accessed more often (because it requires less time and energy). This occurs for automated tasks (especially in domains where expertise is high) but also and especially for “hot” cognition circumstances where there are competing demands – for example, from arousal and incentive systems. One line of research has proposed that the role of emotional response is sufficiently salient to consider a “triadic” model, in which the amygdala (key to emotion processing) is considered separately from the overall limbic system.<sup>5</sup> Although this is unresolved at the moment, it does not alter the basic picture of the DMM, in that the amygdala also shows a pattern of elevated development in the adolescent period.

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<sup>5</sup> Ernst, M. (2014). The triadic model perspective for the study of adolescent motivated behavior. *Brain and Cognition*, 89, 104-111. See a summary of several current neuroscience models, and their similarities, in Demidenko, M. I., Huntley, E. D., Jahn, A., Thomason, M. E., Monk, C. S., & Keating, D. P. (2020). Cortical and subcortical response to the anticipation of reward in high and average/low risk-taking adolescents. *Developmental Cognitive Neuroscience*, 44. <https://doi.org.proxy.lib.umich.edu/10.1016/j.dcn.2020.100798>

#### 4. Rehabilitative Prospects

- In addition to mitigation of sanctions owing to diminished culpability by reason of developmental immaturity, another implication of the developmental neuroscience evidence is that there are increased prospects for further developmental growth among adolescents. This is supported by the evidence already noted that major changes continue during this period. In addition, there is very substantial evidence for neural plasticity by way of a surge of new neural material (“synaptogenesis”) followed by “synaptic pruning” based on ongoing developmental exposures and experiences that continue through this period of elongated adolescence until the mid-20s. Simply put, neural circuitry is shaped by the individual’s experiences, such that the resulting mature circuitry is not settled until the mid-20s. Some plasticity continues throughout life, but never again as strongly as in adolescence. This potential for positive change was noted as a significant factor in recent Supreme Court decisions.
- *“Irreparably corrupt”*: *Miller v Alabama* held that a sentence of life without parole is to be applied to adolescents only in rare cases of a determination of irreparable corruption. This would appear to require a determination that an individual cannot be rehabilitated, which is empirically found *not* to be the case in a large majority of instances – desistance is substantially more probable than persistence. A successful methodology based on developmental science for determining irreparable corruption during the adolescent period has not been validated, and proposed measures have obtained quite low predictability only a few years into the future, much less decades. Despite efforts to construct

accurate prediction beyond adolescence, numerous limiting factors have made such efforts unsuccessful to date.<sup>6</sup>

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<sup>6</sup> Fairfax-Columbo, J., Fishel, S., & DeMatteo, D. (2019). Distinguishing “incorrigibility” from “transient immaturity”: Risk assessment in the context of sentencing/resentencing evaluations for juvenile homicide offenders. *Translational Issues in Psychological Science*, 5(2), 132–142. <https://doi-org.proxy.lib.umich.edu/10.1037/tps0000194>

## 5. Age Boundaries

- A perennial question in the developmental science of adolescence is what age we should use to identify the onset and offset of adolescent development. The first answer is that there are no hard and fast scientific markers for the onset and offset. Traditional language associates “adolescence” with the “teenage years,” but there are important biological precursors (such as adrenarche, a shift in the functioning of the adrenal system) that begin to show changes as early as 8- or 9- years of age. The first markers of puberty per se are showing up on average at about 11-12 for girls and 12-13 for boys, with much individual variability.
- The offset of adolescence is equally difficult to define, and it is this range that is most relevant in legal and criminal contexts. The cut-off of 18-years-old for consideration as a juvenile offender has been a “bright line” legally, although the known biological markers support no such sharp delineation. This age boundary has recently been changed in Michigan (*Parks*) to age 19 and in Massachusetts (*Mattis*) to age 21 (cf. footnote 2).
- A key neuroanatomical measure of brain maturity is the ratio of white to gray matter. White matter is a marker for greater maturity through enhanced neural connectivity. It shows up as white in MRI images owing to greater “myelination”, the laying down of the fatty acid myelin that enhances neural connectivity. There is observable developmental change in this and in some other markers (volume, for example), especially in the PFC, but this change is gradual throughout the period from 12- 13 through 23-25 on average.
- The elevated limbic system activation continues to decline through late

adolescence/early adulthood as the prefrontal cortex continues to mature throughout this same period. In that system, the evidence is more on levels of activation compared with structural shifts. A special issue in the journal *Nature* raised the question of how to regard the offset of the adolescent transition, and pointed to evidence that we should begin to think of an “elongated adolescence” that is not complete until the mid-20s.<sup>7</sup> Although this issue is not fully resolved scientifically or socially (with different ages as markers for driving, voting, entering enforceable contracts, adolescent offending, and so on), it is clear that markers are socially constructed rather than scientifically fixed, and have varied substantially across history. But the *biological* picture of brain maturity being attained only by the mid-20s is by now well established scientifically.

- One further issue is how close to some specific age cutoff one needs to be in order to be regarded as effectively “mature,” and this often is brought up for individuals nearing their 18<sup>th</sup> birthday, or the older ages established in Michigan (under age 19) and Massachusetts (under age 21). But as noted above, 18 years of age is a legal, not a scientific cutoff, and 18-20 year-olds have considerable development, and thus neuroplasticity, remaining. Similarly, close age comparisons (within a couple of years) are beyond the scope of our current evidence.

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<sup>7</sup> Ledford H. (2018). Who exactly counts as an adolescent? *Nature*, 554 (7693):429-431; Worthman CM & Trang K. (2018). Dynamics of body time, social time and life history at adolescence. *Nature*, 554 (7693):451-457

## 6. The Impact of Developmental Adversity, Toxic Stress and Trauma on Adolescent Functioning

- Many adolescents who have received or may be subject to receiving JLWOP sentences have experienced a history of trauma or significant adversity earlier in development, and this developmental history has been shown to substantially exacerbate the propensity for engaging in risky and/or potentially injurious behavior (to self or others) and to limit the capacity of adolescents with these developmental histories to inhibit or interrupt such behavior.<sup>8</sup>

There is also substantial evidence, however, for the prospects of overcoming those obstacles through processes of resilience, prospects that are particularly salient during adolescent development.<sup>9</sup>

- *Elevation of risk behavior associated with early life trauma and adversity:* With the onset of new investigative techniques to look at the biological effects of earlier life trauma, including more widespread availability of neuroimaging and a growing understanding of epigenetic processes in which developmental exposures and experiences change the ways that specific genes function, without altering the DNA<sup>10</sup> (also see Footnote 8 for an explanation aimed at a non-specialist audience), the behavioral association between early life trauma and developmental health problems later in life, increasingly studied in

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<sup>8</sup> The general background for the impact of early life adversity on biology and behavior later in development is summarized in Keating, D. P. (2017), *Born Anxious: The Lifelong Impact of Early Life Adversity – and How to Break the Cycle*. New York: St. Martin's Press.

<sup>9</sup> Masten, A. (2001). Ordinary magic: Resilience processes in development. *American Psychologist*, 56(3):227-38.

<sup>10</sup> Keating, D. P., (2016). The transformative role of epigenetics in child development research, *Child Development*, 87(1), 135-142.

longitudinal cohorts over time, is now more clearly understood in terms of its underlying mechanisms.<sup>11</sup>

<sup>11</sup> Adams, Z. W., Moreland, A., Cohen, J. R., Lee, R. C., Hanson, R. F., Danielson, C. K., & ... Briggs, E. C. (2016). Polyvictimization: Latent profiles and mental health outcomes in a clinical sample of adolescents. *Psychology Of Violence, 6*(1), 145-155.

Alexander, N., Kirschbaum, C., Wankerl, M., Stauch, B. J., Stalder, T., Steudte-Schmiedgen, S., & ... Miller, R. (2018). Glucocorticoid receptor gene methylation moderates the association of childhood trauma and cortisol stress reactivity. *Psychoneuroendocrinology, 90*68-75.

Barzilay, R., Calkins, M. E., Moore, T. M., Wolf, D. H., Satterthwaite, T. D., Cobb Scott, J., & ... Gur, R. E. (2018). Association between traumatic stress load, psychopathology, and cognition in the Philadelphia neurodevelopmental cohort. *Psychological Medicine*.

Bernhard, A., Martinelli, A., Ackermann, K., Saure, D., & Freitag, C. M. (2018). Association of trauma, Posttraumatic Stress Disorder and Conduct Disorder: A systematic review and meta-analysis. *Neuroscience And Biobehavioral Reviews, 91*153-169.

Clark, D. B., Thatcher, D. L., & Martin, C. S. (2010). Child abuse and other traumatic experiences, alcohol use disorders, and health problems in adolescence and young adulthood. *Journal Of Pediatric Psychology, 35*(5), 499-510. doi:10.1093/jpepsy/jsp117

De Bellis, M. D., & Zisk, A. (2014). The biological effects of childhood trauma. *Child And Adolescent Psychiatric Clinics Of North America, 23*(2), 185-222.

Fox, B. H., Perez, N., Cass, E., Baglivio, M. T., & Epps, N. (2015). Trauma changes everything: Examining the relationship between adverse childhood experiences and serious, violent and chronic juvenile offenders. *Child Abuse & Neglect, 46*163-173.

Fragkaki, I., Cima, M., & Granic, I. (2018). The role of trauma in the hormonal interplay of cortisol, testosterone, and oxytocin in adolescent aggression. *Psychoneuroendocrinology, 88*24-37.

Greeson, J. P., Briggs, E. C., Layne, C. M., Belcher, H. E., Ostrowski, S. A., Kim, S., & ... Fairbank, J. A. (2014). Traumatic childhood experiences in the 21st century: Broadening and building on (Footnote 6 continued): the ACE studies with data from the National Child Traumatic Stress Network. *Journal Of Interpersonal Violence, 29*(3), 536-556.

Layne, C. M., Greeson, J. P., Ostrowski, S. A., Kim, S., Reading, S., Vivrette, R. L., & ... Pynoos, R. S. (2014). Cumulative trauma exposure and high risk behavior in adolescence: Findings from the National Child Traumatic Stress Network Core Data Set. *Psychological Trauma: Theory, Research, Practice, And Policy, 6*(Suppl 1), S40-S49.

Layne, C. M., Briggs, E. C., & Courtois, C. A. (2014). Introduction to the special section: Using the Trauma History Profile to unpack risk factor caravans and their consequences. *Psychological Trauma: Theory, Research, Practice, And Policy, 6*(Suppl 1), S1-S8.

Lu, S., Gao, W., Wei, Z., Wang, D., Hu, S., Huang, M., & ... Li, L. (2017). Intrinsic brain abnormalities in young healthy adults with childhood trauma: A resting-state functional magnetic resonance imaging study of regional homogeneity and functional connectivity. *Australian And New Zealand Journal Of Psychiatry, 51*(6), 614-623.



- *Behavioral and cognitive patterns:* A history of early trauma and/or adversity has the capacity to become “biologically embedded”, altering structural features of the brain and the functioning of key neurohormonal systems that are tightly linked to behavior and cognition. (The next section describes the underlying biology in summary format.) Among the most prominent of these outcomes are seen in the areas of:
    - Higher order cognition, especially executive functioning and impulse control. As noted above, in normative adolescent development, it is the behavioral/cognitive system that is crucial to inhibiting impulsive behavior, and effortful rather than unconsidered judgment about situations. This manifests in two crucial contexts: impulsively undertaking a high-risk behavior; and/or failing to think through options if the initial behavior leads into troublesome circumstances. This has been described metaphorically as the initial decision to board a train that is headed toward danger; and failing to get off that train if in fact the danger is becoming manifest. This insufficiency of executive and judgment resources (from the prefrontal system of the brain) is significantly worse for individuals who have experienced early life adversity or trauma, owing to structural brain changes described below.
    - The ability to regulate stress. As a result of epigenetic changes (more below), the stress response system in affected individuals lacks the
- 
- key biological feedback controls that typically prevent the stress system from activating on a hair-trigger basis, and enable it to stand down when immediate danger has passed. This stress dysregulation

can be expressed as heightened anger or aggression that is difficult to control (the fight response of “fight or flight”) and/or as internalizing tendencies or disorders, such as depression and anxiety (the “flight” option).

- There are lifelong health consequences from early adversity and trauma, exhibited in adulthood as increased morbidity in many aspects, and decreased longevity. These effects begin to show up as early as adolescence, however, especially in physical symptomatology, and in sleep disruptions, which is known to further aggravate stress dysregulation.
- *Brain changes:* The most replicated finding regarding changes to the brain as a result of early life trauma or adversity is in the prefrontal system. Differences in cortical thickness are seen as early as childhood and remain present into adolescence. There is also a normative development in adolescence of increased speed and accuracy of transmission along brain circuits, a function of “myelination” that insulates the circuits and is also known as white matter in the brain. This process proceeds more slowly for affected individuals, which leaves the prefrontal system with less management control over the rest of the brain. As a result of these processes, the effectiveness of the prefrontal system to act as a brake on risky behavior is compromised even more than for the typical adolescent.
- *Neurohormonal changes:* Early life trauma, even as early as in fetal life arising from toxic stress for expectant mothers, makes significant alterations to the neurohormonal system. The most researched of these is to the stress

response system, which operates along the hypothalamic-pituitary-adrenal (HPA) axis. A gene that is responsible for feedback to the HPA-axis to turn off is changed epigenetically, so that there is too much cortisol, a central “fight-or-flight” stress hormone. Increasing research strongly indicates related effects on other systems that can mitigate the stress response, including the serotonin system (a target of many anti-depressants) and the oxytocin system (the “trust” hormone). These are down-regulated, such that their ability to moderate some of the effects of an over-active stress system is compromised. The combined effect of these biologically embedded alterations due to early trauma is to increase the chances of a highly aroused and impulsive stress response, and a reduced capacity to move out of that highly stress reactive state, potentially allowing the prefrontal system (which is also, unfortunately, likely to be compromised) to exercise better judgment and inhibitory control. The typical adolescent’s experience of the developmental maturity mismatch (DMM) is metaphorically described as “much acceleration, few brakes”, whereas for these individuals it moves even closer toward “all acceleration, no brakes.”

*Risk factor “caravans” and polyvictimization:* As more longitudinal cohort studies (that is, following the same individuals across time) have become available, and have been aggregated to get a clearer picture of the patterns, several key findings have emerged. The most significant patterns capture a picture that is intuitively reasonable, but also ground that intuition in empirical observations. Known as “risk factor caravans” and “polyvictimization”, the basic pattern is that individuals who have

experienced one trauma often are in situations where additional traumas are likely to occur at the same time or as they go forward with their lives. The refinement from these aggregated longitudinal studies is that each added trauma or victimization increases the chances of negative life outcomes later in life, especially in the vulnerable period of adolescence. Thus, the probability that an individual with a traumatic early life will experience greater propensity to engage in high-risk behavior is substantially increased.

## 7. Resilience and the Capacity for Further Development

The increased research attention to the consequences of early life trauma have sparked a parallel and more hopeful line of research on resilience, which has two meanings: at a population level, the empirical finding that some proportion of individuals who have experienced early trauma and would be expected to suffer long term negative consequences are in fact successful on most measures; at an individual level, it is the set of characteristics and processes that promote positive outcomes in the face of adversity. Beyond the general case, there is also a literature specifically on the probability of desistance from criminal activity, which is always higher than the probability of persisting into a lifetime of criminal offending, and on the factors that promote such desistance. The factors promoting resilience and desistance are similar, and are likely to be related processes.

- *Patterns of resilience:* There are two major processes that have been found to promote resilience at any age: social connection; and mindfulness (and closely related processes of identity and life purpose). The evidence for social connection as promoting resilience is extensive and well replicated. This can happen at any age, although the effects are strongest at the developmentally sensitive periods of infancy/early childhood, and adolescence. The connections do not need to be within the immediate family (and family stressors may have been the initial trigger or cause of adversity or trauma), and connections with other caring adults in the extended family, or teachers, coaches, and mentors can work the “ordinary magic” of resilience. In adolescence, close friends or

romantic partners may have a similar impact. The operation of mindfulness can be developed (though not without effort) to allow the individual to promote the availability and effectiveness of the prefrontal system to bypass the automatic, dysregulated patterns that have become embedded. Whether these processes reverse or merely mitigate the problematic biology from early trauma, the end result behaviorally is very much the same.

- *Brain and neurohormone changes underlying resilience:* Although resilience operates clearly at the behavioral level, recent research has pointed to a better understanding of the underlying biological mechanisms. The normative brain changes of adolescence include a proliferation of new neural material (known as “synaptogenesis”), which ushers in a period of enhanced neural plasticity and the rewriting of some critical neural circuitry. The changes from enhanced social connections and mindfulness can be detected, although their precise form remains a topic of intense research. The evidence from neurohormonal changes is clearer. Social connections enhance resilience in part by elevating the activity of the neurohormones serotonin and oxytocin, both of which are associated with positive emotions. More critically, they are also biological antagonists to cortisol, limiting and reducing dysregulated stress responses. At both the behavioral and biological level, resilience is possible, although it can be challenging to achieve.
- *In criminal behavior, desistance is the rule, persistence is the exception:* The “age-crime curve” is among the most replicated findings in the social sciences, dating back to Quetelet’s work in the 19<sup>th</sup> Century. The general pattern is that criminal behavior, including serious offending, tends to peak in mid- to late-

adolescence, with a substantial decline into the 20s and an even sharper drop-off after that. With the recent work in understanding the adolescent brain, the connection between the DMM and criminal desistance has become of great interest, with parallel research into the conditions and circumstances associated with desistance versus persistence.<sup>12</sup> A key distinction has been made between “adolescence limited offending” (AL) and “life course persistent offending” (LCP). The prevailing type statistically is AL, with most individuals desisting in early adulthood – as evident in the age-crime curve. There has been a great interest in identifying the differences between AL and LCP offenders, in order to understand the differences, to use them if identified as predictors, and to develop interventions and programs to move potential LCP offenders toward the AL type. There are a number of important findings from this relatively

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<sup>12</sup> Barrett, D. E., & Katsiyannis, A. (2016). Juvenile offending and crime in early adulthood: A large sample analysis. *Journal Of Child And Family Studies*, 25(4), 1086-1097. doi:10.1007/s10826-015-0304-6

Brame, R., Mulvey, E. P., Schubert, C. A., & Piquero, A. R. (2018). Recidivism in a sample of serious adolescent offenders. *Journal Of Quantitative Criminology*, 34(1), 167-187. doi:10.1007/s10940-016-9329-2

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Jolliffe, D., Farrington, D. P., Piquero, A. R., Loeber, R., & Hill, K. G. (2017). Systematic review of early risk factors for life-course-persistent, adolescence-limited, and late-onset offenders in (Footnote 7 continued): prospective longitudinal studies. *Aggression And Violent Behavior*, 3315-23. doi:10.1016/j.avb.2017.01.009

Loughran, T. A., Nagin, D. S., & Nguyen, H. (2017). Crime and legal work: A Markovian model of the desistance process. *Social Problems*, 64(1), 30-52. doi:10.1093/socpro/spw027

Paternoster, R., Bachman, R., Kerrison, E., O'Connell, D., & Smith, L. (2016). Desistance from crime and identity: An empirical test with survival time. *Criminal Justice And Behavior*, 43(9), 1204-1224. doi:10.1177/0093854816651905



recent literature that has attempted to understand this from a developmental perspective. First, both AL and LCP offenders have a far higher frequency of early life trauma than non-offenders, much as we would predict from the patterns described earlier. The frequency of trauma between the two types is unclear, with some findings of greater trauma among LCP, and other research finding them to be roughly equivalent. Second, more serious offenders tend to show lengthier time to desistance, although after a decade or so, there is a desistance pattern more similar to those who have been imprisoned for less serious offenses. Desistance for serious offenders seems to be delayed along the age-crime curve, but still occurs in the majority of cases. Third, the processes associated with desistance are, perhaps not surprisingly, those that are associated with resilience in general. Enhanced social connections, in the forms such as family formation or legal employment, are a significant predictor of desistance – along with “aging out”. Developing an identity, sense of purpose, or self-awareness is also associated with a higher probability of desistance. In sum, early trauma is strongly linked to a higher risk of adolescent risk behavior and delinquency, but resilience (rehabilitation) remains possible for all.

## 8. Notes on Scientific Methodology

The sources of evidence used in this summary integrate several methodologies:

- *Structural neuroscience*: This refers to evidence on the changing structure of the “static” brain, that is, when it is not performing a task (in “resting state”).

There are several methods for this, but the most prominent currently is diffusion tensor imaging (DTI), collected during a session of magnetic resonance imaging (MRI). This allows the characterization of the size of various parts of the brain, how they differ with age, and how they are connected with each other. It also is used for identifying structural anatomical features, and their development.

- *Functional neuroscience*: This assesses how the brain is working while it is engaged in a task, most prominently in functional MRI (fMRI) and various forms of electrical encephalography (EEG), such as evoked response potential (ERP). These use different physical methods (blood flow in fMRI, electrical signals in ERP), but they have the same goal, to elucidate the time and location of brain activity in different task conditions.

- *Cognitive and behavioral evidence*: In addition to the brain imaging evidence above, there are large amounts of behavioral and cognitive evidence that are relevant to the DMM, including self-reports of sensation seeking, impulsivity, and risk judgments, among others, as well as performance on cognitive tasks that assess EF, risk-reward trade-offs, and others.

- *Convergence of findings*: With respect to the confidence that is warranted with respect to the findings described above, one of the most important criteria (used in this summary) is to focus on findings where there is a **convergence of findings across methods and content**. Specifically, where the same

developmental pattern emerges from structural brain imaging, functional brain imaging, cognitive and behavioral evidence, and the epidemiology of risk behavior, we can have strong confidence in the major findings.

- ***Continued consistency of convergent evidence.*** These overlapping areas of research have received ample attention before and subsequent to *Miller v Alabama*. As summarized throughout this document, this new research continues to provide strong support for the general conclusions drawn above, on the basis of multiple lines of converging evidence.