

UNCOVERING THE TWENTY-SIXTH AMENDMENT

by

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CHAPTER 1: INTRODUCTION

“It never pays to write off an amendment.”

-- Supreme Court Justice David Souter¹

If there were a contest for the constitutional amendment that historians, legal academics, and political scientists have most thoroughly written off, the Twenty-sixth Amendment would have to be the winner. Passed in 1971 after the most rapid ratification process in American history, the Twenty-sixth Amendment lowered the minimum voting age in state and federal elections from twenty-one to eighteen. The voting age amendment garnered very little academic interest at the time, and the scholarly silence over the subsequent decades has been deafening. Very few commentators have devoted any serious attention to the subject, and perhaps as a consequence, the short list of writers who have briefly touched on the Twenty-sixth Amendment in the course of broader projects have usually characterized the amendment’s origins as relatively straightforward and unexciting.

In my opinion, students of politics have been too quick to dismiss the Twenty-sixth Amendment as a topic unworthy of further inquiry. To be sure, I do not claim that the ratification of the voting age amendment was a major moment in American history,

¹ Linda Greenhouse, “After 30 Years, Supreme Court History Project Turns a Final Page,” *New York Times*, December 30, 2005, A15. Justice Souter was referring specifically, and ruefully, to the 11th Amendment, which Chief Justice Rehnquist resurrected from obscurity to serve as a newly robust doctrinal source of state sovereignty.

nor that it had a dramatic effect on the national political landscape. However, I contend that the Twenty-sixth Amendment offers a fascinating case study of political debate. Drawing on a careful reading of Congressional discussions about eighteen-year-old voting over three decades, I show how both advocates and opponents of lowering the voting age offered a wide range of justifications for their respective claims. Through these arguments, members of Congress tried to both respond to current political circumstances and wrestle with broader, more timeless questions. The resulting debates were complicated and often inconsistent, but inevitably interesting.

I. The Literature

To say that the Twenty-sixth Amendment has been of limited interest to the scholarly world is a wild understatement. In the more than three-and-a-half decades since the amendment was ratified, only one book about the amendment has been published. In his 1992 work, Youth's Battle for the Ballot: A History of Voting Age in America², educational consultant Wendell W. Cultice chronicles the history of voting age legislation in the United States. Emphasizing description over analysis, Cultice sifts through a great deal of archival material to detail the numerous eighteen-year-old voting proposals, at both the state and federal level, that ultimately culminated in a national constitutional amendment.

Despite negative reviews from historians,³ Cultice's book—as the only major work on the subject—has often been a key source for the few scholars who have

² Wendell Cultice, *Youth's Battle for the Ballot: A History of Voting Age in America*, (New York: Greenwood Press, 1992).

³ Kenneth Heineman, review of *Youth's Battle for the Ballot: A History of Voting Age in America*, by Wendell Cultice, *The Journal of American History* 80 (March 1994): 1535–36; David Kyvig, *Explicit and Authentic Acts: Amending the U.S. Constitution, 1776–1995* (Lawrence, KS: University Press of Kansas, 1996), 532 n. 41.

subsequently addressed the Twenty-sixth Amendment in the course of broader projects. Researchers who have written about voting rights,⁴ constitutional amendments,⁵ youth rights,⁶ and military service⁷ have occasionally touched on the voting age issue. However, these treatments have generally been brief, with the authors' main focus lying elsewhere.

Indeed, although there is a vast literature about the history of 1960s America, the Twenty-sixth Amendment is barely acknowledged in some of the most celebrated of such works. In his award-winning, magisterial survey of postwar America, Grand Expectations, historian James Patterson mentions the voting age amendment only once, in a footnote.⁸ Another extensive, well-regarded study of the period similarly devotes only one line to the eighteen-year-old voting amendment, erroneously referring to it as

⁴ Benjamin Ginsberg, *The Consequences of Consent: Elections, Citizen Control and Popular Acquiescence* (Reading, MA: Addison-Wesley Publishing Co., 1982), 11–13; Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 277–81; Judith Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991), 17–19; Donald Grier Stephenson, Jr., *The Right to Vote: Rights and Liberties Under the Law* (Santa Barbara, CA: ABC-CLIO, 2004), 248–53.

⁵ Bruce Ackerman, *We The People 1: Foundations* (Cambridge, MA: Harvard University Press, 1990), 91; Richard B. Bernstein with Jerome Agel, *Amending America: If We Love the Constitution So Much, Why Do We Keep Trying to Change It?* (New York: Random House, 1993), 138–40; Alan P. Grimes, *Democracy and the Amendments to the Constitution* (Lexington, MA: Lexington Books, 1978), 141–47; Kyvig, *Explicit and Authentic Acts*, 363–68; David A. Strauss, “The Irrelevance of Constitutional Amendments,” *Harvard Law Review* 114 (March 2001): 1488; Clement E. Vose, *Constitutional Change: Amendment Politics and Supreme Court Litigation Since 1900* (Lexington, MA: Lexington Books, 1972), 357–59.

⁶ Richard Farson, *Birthrights* (New York: MacMillan Publishing, 1974), 176; Elizabeth S. Scott, “The Legal Construction of Adolescence,” *Hofstra Law Review* 29 (Winter 2000): 562–64; Lee E. Teitelbaum, “Children’s Rights and the Problem of Equal Respect,” *Hofstra Law Review* 27 (Summer 1999): 808.

⁷ Manfred Berg, “Soldiers and Citizens: War and Voting Rights in American History,” in *Reflections on American Exceptionalism*, eds. David K. Adams and Cornelis A. van Minnen (Staffordshire, England: Keele University Press, 1994), 211–14; Elaine Scarry, “War and the Social Contract: Nuclear Policy, Distribution, and the Right to Bear Arms,” *University of Pennsylvania Law Review* 139 (1991): 1304–5.

⁸ James T. Patterson, *Grand Expectations: The United States, 1945–1974* (New York: Oxford University Press, 1996), 719 n. 30.

the “Thirty-sixth Amendment.”⁹ Many notable histories of the 1960s do not mention the amendment at all.¹⁰

There are several plausible reasons for this lack of scholarly attention. For one thing, the story of the Twenty-sixth amendment is not particularly dramatic, especially as compared to that of other constitutional amendments that expanded the franchise. Although state and federal legislators began introducing proposals to lower the voting age to eighteen as early as the 1940s, the issue attracted only limited interest and debate until the very late 1960s. This history contrasts sharply with that of say, the Nineteenth Amendment, which was preceded by nearly a half-century of contentious struggle over woman suffrage.

Furthermore, the Twenty-sixth Amendment was, and continues to be, overshadowed by contemporaneous events. The debate over eighteen-year-old voting reached its peak in 1970, an eventful year that came at the end of a very tumultuous decade. While, as I explain in this dissertation, eighteen-year-old voting was inextricably linked with some of the most important phenomena of the 1960s—including the Vietnam War, the explosion of higher education, the antiwar protests, and the civil rights movement—the voting age issue itself was generally a second-order matter. Historians of the era, too, have understandably focused their attentions on the more dramatic and arguably far-reaching events of the 1960s.

⁹ Maurice Isserman and Michael Kazin, *America Divided: The Civil War of the 1960s* (New York: Oxford University Press, 2000), 281.

¹⁰ See, for example, Terry H. Anderson, *The Movement and the Sixties* (New York: Oxford University Press, 1995); William H. Chafe, *The Unfinished Journey: America Since World War II* (New York: Oxford University Press, 1995); Todd Gitlin, *The Sixties: Years of Hope, Days of Rage* (New York: Bantam, 1993). *The Columbia Guide to the 1960s*, by David Farber and Beth Bailey (New York: Columbia University Press, 2001) references the Twenty-sixth Amendment only in a chronology included as an appendix. *Ibid.*, 443.

The perception that the voting age amendment is of particularly limited scope has also contributed to the general lack of scholarly interest in the amendment's history. Indeed, unlike the Fifteenth and Nineteenth Amendments, which declared that American citizens could not be denied the vote on the basis of race or sex respectively, the Twenty-sixth Amendment did not abolish age discrimination in voting, but only moved the age at which it was acceptable to discriminate. Perhaps in part because of this narrow focus, constitutional lawyers have rarely sought to deploy the Twenty-sixth Amendment in new legal contexts or use it as the basis for other rights, and accordingly, the historical research and debate that is so often prompted by creative constitutional arguments has been missing as well.¹¹

Finally, academic interest in the history of the Twenty-sixth Amendment may also have been dampened by the fact that it was passed within living memory of many contemporary scholars. A number of modern-day historians, political scientists, and legal scholars were themselves in their late teens or early twenties when the amendment was ratified, and they often remember the lowering of the voting age vaguely, if fondly. However, their personal recollections are likely incomplete, for—as I explain in this dissertation—the Twenty-sixth Amendment was primarily a top-down event, driven by a small group of federal legislators whose motivations and rationales were quite complex and not necessarily fully understood by young sympathizers. For some academics, their own memories of the voting age amendment as a relatively straightforward and positive

¹¹ One of the very few constitutional scholars to offer a new legal analysis of the Twenty-sixth Amendment is Michael Dorf, who has argued that the Twenty-sixth Amendment, along with the Fifteenth and Nineteenth Amendments, should be incorporated into the Equal Protection Clause of the Fourteenth Amendment. Incorporating the voting age amendment into the Equal Protection Clause, Dorf argues, would offer heightened constitutional protections against age discrimination. Michael C. Dorf, "Equal Protection Incorporation," *Virginia Law Review* 88 (September 2002): 951–1024.

development may well have distracted them from considering it as a valid research question.

II. New Contributions

In this dissertation, I offer a new analysis of the Twenty-sixth Amendment. My research relies mainly on Congressional documents published between 1942 and 1970. Based on a close reading of these remarks, floor debates, committee hearings, and reports, I present a typology of the remarkably varied and complex arguments that surfaced in the course of debating a three-year reduction in the national voting age. This project has two goals: one narrow, one broad.

First, I hope to deepen our understanding of the history behind the Twenty-sixth Amendment. While this dissertation is certainly not a comprehensive historical analysis of the amendment's background, I believe that my research helps to refute two popular misconceptions about the story of the voting age amendment: first, that it was brief; and second, that it was simple. As I detail in Chapter 2, the voting age issue had a much longer history than is often acknowledged. Although eighteen-year-old voting did not rise to the top of the legislative agenda until about 1969, various legislators had been introducing and debating proposals to lower the voting age since World War II, and one such proposal even made it to the Senate floor in 1954.

I also argue that the motives and arguments that propelled advocates of a lower voting age are more varied and complicated than generally acknowledged. As I discuss at length in Chapter 3, commentators have tended to emphasize the role of arguments connecting the minimum voting and draft ages. While I agree that the 'old enough to fight, old enough to vote' rationale played a very significant role in the eighteen-year-old

voting movement, not enough attention has been paid to the other rationales that also motivated those who sought to lower the voting age. In particular, the way in which the student protests of the late 1960s frightened federal legislators into looking for alternative, more acceptable channels for youthful political expression has been insufficiently addressed in the literature.

More broadly, however, I suggest that the story of the Twenty-sixth Amendment offers a window into the nature of political debate. If we look closely at the intermittent, often meandering Congressional debates over eighteen-year-old voting, we can see a remarkably complex, textured illustration of the way in which those involved in politics seek to justify their preferences.

One striking feature of the voting age debates is the intersection between the various rationales for and against eighteen-year-old voting and contemporaneous events. The power of different arguments and counterarguments waxed and waned over the course of three decades, as the surrounding political and social circumstances changed. In the early 1950s, for example, advocates of a lower voting age frequently suggested that modern American youth were far more educated and sophisticated than previous generations. While such claims were consistent with the tenor of the times, these arguments were greeted with increasing skepticism amidst the mounting turmoil of the mid-to-late 1960s. Other arguments were reframed to address new realities: In the early years of the voting age debates, proponents often invoked the longstanding ideal of the brave citizen-soldier to justify their claims, but as the Vietnam War escalated and became increasingly controversial, advocates began to emphasize a different connection between military service and voting—specifically, the notion that it was unfair to demand

compulsory military service from disenfranchised citizens. Similarly, those who maintained in the 1970 debates that the voting age of twenty-one was unconstitutional were putting a new spin on arguments about discrimination that had been a part of the discussion since the beginning. Finally, new arguments arose out of new circumstances: the ‘channeling’ or ‘safety valve’ rationale mentioned above was a direct product of the campus unrest of the late 1960s.

However, while the arguments advanced in the voting age debates were often highly contingent, they also reflected participants’ efforts to grapple with bigger theoretical issues. Eighteen-year-old voting raised difficult, complex questions about the contours of citizenship, the meaning of the franchise, and the boundary between childhood and adulthood, among other things. Different arguments for or against the lower voting age were rooted not only in current events, but also in different presuppositions about these very fundamental matters.

For instance, those who emphasized the importance of military service drew on a more traditional, specifically male vision of citizenship than did those politicians who argued that young people should be enfranchised chiefly because they knew a lot about politics. Advocates who stressed the knowledgeability rationale for a lower voting age implied that the suffrage was properly a reward for a certain level of political engagement; those argued that voting rights should be extended to subdue dissent suggested that voting was itself a useful training mechanism for building a more engaged citizenry. The politicians who debated whether excluding eighteen- to twenty-one year-olds from the franchise amounted to unconstitutional discrimination disagreed about the

extent to which legal distinctions between children and adults were or were not like distinctions based on race or gender.

Unsurprisingly, then, the voting age debates are exceedingly messy. Many times logic seemed to have little to do with the balance of persuasive power. Legislators on both sides of the issue moved fluidly between different rationales, and were often unwilling to pursue theoretical arguments to their logical conclusions. Certain inconsistencies or tensions went largely unremarked, and arguments that seem entirely unconvincing to many contemporary readers were nonetheless powerful at the time. Few opponents, for example, tried to exploit the obvious conceptual tensions in advocates' frequent analogies to African-American and woman suffrage. At other times, though, politicians did reframe or rework their justifications when they ran onto logically or philosophically problematic ground; proponents scrambled to respond to opponents who noted that the male-only nature of the draft undermined arguments that the voting age should be lowered in order to correspond to the draft age.

In The Politics, Aristotle maintains that human beings' need to justify their actions—a characteristic peculiar to our species—is precisely what makes us 'political animals.'¹² The notion of eighteen-year-old voting was the slightest imaginable proposal, an attempt to change a minor detail in the regulation of the American suffrage. Yet even this seemingly narrow proposal prompted decades of debate, a lengthy process of justification in which those on both sides were forced to wrestle with a number of difficult, broader issues, just as they also struggled to respond to events and trends

¹² Aristotle, *The Politics*, ed. Stephen Everson (New York, NY: Cambridge University Press, 1988), 1.1253a5–18.

outside the Capitol's walls. The voting age debates, then, offer insight not only into the history of the Twenty-sixth Amendment, but also into the essence of politics itself.

III. Methodology

This dissertation is based almost entirely on my analysis of Congressional documents pertaining to the voting age between late 1942, when the first eighteen-year-old voting amendment proposal was introduced, and mid-1970, when both houses of Congress passed the eighteen-year-old voting statute that would eventually become the Twenty-sixth Amendment. These texts include debates and remarks published in the Congressional Record; committee and subcommittee hearings, prints, and reports; and a few speeches. I have not included documents from late 1970 and early 1971 because, for reasons that I detail in Chapter 2, the Congressional debates from those months had very little to do with the merits of eighteen-year-old voting and much to do with administrative problems presented by the Supreme Court's December 1970 decision invalidating part of the statute that Congress had passed.

These Congressional documents illuminate the arguments that those involved in the voting age debates—at least at the federal level—offered to justify their positions. By taking these discussions seriously, we can see which arguments that politicians themselves found persuasive, the sorts of issues that they considered to be relevant or irrelevant to eighteen-year-old voting, and the way in which they struggled with the difficult but unavoidable theoretical questions that arose in the course of debate. The political philosopher Dennis Thompson, for one, has argued that political theorists should regularly study the arguments that citizen and their representatives make in public fora.

“The province of political theory should include not only the manifestly theoretical, but also the incompletely theoretical.”¹³

Critics will correctly note that the Congressional Record in particular has serious problems with accuracy. One commentator has described the Record as “an enigma of government documentation,” noting that “[u]nder the guise of correcting transcription errors, some legislators change, omit, or add remarks, creating a fascinating, and often indistinguishable, blend of truth and fiction.”¹⁴ Others may point out that only the most naive reader would assume that politicians’ statements on the Senate or House floor reflected their true beliefs on a given issue.

While these limitations might be a real challenge for someone taking a more exclusively historical approach to the story of the Twenty-sixth Amendment, for my purposes, the fact that the Congressional Record likely reflects neither exactly what was said on the floor of Congress on a given day nor what any given legislator truly thought about eighteen-year-old voting is not much of a problem. The fact that a legislator thought an argument was convincing enough to record for posterity is what is most relevant to my inquiry.

Along similar lines, a comprehensive historical analysis of the Twenty-sixth Amendment would need to address sources beyond Congressional documents. Between 1942 and 1970, the voting age issue was debated in nearly every state legislature, in the pages of newspapers and magazines, on the radio and on television, and in countless school debate tournaments across the nation. To be sure, federal documents might well

¹³ Dennis F. Thompson, *Just Elections: Creating a Fair Electoral Process in the United States* (Chicago: University of Chicago Press, 2002), ix.

¹⁴ Judith Schiek Robinson, *Tapping the Government Grapevine: The User-Friendly Guide to U.S. Government Information Sources* (Phoenix, AZ: The Oryx Press, 1993), 91.

be the most relevant sources even in a purely historical inquiry, since the push for eighteen-year-old voting—unlike other suffrage movements—was driven primarily by federal legislators. But someone writing a more thorough history of the amendment would still have to delve more substantially into other kinds of texts than I have done here. As I am studying the amendment’s history primarily as an example of political debate, though, limiting myself to Congressional documents made this project manageable without detracting from my central goal.

IV. Outline

The rest of this dissertation is divided into five chapters. In Chapter 2, I give a brief descriptive overview of the eighteen-year-old voting movement. Chapters 3 through 6 each explore a different set of rationales that advocates offered in favor of lowering the voting age: arguments about military service, education, student dissent, and discrimination, respectively. In Chapter 7, I conclude with a few final reflections on the significance of the voting age debates.

CHAPTER 2: A SHORT HISTORY OF EIGHTEEN-YEAR-OLD VOTING

Before launching into the different arguments that animated proponents and opponents of eighteen-year-old voting, it is useful to go through the chronology of events that ultimately led to the ratification of the Twenty-sixth Amendment in 1971. In his book, Youth's Battle for the Ballot, Wendell Cultice offers quite a bit of detail about the various voting age proposals that state and federal legislators considered during the 1940s, 50s, and 60s. However, other commentators—especially those in the legal academy—have tended to focus their attention on the rather more dramatic events of 1970 and 1971, overlooking the years of relatively subdued debate that preceded them.

Perhaps because of this narrow historical focus, a few writers have concluded that the Twenty-sixth Amendment was nothing more than an administrative response to the Supreme Court's partial invalidation of the eighteen-year-old rider to the Voting Rights Act Amendments of 1970.¹⁵ Constitutional scholar Bruce Ackerman has gone so far as to characterize the Twenty-sixth Amendment as merely a “superstatute.”¹⁶

By putting the eighteen-year-old voting amendment in historical perspective, however, we can see that the effort to lower the voting age by statute was actually a response to many years of legislative stalemate on proposed constitutional amendments. As I describe below, a few federal legislators first began introducing eighteen-year-old

¹⁵ See, for example, David A. Strauss, “The Irrelevance of Constitutional Amendments,” *Harvard Law Review* 114 (March 2001), 1488; Bruce Ackerman, *We the People I: Foundations* (Cambridge, MA: Harvard University Press, 1990), 91.

¹⁶ Ackerman, *We the People I*, 91.

voting proposals during World War II, and they made hundreds of such proposals over the subsequent decades. However, apart from a brief moment in 1954, when the entire Senate considered (and rejected) a proposed amendment sponsored by Senator William Langer (R-ND), the voting age issue rested towards the bottom of the legislative agenda until the late 1960s, when the matter began to gain momentum. In early 1970, a move by Senators Edward Kennedy and Mike Mansfield to try and lower the voting age by statute, rather than constitutional amendment, breathed new life into the eighteen-year-old voting movement, which ultimately culminated in the Twenty-sixth Amendment itself.

I. The Early Years

The genesis of the twenty-one year voting age is unfortunately lost in the mists of time, although one popular explanation holds that it originated from the age at which a medieval adolescent was thought capable of wearing a suit of heavy armor, and was therefore eligible for knighthood.¹⁷ In America, the colonies established a minimum voting age of twenty-one in accordance with British common law at the time. One historian notes that even in colonies that did not establish a formal minimum age for voting, custom prohibited males under the age of twenty-one from voting.¹⁸

The voting age issue next arose in the early 1820s, when both Missouri and New York considered—but rejected—the idea lowering their voting ages during their respective conventions.¹⁹ A few decades later, New York revisited the question again,

¹⁷ Legislators often referenced this theory in the voting age debates. See Chapter 3.

¹⁸ Robert J. Dinkin, *Voting in Provincial America: A Study of Elections in the Thirteen Colonies* (Westport, CT: Greenwood Press, 1977), 30–31. Boys under the age of twenty-one were apparently occasionally allowed to vote in some New England militia elections, however. *Ibid.*, 21; Albert Edward McKinley, *The Suffrage Franchise in the Thirteen English Colonies in America* (Philadelphia, PA: University of Pennsylvania Press, 1905), 474. At one point in the late 1600s, both Massachusetts and New Hampshire briefly raised their voting ages to twenty-four. Dinkin, *Voting in Provincial America*, 474.

¹⁹ Cultice, *Youth's Battle for the Ballot*, 7.

when a delegate to the state constitutional convention of 1867 proposed amending the state constitution to enfranchise native-born white males between the ages of eighteen and twenty-one. This proposal, along with a couple of other similar ones, were soundly defeated by the convention.²⁰

The first proposal to amend the federal constitution to provide for eighteen-year-old voting came in October 1942, when Representative Victor Wickersham (D-OK) offered such an amendment on the same day that the House voted to lower the minimum draft age from twenty to eighteen.²¹ Several days later, Senator Arthur Vandenberg (R-MI) and Representative Jennings Randolph (D-WV) both introduced similar proposals.²² A few states also began to consider lowering their own voting ages, but the only one to actually do so was Georgia, which established eighteen-year-old voting in 1943.²³

There was a flurry of activity around the voting age issue during the late 1940s and early 1950s. Between 1945 and 1952, federal legislators introduced fourteen different proposals to amend the constitution, and Cultice notes that during that same time period, nearly one hundred voting age bills were proposed in state legislatures.²⁴

In March 1953, Senator Langer introduced Senate Joint Resolution 53, proposing a constitutional amendment that would lower the voting age for both state and federal elections to eighteen.²⁵ After committee hearings on this and another similar bill, Langer's proposal made it to the Senate floor on May 21, 1954, where it failed to gain the necessary two-thirds majority with a vote of 43 to 24, with 37 Senators not voting. While

²⁰ Ibid., 13.

²¹ H.J. Res. 352, 77th Cong., 2d sess., *Congressional Record* 88 (October 17, 1942): 8312. I discuss the relationship between military service and the voting age in Chapter 3.

²² S.J. Res. 166, 77th Cong., 2d sess., *Congressional Record* 88 (October 19, 1942): 8316; H.J. Res. 354, 77th Cong., 2d sess., *Congressional Record* 88 (October 21, 1942): 8507.

²³ Cultice, 24–27.

²⁴ Cultice, 30–32.

²⁵ 83rd Cong., 1st sess., *Congressional Record* 99 (March 2, 1953): 1513.

I discuss the substance of this debate elsewhere in this dissertation, one aspect worth noting here is that S.J. Res. 53 was a Republican initiative. All Republicans who cast votes voted in favor of the bill; Democrats were split, but skewed against the proposal, with the strongest opposition coming from Southern Democrats.²⁶

Despite the defeat of S.J. Res. 53, advocates of eighteen-year-old voting continued to introduce proposals to lower the voting age at the state and federal levels throughout the 1950s and 60s. A very small minority of these were successful, with those pertaining to the American territories especially so: Guam lowered its voting age to eighteen in 1954, the then-Territory of Hawaii lowered its voting age to twenty in 1958, and American Samoa established eighteen-year-old voting in 1965. Outside the territories, Kentucky reduced its state voting age to eighteen in 1955, and Alaska became a state in 1956 with a voting age of nineteen.²⁷

In Congress, however, eighteen-year-old voting proposals were more or less stymied by the implacable opposition of Representative Emanuel Celler (D-NY), who chaired the House Judiciary Committee continuously from 1955 to 1972. Born in Brooklyn, Celler had first been elected to Congress in 1922. The liberal Democrat had a longtime reputation as a tough-minded partisan, an energetic campaigner, and a staunch advocate for African-American civil rights.²⁸ From his powerful position as House

²⁶ *Extension of Voting Rights to Citizens at Age of 18*, 83rd Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6956–59; 6963–68; 6969–80.

²⁷ Cultice, *Youth's Battle for the Ballot*, 24–27, 54–56, 58–59, 86. Congressional documents contain a very brief discussion of the thoughts behind twenty-year-old voting in Hawaii. Senate Committee on Interior and Insular Affairs, [*Territorial Miscellaneous Legislation*], 85th Cong., 2d sess., July 22, 1958, 51–53; House Committee on Interior and Insular Affairs, *Amending the Hawaiian Organic Act to Lower the Voting Age of Citizens of the Territory of Hawaii to 20 Years*, 85th Cong., 2d. sess., May 8, 1958, H. Rep. 1692.

²⁸ Charles Whalen and Barbara Whalen, *The Longest Debate: A Legislative History of the 1964 Civil Rights Act* (Cabin John, MD: Seven Locks Press, 1985), 29–30. The Whalens describe how Celler entertained large crowds of children with magic tricks on his campaign stops. *Ibid*, 30.

Judiciary Committee chairman, Celler was one of the chief architects of both the Civil Rights Act of 1964 and the Voting Rights Act of 1965.²⁹ Celler was, however, emphatically opposed to eighteen-year-old voting, and throughout his tenure as committee chair, he steadfastly refused to hold hearings on any and all proposals for a voting age amendment. (Celler was also opposed to women's rights and employed similar tactics to successfully stall proposals for an Equal Rights Amendment.³⁰) Significantly, this sort of heavy-handed leadership infuriated some of his younger colleagues, who resented the virtual lock that elderly committee chairmen like Celler had on the legislative process.³¹

Toward the end of the 1960s, the voting age issue began to percolate a bit closer to the surface of the national political agenda, with an increasing number of state and federal legislators introducing proposals. The Senate Judiciary subcommittee on constitutional amendments held hearings in 1968 and early 1970.³² Over time, eighteen-old-voting had become more closely identified with the Democratic Party, although support came from both sides of the aisle, and Southern Democrats continued to consistently oppose the idea. At the federal level, proposals inevitably died a quick death—thanks in no small part to Celler—and even when state legislatures passed

²⁹ Donald Grier Stephenson, Jr., *The Right to Vote: Rights and Liberties Under the Law* (Santa Barbara, CA: ABC-CLIO, 2004), 250; Whalen and Whalen, *The Longest Debate*, passim.

³⁰ Kyvig, *Explicit and Authentic Acts*, 404; Mary Frances Berry, *Why ERA Failed: Politics, Women's Rights, and the Amending Process of the Constitution* (Bloomington, IN: Indiana University Press, 1986), 63.

³¹ Whalen and Whalen, *The Longest Debate*, vii, 30.

³² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res., 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 14–16, 1968; Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16–17, March 9–10, 1970.

eighteen-year-old voting amendments, these proposals were invariably rejected in subsequent public referenda.³³ Matters seemed to be at a stalemate.

II. The Voting Rights Act Amendments of 1970

In March 1970, Emanuel Celler was eighty-one years old and in his forty-eighth year of service in the Senate. Senator Edward Kennedy (D-MA) had just turned thirty-eight and had been a senator for seven years.³⁴ When certain provisions of Celler's beloved Voting Rights Act of 1965 came up for renewal, Kennedy saw an opportunity to finally generate some movement on the eighteen-year-old voting issue. Joined by Senate majority leader Mike Mansfield (D-MT), Kennedy proposed adding a clause that would establish a minimum voting age of eighteen in both state and federal elections.

This strategy was risky. Lowering the voting age by statute, as opposed to constitutional amendment, raised important legal questions about the limits of Congressional authority. Apart from the specter of Supreme Court intervention, which loomed large, these constitutional issues offered easy cover for those who were dubious about the merits of a lower voting age but might have been reluctant to voice those opinions for the record. As Alexander Keyssar has noted, from the perspective of an incumbent legislator, as soon as it seems even possible that a particular suffrage movement will succeed, "the potential political cost of a vote against enfranchisement r[ises] dramatically."³⁵ The nonvoters of yesterday, after all, may be tomorrow's vengeful constituents.

And indeed, Senate debate on the Kennedy-Mansfield proposal revolved largely around the question of whether Congress could legitimately lower the national voting age

³³ Cultice, *Youth's Battle for the Ballot*, 87–91, 140–170.

³⁴ "Edward Kennedy," Biographical Directory of the United States Congress, bioguide.congress.gov.

³⁵ Keyssar, *The Right to Vote*, 214.

through statute alone. Even Senators who had previously gone on record as being opposed to, or at least skeptical about, the wisdom of eighteen-year-olds having the right to vote now couched their objections almost entirely in terms of constitutionality and states' rights.³⁶ On the one hand, this suggests that by this point eighteen-year-old voting was enough of a possibility that members of Congress were increasingly unwilling to risk alienating a group of future voters by openly questioning their fitness for the franchise. On the other hand, it also seems likely that at least some legislators felt more comfortable opposing the voting age rider—which could be objected to on purely legal grounds—than they would have a constitutional amendment.

What's more, the statutory approach also divided advocates of eighteen-year-old voting. A number of senators seemed quite sincere in their support of a lower voting age but nonetheless expressed reservations about the proposed rider. Most notably, the venerable proponent Senator Jennings Randolph (D-WV), who had been introducing voting age proposals since 1943, urged his colleagues to lower the voting age through constitutional amendment instead. Randolph seemingly could not bring himself to openly criticize the Kennedy-Mansfield provision, but he repeatedly stressed that his latest proposed amendment had enough votes that it could be quickly brought to the Senate floor and passed.³⁷

³⁶ Compare, for example, Senator Spessard Holland's (D-FL.) lengthy and substantive arguments against eighteen-year-old voting in 1968 Senate Judiciary Committee hearings with his brief March 11 statement on the Senate floor. Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 7, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15, 1968, 29–35; *Voting Rights Act Amendments of 1969*, Senate, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6957.

³⁷ *Voting Rights Act Amendments of 1969*, Senate, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6927–28, 6943–44, 6961.

A few other supporters of eighteen-year-old voting were more willing to voice their doubts. Senator Roman Hruska (R-NE), for example, agreed that eighteen- to twenty-one year-olds had the requisite intelligence and education to exercise the franchise,³⁸ but he was concerned about what might happen if the Supreme Court invalidated the Kennedy-Mansfield rider after the 1972 elections:

If the votes of 18-year-old citizens were disregarded as invalid, an election might be thrown into the House of Representatives. This uncertainty and confusion would arise at the very time when the Nation can ill afford to await the outcome of protracted litigation, and even worse, be divided by it.³⁹

Senator Robert Griffin (R-MI) also emphasized his support for eighteen-year-old voting⁴⁰ but questioned the merits of attaching a constitutionally questionable rider to the “vitally important” Voting Rights Act.⁴¹

For their part, those pushing for the voting age rider argued that a constitutional amendment, while preferable, was no longer a realistic goal. Mansfield became irritated with Randolph’s continued assurances that an amendment would pass quickly:

‘The distinguished Senator from West Virginia himself has been introducing resolutions [for a constitutional amendment] since 1942, and where are they? Still in committee.

Where are they when Congress adjourns? Dead.’⁴² Senator Barry Goldwater (R-AZ) agreed, “[I] see nothing but frustration if we try to go the constitutional amendment route. The amendments get into the Judiciary Committee and they just seem to rot and die

³⁸ Ibid., 6952.

³⁹ Ibid., 6946.

⁴⁰ Ibid., 6945, 6968–69.

⁴¹ Ibid., 6932.

⁴² Ibid., 6944.

there.”⁴³ Mansfield also reminded his colleagues that the House Judiciary Committee, with Celler at the helm, would surely never pass such a proposal.⁴⁴

Supporters of the Kennedy-Mansfield proposal energetically maintained that the law was constitutional, as I discuss at length in Chapter 6. They ultimately prevailed: Despite a series of proposed amendments from Senator James Allen (D-A) designed to derail the bill, the Kennedy-Mansfield proposal passed the Senate by a large margin, with 67 in favor, 19 against, and 14 Members not voting. (The yeas included Senator Randolph, who finally announced his intention to vote for the bill despite his concerns.⁴⁵)

At this point, Representative Celler was backed into a corner: Either he could abandon his objections to eighteen-year-old voting and speed the legislation through, or he could stand his ground and endanger the renewal of the Voting Rights Act extension bill. There were good reasons for him to be concerned: In July 1969, Celler’s Judiciary Committee had voted to simply extend the Voting Rights Act of 1965 for five more years, but when it reached the House floor, a coalition of conservative Representatives managed to substitute and pass a different bill, one that had been proposed by the Nixon administration and which the liberals regarded as considerably weaker. When the administration’s bill arrived in the Senate, however, that chamber reversed the change, substituting and passing Celler’s original five-year extension. It was at this point that Kennedy and Mansfield proposed the voting age rider.⁴⁶

Desperate to avoid a conference committee with conservative Senator James Eastland’s (D-MS) Senate Judiciary committee, which long had been a killing field for

⁴³ Ibid., 6945.

⁴⁴ Ibid., 7086.

⁴⁵ Ibid., 7093.

⁴⁶ Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy 1960–1972* (New York: Oxford University Press, 1990), 360–61.

civil rights legislation, Celler and his allies decided to bypass the normal legislative process. Instead, Representative Spark Matsunaga (D-HI) proposed a resolution calling for the House to simply approve the Senate bill—including the eighteen-year-old voting amendment—and send it to the President. The House Rules Committee approved the resolution, as well as a one-hour limitation on debate.⁴⁷

It was in this form, then, that the voting age issue finally reached the floor of the House of Representatives on June 17, 1970. Within the first few minutes of discussion, Celler rose to essentially concede that he had been outmaneuvered:

[I] want to point out to you my good friends that a vote against [the resolution] is tantamount to a vote against the extension of the Voting Rights Act.

If there is any change in the bill, the bill then goes to conference and there, I can assure you, there would be the death knell of the bill I say that because of my knowledge of what would happen in the other body If this bill goes back to the other body, then this bill is as dead as that flightless bird called the dodo.

. . . Unlike many Members, I do hold doubts as to the wisdom of extending the franchise to persons 18 to 21. . . . I also hold reservations about the constitutional authority of Congress to statutorily amend voting age requirements.

. . .

. . . Despite these reservations and concerns, to which, as you know, I have given vent recently, I am now, today, firmly and finally of the opinion that we must brook no obstacle to the immediate extension of the Voting Rights Act of 1965. That extension is of such paramount national importance that it must be effectuated as promptly as possible and at a minimum of risk.⁴⁸

The House debate was both more contentious and wide-ranging than the Senate debate had been. While the senators had focused primarily on constitutional questions, members of the House were much more willing to launch into broader discussions about

⁴⁷ Representative H. Allen Smith (R-CA) recounted the legislative history leading up to the House floor debate, Congress, House of Representatives, 91st Cong., 2d sess., *Congressional Record* 116, pt. 15 (June 17, 1970): 20160.

⁴⁸ *Extending Voting Rights Act of 1965*, House of Representatives, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20160, 20162.

eighteen-year-old voting itself.⁴⁹ Such discussions were overwhelmingly dominated by speakers announcing themselves in favor of lowering the voting age, although a few Members—most passionately, Representative John Rarick (D-LA)⁵⁰—staked out the other side.

However, the House also argued about the same constitutional issues that had so preoccupied the Senate, with a proportionately higher number of speakers voicing doubts that the legislation could survive Supreme Court scrutiny. The debate became heated at times. Representative Lawrence Fountain (D-NC), for instance, was beside himself about what he saw as an unacceptable extension of Congressional power: “How ridiculous can we become in our effort to evade proper constitutional processes. . . . [T]here is no end to the folly of man. Let us be done with this charade; with this flimsily disguised seizure of power.”⁵¹ On the other side, Representative Carl Albert (D-OK) spoke for many proponents when he declared that there was no room for neutrality on this issue. “Those who endeavor to equivocate that they are for the 18-year-old vote but insist that the cumbersome time-consuming constitutional amendment route be pursued, are in effect against extending the franchise to 18-, 19-, and 20-year-olds.”⁵²

More than a few Members were infuriated by the circumstances under which they were being forced to consider the eighteen-year-old voting rider. Representative Gerald Ford (R-MI) characterized Matsunaga’s resolution, with its accompanying time limit, as “the most indefensible combination of legislation and parliamentary procedure I have

⁴⁹ For analysis of the sorts of arguments advanced in these discussions, see Chapters 3–6..

⁵⁰ *Extending Voting Rights Act of 1965*, House of Representatives, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20190–91.

⁵¹ *Ibid.*, 20174.

⁵² *Ibid.*, 20165.

ever seen.”⁵³ Others chafed at what they saw as an acquiescence to Senate power. Representative William Randall (D-MO) declared, “If we adopt this rule the House agrees that it is the second-class body of the Congress. I cannot understand why so many seem so intent to eliminate ourselves as a legislative body.”⁵⁴ Representative William Colmer (D-MS), who had been outvoted by the Rules Committee he chaired, mournfully described the resolution as “a tragic situation.” “What you are really doing here. . . is making of [sic] this body a unicameral legislative body. We might as well quit and ask the other body what they think we ought to do over here; and permit them to write the legislation in the first place.”⁵⁵

Despite such objections, however, the resolution ultimately passed by a vote of 276 to 128, with 17 members not voting.⁵⁶ President Nixon signed the amended Voting Rights Extension Act on June 22.⁵⁷ The fight to lower the voting age was not over, but advocates had won a crucial round. By repackaging the eighteen-year-old voting issue into a Congressional statute, rather than a constitutional amendment, Kennedy, Mansfield, and their allies had managed to break a decades-old stalemate.

III. *Oregon v. Mitchell* and the Twenty-sixth Amendment

With the 1972 elections looming, the Supreme Court quickly agreed to hear a set of cases challenging the constitutionality of the eighteen-year-old voting provision, as well as two other provisions of the newly amended Voting Rights Act. The case was argued on October 19, 1970, and the Court rendered its decision a scant two months later, on December 21.

⁵³ *Ibid.*, 20197.

⁵⁴ *Ibid.*, 20194.

⁵⁵ *Ibid.*, 20197.

⁵⁶ *Ibid.*, 20199–200.

⁵⁷ *Voting Rights Act Signed*, 91st Cong., 2d sess., *Congressional Record* 116 (June 23, 1970): 20873.

In *Oregon v. Mitchell*,⁵⁸ the Court handed down a remarkably messy collection of fractured opinions. Justice Black, writing for the majority, upheld the eighteen-year-old voting statute with respect to federal elections, but struck it down as it applied to state and local elections.⁵⁹ However, Black was essentially writing for a majority of one: Four Justices—Douglas, Brennan, White, and Marshall—maintained that the voting age provision was a legitimate exercise of Congressional authority with respect to both federal and state elections.⁶⁰ Chief Justice Burger and Justices Harlan, Stewart, and Blackmun asserted that Congress did not have constitutional authority to lower the voting age in either state or federal elections.⁶¹ Black’s position, then, that Congress had extensive power to set the qualifications for national elections but sharply limited authority to interfere in state elections, expressed the judgment of a majority on both points and therefore became the binding opinion of the Court.

For the forty-seven states that had minimum voting ages over eighteen, the Supreme Court decision presented a massive administrative problem. State election officials reported that the costs of administering a dual-age voting system—with one age limit for elections of federal officials and another for elections of state and local officials—would be staggering. Many worried that the logistical complications would create serious delay and increase the possibility of election fraud.⁶²

In response, a number of state legislatures immediately began to consider amending their own constitutions to provide for eighteen-year-old voting. However, not

⁵⁸ 400 U.S. 112 (1970).

⁵⁹ *Ibid.*, 117.

⁶⁰ *Ibid.*, 135 (Douglas, J., concurring in part and dissenting in part); *Ibid.*, 240 (Brennan, White, and Marshall, JJ., concurring in part and dissenting in part)

⁶¹ *Ibid.*, 213 (Harlan, J., concurring in part and dissenting in part); *Ibid.*, 296 (Stewart and Blackmun, JJ., and Burger, C.J., concurring in part and dissenting in part.)

⁶² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Lowering the Voting Age to 18: A Fifty-State Survey of the Costs and Other Problems of Dual-Age Voting*, February, 1971, 2–4, 14–20.

all states would be able to ratify a constitutional amendment before the 1972 elections, as many had internal amending procedures that required two successive legislatures to pass any proposed amendment, and sometimes a popular referendum as well.⁶³

Congress also immediately took action. On March 10, the Senate unanimously passed a joint resolution, sponsored by Senator Randolph, that called for a constitutional amendment lowering the voting age to eighteen in both state and federal elections.⁶⁴ Shortly thereafter, the House took up an identical proposal, cosponsored by none other than Representative Celler. In urging the chamber to pass the proposal, Celler noted that the voting age movement had gained an irreversible momentum: “[A]ny effort to stop the wave for the 18-year-old vote would be as useless as a telescope to a blind man.”⁶⁵ Celler was right. A few dissenters—mainly Southern Democrats and conservative Republicans—objected to the proposal, maintaining that Congress should either leave the states to their own devices or simply repeal the voting age amendment to the Voting Rights Act.⁶⁶ Nevertheless, the House overwhelmingly backed the proposed constitutional amendment, passing the joint resolution with a vote of 401 to 19, with 12 Members not voting.⁶⁷

Within an hour, both the Delaware and Minnesota legislatures ratified the new amendment. Over the next several months, other states followed suit. On June 30, 1971, Ohio became the thirty-eighth state to ratify the voting age amendment, cutting the previous ratification speed record—which had been held by the Twelfth Amendment—by

⁶³ Ibid., 20, 22–49.

⁶⁴ *Quorum Call*, 92d Cong., 1st sess., *Congressional Record* 117 (March 10, 1971): 5830. Six Senators did not vote.

⁶⁵ *Lowering the Voting Age to 18*, 92d Cong., 1st sess., *Congressional Record* 117 (March 23, 1971): 7533.

⁶⁶ Ibid., 7532–7569.

⁶⁷ Ibid., 7569–70.

half. On July 5, President Nixon signed the new amendment, as did the General Services administrator and three eighteen-year-olds chosen from a concert group in attendance.⁶⁸

⁶⁸ Cultice, *Youth's Battle for the Ballot*, 192–215.

CHAPTER 3: MILITARY SERVICE

It is common knowledge that eighteen-year-old voting had something to do with the war in Vietnam. Indeed, the conventional wisdom about the Twenty-Sixth Amendment is that it was passed specifically to align the nation's minimum voting and draft ages. Americans in their 50s and 60s today may remember the amendment's passage only dimly, but many readily recall the slogan, "old enough to fight, old enough to vote."

Academic commentary on the Twenty-Sixth Amendment, what little of it that exists, has also tended to stress the soldier-voter connection. In the only full-length book about the history of voting age legislation in America, Wendell Cultice contends that the voting age issue has always been inextricably linked to young people's service in the military, and never more so than in the decades after World War II.⁶⁹ Scholars who have written about the Twenty-Sixth Amendment in the course of broader projects have also often emphasized the role of the Vietnam War and the apparent injustice of denying draftees the right to vote in their analyses.⁷⁰

⁶⁹ Wendell Cultice, *Youth's Battle for the Ballot*, Contributions in Political Science, No. 291 (New York: Greenwood Press, 1992).

⁷⁰ See, for example, Richard B. Bernstein with Jerome Agel, *Amending America: If We Love the Constitution So Much, Why Do We Keep Trying to Change It?* (New York: Times Books, 1993), 138–40; William N. Eskridge, Jr., "The Relationship Between Obligations and Rights of Citizens," *Fordham Law Review* 69 (April 2001), 1734; Alan P. Grimes, *Democracy and the Amendments to the Constitution* (Lexington, MA: Lexington Books, 1978), 141–42; Elaine Scarry, "War and the Social Contract: Nuclear Policy, Distribution, and the Right to Bear Arms," *University of Pennsylvania Law Review* 139 (1991), 1304, 1304n148.

To some degree, such explanations are correct. A close reading of the Congressional debates on eighteen-year-old voting reveals that a connection between military service, especially compulsory military service, was absolutely central to discussions about the voting age. The very first proposals to lower the voting age through constitutional amendment, in 1942, were prompted by Congress's decision to revise the draft age downward, from twenty to eighteen, and advocates would continue to invoke the soldier-voter link for the next three decades. Furthermore, as the Vietnam War escalated in the late 1960s, the argument that soldiers—especially conscripted soldiers—should have a right to vote for the nation's leaders undoubtedly took on new urgency and helped to propel the eighteen-year-old voting issue onto the legislative agenda.

However, the significance of the soldier-voter link in the history of the Twenty-sixth Amendment has been somewhat overstated. In Congressional debates, advocates of lowering the voting age surprisingly often explicitly rejected the 'old enough to fight, old enough to vote' angle in favor of other sorts of arguments.

In this chapter, I first investigate how arguments about fighting and voting worked to push the eighteen-year-old voting cause along. I maintain that 'old enough to fight, old enough to vote,' actually encompassed several different conceptual relationships between military service and suffrage. I then examine the limitations of this collection of arguments. I assert that despite the military service–suffrage angle's considerable usefulness as a rhetorical strategy, the force of such arguments were ultimately limited by some inconvenient facts about the nature of military service, especially in the late 1960s. Specifically, the restriction of the draft to males only, the

longstanding military policy of preferring young draftees to older ones, and eighteen-year-old voting activists' ambivalence about military service all undermined efforts to connect the voting and draft ages.

I. Brave Warriors, New Adults, and Disenfranchised Servants

Right from the beginning, arguments linking military service and voting rights were front and center in the voting age debates. Representative Victor Wickersham (D-OK) offered the first proposed eighteen-year-old voting amendment to the federal constitution on the same day—October 17, 1942—that the House voted to lower the minimum draft age from twenty to eighteen.⁷¹ Several days later, Senator Arthur Vandenberg (R-MI) and Representative Jennings Randolph (D-WV) introduced similar proposals in the Senate and House, respectively.⁷² When introducing his bill, Vandenberg specifically cited the newly lowered draft age.⁷³ Randolph similarly stressed the relevance of the new draft age in the subcommittee hearings that he convened only a few days later, “I strongly feel one of the very cogent reasons why we should consider this proposal today is that the impact of war has lifted, through the process of the draft, from our home front millions of young men and women in the age bracket of 18 to 20, inclusive.”⁷⁴

For the next three decades, proponents of eighteen-year-old repeatedly argued that the minimum voting age should be brought into line with the minimum draft age to

⁷¹ H.J. Res. 352, 77th Cong., 2d sess., *Congressional Record* 88 (October 17, 1942): 8312.

⁷² S.J. Res. 166, 77th Cong., 2d sess., *Congressional Record* 88 (October 19, 1942): 8316; H.J. Res. 354, 77th Cong., 2d sess., *Congressional Record* 88 (October 21, 1942): 8507. Note that although Wickerham's bill proposed to lower the voting age to eighteen in federal elections only, Vandenberg's and Randolph's proposed amendments regulated both state and federal elections.

⁷³ *Voting Privileges for Draftees*, 77th Cong., 2d sess., *Congressional Record* 88 (October 19, 1942): 8316.

⁷⁴ House Judiciary Committee, Subcommittee No. 1, *A 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*, 78th Cong., 1st sess., October 20, 1943, 3.

ensure that all members of the armed forces—or at least all those subject to conscription—could vote. Indeed, the occasional legislator maintained that the voting age should be lowered *only* for members of the armed forces.⁷⁵ When the Senate debated the eighteen-year-old voting amendment in March 1970, Senator Warren Magnuson (D-WA) declared that military service was still “the most potent argument we can think of,” that “if a man is old enough to fight for his country, to bleed and die and serve for his country, he or she is old enough to have a say in how this country is governed.”⁷⁶

This conceptual link between soldiering and voting was cashed out in at least three different ways in the voting age debates: Some advocates of lowering the voting age invoked the venerable ideal of the citizen-soldier, while other suggested that maturity, or adulthood, was at the core of the military service–voting relationship. Still others rejected these two formulations—especially in the later years of the debates, at the height of the Vietnam War—in favor of arguments about representation. These different lines of argument were not mutually exclusive, and legislators often cited more than one, sometimes simultaneously.

A. The Citizen-Soldier

One strand of the ‘old enough to fight, old enough to vote’ argument invoked the venerable ideal of the citizen-soldier. Advocates of a lower voting age maintained that young soldiers who bravely risked their lives to protect their country were the truest American citizens, and as such, deserved to vote.

⁷⁵ For example, in early 1969, Representative Olin Teague (D-TX) proposed a constitutional amendment to lower the minimum voting age to eighteen for members of the armed forces only, H.J. Res. 92, 91st Cong., 1st sess., *Congressional Record* 115 (January 3, 1969). His compatriot Representative Richard White (D-TX) introduced the same proposal again a couple of months later, H.R. 8828, 91st Cong., 1st sess., *Congressional Record* 115 (March 12, 1969): 6160.

⁷⁶ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6929.

The idea that citizenship is linked to military service dates to antiquity and has surfaced repeatedly since.⁷⁷ The quintessential citizen-soldier, described perhaps most memorably by Machiavelli, willingly goes to war to defend his beloved nation, and when the war ends (if he survives) he eagerly returns home to resume his active participation in the polity.⁷⁸ According to one scholar of the subject, in the United States “the citizen-soldier ideal became the epitome of a liberal ideology that combined a high esteem for military virtues with a deep distrust of military professionalism.”⁷⁹

And indeed, proponents of eighteen-year-old voting not infrequently suggested that young soldiers’ dedication to their country earned them the right to vote. Representative Lucien Nedzi (D-MI) praised President’s Johnson 1968 proposal for a lower voting age, “The right to vote is an inherent right of all Americans. There can be no good reason for denying this right to young men and women who have demonstrated their citizenship by . . . their sacrifice in the defense of freedom around the world.”⁸⁰ In 1969, Representative Richard Fulton (D-TN) inserted statistics regarding the percentage of soldiers under twenty-one in Vietnam, as well as their casualty rate. He asserted, “Our 18-, 19-, and 20-year-olds have earned their right to be heard through the ballot. They have earned this right through their service to the Nation.”⁸¹

⁷⁷ Manfred Berg, “Soldiers and Citizens: War and Voting Rights in American History,” in *Reflections on American Exceptionalism*, ed. David K. Adams and Cornelis A. van Minnen (Staffordshire, England: Keele University Press, Ryburn Publishing, 1994), 190.

⁷⁸ See, for example, Niccolo Machiavelli, *The Prince*, trans. Harvey C. Mansfield, Jr. (Chicago: University of Chicago Press, 1985), Ch. XII-XIII; Niccolo Machiavelli, *Discourses on Livy*, trans. Harvey C. Mansfield, Jr. and Nathan Tarcov (Chicago: University of Chicago Press, 1996), I-43, II-20; Niccolo Machiavelli, *The Art of War*, trans. Christopher Lynch (Chicago: University of Chicago Press, 2003), I-90. For an overview of the scholarly debates about the relationship between military service and citizenship in Machiavelli’s writings, see Christopher Lynch’s introduction to *The Art of War*, xix–xxvi.

⁷⁹ Berg, “Soldiers and Citizens,” 190.

⁸⁰ *L.B.J. Is A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (July 2, 1968): 19797.

⁸¹ *On Lowering Voting Age to 18*, 91st Cong., 2d sess., *Congressional Record* 116 (April 15, 1969): 9055.

Advocates who drew on the citizen-soldier ideal tended to emphasize young soldiers' bravery and dedication. Upon introducing House Joint Resolution 842 in 1967, Representative Dante Fascell (D-FL) rejected opponents' claims that fighting and voting required different sets of qualities:

It seems to me, nonetheless, that both fighting and voting assume a sense of duty and responsibility in the individual. I submit that our 18-, 19-, and 20-year-olds have displayed a keen sense of duty and responsibility when it comes to fighting for our country. This is particularly true today in Vietnam. Reports from the battle zone indicate that our military leadership considers the young men serving in the Armed Forces today among the most responsible and intelligent ever to have served.⁸²

Such legislators were careful to recognize compulsory military service as a legitimate civic obligation, but they implied that even drafted soldiers served, if not eagerly, then certainly willingly. In 1968, Senator Mansfield referred to the draft when he urged the Senate Judiciary Committee to begin hearings on S.J. Res. 8: "Our younger citizens . . . know that they are up front, and they are prepared to carry out their constitutional responsibilities under the Constitution."⁸³ In sharp contrast to many of those who framed the military-voting link in terms of representation,⁸⁴ those inspired by the citizen-soldier model rarely questioned the merits of the draft or the Vietnam War itself. Indeed, they characterized the war as being fought by committed troops and for noble goals. Young soldiers in Asia were "offering . . . their lives for democratic

⁸² *Extending the Franchise to 18-Year-Olds*, 90th Cong., 1st sess., *Congressional Record* 113 (September 25, 1967): 22620.

⁸³ *Lowering the Voting Age*, 90th Cong., 2d sess., *Congressional Record* 114 (March 3, 1968): 7538.

⁸⁴ I discuss the representation angle in more depth later in this chapter.

ideals,”⁸⁵ “demonstrating their citizenship by . . . their sacrifice in the defense of freedom around the world.”⁸⁶ In 1965, Representative Fulton declared:

[W]e are calling upon [young Americans] to give their lives in a remote but important region of the world where Godless communism threatens world peace and security and they are prepared to offer the ultimate sacrifice to protect the freedoms which we hold so sacred. . . . Mr. Speaker, if we can demand all this from these, who have proved themselves ready, willing, and able to serve their country, then I submit it is discrimination to perpetuate the existing situation which denies them the right to vote.”⁸⁷

The longstanding ideal of the courageous and dedicated citizen-soldier was a recurrent motif in the voting age debates, especially before 1968. As the Vietnam War escalated, however, political circumstances effectively undermined the rhetorical force of the link between military service and good citizenship. A soldier who fought to protect his country might be a hero, but one who fought in a morally ambiguous, increasingly unpopular conflict was at best a victim.

Perhaps in response to this tension, during the latter half of the 1960s proponents of eighteen-year-old voting frequently tried to expand the concept of military service to include civilian activities like serving in the Peace Corps or tutoring inner-city children. According to Representative Lester Wolff (D-NY), young people were “assuming many of the most vital responsibilities faced by any citizen. . . . In Vietnam they are fighting a bloody war; in the Peace Corps and VISTA they are fighting a war of humanity, for the benefit of their fellow man.”⁸⁸ Representative Frank Clark (D-PA) maintained that young Americans serving in the Armed Forces or Peace Corps were “telling the

⁸⁵ Representative Benjamin Rosenthal (D-NY), *Constitutional Amendment on the Voting Age*, 89th Cong., 1st sess., *Congressional Record* 111 (May 3, 1965): 9194.

⁸⁶ Representative Lucien N. Nedzi (D-MI), *L.B.J. Is A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (July 2, 1968): 19797.

⁸⁷ Representative Richard Fulton (D-TN), *Voter Discrimination Against Young Adults*, H.J. Res. 623, 89th Cong., 1st sess., 1965, *Congressional Record* 111 (August 12, 1965): 20367.

⁸⁸ *The Maturity of 19-Year-Olds*, 90th Cong., 1st sess., *Congressional Record* 113 (April 12, 1967): A1773.

American story of democracy.”⁸⁹

Such analogies fell a little flat, however, and in the last years of the 1960s, advocates of eighteen-year-old voting invoked the soldier-citizen ideal less and less often, drawing instead on arguments about maturity and, especially, representation.

B. Passage to Adulthood

Perhaps the most literal take on the ‘old enough to fight, old enough to vote’ canard was that military service was in and of itself proof of adulthood. Proponents of lowering the voting age suggested that the minimum draft age, more than any other legal marker, reflected a collective decision that eighteen-year-olds were adults, and as such, they should be permitted to vote.

Legislators like Senator Arthur Moody (D-MI) argued that if eighteen-year-olds were able to manage under grueling, highly dangerous combat conditions, then surely they were mature enough to make a decision between candidates on a ballot. “If they are old enough to fight, if they have sufficient maturity to be entrusted with jet airplanes and assigned to foxholes to defend our liberties, then they are old enough to vote.”⁹⁰ More than fifteen years later, Representative John Rooney (D-NY) declared:

I have great feeling for all the youth who today face the dilemma of being expected to react and perform as adults even to making the supreme sacrifice for their country in the rice paddies of Vietnam yet being categorized as children [for purposes of voting].⁹¹

⁸⁹ *L.B.J.: A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (July 1, 1968): 19566.

⁹⁰ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 63.

⁹¹ *The President’s Requested Legislation to Lower the National Voting Age to 18 Years*, 90th Cong., 2d sess., *Congressional Record* 114 (July 12, 1968): 21068.

Speaking in Senate subcommittee hearings in 1970, now-Senator Randolph

similarly stressed the heavy expectations placed on youthful soldiers:

They are on the battlefield faced with the alternatives of kill or be killed. Immaturity is incompatible with what we expect of them under these circumstances.

Mr. Chairman and Senator Cook, on January 28, 1968, the Pueblo with 83 men was captured by North Korea. There were 18 men aboard doing their duty for their country under the age of 21. We not only expected them to bear the brunt of the physical and mental strain and torture while prisoners of North Korea, but we subjected them later on to a court of inquiry.⁹²

Congressmen seemed particularly impressed by youthful soldiers' apparent facility with sophisticated, expensive military equipment. Speaking on the Senate floor in May 1954, Senator William Langer (R-ND) expressed amazement that the military readily employed 18-, 19-, and 20-year-olds as fighter or bomber pilots:

Some of these tremendously complicated instruments of warfare require a knowledge and understanding which would confound many an older person To my mind, the maturity required to exercise these feats of warfare are commensurate with the maturity required to choose between candidates for election to a public office."⁹³

A slightly different version of the argument that military service is proof of adulthood rested on cultural (and specifically gendered⁹⁴) ideas about the transformative potential of combat experience. An eighteen-year-old might be a boy when he left for war, but he would come back a man. In mid-1968, Senator Tydings (D-MD) criticized opponents who argued that a lower voting age would bring inexperienced youth into the electorate: "Thousands of Maryland boys between eighteen and twenty-one are not only

⁹² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 5.

⁹³ *Extension of Voting Rights to Citizens at Age of 18*, 83rd Cong., 2d sess., *Congressional Record* 100 (May 18, 1954): 6958.

⁹⁴ I discuss this point at greater length below.

getting practical experience in ‘adult society,’ they are getting it in a very hard school—in the jungles and on the battlefields of Vietnam.”⁹⁵ Representative Kenneth Hechler (D-WV) suggested that service in Vietnam was unusually onerous: “To be in the Armed Forces today is a much more sobering and aging process than it was in either World War II or the Korean conflict.”⁹⁶

Advocates of eighteen-year-old voting also often referenced historical lore linking the current voting age of twenty-one to medieval standards for military readiness. Randolph was the first to suggest, in 1961 Senate subcommittee hearings, that laws defining the age of majority at twenty-one derived from the age at which young men in the Middle Ages were considered old enough to bear the weight of armor.⁹⁷ This unsubstantiated historical tidbit quickly became accepted wisdom. Over the next decade, legislators like Senator Ted Kennedy (D-MA) frequently argued that this antiquated rationale had “an especially bitter relevance” in the Vietnam era.⁹⁸ In 1970 House floor debate, Representative Robert McClory (R-IL) argued:

⁹⁵ Written statement to Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., May 14, 1968, 10.

⁹⁶ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 73.

⁹⁷ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 28, S.J. Res. 48, S.J. Res. 96, S.J. Res. 112, S.J. Res. 113, and S.J. Res. 114, Proposing Amendments to the Constitution Relating to the Method of Nomination and Election of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 58, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitution Relating to Qualifications for Voting*, May 23, 1961, 187.

⁹⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 9, 1970, 157.

21 was established as the minimum voting age because young men were not considered to be strong enough to bear their suits of armor until they attained the age of 21. But today our young men are considered old enough – and strong enough to carry bullet-proof vests – and arms – when they are 18.⁹⁹

Representative Spark Matsunaga (D-HI) similarly cited the supposed origins of the current minimum voting age, noting, “While we have revised the age for bearing arms to 18, we have kept the age for voting at 21.”¹⁰⁰

Throughout the voting age debates, legislators regularly argued that soldiers were by definition adults and were therefore entitled to the right to vote. As I discuss later, however, this argument was somewhat weakened by a countervailing thread in American military thought and policy, which considered soldiering to be a job best suited to young people, who were presumably healthier, less-encumbered by dependents, and more daring. Still, the notion that military service was in and of itself all the proof of adulthood one could reasonably demand to grant the franchise was an important strand of argument from the 1940s through 1970.

C. Reciprocity and Representation

The third, and perhaps the most important strand of the ‘old enough to fight, old enough to vote’ argument was present right from the beginning. On October 19, 1942, when Senator Vandenberg introduced his proposed amendment to lower the voting age to eighteen, right in the middle of Senate debate about lowering the minimum draft age from twenty to eighteen, he remarked only, “Mr. President, if young men are to be drafted at 18 years of age to fight for their Government, they ought to be entitled to vote

⁹⁹ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20164.

¹⁰⁰ *Ibid.*, 20159.

at 18 years of age for the kind of government for which they are best satisfied to fight.”¹⁰¹ This argument, that the minimum voting age should be brought into line with the minimum draft age to ensure that all soldiers have political representation, would ultimately become the single most-heard refrain in the voting age debates. Over and over again, proponents of lowering the voting age insisted that it was crucial for soldiers, especially conscripted soldiers, to be able to vote for or against the political leaders who sent them to war.

This argument rested on an assumption of reciprocity between political obligations and the right to representation. Advocates of eighteen-year-old voting argued that it was only fair to give those who were subject to the obligations of citizenship the power to help select the country’s leaders. Along with his comments invoking the citizen-soldier model, discussed above, Senator Mansfield also referred to this matter of reciprocity when he introduced S.J. Res. 8 in 1967: “Surely, when citizens of the United States reach an age when they can be so clearly and directly bound by policies of government, they ought to be able to participate in the choice of political representatives.”¹⁰² The next year, Senator Birch Bayh (D-IN), who would eventually sponsor the joint resolution that became the Twenty-Sixth Amendment, declared: “We require our 18- to 21-year-olds to accept the adult responsibilities of living in our society. . . . In simple justice, they should be given the right to participate as adults in the democratic process.”¹⁰³

¹⁰¹ *Voting Privileges for Draftees*, S.J. Res. 166, 77th Cong., 2d sess., *Congressional Record* 88 (October 19, 1942): 8316.

¹⁰² *Joint Resolution to Lower Voting Age*, 90th Cong., 1st sess., *Congressional Record* 113 (January 12, 1967): 295.

¹⁰³ *L.B.J. and the Right to Vote*, 90th Cong., 2d sess., *Congressional Record* 114 (July 2, 1968): 19639.

Indeed, proponents of lowering the voting age often mentioned that along with military service, eighteen- to twenty-year-olds also had to pay taxes on their earnings and were generally treated as adults for purposes of criminal and civil liability. Like woman suffragists decades earlier,¹⁰⁴ these advocates seized on Revolutionary rhetoric. When Representative William St. Onge (D-CT) introduced H.J. Res. 232 in early 1967, he asserted:

To tax our 18-, 19-, and 20-year-olds without giving them the right to vote ignores the great rallying cry of our War of Independence that there be ‘no taxation without representation.’ At the very least we should allow these young people a role in selecting those who will have the responsibility of determining how their tax dollars are to be spent.¹⁰⁵

In a 1970 hearing, Representative Thomas Railsback (R-IL) noted, “Our laws tax these 18-year-olds but our voting laws do not permit them representation in enacting that tax law. The Boston Tea Party was supposed to have been the spark that put that issue to rest in this country.”¹⁰⁶

But advocates of eighteen-year-old voting always circled back to military service, which they characterized as the greatest civic obligation of all. Denying the vote to eighteen-, nineteen-, and twenty-year-olds who paid taxes was a great enough injustice, declared Representative John Davis (D-GA), “but when an 18-year-old is serving in one of our armed forces, the injustice is multiplied.”¹⁰⁷ Upon introducing H.J. Res. 479 in

¹⁰⁴ Linda Kerber, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship* (New York: Hill & Wang, 1998), 81–123.

¹⁰⁵ *Extending the Vote to 18-Year-Olds*, 90th Cong., 1st sess., *Congressional Record* 113 (January 30, 1967): 1962.

¹⁰⁶ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 204.

¹⁰⁷ *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 21, 1967): 4184.

mid-1967, Representative Lester Wolff (D-NY) poignantly described the burden of military service:

[O]f all the obligations of society, none is more serious [sic] than service in the Armed Forces in time of war. To be uprooted from one's life, family, friends is costly enough. To die in an unfamiliar land is ultimate. No other sector of society is asked to give so much. A young man's death signifies a brief and uncompleted story. To go prepared to die, to find a duty so far from homes and friends, so far from anyone they have come to know and love; to die on the battlefield amid the cries of others—this is the greatest sacrifice which can be asked of any man.¹⁰⁸

In his 1970 testimony before Congress, former special counsel to President Kennedy Theodore Sorensen asserted, "If taxation without representation was tyranny, then conscription without representation is slavery."¹⁰⁹

Advocates who invoked arguments about representation stressed that military service was not only a tremendous burden, but also often a coerced one. Unlike those inspired by the citizen-soldier ideal, who tended to blur the distinction between voluntary and involuntary military service, those who focused on representation frequently emphasized that drafted soldiers' service was compulsory. Young men, Senator Everett Dirksen (R-IL) argued on the Senate floor in 1954, should have voting rights "because . . . they have an interest in fulfilling their own destiny, because they have an interest in somehow fulfilling every hope and ambition in life, when suddenly the long hand of Government intervenes . . ."¹¹⁰ More than fifteen years later, Senator Mansfield departed from his earlier implications that young draftees went willingly to war, "[T]he

¹⁰⁸ *Lowering the Voting Age for Americans*, 90th Cong., 1st sess., *Congressional Record* 113 (May 16, 1967): 12846.

¹⁰⁹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 15.

¹¹⁰ *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d ses., *Congressional Record* 100 (May 21, 1954): 6972.

Federal government can . . . pick up an 18-year-old by the back of his neck, put him in uniform, send him overseas, and perhaps send him to his death.”¹¹¹

The representation formulation of the military service–voting relationship further differed from arguments about citizen-soldiers in that it was compatible with challenges to the legitimacy of both the draft and the particular war being fought. Indeed, Senator Arthur Vandenberg, one of the earliest and strongest proponents of a lower voting age, had also been one of the most prominent opponents of both the Selective Training and Service Act of 1940 and the United States’ entry into World War II.¹¹² And as the conflict in Vietnam intensified, a small minority of legislators connected their support of eighteen-year-old voting to their opposition to what Representative Fredrick Schwegel (R-IA) called “this misbegotten war.”¹¹³ In 1969, Representative Seymour Halpern (R-NY) called for eighteen-year-old voting, the abolition of the draft and the immediate end of the Vietnam War:

[T]he draft is a device difficult to justify under any circumstances, but when it operates to send American boys to die in a war in which many of them do not believe in and in which our official aim has never been clarified, then it becomes outrageous.¹¹⁴

It is worth noting here that even the most hopeful antiwar legislator almost certainly did not believe that enfranchising eighteen- to twenty-year-olds would actually stop the war in Vietnam. However, in the late 1960s, many members of Congress did think that lowering the voting age would moderate the burgeoning antiwar protests by

¹¹¹ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 7009.

¹¹² John O’Sullivan, *From Voluntarism to Conscription: Congress and Selective Service, 1940–1945*, (New York: Garland Publishing, 1982), 51.

¹¹³ *Are We Denying the Civil Rights of 30 Million?—The 18- to 21-Year-olds and the Movers*, 90th Cong., 2d sess., *Congressional Record* 114 (August 1, 1968): 24812.

¹¹⁴ *The Faces of America’s Dead Youth*, 91st Cong., 1st sess., *Congressional Record* 115 (July 2, 1969): 18307.

channeling campus dissent into more conventional political channels. I discuss this phenomenon at length in Chapter 5.

Arguments about representation were crucially important to the debates over eighteen-year-old voting, from the 1940s straight through to 1971. They were, however, less conclusive than commentators have suggested, and in the next section I explore the conceptual weaknesses on all three strands of the ‘old enough to fight, old enough to vote’ group of arguments.

II. A Limited Connection

Those who opposed eighteen-year-old voting strenuously objected to the notion that the minimum voting age should have anything to do with the minimum draft age, and I discuss their arguments at various places in this section. However, what is more interesting is that beginning in 1968, supporters of a lower voting age also began to occasionally distance themselves from arguments connecting military service and eligibility for the franchise. Senator Stephen Young (D-OH) disavowed such rationales when arguing for a lower voting age in 1969, “Frequently, we hear the claim that 18-year-olds, old enough to be drafted and to fight in Vietnam, are old enough to vote. This is not a valid argument. It is, in fact, a perfect example of a non sequitur.”¹¹⁵ Young, like others, offered alternative reasons why eighteen- to twenty-year-olds should have the right to vote, including improved educational qualifications and the need to redirect youthful dissent into more acceptable channels.¹¹⁶ “The old cliché about being old enough to vote if they were old enough to soldier for their country is valid, I believe,” remarked Senator Gale McGee (D-WY) in 1970, “but there are even better

¹¹⁵ *Voting Age Should be Lowered to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (July 24, 1969): 20699.

¹¹⁶ For discussion of these other arguments, see Chapter 4 and 5, respectively.

arguments.”¹¹⁷ In this section, I examine three different phenomena that undermined the soldier-voter link in the debates over eighteen-year-old voting: women’s exclusion from the draft; the longstanding military preference for younger soldiers; and the fact that most young eighteen-year-old voting activists were not themselves soldiers.

A. The Woman Problem

Perhaps the most serious challenge to the conceptual link between military service and the franchise was that women were not subject to the draft, as indeed they never have been in America. Only a few decades earlier, this fact had not been lost on those who opposed woman suffrage.¹¹⁸ Women managed to gain the franchise anyway, though, and by the time Congress began considering proposals to lower the voting age, their status as voters was established enough for opponents of eighteen-year-old voting to use women’s experience to challenge these new arguments. Speaking in 1954, Representative Emanuel Celler (D-NY) criticized the link between voting and military service, asking rhetorically whether it meant that “if a person votes, he must also fight? And does [it] mean that girls must also fight?”¹¹⁹ Senator Spessard Holland (D-FL) argued:

[T]he draft age and the voting age are as different as night and day . . . citizens of the female sex are not subject to be drafted but do have a right to vote, just as citizens of the male sex do.¹²⁰

Women’s exemption from compulsory military service was a particularly inconvenient fact for those who pressed the ‘old enough to fight, old enough to vote’ angle. Arguments about courageous citizen-soldiers and boys being forged into men by

¹¹⁷ *Voting Rights Act Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6949.

¹¹⁸ Kerber, *No Constitutional Right to Be Ladies*, 243.

¹¹⁹ *Constitutional Amendment Introduced Providing That No Citizen Under 21 May Have the Right to Vote.*, 2d sess., *Congressional Record* 100 (March 10, 1954): 3050.

¹²⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15, 1968, 31.

the heat of battle undeniably rested on assumptions that military service was a specifically masculine enterprise.¹²¹ For those who invoked representation arguments, the male-only nature of the draft was especially problematic; if the best reason for lowering the voting age was to allow drafted soldiers to vote for their nation's leaders, then what about the female eighteen- to twenty-year-olds who would never be drafted? While the fact that women were not drafted did not logically undermine military-voter arguments, exactly, it was an awkward reality nonetheless.

Indeed, the matter of women put advocates into something of a bind. They could not realistically suggest that women should not have been granted the right to vote in the first place. (Although Senator Roman Hruska (R-NE), who grudgingly supported the lower voting age, had a little more trouble coming to terms with the events of 1920, “[T]he idea of ‘they are old enough to fight,’ . . . means that women would be left out, and that would not be fair; would it, because some of the women are smart enough to vote, too. In fact, all of them are.”¹²²) On the contrary, as I discuss in Chapter 4, proponents of reducing the voting generally sought to define their campaign as the natural successor to the woman suffrage movement. Nor could proponents argue that if

¹²¹ Although the United States armed forces have always been predominantly male, women have served in the military since the Revolution. Despite their service, female soldiers did not receive anything close to “real” military status until World War II. The armed forces carefully excluded women from both combat duty and positions of authority—women were not supposed to give orders to men—but by 1945, more than 2% of the Army's forces were enlisted women. After the war ended, this percentage was promptly cut in half, where it remained until the early 1960s. As the Vietnam War intensified, however, and the military had increasing difficulty filling its manpower needs with qualified men, women's role in the armed forces again expanded. Kerber, *No Constitutional Right to Be Ladies*, 261–66. For a discussion about the citizen-soldier ideal and its relevance for women in the Revolutionary era, see Linda Kerber, “May All Our Citizens Be Soldiers and All Our Soldiers Citizens: The Ambiguities of Female Citizenship in the New Nation,” in *Women, Militarism, and War*, ed. Jean Bethke Elshtain and Sheila Tobias, 89–103 (Savage, MD: Rowman & Littlefield, 1990).

¹²² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 17, 1970, 83.

the voting age were lowered, young women could be required to serve as well; arguing that women should be drafted has generally been a politically untenable position in America.¹²³ Indeed, Senator Richard Russell (D-GA), who vehemently opposed a national voting age of eighteen, invoked the coed-draft bugaboo when the Senate debated S.J. Res. 53 in 1954:

[T]his amendment likewise will grant suffrage to girls of 18. Are we to say that we are voting for this proposal because we intend to vote for a draft of women in the next war, and that because they are old enough to vote we intend to make them fight, and send them along with the boys, if war should come again, which God forbid?¹²⁴

Some of those who favored a lower voting age tried to preserve the rhetorical force of the soldier-voter link by emphasizing the military work that women did do. In the years after World War II, advocates for a reduced voting age pointed to women's work on production lines. Speaking before a House committee in 1943, Georgia Governor Ellis Arnall argued that both young men "lying in a foxhole in New Guinea or piloting a Liberator or Mustang over occupied Europe" and "young women in our munitions factories, in our airplane factories, in the auxiliary services" deserved the right to vote.¹²⁵ As time went on and female soldiers began to take on a greater role in Vietnam,¹²⁶ some legislators simply glossed over women's exemption from the draft:

¹²³ Kerber, *No Constitutional Right to Be Ladies*, 278–287.

¹²⁴ *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6965. Russell was clearly unsympathetic to the eighteen-year-old voting cause, but he generally framed his arguments in terms of being opposed to a specifically *federal* voting age of eighteen, presumably because his constituents included eighteen- to twenty-year-olds; in 1943 Georgia had been the first state to lower its state voting age to eighteen.

¹²⁵ House Judiciary Committee, Subcommittee No.1, *A 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*, 78th Cong., 1st sess., October 20, 1943, 6.

¹²⁶ The Vietnam Women's Memorial Foundation reports that 265,000 women served in the American armed forces over the course of the Vietnam War. Approximately 11,000 women were "in-country," 90% of whom were nurses. Eight American military women died in the conflict. The Vietnam Women's Memorial Foundation, "During the Vietnam Era," <http://www.vietnamwomensmemorial.org/pages/framesets/setstories.html>.

Senator Joseph Clark (D-PA) remarked, “I have never understood why we felt it appropriate, proper, and ethical to require young men and women to fight for their country, to be shot and and often killed, at the age of 18, but did not give them the privilege of the vote.”¹²⁷

Still others highlighted women’s traditional role as tenders of home and hearth during wartime. Representative Hechler maintained that the Vietnam War prematurely aged not only the young men who served in Asia, but also the young women who supported them. “I submit that the young wives, sweethearts, sisters, and classmates of our younger members of the Armed Forces fighting in Vietnam have a far more mature outlook on civic developments”¹²⁸ In 1970, Representative Pete McCloskey (R-CA) asserted that the draft put a great onus on women as well. “[T]he burden is not just on young men. It also falls on those who love them and who watch and wait for their homecoming, the young girls whose lives are linked with theirs.”¹²⁹

Interestingly, the fact that plenty of men also did not serve in the military rarely surfaced in the voting age debates. During the late 1960s, military participation rates declined sharply. The postwar baby boom had produced a unusually large cohort of draft-eligible men, and despite the expansion of the Vietnam War, the supply of men exceeded Selective Service’s demand. One 1969 study estimated that half of all adult males had served in the armed forces.¹³⁰

¹²⁷ *The Proposed Constitutional Amendment to Lower Voting Age to 18*, 90th Cong., 2d sess., *Congressional Record* 114 (June 28, 1968): 19270.

¹²⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 73.

¹²⁹ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20174.

¹³⁰ George Q. Flynn, *The Draft, 1940–1973* (Lawrence, KS: University Press of Kansas, 1993), 231.

Perhaps because military service had been much closer to a universal male experience during their own youth,¹³¹ opponents of eighteen-year-old voting only very occasionally pointed to the large of numbers of men who were neither soldiers nor veterans. One exception was Representative John Rarick (D-LA), who rejected the military service–voting connection as an “appalling non sequitur”:

It logically disenfranchises all of those Americans who are not eligible for military service – including all of the women of this country. It would result, carried to its own logical conclusion, in an electorate consisting exclusively of honorably discharged veterans.¹³²

More commonly, opponents noted (and some advocates conceded) that in addition to women, older men were also not subject to the draft. Senator Holland commented in 1968, “[W]e have heard the argument that if you are old enough to fight you are old enough to vote; however, we have never heard it argued that if you are too old to fight, you are too old to vote.”¹³³

To be sure, counterrarguments about the many Americans who did not serve in the military were problematic in their own right; after all, advocates were not claiming that military service was a necessary condition for the franchise, only that it was a sufficient one. Nevertheless, proponents seemed to feel compelled to respond. Some, for example, broadened their definitions of national service. As I discussed above, during the second half of the 1960s a number of legislators who supported eighteen-year-old voting—particularly those who emphasized citizen-soldier arguments—sometimes tried to expand the concept of soldiering to include civilian activities done by both men and

¹³¹ *Ibid.*, 230.

¹³² *The 18-Year-Old Vote—If Constitution Bars—Ignore It*, 91st Cong., 2d sess., *Congressional Record* 116 (March 20, 1970): 8493.

¹³³ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Related to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15, 1968, 32.

women, such as serving in the Peace Corps or working for antipoverty programs.

Lumping military service in with Peace Corps and VISTA volunteering arguably helped to paper over the fact that in the Vietnam era military service was far from a universal experience, for both genders,

The fact that young women were excluded from the military draft and served in the armed forces at rates far lower than that of their male counterparts seriously diminished advocates' arguments that the voting age needed to be lowered specifically to enfranchise the nation's soldiers. Ultimately, those who sought a lower voting age would have to look for more gender-neutral ways of expressing why eighteen-, nineteen, and twenty-year-olds deserved the vote.

B. A Young Man's Job

Another countercurrent working against efforts to link the minimum draft and voting ages was the longstanding military preference for younger soldiers. At least since World War I, both uniformed and civilian war planners had argued for a fighting force made up mainly of men in their late teens and very early twenties. For the most part, Congress acceded to these requests, and after the induction age was lowered from twenty to eighteen in 1942, in the wake of Pearl Harbor, it never went higher than nineteen again. The central rationales behind this phenomenon—the military's belief that young men made better soldiers and domestic resistance to drafting fathers and/or key industrial workers—arguably undermined military service arguments for eighteen-year-old voting.

Some background about age and compulsory military service is useful here. Children as young as six have served in the United States military. Throughout the eighteenth and nineteenth centuries, many boys (and a very few girls) sixteen and under

served in the different branches of the armed forces.¹³⁴ Indeed, during 1954 floor debate on the eighteen-year-old voting proposal S.J. Res. 53, opponents noted that during the Civil War, plenty of boys under the age of eighteen, some as young as ten, had fought. Senator Russell remarked sarcastically, “It is considered a great discovery now that because a man might be selected for service at the age of 18, that fact of itself, requires the Federal Government to . . . confer suffrage upon him.”¹³⁵ But when it came to compulsory service, both the North and the South set their draft ages rather higher. The Confederate Conscription Act of 1862 authorized drafting all white male residents between the ages of eighteen and thirty-five, with the maximum age subsequently raised to forty-five. In February 1864, the Confederate government expanded the draft even further, conscripting seventeen-year-olds and those between the ages of forty-five and fifty into a reserve for local defense.¹³⁶ In the North, the Enrollment Act of 1963 established compulsory service for men between twenty and forty-five.¹³⁷

During the first half of the twentieth century, the United States’ conscription policy reflected a series of compromises between those who pushed for service across the age spectrum and those who favored limiting military liability to young men only. Broad registration requirements appealed to Americans’ sense of fairness; in both World Wars, politicians were particularly sensitive to concerns that the burden of military service

¹³⁴ For a description of what life was like for children in the military, see Eleanor C. Bishop, *Ponies, Patriots and Powder Monkeys: A History of Children in America’s Armed Forces, 1776–1916* (Del Mar, CA: The Bishop Press, 1982).

¹³⁵ *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6966.

¹³⁶ William L. Shaw, “The Confederate Conscription and Exemption Acts,” *The American Journal of Legal History* 6, no. 4 (October 1962): 374, 376.

¹³⁷ George Q. Flynn, *Conscription and Democracy: The Draft in France, Great Britain, and the United States*, Contributions in Military Studies 210 (Westport, CT: Greenwood Press, 2002), 11.

should not fall only on one age group.¹³⁸ The government also recognized the rhetorical benefits of describing a particular conflict as a battle that all Americans had to fight.¹³⁹

At the same time, there were reasons to restrict compulsory service (and to some extent, volunteer service) to men in their late teens and early twenties. One commentator notes that “[t]he Army had always preferred a narrow age range as a more efficient and adequate means of developing a fighting force.”¹⁴⁰ Young men were significantly healthier, as a group, than men in their late twenties,¹⁴¹ and, some argued, the mental and emotional attitudes characteristic to youth were military assets. They maintained that young men were more daring, more enthusiastic, and even more patriotic than were older soldiers.¹⁴² Some also suggested, albeit more subtly, that younger men were more easily indoctrinated into military values and habits.¹⁴³

¹³⁸ Albert A. Blum, “The Fight for A Young Army,” *Military Affairs* 18, no. 2 (Summer, 1954), 81–85, 82.

¹³⁹ In a December 1941 letter to the House Committee on Military Affairs, Secretary of War Henry Stimson urged the committee to adopt proposed expansions in the age ranges for both registration and liability to service: “It will make clear to the American people the character of the effort that will be required to defeat the vast forces arrayed against us. To the outside world it will be a symbol that we are providing the means to make good our declared policy to ‘accept no result save victory, final and complete.’” House Committee on Military Affairs, *A Bill to Amend the Selective Training and Service Act of 1940, To Aid in Insuring the Defeat of All the Enemies of the United States Through the Extension of Liability for Military Service and the Registration of the Manpower of the Nation and for Other Purposes*, 77th Cong., 1st sess., December 13, 1941, 3.

¹⁴⁰ John O’Sullivan, *From Voluntarism to Conscription: Congress and Selective Service, 1940–1945* (New York: Garland Publishing, 1982), 42.

¹⁴¹ Flynn, *The Draft*, 49.

¹⁴² These arguments appear repeatedly in Congressional debates about the minimum draft age during both world wars. See, for example, Senator James Reed’s (D-MO) comments in August 1918:

The American soldier—his is a glorious story; and yet it is the story of the boys under 21 years of age. In every war the boy has been the first to enlist. In every battle he has led the charges. In every victory his hand has held the banner as it was carried through smoke and carnage to glory. In every defeat he has been the last to quit his gun, the readiest to die in his tracks, and upon the plains of Europe he will again prove that courage is the heritage of youth, that glory is the guerdon of the young, that the fires of patriotism glow warmest in the hearts of those who behold life through eyes that are undimmed by age, experience, and pain.

S. 4856, 65th Cong., 2d sess., *Congressional Record* 56 (August 22, 1918): 9347. See also the House’s Committee on Military Affairs’ 1942 report endorsing the 18-year-old draft proposal. House Committee on Military Affairs, *Amending the Selective Training and Service Act of 1940 by Providing for the Extension of Liability*, 77th Cong., 2d sess., October 15, 1942, H. Rep. 2574, Serial 10665, 2.

¹⁴³ See, for example, Rear Admiral L.C. Palmer’s testimony to a Congressional committee that the Navy preferred eighteen-year-olds as enlistees. “[W]e like to get the men and get them in and get them started at

Concentrating military liability on a few age groups could also limit the disruption to domestic industrial and agricultural enterprises, some of which were necessary to the war effort. In formulating military policy, the United States government deliberately departed from its allies' preference for universal service. Historian George Q. Flynn approvingly notes that the American lobby for conscription in World War I was acutely aware of the need to protect militarily useful domestic industries: “[France and Britain] had failed to realize the necessity of coordinating military conscription with general manpower requirements. . . . In contrast, the United States identified the connection between military and industrial manpower early on.”¹⁴⁴ The World War I draft law specifically exempted skilled labor and managers in “necessary” agricultural and industrial enterprises,¹⁴⁵ and the Selective Training and Service Act of 1940 followed suit.

The American conscription system was also designed to avoid as much disruption as possible to nuclear family units. In World War I and the first years of World War II, married men were largely exempt from military service. Fathers with dependent children were excused from compulsory service in both wars. However, in both world wars, there came a point at which the military claimed that manpower needs exceeded the number of men classified as liable for military service. Congress was unwilling to reject the armed forces' demand for more men, so the choice was stark: either increase the pool of available soldiers or invade the protected classes.

that age when they can be easily molded and trained, when they have lots of pep and vim. They very soon develop, and they have not been long enough in civil life to acquire bad habits.” Senate Committee on Military Affairs, *Amending the Draft Law*, 65th Cong., 2d sess., August 8, 1918, 51.

¹⁴⁴ Flynn, *Conscription and Democracy*, 37.

¹⁴⁵ 65th Cong., 2d sess., *Congressional Record* 56 (June 25, 1918): 8249.

Both times, after much debate, legislators decided to expand the age range for military liability rather than draft men in the exempted categories. In August 1918, the draft range was expanded from twenty-one to thirty, to eighteen to forty-five.¹⁴⁶ In December 1942, the minimum draft age was lowered from twenty to eighteen.¹⁴⁷

After expiring in 1947, the draft was quickly reinstated in 1948 in response to mounting tensions between Russia and the United States.¹⁴⁸ The 1948 draft reflected the military's victory in obtaining a draft that applied only to young men. The law required all men from the ages of eighteen to twenty-six to register, and those nineteen and over could be inducted for a tour of twenty-one months. Eighteen-year-olds could volunteer, however, for a one-year-tour followed by six years in the reserve.¹⁴⁹

The 1948 draft law, with minor modifications, governed conscription policy in both the Korean and Vietnam Wars. In 1951, military officials sought to reduce the minimum induction age to eighteen, but Congress agreed only to lower it to eighteen-and-a-half.¹⁵⁰ Draft calls fell sharply after the Korean War ended, and there was some tension between the Selective Service Administration, which sought to make sure that men did not escape service by drafting the oldest eligible men first, and the armed forces themselves, who strongly preferred younger soldiers.¹⁵¹

¹⁴⁶ Selective Service System, *Age in the Selective Service Process*, Special Monograph No. 9 (Washington, DC: Government Printing Office), 17. The bill was signed into law only days before the war ended, however, so few, if any, soldiers under twenty-one were ever conscripted.

¹⁴⁷ Flynn, *The Draft*, 71–2; O'Sullivan, *From Voluntarism to Conscription*, 177–85. The Selective Training and Service Act of 1940 had established twenty-one through thirty-five as the age range for both registration and liability. The minimum age had already been lowered to twenty immediately after Pearl Harbor. Flynn, *The Draft*, 55; O'Sullivan, *From Voluntarism to Conscription*, 171–5. For a detailed description of age-related draft regulation during World War II, as well as an extensive compilation of related statistical information, see Selective Service System, *Age in the Selective Service Process*.

¹⁴⁸ Flynn, *The Draft*, 107–9.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*, 116, 122–24.

¹⁵¹ *Ibid.*, 139.

During Vietnam, all men between the ages of eighteen and twenty-five were required to register with Selective Service. Those who passed pre-induction testing and did not receive a deferment could be drafted beginning at age eighteen-and-a-half, although the effective minimum age was nineteen.¹⁵² As in previous wars, the draft also prompted many of those who were liable to volunteer—which they could do at eighteen—so that they could choose their branch of service and possibly reduce the length of their tour.¹⁵³

From 1948 onward, then, the notion that the military draft was the province of men in their late teens and very early twenties, as opposed to a broader cross-section of society, was fairly well-established in the United States. This sensibility crept into the voting age debates, where it worked against some of advocates' arguments for connecting the minimum draft and voting ages.

Most obviously, proponents' insistence that military service was a specifically adult activity was undermined by the fact that the draft age had been set at eighteen for the very reason that combat was supposedly a task peculiarly suited to the young. This dissonance did not go unnoticed by a few of those who opposed eighteen-year-old voting. Indeed, opponents pointed out that not only were the skills needed for fighting unrelated to those needed for responsible voting, but the malleability so valued in a young soldier was detrimental in a voter. In his memorable 1954 remarks on the subject, Representative Celler declared:

[V]oting is as different from fighting as chalk is from cheese When the draft age was lowered from 21 to 18 years of age, the generals told us that this was a

¹⁵² Those between eighteen-and-a-half and nineteen were the very lowest priority draftees, to be called even after those over the age of twenty-six. Flynn, *The Draft*, 172.

¹⁵³ Flynn estimates that at least forty percent of the volunteers who served in the military during the 1960s were motivated by the draft. *Ibid.*, 197.

necessary move because young men under 21 were more easily molded into good soldiers than were their elders who had grown to maturity. Young men under 21 are more pliable and more amenable to indoctrination. They are not likely to exercise critical judgment and matters demanding instant obedience. Instant and unquestioning obedience may be most desirable from soldiers in the battlefield, but in a voter such obedience would be most undesirable. Self-interested groups and corrupt politicians would find such obedience a fertile playground.¹⁵⁴

Much later, Senator Holland echoed Celler's comments:

[T]he 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. The voter must have the ability to separate promise from performance and to evaluate the candidates on the basis of fact which is a prerequisite of good voting.¹⁵⁵

Even some of those who favored eighteen-year-old voting occasionally agreed that military readiness did not necessarily infer being prepared to vote. In May 1968, the day after Holland made his remarks, Senator Bayh, who strongly supported a lower voting age, echoed his opponent's comments. Military service, he remarked, was:

one of the bits and pieces of the picture we put together to try and support the case [for eighteen-year-old voting] and it is the most emotional. But the voting process is a totally mental one, whereas that which makes one a good private, pfc., or corporal is not necessarily pointed to that same degree.¹⁵⁶

Beyond these issues, arguments invoking the citizen-soldier ideal were also at odds with the other core reason for drafting teenagers—that they could be more easily spared from their responsibilities on the home front. If the citizen-soldier model put the

¹⁵⁴ *Constitutional Amendment Introduced Providing That No Citizen Under 21 May Have the Right to Vote*, 83rd Cong., 2d sess., *Congressional Record* 100 (March 10, 1954): 3050.

¹⁵⁵ Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15, 1968, 32.

¹⁵⁶ Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 96.

fighting man at the center of political policy, then Selective Service put him on the periphery. Civilian war planners had succeeded in concentrating the obligations of military service on young men precisely because they were presumably the least integrated into domestic social and economic institutions. The ideal soldier was not the person deeply embedded in civic life, but the person whose absence would be missed the least.

This last inconsistency went unremarked in the voting age debates, however. Indeed, the tension between the policies and philosophy behind the minimum draft age and advocates' efforts to connect the voting age to the draft age prompted rather less back-and-forth than did, say, the woman issue. At a minimum, though, the fact that the military and civilian planners of earlier generations had gotten their way effectively removed one potential area of compromise between those who sought to enfranchise underage soldiers and those who felt that young people under twenty-one were simply too immature to vote: the option of raising the draft age back to twenty-one was simply never an option.

C. Youth Involvement

Finally, ambivalence about military service on the part of those young people who were actually involved in the campaign for eighteen-year-old voting may have further undercut this line of argument. Although there was little grass-roots mobilization around the voting age issue, those young people who were involved were, by and large, not in the military themselves and in fact likely were quite reluctant to serve in Vietnam. Despite the popularity of the "old enough to fight, old enough to vote," slogan, activists

who testified before Congress had a marked tendency to distance themselves from such arguments in favor of other rationales for lowering the voting age.

As I emphasize elsewhere in this dissertation,¹⁵⁷ efforts to lower the national voting age were largely driven by federal legislators, rather than by the disenfranchised themselves. Indeed, the issue did not exactly galvanize young people. One commentator notes that even in the contentious climate of the late 1960s, few young people were demanding voting rights, although they were making plenty of other demands: “Student discontent was focused upon the Vietnam war, race relations, social policy, institutions of higher education, almost every aspect of American society but the suffrage.”¹⁵⁸

Still, the role of youth activism should not be overlooked entirely. Student and youth groups pressed the eighteen-year-old voting issue at both the state and federal levels throughout the 1950s and 60s.¹⁵⁹ The movement became rather more organized in early 1969, when a number of youth organizations banded together with civil rights and educational groups—including the NAACP, the National Educational Association, and the Southern Christian Leadership Conference—to form the Youth Franchise Coalition.¹⁶⁰ Representatives from these groups often appeared before Congressional committees to argue for the need to lower the voting age.

When testifying before Congress, at least, these youth activists tended to downplay military-voter arguments, especially in the late 1960s. In the May 1968 Senate subcommittee hearings mentioned above, young witnesses acknowledged military service

¹⁵⁷ See Chapter 5.

¹⁵⁸ Benjamin Ginsberg, *The Consequences of Consent: Elections, Citizen Control and Popular Acquiescence* (Reading, MA: Addison-Wesley Publishing Co., 1982), 11.

¹⁵⁹ Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 278.

¹⁶⁰ Cultice, *Youth's Battle for the Ballot*, 99.

as one reason to lower the voting age, but emphasized alternative rationales.¹⁶¹ The same was even more true two years later, at the hearings that Bayh convened in early 1970.¹⁶²

Youth representatives may have shied away from arguments about military service for a variety of reasons, including the same issues—such as women’s exclusion from the draft—that gave some members of Congress such pause. However, it also seems likely that these activists—who were overwhelmingly male—had their own motives for arguing that while of course it was only fair that a soldier be able to vote for the nation’s leader, there were other, better reasons to lower the voting age, such as improved education. The young men who appeared before Congress were not themselves fighting in Vietnam, either because they were exempt for medical reasons, their service was deferred during their education, or, in one case, they were serving in the Reserves.¹⁶³ Indeed, while they may well have been sympathetic to their drafted compatriots, presumably few of them were eager to go off to Asia as soldiers, vote or no vote. Focusing on the military-voter connection might well have seemed uncomfortable, if not unseemly. In fact, Representative Rarick once pointed rather nastily to precisely this problem:

¹⁶¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15–16, 1968, 45–52, 88–97.

¹⁶² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16–17, 43–72, 92–101, 111–114.

¹⁶³ The chairman of the Cincinnati Committee to Lower the Voting Age to Nineteen, who testified in early 1970, was a private in the U.S. Army Reserve. Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 17, 1970, , 111–114.

[T]he screaming mob espousing [‘old enough to fight, old enough to vote’] are not veterans nor fighting men but rather draft dodgers, draft card burners, and revolutionary vandals who have no intention whatsoever of fighting – at least not for the United States.¹⁶⁴

It is impossible to say, of course, whether or not the fact that the young people who came to testify before Congress about eighteen-year-old voting tended to deemphasize the military service angle had any effect on members of Congress themselves. However, it certainly seems plausible that it helped to shift the locus of discussion—at least in the hearings themselves—towards other types of arguments for a lower voting age.

III. Conclusion

Arguments connecting the right to vote to military service, especially compulsory military service, were crucially important to the voting age debates in Congress throughout the 1940s, 50s, and 60s. However, the rhetorical power of the slogan, “old enough to fight, old enough to vote” was limited by certain inconvenient facts, and advocates distanced themselves from the military service-voter link rather more frequently than has generally been acknowledged. To bolster their case, those who sought to lower the voting age cited young people’s increased educational accomplishments, the need to redirect youthful dissent into more acceptable channels, and the inevitability of franchise expansion. I examine each of these alternative rationales in the next chapters.

¹⁶⁴ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20190.

CHAPTER 4: QUALIFIED VOTERS

Beyond their arguments about military service and voting, mid-century advocates of a lower voting age also insisted that contemporary youth were uniquely well-qualified to exercise the franchise. Thanks to technological and educational advances, they argued, the eighteen-year-old of 1960 was at least as politically sophisticated, if not more so, as the twenty-one-year-old of previous generations. Indeed, proponents of eighteen-year-old voting maintained that contemporary youth were, on the whole, remarkably well-informed about current events, interested in politics, and committed to the public good. Enfranchising them was not only fair, but it would also enrich the polity.

Interestingly, commentators on the Twenty-sixth Amendment have rarely devoted much attention to the role of this line of reasoning.¹⁶⁵ Indeed, one of the only scholars who has noted the frequent references in the voting age debates to young people's supposed competency for voting dismisses such arguments as having "the flavor of a second-order justification for an essentially political decision" about synchronizing the voting and draft ages.¹⁶⁶

¹⁶⁵ See, for example, Wendell Cultice, *Youth's Battle for the Ballot*, Contributions in Political Science, No. 291 (New York: Greenwood Press, 1992); Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 277–8; Richard B. Bernstein with Jerome Agel, *Amending America: If We Love the Constitution So Much, Why Do We Keep Trying to Change It?* (New York: Times Books, 1993), 138–40; David E. Kyvig, *Explicit and Authentic Acts: Amending the U.S. Constitution, 1776–1995* (Lawrence, KS: University of Kansas Press, 1996), 363–8. One exception is Elizabeth S. Scott, "The Legal Construction of Adolescence," *Hofstra Law Review* 29 (Winter 2000): 562–4.

¹⁶⁶ Lee E. Teitlebaum, "Children's Rights and the Problem of Equal Respect," *Hofstra Law Review* 27 (Summer 1999): 808.

Two possible reasons for this omission spring to mind. First, discussions of the voting age amendment have tended to focus largely, if not exclusively, on the events leading up directly to the amendment's passage: Congress's addition of an eighteen-year-old voting provision to the Voting Rights Act in 1970, the Supreme Court's reversal of that clause a few months later in *Oregon v. Mitchell*, and the subsequent rapid passage and ratification of the Twenty-sixth Amendment. Although the sort of arguments I discuss in this chapter were present throughout the voting debates, they were more conspicuous in the 1950s and early-to-mid 1960s. As I will explain in greater detail, by the time the eighteen-year-old voting issue garnered widespread national attention in the late 1960s, claims that college-aged Americans would make responsible voters met a much more skeptical audience. Commentators who have concentrated on the events of 1970 and 1971, then, may not have realized how central arguments about political knowledgeability had long been to the voting age debates.

Second, advocates' assertions about young people's superior qualifications may have been overlooked because such claims sound so odd to modern ears. The idea that a sophisticated public education system, as well as the new phenomenon of television, were remaking young Americans into more intelligent, politically savvy citizens was, as I will explain, perfectly in accord with other social trends of the 1950s and early 1960s. In the early twenty-first century, though, when our dominant narratives about public education, media, and young people generally are so much more negative, it is hard to imagine that anyone ever could have made—much less taken—such claims seriously.

This oversight is unfortunate, not only because the history of the Twenty-sixth Amendment is incomplete without a comprehensive understanding of the different

arguments advanced for and against lowering the voting age, but also because this particular line of reasoning throws into relief the fundamentally conservative nature of the eighteen-year-old voting movement. For the most part, those who sought to lower the voting age to eighteen most emphatically did not want to change either the essence of voter qualifications or the meaning of the franchise. They maintained only that eighteen- to twenty year-olds now met longstanding standards for voting. Arguments about young people's political knowledgeableability, together with assertions that lowering the voting age would redirect youthful dissent into more acceptable channels—which I discuss at length in Chapter 5—highlight that the campaign for eighteen-year-old voting was anything but a revolutionary movement.

In this chapter, I detail the important role that arguments about voter qualifications played in the voting age debates, especially before about 1967. I further argue that these arguments served important functions in bolstering advocates' assertions that the voting age should be lowered. I then examine how the effusive praise that advocates of eighteen-year-old voting heaped on modern youth was all of a piece with broader trends and ideas in 1950s and 1960s America. Finally, I discuss how the events of the late 1960s, especially the demonstrations on college campuses nationwide, seriously undermined the power of proponents' claims that eighteen- to twenty-year-olds were intelligent and mature enough to vote.

I. A New Breed

The notion that the voting age should be pushed downward primarily because eighteen-, nineteen-, and twenty-year-olds possessed the requisite intellectual and emotional qualifications to be good voters was a crucial strand in the voting age debates.

Indeed, more than a few politicians explicitly declared that they found such rationales for eighteen-year-old voting more compelling than arguments connecting voting rights to military service. In a 1968 campaign speech, for example, Richard Nixon declared his support for lowering the voting age (albeit only by individual state action):

The reason the voting age should be lowered is not that 18-year-olds are old enough to fight—it is because they are smart enough to vote. They are more socially conscious, more politically aware, and much better educated than their parents were at age 18. Youth today is just not as young as it used to be.¹⁶⁷

The next year, Senator Stephen Young (D-OH) of Ohio, a supporter of eighteen-year-old voting, described the ‘old enough to fight, old enough to vote’ claim as “the perfect example of a non sequitur.” “The real reason 18-year-olds are entitled to vote,” he maintained, “is that a youngster of today upon graduation from high school has attained a better education and is better informed than a college graduate of 30 or 40 years ago.”¹⁶⁸

One might be tempted to dismiss such claims simply as crass pandering to a potential new constituency. And indeed, it seems entirely possible—especially after it began to look like an eighteen-year-old voting law would actually pass—that elected officials would try and court this untapped pool of new voters with false praise.¹⁶⁹ However, it would be a mistake to conclude that this entire line of reasoning was a sham. On the contrary, arguments about young people’s academic and personal qualifications for the franchise served at least two important functions in the voting age debates: papering over weaknesses in the military service-voting rationale; and perhaps more importantly, safely cabining any radical potential inherent in the campaign for eighteen-year-old voting.

¹⁶⁷ Richard M. Nixon, “Today’s Youth: The Great Generation,” *NBC Radio*, October 16, 1968.

¹⁶⁸ *Voting Age Should be Lowered to 18*, 91st Cong., 1st sess., *Congressional Record* 115, (July 24, 1969): 20699.

¹⁶⁹ For more on this phenomenon, see Chapter 6.

Furthermore, assertions that modern young people were an improvement on previous generations were consistent with the optimistic spirit that prevailed in postwar America during the 1950s and much of the 1960s. The baby boom generation in particular was the locus of almost impossible hopes, and declarations that old traditions—such as a minimum voting age of twenty-one—were now outdated had a particular resonance.

A. Knowledgeability

Postwar advocates of eighteen-year-old voting repeatedly insisted that thanks to an improved and expanded public education system, as well as technological changes such as the advent of radio, television, and jet airplanes, modern eighteen-year-olds were exceptionally well-informed about politics. They suggested that a minimum voting age of twenty-one might have been appropriate for earlier generations, but it was obsolete in this brave new world of compulsory public education and televised presidential debates.

Some emphasized the contrast between the supposedly unsophisticated rubes of America's distant past and the allegedly savvy urbanites of the modern era. Senator Blair Moody (D-MI), speaking in a 1952 Senate subcommittee hearing, maintained that unlike the well-educated, well-informed youth of the present day, earlier generations of voters had made simplistic choices, "I remember reading of presidential elections in the past decided by such phrases as 'Tippecanoe and Tyler too' and the people around the country with the lack of communication systems never did realize the big issues."¹⁷⁰ In the 1954 Senate floor debates, Senator William Langer (R-ND) asked:

¹⁷⁰ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., May 27, 1952, 61.

How many voters 50 years ago had gone through high school? How many of them had an opportunity to come to Washington to see and interview their Representatives and Senators in Washington? How many of them had access to radios, televisions, daily newspapers, and periodicals, which today keep American voters alerted to political developments, not only in the United States, but also throughout the world? Never in this history of man have the young people have been as well prepared to exercise the franchise as they are today.¹⁷¹

Perhaps the most memorable statement, however, came later in the debate from Senator Everett Dirksen (R-IL), who remarked:

It is rather interesting to consider what a young man of 18 was up against in the backwoods days, as compared with the situation today. In the old days, such a young man probably grew up in a log cabin, and probably drank water from a gourd which he dipped into a wooden bucket—a practice which today by any standard probably would be classed as insanitary. Yet somehow or other, those young people lived through those conditions. They lived on bacon and corn pone. They were no dulcet tones of orchestra music coming, via the air waves, from Kansas City, to waft them to sleep. There were no McCarthy hearings to be seen on the TV in the mornings and in the afternoons. Oh Mr. President, how lacking they were in the availability of information and knowledge, and one thing and another. Today, information and knowledge are at the beck and call of everyone, both the young and the old.¹⁷²

Education, in particular, was credited with sparking this miraculous transformation. Politicians who favored lowering the voting age stressed that far more children were attending school, and for a longer period of time; they frequently offered statistics showing that rates of literacy, high school attendance, high school graduation, and college enrollment were all rising.¹⁷³ In 1959, Representative Kenneth Hechler (D-WV) commented:

¹⁷¹ *Extension of Voting Rights to Citizens at Age of 18*, S.J. Res. 53, 83rd Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6958.

¹⁷² *Extension of Voting Rights to Citizens at Age of 18*, S.J. Res. 53, 83rd Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6971.

¹⁷³ The growth in the percentage of Americans who received some kind of higher education during the postwar period was indeed staggering. In 1940, only one-third of Americans older than 25 had attended school past the eighth grade; 25 percent had graduated from high school and only 5 percent had graduated from a college or university. By 1970, 75.6 percent of 17-year-olds were graduating from high school and 48 percent of 18-year-olds were attending an institution of higher learning. James T. Patterson, *Grand Expectations: The United States, 1945–1974* (New York: Oxford University Press, 1996), 67, 70.

At the time when the voting age was set at 21, our school system was vastly inferior. Boys and girls only went to school a few months during the year. Now they become educated faster and should be allowed to assume their civic responsibilities faster.¹⁷⁴

Testifying before a Senate subcommittee in 1961, the chairman of the Republican National Committee enthusiastically endorsed proposals to reduce the voting age: “I think that in this day and age in 1961, the level of education in our country has risen considerably, that among 18-year-olds we have a group of Americans well educated, interested in the problems of our country and of free men everywhere.”¹⁷⁵ Representative Edward Patten (D-NJ) agreed, declaring in 1967 that “[a]s advanced education becomes more a part of a citizen’s heritage, we must recognize that a fuller knowledge of government, issues, and candidates, is a national byproduct.”¹⁷⁶

Advocates maintained that not just the greater quantity, but also the improved quality, of American education had made the voting age of twenty-one outdated. Some praised the ostensibly broad scope of modern education; in particular, proponents of lowering the voting age argued that public school classes in history, civics, and/or social studies gave contemporary youth a sophisticated understanding of the American political system. In 1951, Representative Carroll Kearns (R-PA) asserted, “The advances made in the study of public affairs in the high schools throughout the Nation today, especially the

¹⁷⁴ *Constitutional Amendment to Lower the Voting Age to 18*, H.J. Res. 515, 86th Cong., 1st sess., *Congressional Record* 105 (September 1, 1959): 17622.

¹⁷⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 28, S.J. Res. 48, S.J. Res. 96, S.J. Res. 1-2, S.J. Res. 113, and S.J. Res. 114, Proposing Amendments of the Constitution Relating to the Method of Nomination and Election of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 58, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitution Relating to Qualifications for Voting*, 87th Cong., 1st sess., July 13, 1961, 552.

¹⁷⁶ *Lowering Voting Age to 18*, H.J. Res. 502, 90th Cong., 1st sess., *Congressional Record* 113 (April 12, 1967): 9196.

classes in problems of democracy, have . . . trained [youth] sufficiently to make them intelligent voters.”¹⁷⁷ Representative Richard McCarthy (D-NY), speaking in 1967, concurred:

Our 18-, 19-, and 20-year-olds are better educated than any citizens of their age have ever been before. History and social studies courses offered in high school today are finer and have deeper scope than ever before, and youths graduating from high school possess a strong knowledge of political and historical affairs.¹⁷⁸

In 1970, Senator Warren Magnuson (D-WA) recalled his own high school civics class, “[W]e learned basically that there were three branches of the Government . . . we also learned how they operated, and that was about all. There was no discussion about what really made things work. . . .” In comparison, he remarked, modern high school and college students received a much more comprehensive and critical political education.¹⁷⁹

Indeed, more than a few politicians seemed truly impressed by the contrast between their own education and that of the new generation. Testifying before Congress in 1968, the chairman of the Young Republicans noted, “When I hear my 9- and 10-year-old children knowingly discuss the Paleozoic era, gamma radiation, and the Japanese current (sic) I sense, as I reach for my copy of Webster’s dictionary that their education is far beyond mine at that age.”¹⁸⁰ In the same hearings, Senator Mike Mansfield (D-MT) remarked that he himself had left school at the eighth grade, and suggested, “I would guess that a high school graduate of today would be at least the equivalent of a freshman

¹⁷⁷ *Lowering Voting Age to 19*, 82d Cong., 2d sess., *Congressional Record* 97 (January 15, 1951): 266.

¹⁷⁸ *McCarthy Urges Reduction of Voting Age to 18*, H.J. Res. 374, 90th Cong., 1st sess., *Congressional Record* 113 (March 1, 1967): 5101.

¹⁷⁹ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970):

¹⁸⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., March 15, 1968, 44.

in college two or three decades ago, and very likely the equal of a sophomore in college.”¹⁸¹

Proponents of eighteen-year-old voting also attributed young people’s newfound political sophistication to the mass media. Modern teenagers were not only better educated than their ancestors, they maintained, but also far more up-to-date on political events, thanks to the expanded reach of newspapers, magazines, radio and especially television.¹⁸² Speaking in 1951, Representative Edward H. Jenison (R-IL) asserted:

The present limit of 21 was determined in a period when the public was without the means for obtaining with ease a general knowledge of public affairs, public issues, and candidates for public office. Greater educational opportunities and present-day newspaper, radio, and television facilities bring the problems of the day to all the people, young persons included.¹⁸³

“Who dreamed half a century ago,” Senator Moody asked in 1952, “of radio, television, and the news magazines which today keep the voters apprised of political developments not only in the United States but in the world at large?”¹⁸⁴

In the mid-1960s, advocates began to emphasize the unique way that television, in particular, was educating young people about political affairs. In 1968, Senator Jacob Javits (R-NY) remarked:

¹⁸¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., March 14, 1968, 7. Mansfield dropped out of school at age fourteen to join the military and then returned to Montana to work in the copper mines. He later completed high school by correspondence and received B.A. and M.A. degrees from the University of Montana. U.S. Senate, “Senate Leaders, Mike Mansfield: Quiet Leadership in Troubled Times,” http://www.senate.gov/artandhistory/history/common/generic/People_Leaders_Mansfield.htm.

¹⁸² The spread of television through postwar American households was breathtaking. In 1946, fewer than 6000 sets were manufactured. By the end of the 1950s, 86 percent of households had televisions sets; by 1967, the number was 98 percent. Landon Y. Jones, *Great Expectations: America and the Baby Boom Generation* (New York: Ballantine Books, 1980), 47.

¹⁸³ *University of Illinois Students Urge Voting Age Be Lowered to 18*, 82d Cong., 1st sess., *Congressional Record* 97 (October 20, 1951): A6743.

¹⁸⁴ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., May 27, 1952, 61.

We can only guess at the broadening effects of the media on our youth . . . Many political scientists claim that television has given all of us a feeling of immediacy and involvement concerning international and domestic social problems never before experienced in this country . . . For the most part, the 18- and 19-year-old today has grown up in a world of impressions formed by actually witnessing the historic events of our era – the demonstrations on behalf of civil rights, congressional hearings on Vietnam, the funeral of President John F. Kennedy and of Dr. Martin Luther King, Jr.¹⁸⁵

Senator Albert Gore (D-TN) echoed this in 1969, declaring:

Young Americans have been brought up on Presidential news conferences and national conventions. They have been nurtured by the evening news at suppertime and national question-and-answer programs with Sunday dinner. Their perspectives are not limited to national occurrences alone, for they learn instantly what is happening in Cairo and Singapore, Saigon and London.¹⁸⁶

In the words of Senator Jennings Randolph (D-WV), America's youth were "literally tuned in on the times in which we live."¹⁸⁷

For the most part, proponents of lowering the voting age concentrated on comparing young people across generations, arguing that modern eighteen-year-olds were far more well-informed about politics than were eighteen-, or even twenty-one-year-olds of earlier eras. But some dared to go further, delicately—and not so delicately—suggesting that not only were contemporary eighteen- to twenty-year-olds more politically astute than teenagers of the past, they were just as, if not more, knowledgeable as were many present-day Americans over twenty-one. In the 1954 Senate debate, Senator William Knowland (R-CA) put into the *Congressional Record* assorted statistics to the effect that young Americans were more politically aware, had higher rates of

¹⁸⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., March 14, 1968, 13.

¹⁸⁶ *Senate Joint Resolution 141—Introduction of a Joint Resolution Proposing Constitutional Amendment to Lower the Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (July 25, 1969): 20798.

¹⁸⁷ *Senate Joint Resolution 147—Introduction of a Joint Resolution Relating to Extension of Voting Rights to 18 Year Olds*, 91st Cong., 1st sess., *Congressional Record* 115 (August 12, 1969): 23522.

literacy, and even demonstrated greater intelligence than those in older age groups.¹⁸⁸

Senator Kenneth Keating (R-NY) referenced one such study in 1959, declaring:

The strongest reason for lowering the voting age is the political awareness of our young Americans. A Gallup poll has found that the people between 18 and 20 are the best informed of any age group on basic political facts. The proposition that this group be given voting rights is perfectly logical; only hoary custom is against it.¹⁸⁹

Similarly, in 1967 Representative Edwin Meeds (D-WA) maintained that the “one, overriding point” that convinced him of the merits of granting eighteen- to twenty-one year-olds the right to vote was “simply that they are ready; ready in the sense that they have the knowledge of government and current events at least equal to that of citizens over 21.”¹⁹⁰

But a few advocates of eighteen-year-old voting went even further, criticizing outright the educational and mental qualifications of many adult voters. Senator Dirksen, for one, remarked in the course of the 1954 floor debate on S.J. Res. 53:

Having been a part of a political organization, I may say that I do not believe the youngsters will do any worse than the people who will be hauled to the polls, and have printed ballots placed in their hands, and be told how to mark the ballots, and for what candidates.¹⁹¹

In 1963, Representative Hechler declared, “There is far more illiteracy among people over 60 than there is among people between 18 and 21.”¹⁹² And in 1970 floor debate, Senator Mansfield asked acerbically, “[W]hy should a 50- or 60-year-old illiterate be

¹⁸⁸ *Extension of Voting Rights to Citizens at Age of 18*, S.J. Res. 53, 83rd Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6972–73.

¹⁸⁹ *Proposed Amendment to Constitution Relating to the Right to Vote at Age 18*, S.J. Res. 81, 86th Cong., 1st sess., *Congressional Record* 105 (March 24, 1959): 5026.

¹⁹⁰ *Extending Voting Privileges to Citizens Under the Age of 21*, H.J. Res. 18, 90th Cong., 1st sess., *Congressional Record* 113 (February 21, 1967): 4185.

¹⁹¹ *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6971.

¹⁹² *Lowering Voting Age to 18*, 88th Cong., 1st sess., *Congressional Record* 109 (December 23, 1963): 25498.

allowed to vote when we have high school and college graduates in the 18- to 21-year-old classification, some with degrees, certainly all of them with a great deal of knowledge, who are not being allowed to vote.?”¹⁹³

This was a precarious rhetorical strategy, to say the least. It was of course exceptionally risky for publicly elected officials to so much as suggest that certain subsets of already-enfranchised Americans were unqualified to vote. But these legislators were committed to the idea that although it might have been reasonable to expect their own generation to wait until age twenty-one to cast their first votes, it was simply unfair to demand the same of their children.

B. Better People

In addition to their claims about young people’s political savvy, advocates also insisted that contemporary college-aged youth had the requisite emotional maturity to exercise the franchise responsibly. Indeed, some proponents maintained that eighteen- to twenty-year-olds’ tended to possess certain personal qualities—such as idealism and freedom from economic responsibility—that would make them especially good voters.

Many characterized youthful eagerness and energy as a civic asset. Speaking in 1952, Senator Moody declared:

It seems to me . . . that we can well use the spark and enthusiasm which our young people would contribute to the political scene. We can well use the idealism and vigor with which young people traditionally challenge boundless frontiers. We can well use their new ideas, their selfless devotion, and their pioneering spirit in conquering the roadblocks which lie in the way of a better tomorrow.¹⁹⁴

¹⁹³ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 12, 1970): 7087. I discuss the apparent tension between such comments and Congressional liberals’ efforts to abolish literacy tests for voting at the end of this chapter.

¹⁹⁴ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 62.

Senator William Proxmire (D-WI) similarly suggested in 1968 that “the idealism and enthusiasm of youthful voters would have a beneficial influence on the conduct of the Government and lead toward future good citizenship.”¹⁹⁵

Some advocates of eighteen-year-old voting linked such youthful virtues to an image of America as a young and vibrant nation. In 1953, one Young Republican leader captured this sentiment: “The strength of America has always been characterized and reflected by the youthful vigor of its people.”¹⁹⁶ Speaking at a Senate subcommittee meeting in 1961, Senator Gale McGee of Wyoming declared that lowering the voting age “would tend to strike a balance back towards the youthful spirit and the youthful face that has traditionally been associated with America.”¹⁹⁷

Others suggested that young people would be able to offer new solutions to stubborn social and political problems. Representative William St. Onge (D-CT) claimed in 1967 that reducing the voting age would force the government “to be much more aware of, and responsive to, a new group of voters with fresh ideas and new approaches to our problems.”¹⁹⁸ In 1970 Senate floor debate, Senator Randolph argued that

¹⁹⁵ *The President Proposes Broadening of the Electorate*, 90th Cong., 2d sess., *Congressional Record* 114 (June 28, 1968): 19248.

¹⁹⁶ Filed statement of James H. Guilmarten, Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 83rd Cong., 1st sess., June 2, 1953, 5.

¹⁹⁷ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 28, S.J. Res. 48, S.J. Res. 96, S.J. Res. 1-2, S.J. Res. 113, and S.J. Res. 114, Proposing Amendments of the Constitution Relating to the Method of Nomination and Election of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 58, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitution Relating to Qualifications for Voting*, 87th Cong., 1st sess., June 8, 1961, 267.

¹⁹⁸ *Extending the Vote to 18-Year-Olds*, 90th Cong., 1st sess., *Congressional Record* 113 (January 30, 1967): 1962.

eighteen- to twenty-year-old voters would be like “outside consultants called in to take a fresh look at our problems.”¹⁹⁹

Furthermore, proponents maintained, young people would also contribute a much-needed dose of idealism to the national political discourse. More than a few advocates pointedly suggested that eighteen- to twenty-one year-olds were generally more public-spirited than were older citizens. In a 1952 Senate subcommittee hearing, Senator Harley Kilgore (D-WV) asserted, “My experience with Boy State [sic] over a period of 10 years taught me that younger people do not let selfish personal interests influence their vote and they think more of the general welfare than do people who have gotten into business later in life when selfish interests may intervene.”²⁰⁰ Eighteen-year-olds, maintained Senator Hubert Humphrey (D-MN) were “more apt to place the national interest above those particular interests which they will later acquire.”²⁰¹ The notion that enfranchising eighteen- to twenty-one year-olds would “help raise the moral tone in government”²⁰² was a theme with Representative Hechler; in 1959 he declared:

I am convinced that passage of this constitutional amendment will not only stir a greater interest in public affairs, but will inject a new note of idealism into our politics at all levels. Youth is the age of idealism, unfettered by personal, selfish, or economic group interest.²⁰³

¹⁹⁹ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6971.

²⁰⁰ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 60.

²⁰¹ Senate Judiciary Committee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 83rd Cong., 1st sess., June 2, 1953, 4.

²⁰² *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 21, 1967): 4183.

²⁰³ *Constitutional Amendment to Lower the Voting Age to 18*, 86th Cong., 1st sess., *Congressional Record* 105(September 1, 1959): 17622.

One legislator, Representative John Rooney (D-NY) even suggested that younger voters would make more grateful constituents, wistfully remarking:

[T]oo often a successful candidate find himself a lonely and discouraged individual. Too often the criticisms leveled at him for doing some things and not doing others outnumber by far any recognition of the job he is doing on behalf of his noncomplaining constituents. But young people possess an inherent honesty which makes them feel equally inclined to praise as to complain to their elected representatives.²⁰⁴

But even those who declined to criticize the older age groups' lack of public-spiritedness—or penchant for criticizing their Congresspeople—stressed that lowering the voting age would improve society by bringing into the electorate voters who were particularly attuned to the public good. In 1952, former Georgia governor Ellis Arnall asserted, “We need some of that idealism that is sometimes disparagingly referred to as starry-eyed, but we need ideals in democracy. I think youth affords that kind of devotion to ideal that we need.”²⁰⁵

Arguments such as Arnall's were heard even more frequently in the voting age debates beginning in the mid-1960s, as proponents insisted that the new ‘baby boom’ generation demonstrated an unusually high level of idealism and political engagement that qualified them to vote. Declaring his support for eighteen-year-old voting in 1967, Representative William Edwards (D-CA) asserted, “This generation of students manifested the concern and idealism of young people regarding the society in which they live and the wrongs which can be eliminated.”²⁰⁶ Edwards, like many of his colleagues, highlighted youthful participation in organizations like the newly formed Peace Corps.

²⁰⁴ *The President's Requested Legislation to Lower the National Voting Age to 18 Years*, 90th Cong., 2d sess., *Congressional Record* 114 (July 12, 1968): 21069.

²⁰⁵ Senate Judiciary Committee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 66–67.

²⁰⁶ *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 2, 1967): 4185.

Senator Mansfield captured this same sentiment, suggesting that eighteen- to twenty-year-olds’ “interest in public affairs and their potential for highly creditable public service at home and abroad are attested to by the personal dedication that is characteristic of such voluntary programs as VISTA and the Peace Corps.”²⁰⁷

To be sure, plenty of these paeans to young people’s civic commitment were prompted by opponents’ assertions that the rising student protest movement demonstrated that college-aged Americans were far too irresponsible and radical to be trusted with the franchise. (I discuss this critique in greater detail in Chapter 6.) However, some legislators, especially those who had visited college campuses as part of a 1969 Congressional fact-finding tour about campus unrest, seemed honestly impressed by students’ political sophistication. Representative Bill Brock (R-TN), who led the tour, declared that the group had “found that today’s young Americans were better educated, more informed, and more intensely interested in the political process than ever before. On the basis of all available evidence, there was no question about their qualification.”²⁰⁸ Representative Thomas Railsback (R-IL) agreed, “The students with whom we met are not only better-educated than their counterparts of a generation ago, but they are more informed of the social problems facing our Nation.”²⁰⁹

In asserting that young people would make good voters, then, advocates sought to paint contemporary youth as simultaneously similar to and different from the adult population. Many stressed that the modern eighteen-year-old was as educated and

²⁰⁷ *Joint Resolution to Lower Voting Age*, 90th Cong., 1st sess., *Congressional Record* 113 (Jan. 12, 1967): 295.

²⁰⁸ *The Case of the 18-Year-Old Vote*, 91st Cong., 1st sess., *Congressional Record* 115 (August 6, 1969): 22708.

²⁰⁹ *Constitutional Amendment to Lower Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (August 5, 1969): 22247.

informed as the average American adult, if not more so. At the same time, some proponents of lowering the voting age also maintained that certain qualities supposedly specific to youth amplified young people's qualifications as good voters. In view of all of this, they argued, it was ludicrous to continue to deny college-aged Americans the right to vote.

C. A Useful Strategy

Arguments about young people's intellectual and emotional qualifications for the franchise served at least two important rhetorical functions in the voting age debates. First, such arguments helped to shore up—or at least distract from—some of the logical and conceptual problems with other rationales offered for eighteen-year-old voting, most notably, the 'old enough to fight, old enough to vote' theme discussed in the previous chapter. Second, by emphasizing voter qualifications, advocates of eighteen-year-old voting made it clear that they were not in any way seeking to lower the voting age beneath eighteen. Despite the fact that some of the other arguments for eighteen-year-old voting could also be used to justify enfranchising children younger than eighteen, proponents had absolutely no interest in more radical change.

The qualified-voter rationale was a useful rhetorical antidote to some of the uneasy issues posed by military service arguments. As I discussed at length in Chapter 1, although arguments connecting the right to vote to serving in the armed forces were vitally important to the voting age debates, their power was limited by certain inconvenient facts. Paramount among these was the reality that although the minimum draft age was eighteen, the majority of eighteen- to twenty-year-olds were not in the military. Most obviously, of course, the fifty percent of eighteen-, nineteen-, and twenty-

year-olds who were female were not eligible for the draft, a fact that opponents did not hesitate to highlight. What's more, plenty of men were also not being drafted. Thanks to the baby boom, the number of eighteen-year-old males surged in the mid-1960s, and even though draft calls rose, the percentage of men serving in the military declined.²¹⁰

Focusing on education and emotional maturity offered a broader, less-gendered rationale for reducing the voting age. By shifting the discussion away from military obligations and towards the matter of eighteen- to twenty-one year-olds' qualifications as good voters, advocates of eighteen-year-old voting were able to avoid getting too deeply into the sticky problem of using the military draft as a reason to lower the voting age for *all* eighteen- to twenty-year-olds, not just those in the armed forces.

Beyond this, qualified-voter arguments also served to justify—and clearly demonstrate—the fact that Congressional advocates, at least, had no intention of exploring the more radical potential embedded in some of their favorite arguments for eighteen-year-old voting. Some of their claims about reciprocity and representation, for example, led down uncomfortable logical paths. As detailed in the previous chapter, proponents of eighteen-year-old voting often argued that it was only fair to grant those who bore the obligations of citizenship the right to elect the politicians who imposed those obligations. Military service, they argued, was merely the heaviest of many civic obligations that justified expanding the right to vote, which also included being taxed and being criminally and/or civilly liable for one's actions.

This argument, however, would open the door to lowering the minimum voting age far below eighteen, if not abolishing it altogether. Even in the 1950s and 1960s, many states had minimum ages for civil and/or criminal liability that were younger than

²¹⁰ George Q. Flynn, *The Draft, 1940–1973* (Lawrence, KS: University Press of Kansas, 1993), 231.

eighteen,²¹¹ and children of all ages were taxed on their income, as well as paid sales taxes.²¹²

Similarly, legislators' frequent assertion that the current voting age amounted to 'discrimination' against eighteen-, nineteen-, and twenty-year-old Americans also had the potential to raise unsettling questions. As I discuss further in Chapter 6, proponents often insisted—especially during the 1970 debates on the Voting Rights Act amendment—that excluding eighteen- to twenty-year-olds from the franchise was morally and legally equivalent to denying blacks or women the right to vote. However, as opponents occasionally noted, this theory could be a slippery slope: if it was now discrimination to deny eighteen-year-olds the vote, presumably later it could be considered discrimination to disenfranchise seventeen-year-olds, or even twelve-year-olds. “This pattern of thinking,” Representative George Andrews (D-AL) declared in 1970, “could lead to the abandonment of all age restrictions.”²¹³

But even those Members of Congress who most fervently advocated eighteen-year-old voting strongly resisted any suggestion of extending the franchise to Americans under the age of eighteen, much less abolishing it entirely. In the very first Congressional subcommittee hearing on the voting age issue, held in 1943, Representative Emanuel Celler (D-NY) challenged Representative Randolph:

²¹¹ Library of Congress Legislative Reference Service, *Age at Which Minors Are to Be Considered as Adults For Purposes of Prosecution Under the Criminal Law*, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 6–8.

²¹² Since 1944, children have had to file separate tax returns if they earned over a certain amount. Frederick R. Schneider, “Which Tax Unit For the Federal Income Tax?” *University of Dayton Law Review* 20 (Fall 1994): 100.

²¹³ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20165.

Mr. Celler: Let us suppose—God forbid—that the exigencies of war would turn against us and our armies would have to be greatly augmented, and we would have to reduce the draft age to 16, as is the case in Germany today. Would you say the voting age should likewise be reduced to 16?

Mr. Randolph: No, Mr. Chairman. I would not advocate the lowering of the voting age to 16. I feel there is a point below which we should not go.

Claims about young people’s intellectual and emotional capability were reasons not only to expand, but also to limit, the right to vote. Implicit in arguments that eighteen- to twenty-one year-olds should have the franchise because they possessed the qualities necessary to be good voters was the belief that those who did not have such qualities—i.e., those under age eighteen—should not be permitted to vote, regardless of what other arguments might be offered for their enfranchisement. By framing the suffrage not simply as a matter of right, but also as a matter of qualification, proponents of eighteen-year-old voting steered clear of any troubling suggestions about a more dramatic overhaul of age qualifications for voting.²¹⁴

D. Great Hopes

The effusive praise that advocates of eighteen-year-old voting heaped on modern youngsters may strike the modern reader as peculiar, if not downright ludicrous. However, viewed against the backdrop of other trends of the time, such claims make more sense. In particular, proponents’ arguments reflected the remarkably optimistic, confident mood of many Americans in the years after World War II but before the turmoil of the late 1960s.

²¹⁴ In the 1970s, children’s rights advocate Richard Farson—who favored universal child suffrage—critically assessed the Twenty-sixth Amendment: “The common idea which united all parties to this debate [about the voting age] was that there certainly should be *some* age at which the person is clearly immature, incompetent, and otherwise unqualified to participate in the decision-making process.” Richard Farson, *Birthrights* (New York: MacMillan Publishing, Inc., 1974), 176.

Commentators have often remarked on the tremendous buoyancy that characterized American society in the 1950s and into the mid-1960s. Astounding economic growth and the resulting transformation of many Americans' standard of living fostered a sense of great optimism. The historian James Patterson, in his magisterial survey of postwar America, emphasizes this phenomenon:

The whole world, many American seemed to think by 1957, was turning over to please the special, God-graced generation—and its children—that had triumphed over depression and fascism, that would sooner or later vanquish Communism, and that was destined to live happily every after (well, almost) in a fairy tale of health, wealth, and happiness.²¹⁵

Children and young people were at the heart of these great hopes. The postwar baby boom, which began in mid-1946 and continued until 1964, when the first 'boomers' began to turn eighteen, put children at the heart of a newly and ever-increasingly affluent society. Many assumed that this huge cohort of children, growing up in a world of peace and abundance, would be both more accomplished and happier than their parents.²¹⁶ One scholar who has studied the baby boom writes:

By the mid-sixties . . . the size and economic power of the boom generation had helped it muscle its way onto the center stage of the nation's life. Most Americans were delighted at what they saw. This generation of the young was richer and stronger than theirs had been. It was confident and articulate about its dreams. Its ideals were outstripping those of previous generations bogged down by Depression and war. . . . The editors of *Time* honored the 'Under-25 Generation' as its Man of the Year in 1967. In its lifetime, *Time* wrote, this promising generation could land on the moon, cure cancer and the common cold, lay out blight-proof, smog-free cities, help end racial prejudice, enrich the underdeveloped world, and no doubt, write an end to poverty and war.²¹⁷

²¹⁵ James T. Patterson, *Grand Expectations: The United States, 1945–1974* (New York: Oxford University Press, 1996): 311.

²¹⁶ Patterson, *Grand Expectations*, 323, 627.

²¹⁷ Landon Y. Jones, *Great Expectations: America and the Baby Boom Generation* (New York: Ballantine Books, 1980), 87–88.

Legislators' claims that eighteen- to twenty-year-olds deserved the vote because they were more intelligent, politically knowledgeable and civic-minded than previous generations, then, arose in this context. Statements like that of Representative Stephen Young (D-OH), who argued that "this generation of young people is the best ever . . . they are healthier, quicker of mind and better trained than their predecessors"²¹⁸ may sound utterly false to twenty-first century ears, but they were not out of place in the social and political climate of the 1950s and early-to-mid 1960s.

Advocates' frequent derision of the twenty-one year-old minimum voting age as "archaic,"²¹⁹ "an anomaly in the 20th century"²²⁰ also makes sense within these broader narratives about progress and modernization. Those who favored eighteen-year-old voting often referenced the supposed medieval origins of the current voting age, arguing that while such a criterion might have been reasonable at one point, it was completely irrelevant in the fast-paced, technologically sophisticated world of mid-twentieth century America. As Representative James Howard (D-NJ), declared in 1967, "Those dark ages are over—long over—and it makes no sense to support that 21 is a relevant determinant of majority today. In fact, the quality of our education has rendered it obsolete."²²¹

²¹⁸ *Voting Age Should Be Lowered to 18*, 90th Cong., 2d sess., *Congressional Record* 114 (May 4, 1968): 15921.

²¹⁹ Representative William D. Ford, *Resolution to Lower Voting Age*, 89th Cong., 2d sess., *Congressional Record* 112 (March 17, 1966): 6185.

²²⁰ Statement of Senator Jennings Randolph, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 26, S.J. Res. 28, S.J. Res. 48, S.J. Res. 96, S.J. Res. 1-2, S.J. Res. 113, S.J. Res. 114, Proposing Amendments to the Constitutional Relating to the Method of Nomination and Elections of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 58, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitutional Relating to Qualifications for Voting*, 87th Cong., 1st sess., May 23, 1961, 187.

²²¹ *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 21, 1967): 4182.

To be sure, not everyone wholeheartedly agreed that America's young people were so wonderful. As I discuss in the next section, the concerns about adolescent rebellion that mushroomed in the 1960s were present as early as the mid-1950s. However, at least until the latter half of the 1960s, there was a significant popular perception that the nation, and especially the nation's youth, were getting better all the time. Advocates sought to frame a lower voting age as an expression of this faith in progress. In 1952, Ellis Arnall asserted: "If the young people are not an improvement over our generation and the generations before us, the world is going backwards."²²² And going backwards was simply inconceivable.

All of these would change during the second half of the 1960s, however, as the social and political climate changed for the worse and the behavior of young people became a flashpoint for controversy. In the next section, I discuss how these shifts profoundly undermined advocates' claims about young Americans' personal qualifications for the franchise.

II. Dangerous Radicals

Beginning around 1968, advocates' claims that eighteen- to twenty-year-olds were intellectually and personally superior to previous generations were greeted with increasing skepticism. The general optimism of the previous two decades soured as the Vietnam War escalated, racial tensions worsened, and levels of violence and civic unrest rose quickly. And young people, especially college students, featured prominently in the disorder of the times. Opponents of eighteen-year-old voting were increasingly vocal,

²²² Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 68.

arguing that contemporary youth were overemotional, out of control, and dangerously prone to radicalism.

To be sure, such concerns were not entirely new. The sentiment that young Americans were the harbingers of a new, better world had never been a universal one. During the 1950s, many adults were alarmed by the rise of rock-n-roll and feared that adolescents were becoming rebellious and unruly. The Senate held high-profile hearings on juvenile delinquency throughout the decade.²²³ Critics also complained that the schools were sacrificing quality for quantity, substituting popular ‘life skills’ classes for a rigorous academic curriculum.²²⁴ The Soviet Union’s launch of the Sputnik shuttle in October 1957 sparked much hand-wringing over the state of American science education.²²⁵

And well before the turmoil of the late 1960s, those who opposed eighteen-year-old voting had challenged advocates’ rosy descriptions of America’s youth. Opponents emphasized that teenagers were, simply by dint of their age and inexperience, suggestible and prone to radicalism. Although some worried that young voters would merely express their parents’ preferences, not their own,²²⁶ the more meaningful issue was whether eighteen-year-old voters would be sufficiently independent from the potentially insidious designs of those other than their parents. (Indeed, advocates for reducing the voting age were abundantly aware that the claim that teenagers would not simply vote in accordance with their parents’ instructions did just as much as work as an argument *against* lowering

²²³ Patterson, *Grand Expectations*, 369–74.

²²⁴ Patterson, *Grand Expectations*, 69, Diane Ravitch, *The Troubled Crusade: American Education, 1945–1980* (New York: Basic Books, 1983), 228–35.

²²⁵ Ravitch, *Troubled Crusade*, 229.

²²⁶ *Constitutional Amendment Introduced Providing That No Citizen Under 21 May Have the Right to Vote*, 83rd Cong., 2d sess., *Congressional Record* 100 (March 10, 1954): 3050.

the voting age.²²⁷) In particular, opponents of eighteen-year-old voting fretted that unformed, malleable youth would be easily manipulated by unscrupulous leaders.

Representative Celler warned:

The teen-ager is likely to take the extreme point of view. He does not know how to compromise, and the essence of politics is compromise. . . . It is the dictators with their absolute doctrines who have abused the extremism of youth, and put it to their advantage. Hitler, Mussolini, Stalin all gave the teen-agers the right to vote and herded them into line²²⁸

In 1954 Senate floor debate, Senator Richard Russell (D-GA) noted ominously that “the largest nation which permit[s] voting by 18-year-olds [is] Russian.”²²⁹

In response, advocates of eighteen-year-old voting agreed wholeheartedly that it was—in theory, at least—crucial for an American voter to cast his or her vote independently, free of others’ influence. They maintained, however, that contemporary young people could be relied upon to vote their own preferences. Eighteen- to twenty-year-olds were politically knowledgeable and savvy enough not to be taken in by demagoguery. Speaking in 1952, Senator Moody disagreed with critics who argued that eighteen-, nineteen-, and twenty-year-olds did not think for themselves: “I have found that the questions which are propounded on matters of public importance by college students, for example, are direct. They have no patience generally with weasel-worded

²²⁷ Testifying before a Senate subcommittee hearing in 1953, Duane Emme, a former Young Democrat leader, pointed to a newspaper article that had criticized efforts to lower the voting age by showing that 52% of high school students did not agree with their parents’ political convictions. Emme sought to recharacterize this statistic, arguing that it demonstrated not radicalism but youth independence. Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 83rd Cong., 1st sess., July 13, 1953, 16.

²²⁸ See, for example, Representative Celler, *Constitutional Amendment Introduced Providing That No Citizen Under 21 May Have the Right to Vote*, 83rd Cong., 2d sess., *Congressional Record* 100 (March 10, 1954): 3050.

²²⁹ *Extension of Voting Rights to Citizens at Age of 18*, 83rd Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6957.

answers.”²³⁰ Ellis Arnall, speaking of Georgia’s nine-year experiment with eighteen-year-old voting, concurred: “It has been my experience in watching youth voting in my State that the young people evaluate the issues and the candidates. They exercise a very informed opinion, not just some hearsay.”²³¹

Indeed, proponents of lowering the voting age occasionally tried to turn their opponents’ arguments about independence on their head, declaring that young people might be freer from influence by political parties than were older citizens. As early as 1943, Senator Randolph declared:

I feel . . . that men and women [of older age] are more inclined to vote along strict party lines, because of the channels along which their lives have been fashioned; whereas we find the younger age group more desirous of probing into parties and considering the candidates and then making their own decisions.²³²

In the late 1960s, however, those who opposed eighteen-year-old voting gained new momentum. As the student protest movement intensified and images of youthful demonstrators became a media staple, some charged that modern young people were obviously too radical, emotional, and susceptible to dangerous influences to be allowed to vote. Increasingly, advocates found themselves on the defensive.

Those who opposed lowering the voting age argued that campus unrest was a natural product of young people’s tendency towards extremism. Speaking in 1968, Senator Jack Miller (R-IA) lamented:

²³⁰ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 61.

²³¹ Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 27, 1952, 67.

²³² Senate Judiciary Committee, Subcommittee No. 1, *A 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*, 78th Cong., 1st sess., October 20, 1943, 4.

[M]any teenagers, lacking the experience and maturity, are prone to take an extreme point of view and to push their ideas to the exclusion of all others. One need only look at what has happened and is happening on the campuses of some of our great universities to see the results of this lack of maturity.”²³³

Opponents argued, with increasing urgency, that young people’s propensity for extreme positions, coupled with their general malleability and excessive emotionalism, left them vulnerable to the evil designs of radical demagogues. Senator Spessard Holland of Florida echoed Celler’s earlier remarks, declaring: “[W]e all know that leaders of radical movements understand that patience is not a particular virtue of the young and that radicalism has had its greatest appeal to the youth between 18 and 21.”²³⁴ If the voting age was lowered to eighteen, he ominously predicted, political organizations would organize “with a vengeance” on college campuses, creating a “most dangerous situation.”²³⁵

Opponents also finally began to more forcefully challenge advocates’ longtime claims that modern eighteen- to twenty-one year-olds were better educated and therefore better qualified to vote than were previous generations. In 1970, Representative John Rarick (D-LA) vehemently rejected the notion that contemporary youth were more intelligent and better informed than previous generations:

²³³ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting age to 18*, 90th Cong., 2d sess., May 14, 1968, 15.

²³⁴ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting age to 18*, 90th Cong., 2d sess., May 15, 1968, 32.

²³⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting age to 18*, 90th Cong., 2d sess., May 15, 1968, 33.

To the contrary, records in our public schools, the Selective Service System, and our Armed Forces show a constant decline in both intelligence and aptitude averages.

The common experience of adults – especially employers – is that today’s young people cannot spell, cannot read, and cannot reason.

Yet, this is not to say that many of our young are not proficient in parroting loudly the emotional slogan [sic] programed [sic] into them by the left-wing pseudo-intellectuals dominating our schools and the mass media.²³⁶

Representative Charles Griffin (D-MS) asked rhetorically:

Can we safely assume that modern education has brought such a high level of judgment to the typical 19-year-old that the precepts of our forefathers are to be sloughed off?

What actions by the persons we are asked to enfranchise suggest their readiness to accept responsibility? Is it found in the smoke from the Bank of America over California? Do student strikes over the country suggest a cool and reasoned approach to the problems facing America in 1970?²³⁷

In response, advocates insisted that the student protesters, while reprehensible, were not representative of the great majority of eighteen- to twenty-one year-olds.

Proponents of lowering the voting age hurried to characterize the demonstrators as a “tiny minority”²³⁸ in a vast sea of unthreatening, stable, law-abiding young people. Senator Alan Bible (D-NV) declared, “For every rowdy demonstrator there are thousands of serious, responsible, hardworking youngsters going about their daily business of earning a living or getting an education.”²³⁹ “The vast majority of our young citizens,” asserted Representative Cornelius Gallagher (D-NJ) , “have no taste or agreement for those who would tear apart the fabric of American society under the guise of revolutionary

²³⁶ *The 18-Year-Old Vote—If Constitution Bars—Ignore It*, 91st Cong., 2d sess., *Congressional Record* 116 (March 20, 1970): 8493.

²³⁷ *The Voting Rights Act*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20251.

²³⁸ Senator Gale McGee (D-WY), *Young People Need a Stake in the Future*, 90th Cong., 2d sess., *Congressional Record* 114 (July 1, 1968): 19491.

²³⁹ *Senate Joint Resolution 87—Introduction of a Joint Resolution Proposing an Amendment to the Constitution to Lower the Voting Age to 18 Years*, 91st Cong., 1st sess., *Congressional Record* 115 (April 1, 1969): 8228.

rhetoric.”²⁴⁰ Indeed, advocates of eighteen-year-old voting repeatedly lamented the supposed excessive media focus on unruly protesters; speaking in 1969, Representative John M. Zwach (R-MN) declared, “[W]hile the minorities at our colleges get 95 percent of the press and television coverage . . . the vast majority of our collegians and 18-, 19- and 20-year-olds do not agree with the destructive shenanigans of the minority.”²⁴¹

Those who favored lowering the voting age rejected opponents’ claims that young people were drawn to radical and extreme political positions. Many noted that several states, as well as Great Britain, had instituted eighteen-year-old voting with minimal effect. In 1970, then-Representative George H.W. Bush (R-TX) remarked that he had “carefully looked at the voting patterns in Georgia and Kentucky, where 18-year-olds are already enfranchised, and have found nothing radical about them.”²⁴² Senator Claiborne Pell (D-RI) pointed out that in the first British elections in which eighteen-year-olds were permitted to vote, the conservatives won.²⁴³

Proponents of eighteen-year-old voting also tried to frame increased political activism among the young as evidence of a greater commitment to the public good. As I discussed earlier in this chapter, those who favored a lower voting age frequently argued that young people’s idealism and enthusiasm were civic assets. In 1968, Senator Jacob Javits (R-NY) maintained that “the most compelling reason for lowering the voting age at this point in our national history” was that “today’s 18- to 21-year-olds . . . are more

²⁴⁰ *We Must Lower the Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (June 10, 1969): 15503.

²⁴¹ Congress, House of Representatives, 91st Cong., 1st sess., *Congressional Record* 115, pt. __ (February 5, 1969): 2947.

²⁴² *The 18-Year-Olds Should Be Permitted to Vote*, 91st Cong., 2d sess., *Congressional Record* 116 (April 8, 1970): 10890.

²⁴³ *The Right to Vote for All Our Young People—Servicemen, Workers, and Students*, 91st Cong., 2d sess., *Congressional Record* 116 (October 14, 1970): 36401.

highly motivated toward political action and more of them are better educated than their fathers or grandfathers ever thought possible.”²⁴⁴

From approximately 1968 until mid-1970, then, proponents and opponents of lowering the voting age battled vociferously about whether eighteen- to twenty-year olds were serious-minded and dedicated to the public good, or excessively emotional and frighteningly prone to radical extremism. Despite advocates’ best efforts, however, the escalating student protest movement seriously weakened the rhetorical force of their claims, and increasingly they had to draw on other rationales for lowering the voting age.

III. Conclusion

Before concluding, it is worth noting that there was one other development that one might think would have also undermined proponents’ focus on young people’s academic qualifications for voting. During the 1960s, Congressional liberals (along with President Johnson and some federal courts) became increasingly concerned about the widespread use of literacy tests, especially in the South, for voter registration. The Voting Rights Act of 1965 suspended literacy tests in most of the Deep South, and the renewal act of 1970—the same bill to which the eighteen-old-voting was attached—suspended such tests nationwide for another five years.²⁴⁵ Moreover, although support for abolishing literacy tests and support for eighteen-year-old voting did not map perfectly on one another, plenty of legislators favored both—Senator Mansfield, for example, was a most vocal advocate for both causes.

²⁴⁴ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 14, 1968, 11.

²⁴⁵ Samuel Issacharoff, Pamela S. Karlan, and Richard H. Pildes, *The Law of Democracy: Legal Structure of the Political Process* (Westbury, NY: Foundation Press, 1998), 275, 280.

At first glance, this antipathy towards literacy tests seems inconsistent with advocates' repeated insistence that young people's superior education qualified them to vote. However, there is virtually no evidence in the Congressional debates that there was actually any tension between these two issues.²⁴⁶ Presumably, this is because the literacy test issue was really about race, not literacy; those in Congress and on the Court who opposed literacy tests were not so much troubled by the notion that voters should have to be literate as they were by the way that many Southern states blatantly misused these tests in order to prevent African-Americans from voting.²⁴⁷

Arguments about eighteen- to twenty-year-olds' academic and personal qualifications for voting were an important part of the voting age debates, although they lost some of their power to convince amidst the tumult of the late 1960s. However, while the student protest movement worked against advocates in some ways, it also spurred concerns that unless youth were given a legitimate outlet for their political concerns, the situation might worsen even further. The next chapter discusses the notion, which proved quite compelling in galvanizing support for eighteen-year-old voting, that lowering the voting age would create a much-needed safety valve for youthful dissent.

²⁴⁶ The sole person to—sort of—connect these dots was Senator Roman Hruska (R-NE) who, in Senate debate on the eighteen-year-old voting rider to the Voting Rights Act renewal bill, remarked, “[There] are . . . changed conditions in the matter of literacy tests. No longer is it necessary for people to be able to read in order to vote intelligently. Modern technology by communications has so improved that it not necessary.” He then concluded by noting, “Education has so improved that the 18-year-olds are intelligent enough to vote.” *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6952.

²⁴⁷ In *South Carolina v. Katzenbach*, Chief Justice Earl Warren noted that although literacy tests were not necessarily discriminatory in and of themselves, in a number of states such tests “have been instituted with the purpose of disenfranchising Negroes, have been framed in such a way as to facilitate this aim, and have been administered in a discriminatory fashion for many years.” *South Carolina v. Katzenbach*, 383 U.S. 301 (1966): 333–34. See also Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 263–68, 273–75.

CHAPTER 5: A SAFETY VALVE

As discussed in the previous chapter, the student protests of the late 1960s lent powerful ammunition to those who opposed lowering the voting age to eighteen. Skeptics pointed to political demonstrations on college campuses nationwide as evidence that eighteen- to twenty-one year-olds were much too disruptive, irresponsible, and radical to be permitted to vote. Proponents of eighteen-year-old voting were acutely aware that the campus demonstrations were hurting their cause; as one activist noted resignedly, “Until the turmoil of the universities subsides, 18-year-olds will be without a vote.”²⁴⁸

However, the student protests may well have actually bolstered support for eighteen-year-old voting, at least at the Congressional level. During the late 1960s, a surprising number of federal legislators seized on the idea that lowering the voting age to eighteen would stem the rising tide of student unrest by channeling youthful energies into less-frightening forms of political expression. Proponents of this ‘safety valve’ theory argued that although extending the vote was unlikely to divert the very small group of true militants away from radical activities, it would substantially undermine the revolutionaries’ appeal to their largely conventional and law-abiding classmates.

²⁴⁸ Statement of Alan M. DiScullio, Youth Franchise Coalition, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 132.

A number of commentators have casually remarked on this aspect of the campaign for the Twenty-sixth Amendment. Most notably, Benjamin Ginsberg cites eighteen-year-old voting as a “clear-cut example” of the way in which governments often use elections as a method of social control.²⁴⁹ “By providing routine electoral channels for political expression,” he maintains, “governments attempt to discourage more violent or disruptive forms of mass political activity.”²⁵⁰

The safety valve rationale warrants further examination, however. While it is likely impossible to conclusively determine whether the student protests of the late 1960s ultimately harmed the eighteen-year-old voting movement more than they helped it, or vice versa,²⁵¹ it is something of a puzzle why these ‘channeling’ arguments gained so much traction. As I explain, the fundamental logic underpinning this set of arguments conflicted sharply with the particular understanding of the franchise that otherwise dominated the voting age debates. Nevertheless, I argue, these conceptual tensions paled next to federal legislators’ palpable fear about what was happening on the nation’s campuses. In this context, safety valve arguments had a powerful appeal.

²⁴⁹ Benjamin Ginsberg, *The Consequences of Consent: Elections, Citizen Control and Popular Acquiescence* (Reading, MA: Addison-Wesley Publishing Co., 1982), 11–14.

²⁵⁰ *Ibid.*, 9. Other writers who have suggested that safety valve arguments played a role in lowering the voting age include Manfred Berg, “Soldiers and Citizens: War and Voting Rights in American History,” in *Reflections on American Exceptionalism*, ed. David K. Adams and Cornelis A. van Minnen (Staffordshire, England: Keele University Press, Ryburn Publishing, 1994), 213; Daniel Ferguson and Theodore Lowi, “Reforming American Electoral Politics: Let’s Take ‘No’ for an Answer,” *PS: Political Science and Politics* 34 (June 2001): 279; David E. Kyvig, *Explicit and Authentic Acts: Amending the U.S. Constitution, 1776–1995* (Lawrence, KS: University Press of Kansas, 1996), 365–66.; Elizabeth S. Scott, “The Legal Construction of Adolescence,” *Hofstra Law Review* 29 (Winter 2000): 564.

²⁵¹ A national survey in September 1970 found that 30% of respondents agreed with the statement, “One way to keep young people from becoming radicals is to give them the vote at 18,” while 56% disagreed (14% were not sure). Similarly, 39% agreed and 59% disagreed (10% not sure) with the statement, “By the way they have acted in student demonstrations, young people under 21 have shown they should not have the vote.” Hazel Erskine, “The Polls: The Politics of Age,” *The Public Opinion Quarterly* 35, no. 3 (Autumn, 1971): 495.

This discussion also illustrates a broader point that I have made before, that the campaign for eighteen-year-old voting was, at its core, a profoundly conservative movement. Unlike other suffrage campaigns, the charge for eighteen-year-old voting was largely led by legislators, rather than by potential enfranchisees. By and large, these legislators were not interested in radically overhauling either the franchise or young people's political status. On the contrary, the notion of lowering the voting age took on real momentum only when members of Congress began to believe that giving voting rights to eighteen- to twenty-year-olds would help to restore order, soothe dissent, and preserve the authority of existing political institutions.

I. Redirecting Dissent

Left-leaning students began to organize on college campuses during the early 1960s. Inspired by the civil rights movement, groups like Students for a Democratic Society—which would later become the standard-bearer for the antiwar cause—focused mainly on social justice issues.²⁵² As the Vietnam War escalated, however, student activists became increasingly radicalized. One commentator notes that during the 1968–69 academic year, there were 150 violent demonstrations—not to mention many more nonviolent protests—on campuses across the nation, including Columbia, Cornell, Harvard, Berkeley, and San Francisco State.²⁵³ After a brief lull in protest activity during the winter of 1969 and spring of 1970, the American invasion of Cambodia on April 30,

²⁵² James T. Patterson, *Grand Expectations: The United States, 1945–1974* (New York: Oxford University Press, 1996), 621–25; Doug Rossinow, “The New Left: Democratic Reformers or Left-Wing Revolutionaries?” in *The Columbia Guide to America in the 1960s*, eds. David R. Farber and Beth L. Bailey (New York: Columbia University Press, 2001), 91–2.

²⁵³ *Ibid.*, 686–87. See also Terry H. Anderson, *The Movement and the Sixties* (New York: Oxford University Press, 1995), 294–99; William H. Chafe, *The Unfinished Journey: America Since World War II* (New York: Oxford University Press, 1995), 320–28, 405–8; Maurice Isserman and Michael Kazin, *America Divided: The Civil War of the 1960s* (New York: Oxford University Press, 2000), 228–30; Diane Ravitch, *The Troubled Crusade: American Education 1945–1980* (New York: Basic Books, 1983), 182–227.

1970, sparked a new wave of demonstrations.²⁵⁴ In May 1970, National Guardsmen killed four student protesters at Kent State University and Mississippi police killed two at Jackson State College; nearly twenty-five percent of college students were involved in some sort of demonstration, and more than seventy-five colleges and universities had to close down for the rest of the year.²⁵⁵

Members of Congress—like most Americans²⁵⁶—were overwhelmingly outraged and frightened by what was happening on college campuses during the late 1960s. Speaking in the summer of 1968, Representative John Rooney (D-NY) captured the dominant sentiment:

They [the protesters] represent the socially immature who respond to pressures by emotional reactions rather than by any mental process. They are the ones who think with their glands instead of their brains. They are the ones who find it easier not to conform to society's established rules and customs but to protest and demonstrate without actually being aware of what they are against or what they are for.

They are the ones who in protest against the 'establishment' find themselves the willing slaves of the lunatic fringe who manipulate them as though they were puppets on a string.

They are the ones who think that an unkempt appearance – whether it be beards and flowing hair, unwashed bodies and filthy garments, or loose and shoddy morals – give them the solace and distinction to which they aspire.²⁵⁷

At the same time, though, some began to argue that expanding the franchise downward was the only way to contain youthful rebellion. In 1968, Representative Kenneth Hechler (D-WV) wondered “whether the senseless violence, animal energy, and nihilistic attacks on the ‘Establishment’ could not be tempered and directed into useful

²⁵⁴ Ravitch, *The Troubled Crusade*, 217, 219; Patterson, *Grand Expectations*, 754–755.

²⁵⁵ Patterson, *Grand Expectations*, 755.

²⁵⁶ Patterson, *Grand Expectations*, 455, 687–88; Ravitch, *The Troubled Crusade*, 216–17; David Farber, “The Vietnam War,” in *Columbia Guide*, 41.

²⁵⁷ *The President's Requested Legislation to Lower the National Voting Age to 18 Years*. 90th Cong., 2d sess., *Congressional Record* 114 (July 12, 1968): 21069.

channels if opportunities for expression were afforded at the ballot box.”²⁵⁸ Senator William Proxmire (D-WI) commented, “The situations on many of our college campuses today, alarming as they are, raise this question: ‘Why not allow students the right to make a positive choice as an alternative to a negative protest?’”²⁵⁹

Many proponents warned that unless young Americans were given the right to vote, the tide of dissent would only continue to rise. Speaking in 1968, Senator Birch Bayh (D-IN) declared:

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.²⁶⁰

In the same set of hearings, Representative Hechler ominously predicted, “At this crucial point, if we deny the right to vote to those young people between the ages of 18 and 20, it is entirely possible that they will join the more militant minority of their fellow students and engage in destructive activities of a dangerous nature.”²⁶¹

Indeed, advocates often noted that demography was on the side of the young; the enormous baby boom cohort began to turn eighteen in 1964, and the proportion of those in their late teens and early twenties subsequently skyrocketed.²⁶² In 1967, Representative John Saylor (R-PA) noted that “it is hard for us to recognize adequately

²⁵⁸ *Voting at 18*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19135.

²⁵⁹ *The President Proposes Broadening of the Electorate*, 90th Cong., 2d sess., *Congressional Record* 114 (June 28, 1968): 19248.

²⁶⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 14, 1968, 2.

²⁶¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 74.

²⁶² Landon Y. Jones, *Great Expectations: America and the Baby Boom Generation* (New York: Ballantine Books, 1980), 91.

the impact of the statistical projection that one-half of our population will be under 25 within five years.” Ignoring this group, he warned, could only lead to disaster. “By allowing these energetic young persons of the 20th century to drift rather than immerse themselves in our society, we may be encouraging them to become permanently alienated politically.”²⁶³

Because these college-aged Americans were excluded from the mainstream political process, proponents argued, they were easy pickings for the small coterie of truly radical militants supposedly at the helm of the student protest movement. Legislators repeatedly suggested that the protests were spearheaded by a tiny but very dangerous group of leaders. Representative Charles Price (D-IL) described these leaders as “a small revolutionary cadre bent on destroying the so-called system that we live in and the ‘establishment’ that runs it.”²⁶⁴ More than a few legislators who favored a lower voting age darkly warned that the student protests were affiliated with enemies of the state. Representative Richard Fulton (D-TN) described the demonstrations as “antisocial and often anti-American activities.”²⁶⁵ Representative Thomas Railsback (R-IL) went further: “We really have not given these young people power, but they have found that they do have power—power to disrupt, to disturb, to ruin, to destroy. And they have sinister support and encouragement from outside this country.”²⁶⁶

²⁶³ *The Case for Lowering the Voting Age to 18*, 90th Cong., 1st sess., *Congressional Record* 113 (February 9, 1967): 3178.

²⁶⁴ *Constitutional Amendment on Voting Age*, 90th Cong., 2d sess., *Congressional Record* 114 (July 8, 1978): 20101.

²⁶⁵ *Eighteen-Year-Old Vote*, 90th Cong. 2d sess., *Congressional Record* 114 (June 12, 1968): 17020.

²⁶⁶ Written statement, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 205.

The vast majority of young people, on the other hand, were largely conventional, law-abiding folk, proponents maintained. In 1969, Representative Robert Michel (R-IL) declared:

Only an infinitesimal minority of students is guilty of criminal, seditious, treasonable, and anarchic conduct. The overwhelming majority of our young people, whether they are in high school or college, are anxious to continue their education and resent having it interrupted by juveniles of all ages.²⁶⁷

On this logic, these ‘good kids’ were drawn to the protest leaders not because they truly believed in the merits of public demonstrations, but because they lacked other options for political expression. Lowering the voting age, advocates claimed, would dramatically undercut the protest leaders’ appeal. In 1968, Senator Jacob Javits (R-IL) declared, “I am convinced that self-styled student leaders who urge . . . acts of civil disobedience would find themselves with little or no support if students were given a more meaningful role in the electoral process.”²⁶⁸ A presidential commission established to investigate violence in society concluded in 1969 that reducing the voting age to eighteen would help ameliorate the student protests.²⁶⁹ In a 1970 Congressional hearing, one commission member explained:

[T]he radical minority, the dissidents are going to cause a fuss, whether they have got the vote or not. But how much support they have in the rest of the community, the silent majority if you will, of young people, is going to depend on the options available to the majority. We can take a lot of the wind out of the

²⁶⁷ *The Rights of the Majorities*, 91st Cong., 1st sess., *Congressional Record* 115 (November 13, 1969): 43117.

²⁶⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age*, 90th Cong., 2d sess., May 14, 1968, 11.

²⁶⁹ National Commission on the Causes and Prevention of Violence, *To Establish Justice, To Insure Domestic Tranquility: Final Report of the National Commission on the Causes and Prevention of Violence* (Washington, DC: GPO, 1969), xix, 224.

sails of some of the radicals by giving all young people an opportunity to participate legitimately in the system.²⁷⁰

Conveniently, advocates of eighteen-year-old voting suggested, the radical student leaders were unlikely to cast votes themselves. Speaking in early 1970, Senator Marlow Cook (R-KY) asserted that the most dedicated protesters would not register and vote: “They probably feel that the system that they want to overthrow is, in their mind, so bad that they would not even participate anyway.”²⁷¹

These safety valve arguments for eighteen-year-old voting were remarkably popular between 1968 and 1970. Legislators across the political spectrum repeatedly voiced hopes that lowering the voting age might quell the student protests mushrooming on campuses nationwide. In the Congressional debates of June 17, 1970, when the House debated and finally passed the eighteen-year-old voting amendment to the Voting Rights Act renewal bill, the sense of urgency was almost tangible; expanding the franchise, advocates claimed, was a key to bringing disaffected youth back into the fold and restoring order.

II. A Problematic Argument

Few opponents of eighteen-year-old voting directly challenged these safety valve arguments, preferring to concentrate their critiques elsewhere. This silence is especially notable given the conceptual tensions surrounding this particular rationale for lowering

²⁷⁰ Statement of W. Walter Menninger, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 33.

²⁷¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 42.

the voting age. Specifically, the theory of the vote underlying safety valve arguments clashed with other conceptions of the franchise that predominated elsewhere in the voting age debates.

Arguments about rechanneling dissent rested on the notion that the right to vote can—and should—be used to make people into better citizens. Proponents of eighteen-year-old voting maintained that eighteen-year-voting would inspire young people to join in the process of self-government. “It is self-evident,” Representative Hechler declared, “that [lowering the voting age] will awaken [young people] to a new sense of responsibility toward our Nation, and direct their energies and interests toward the constructive task of making democracy work.”²⁷²

This perspective was at odds with the idea of the franchise as a reward for or emblem of good citizenship that prevailed elsewhere in the voting age debate. Two of the key arguments for eighteen-year-old voting—the soldier-voter theory and the qualified voter rationale—rested on the idea that voting is a fundamental right of those who have demonstrated that they are good citizens. When talking about soldiers, advocates suggested that the franchise was the prerogative of those who assume significant civic burdens. Similarly, the argument that young people should have the right to vote because they were highly educated and well-informed about politics hinged on the idea that the right to vote is properly granted as a reward to those who have demonstrated their civic commitment.

An even stronger conception of the franchise as fundamental right underpinned the argument that the movement for eighteen-year-old voting was akin to campaigns for

²⁷² *Voting at 18*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19135.

African-American and woman suffrage.²⁷³ On this line of reasoning, a vision of the vote as an ‘emblem’ or mark of true citizenship underpinned many advocates’ insistence that it was not only mistaken, but also profoundly insulting to deny eighteen- to twenty-year-olds the vote.

All of these perspectives, while distinct from one another, conflicted with the vote-as-training-device idea that lay at the heart of the safety valve argument for eighteen-year-old voting. However, this theoretical conflict about the nature of the vote largely went unnoticed. Most advocates seemed to move seamlessly between the various arguments for eighteen-year-old voting, disregarding underlying inconsistencies about the nature of the vote, and opponents failed to remark on this dissonance.

Indeed, the rare mentions of this issue in the Congressional debates generally came from outside the legislature. For instance, Harvard law professor Paul Freund, whose letters of support were frequently entered into the *Record*, seemed to distinguish between voting as a right and voting as a mechanism for building better citizens in a 1968 address that was later reprinted in committee hearings:

The road to reconciliation here is to devise new forms of participation and shared responsibility. 'Responsibility,' said Justice Brandeis, the wisest man I have known, 'is the great developer of men.' When the struggle for woman suffrage was raging, Brandeis argued for the reform in his own distinctive terms: not that it is woman's right, but that we cannot afford to shield her from sharing in the responsibilities of citizenship. When the radical labor tactics of the I.W.W. brought pressures for repression, Brandeis' [sic] advice was to place representatives of the I.W.W. in positions of common responsibilities. If I make a similar suggestion in the case of students, I hope it will not be construed as a patronizing counsel any more that Brandeis was patronizing toward women as voters or radical labor leaders as collaborators in the industrial community.²⁷⁴

²⁷³ I discuss such arguments at length in the next chapter.

²⁷⁴ Paul Freund, “The Student Generation and Social Regeneration,” June 9, 1968, reprinted Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress*

In his testimony to Congress, Theodore Sorensen, former special counsel to President Kennedy, betrayed a certain discomfort with the idea of expanding the franchise in order to alleviate social unrest, as opposed to granting it as a matter of right or reward. Sorensen, former special counsel to President Kennedy, passionately argued that young people's dissent was a understandable consequence of their disenfranchisement, only to quickly back away from the logical consequences of his own argument:

We should not [lower the voting age to eighteen] in the foolish expectation that it will greatly enlighten or transform either the electorate or the young. We should do it because there is no longer a legitimate reason not to do it—because unfair and arbitrary distinctions are repugnant to a democracy—and above all, because it is right.²⁷⁵

By and large, however, members of Congress were untroubled by any tensions between the theory of the vote that underlay arguments about channeling dissent and the perhaps more familiar conceptions of the franchise as right, reward, and/or emblem that appeared elsewhere in the debates. In the next section, I examine why despite their flaws, safety valve arguments gained such momentum in the waning years of the 1960s.

III. A Powerful Appeal

The safety valve argument's success is largely due to the fact, noted above, that the campaign for eighteen-year-old voting was primarily spearheaded by legislators, rather than by young people themselves. From the perspective of those in government

Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147, 91st Cong., 2d sess., March 9, 1970, 1970, 173.

²⁷⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147, 91st Cong., 2d sess., February 16, 1970, 17.*

during the late 1960s, the safety valve theory resonated in three ways: First, it offered the hope of restoring young Americans' faith in the established political process and the power of the vote to effect change. Second, some legislators cherished the notion that they might benefit concretely if young people refocused their political energies on, say, congressional campaigns. Finally, there was a often-unarticulated but distinct wish that granting eighteen-year-olds the franchise would undermine the legitimacy of political action outside the voting booth.

A. Building Faith

As described above, many members of Congress were infuriated by the campus demonstrations. Some legislators, however, responded more with fear than with anger. They fretted that the youth demonstrations, and the social changes that accompanied them, represented not simply unhappiness with certain governmental policies but a more profound disaffection with the institutions and mechanisms of American society. They hoped that expanding voting rights downward would do more than offer an alternative venue for political expression; they suggested that it would also encourage young people to believe in the efficacy of representative democracy itself. In the halls of Congress during the late 1960s, this was a powerful argument.

To give some context, it is worth noting that the idea of using the franchise to redress youthful alienation was, at least in part, a new version of an old argument that had percolated throughout the voting age debates for decades. Specifically, proponents of a lower voting age had long argued that eighteen-year-old voting could be a useful antidote to youthful voter apathy, as evidenced by low turnout rates. They pointed to the three-year period between the average high school graduation age of eighteen and the

minimum voting age of twenty-one as the chief culprit behind low voting rates among Americans ages twenty-one to thirty. Speaking in 1943, Representative Estes Kefauver (D-TN) asked rhetorically:

[I]sn't the strongest argument [for eighteen-year-old voting] that boys and girls ordinarily finish high school when about 18 years of age, and at that time civics, political science, and matters of responsibility in government are very much in their minds, and if they don't exercise those responsibilities immediately, in the 3 years they may lose interest?²⁷⁶

Advocates of eighteen-year-old voting reiterated this theme with surprising frequency through the 1950s and into the 1960s. The modern educational system produced politically knowledgeable and engaged eighteen-year-olds, they argued, but the schools' good work was undone by the three-year wait for voting rights. In 1959, Representative Hechler suggested that while military service–voting, reciprocity, and qualified-voter claims were all compelling reasons to lower the voting age, addressing this dropoff in civic interest was a more urgent rationale:

The first great stirring of intellectual interest in public affairs takes place in high school, both as a result of social studies courses and participation in student elections, Hi-Y, Boys State, and other activities. Dampen that interest by postponing voting responsibility until age 21 and you are dulling the edge of their interest in civic affairs.²⁷⁷

Representative Arnold Olsen (D-MT), speaking in early 1967, echoed these sentiments:

Our high schools are succeeding in instilling in our young citizens an interest in their Government, and it is my conviction that we are discouraging this important, vibrant segment of our population if we continue to insist that young Americans remain on the sidelines for 3 years after so many of them have reached the peak of interest and enthusiasm.²⁷⁸

²⁷⁶ House Judiciary Committee, Subcommittee No. 1, *A 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*, 78th Cong., 1st sess., October 20, 1943, 11–12.

²⁷⁷ *Constitutional Amendment to Lower the Voting Age to 18*, 86th Cong., 1st sess., *Congressional Record* 105 (September 1, 1959): 17622.

²⁷⁸ *To Lower the Voting Age*, 90th Cong., 1st sess., *Congressional Record* 113 (January 16, 1967): 458.

Young Americans might be full of civic energy at high school graduation, but without the vote, their interest quickly faded, proponents claimed. In a report to President Johnson in December 1963, the President's Commission on Registration and Voting Participation recommended lowering the voting age specifically to remedy low voter turnout rates among the young.²⁷⁹ Senator Birch Bayh (D-IN), speaking in 1967, warned that high school graduates soon became consumed with worldly concerns that distracted them from civic issues: "By the time they have achieved the age of 21, many young people have become deeply involved in military, educational, family, or vocational activities. Consequently, their previous interest in public affairs has diminished or has been overshadowed."²⁸⁰

Underpinning these concerns about low voter turnout among the young were deeper worries about young Americans' attitude towards the democratic process. Throughout the 1950s and into the mid-to-late 1960s, legislators occasionally fretted that during the three years between high school graduation and eligibility to vote, many young Americans became not just distracted from voting, but profoundly alienated from political life. In 1966, Representative William D. Ford (D-MI) suggested that in that crucial three-year period "a kind of political vacuum develops, and through stagnation, frustration, and apathy, the Nation is denied a substantial number of potential lifetime voters."²⁸¹

²⁷⁹ Excerpt from commission report introduced into Record by Representative Hechler, *Lowering Voting Age to 18*, 88th Cong., 1st sess., *Congressional Record* 109 (December 23, 1963): 25498.

²⁸⁰ *Extending the Right of Suffrage to the 18- to 20-Year Old Group*, 90th Cong., 1st sess., *Congressional Record* 113 (January 16, 1967): 531.

²⁸¹ *Resolution to Lower Voting Age*, 89th Cong., 2d sess., *Congressional Record* 112 (March 17, 1966): 6185.

Not only was this disengagement a matter of concern in and of itself, but at the height of the Cold War, many worried that alienated eighteen- to twenty-one year-olds were easy targets for Communist recruiters. At a 1952 Congressional hearing, Senator Harley Kilgore (D-WV) noted ominously:

I find that a great number of people who . . . went astray after false gods such as communism went astray during those early periods before the age of 21 because they were seeking for some way to express themselves. The Communist groups very cleverly made that up and allowed them to have a large voice in their meetings with the idea of developing Communism from them.²⁸²

Lowering the voting age, advocates argued, would remedy youthful voter apathy as well as its related civic pathologies. The theory was that eighteen-year-old voting would pull youth into the political process at the peak of their interest and enthusiasm. Representative William St. Onge (D-CT) reiterated Senator Bayh's concerns that by age twenty-one, most youth were "preoccupied with family and work . . . and thereafter they usually follow a course of indifference toward their voting rights." But by "[a]llowing this group to participate in national elections at the point when their political knowledge and enthusiasm is highest," he argued, they "would develop the habits necessary for a lifetime of civic responsibility."²⁸³ Others invoked similar arguments: In 1951, Representative Edward Jenison (R-IL) suggested, "Voting, or not voting, is a habit [G]ood habits should be developed early in life. A young person interested in meeting this primary responsibility of representative government is likely to continue this interest and continue to meet that responsibility."²⁸⁴ Senator Joseph Tydings (D-MD), speaking

²⁸² Senate Judiciary Committee, Subcommittee, *Proposing an Amendment to the Constitution of the United States to Grant to Citizens of the United States Who Have Attained the Age of Eighteen the Right to Vote*, 82d Cong., 2d sess., June 17, 1952, 60.

²⁸³ *Extending the Vote to 18-Year-Olds*, 90th Cong., 1st sess., *Congressional Record* 113 (January 30, 1967): 1963.

²⁸⁴ *University of Illinois Students Urge Voting Age Be Lowered to 18*, 82d Cong., 1st sess., *Congressional Record* 97 (October 10, 1951): A6743.

years later, concurred: “[E]arly participation in the elective process is likely to lead to a lifetime of active citizenship.”²⁸⁵

Safety valve arguments for eighteen-year-old voting evolved out of these earlier ideas that lowering the voting age would mitigate youthful voter apathy. Like their predecessors in earlier decades, advocates of eighteen-year-old voting in the late 1960s argued that reducing the voting age would pull young Americans into the mainstream of political life. Worries that young people lost all interest in politics between the ages of eighteen and twenty-one, however, were replaced by new concerns that these same young people were highly politicized. One of the few people to acknowledge the connection between these arguments was Representative Hechler, who remarked in 1968:

In the] 1950’s when gray-flanneled youth declined to be identified with civic issues lest the corporate recruiters would regard overactive participation as a blemish on student records[,] I favored the 18-year-old vote then in order to blast some students out of their indifference. Today, the 18-year-old vote is needed to harness the energy of young people and direct it into useful and constructive channels. . . .²⁸⁶

If low voter turnout rates among Americans aged eighteen to twenty-one had been symptomatic of a lack of interest in public affairs among youth, according to advocates, then the student protests were evidence of quite the opposite. Proponents of eighteen-year-old voting argued that campus demonstrations were merely the natural manifestation of young people’s desire to express themselves politically: without the right to vote, college-aged Americans had no way other than demonstrations to make their voices heard. Representative William Hathaway (D-ME) explained, “If we deny them the right

²⁸⁵ *Voting Age Should Be Lowered to 18*, 90th Cong., 2d sess., *Congressional Record* 114 (June 28, 1968): 19278.

²⁸⁶ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 74.

to vote, they must seek other channels for expressing their views and influencing decisions of Government, including various forms of protest.”²⁸⁷ Senator Ralph Yarborough (D-TX) agreed, “I think it is hypocritical to criticize young people for demonstrating in the streets and for not expressing their dissenting views through proper channels of dissent when we close to them the most widely accepted channel of dissent—the ballot box.”²⁸⁸

Representative Hathaway spoke for many when he suggested that the protests were problematic simply because they were “destructive to our social order.”²⁸⁹ However, just like those who had fretted that youthful voter apathy revealed a troubling disengagement from politics, more than a few advocates of eighteen-year-old voting voiced concerns that the student demonstrations betrayed deeper pathologies. Over and over again, proponents of lowering the voting age referred to pervasive feelings of “frustration and alienation; a dislike for and distrust of ‘the establishment.’” among young Americans.²⁹⁰ In May 1968 Senate subcommittee hearings, Senator Howard Cannon (D-NV) asserted:

There have been increasing signs that the young people of this nation are not ‘tuned in’ to the political process in this country. Day after day we read that the most talented – and articulate – of our young people harbor deep suspicion that those in positions of political authority are unresponsive to the needs and the values of this democratic republic.²⁹¹

²⁸⁷ L.B.J.: *A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19081.

²⁸⁸ *Voting Rights Act Amendments of 1969*, 2d sess., *Congressional Record* 116 (March 11, 1970): 6948.

²⁸⁹ L.B.J.: *A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19081.

²⁹⁰ Representative Richard Fulton (D-TN), *Eighteen-Year-Old Vote*, 90th Cong., 2d sess., *Congressional Record* 114 (June 12, 1968): 17020.

²⁹¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 15, 1968, 39.

Indeed, the specific attitudes—disillusionment, frustration, and cynicism—that so alarmed legislators of the late 1960s were similar to those that had concerned their predecessors in earlier years; the difference was that now, youthful discontent was manifesting itself not just in low voter turnout, but in direct challenges to political authority.

In such a charged atmosphere, the perennial fear that alienated young people were easy targets for dangerous influences took on new force. In 1970 Representative James Cleveland (R-NH) warned:

A consequence of not lowering the voting age seems to be that young people who are interested and involved in public issues tend to become frustrated, thus providing a ready audience for the small number of radical disrupters who are always looking for a confrontation.²⁹²

Similarly, Representative Railsback declared dramatically, “It is perfectly clear to me that [lowering the voting age to eighteen] is the only realistic hope of challenging our youth to work within the system rather than turning them aside to be picked up and used by those who seek to destroy the system through violence.”²⁹³

Nothing short of the survival of the American political system was at stake, advocates claimed. In 1970, Representative John Anderson (R-IL) remarked that White House staffers who had toured college campuses had been “shocked” by students’ distrust of established political institutions. He warned:

We can either convince [these young people] that the ballot box and the elective process is an effective means of accomplishing change or inevitably they will succumb to the same pressures that have brought the demise of democracy when faith in man’s right to choose has begun to fade.²⁹⁴

²⁹² *On Lowering the Voting Age*, 91st Cong., 2d sess., *Congressional Record* 116 (April 15, 1970): 11931.

²⁹³ *On Constitutionality of Congress Lowering the Voting Age to 18 By Statute*, 91st Cong., 2d sess., *Congressional Record* 116 (May 12, 1970): 15441.

²⁹⁴ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20163.

Lowering the voting age, proponents maintained, would show young people that the democratic process was responsive to their needs. Representative Lawrence Hogan (R-MD) suggested that the “ratification of a constitutional amendment to give [eighteen- to twenty-year-olds] an active role in our elective system would demonstrate most effectively to disbelievers and dissenters that progressive change is possible within our governmental system.”²⁹⁵ In 1968, Representative Charles Price (D-IL) declared:

[W]e must prove that our faith in the democratic electoral process is stronger and more productive than [the radicals’] belief in violence and civil disobedience as instruments for producing social change.

We must unclog the political channels of the ‘system’ that they rail against. We must give the amateurs and the young a chance to partake of the sense of accomplishment that comes from victories for progress and sanity that are won at the ballot boxes and not in the streets.²⁹⁶

Legislators further argued that lowering the voting age would be a statement of confidence in American youth’s ability to participate in the process of self-government, which in turn would inspire young people to join in those processes. “It is self-evident,” declared Representative Hechler, “that confidence placed in young people will awaken them to a new sense of responsibility toward our Nation, and direct their energies and interests toward the constructive task of making democracy work.”²⁹⁷ Representative Herbert Tenzer (D-NY) agreed:

In these troubled times, [lowering the voting age] will give us the opportunity to bridge the ‘generation gap’ by reaching out to the youth of the Nation and not merely allowing them—but asking them to join hands in the process of self-government and share in the establishment of the goals necessary for the improvement of society.²⁹⁸

²⁹⁵ *Voting Age Legislation*, 91st Cong., 1st sess., *Congressional Record* 115 (August 5, 1969): 22257.

²⁹⁶ *Constitutional Amendment on Voting Age*, 90th Cong., 2d sess., *Congressional Record* 114 (July 8, 1968): 20101.

²⁹⁷ *Voting at 18*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19135.

²⁹⁸ *L.B.J.: A President Who Understands Young People*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19079.

The notion that lowering the voting would build faith in the processes of representative government among American youth was not born solely out of the chaos of the late 1960s. Proponents of eighteen-year-old voting had been making related claims since the early 1940s, although with limited success. However, with the rise in student activism during the mid-to-late 1960s, the idea that eighteen-year-old voting would rectify the alienation and frustration that ostensibly fueled the student protests gained considerable appeal.

B. An Untapped Resource

Although legislators' concern for the health and stability of the American political system often seemed genuine, more than a few politicians revealed rather less lofty reasons for seeking to rechannel young people's political efforts into mainstream politics. If college students could vote, they suggested, they might well be willing to volunteer their copious time and energy for all sorts of political campaigns, not least of all those of members of Congress running for reelection.

In this respect Senator Eugene McCarthy's 1968 presidential campaign was a watershed event. Attracted by McCarthy's antiwar stance, among other things, thousands of college students volunteered in the New Hampshire and other primaries. Cutting their hair to 'get clean for Gene,' they enthusiastically stuffed envelopes and canvassed door-to-door for their candidate.²⁹⁹

Senator McCarthy ultimately lost the Democratic nomination, but the effect of his campaign on the eighteen-year-old voting movement was long-lasting. His fellow politicians frequently referred with admiration to McCarthy's squads of young

²⁹⁹ Patterson, *Grand Expectations*, 690; Jones, *Great Expectations*, 113; Chafe, *Unfinished Journey*, 348.

volunteers. Representative Abner Mikva (D-IL) remarked, “Whether one supported Senator McCarthy or not, it is impossible to deny the impact which he and his initially youthful supporters had on the American political system.”³⁰⁰ Senator Ted Moss (D-UT) declared, “Whether we agree with their choice of candidates or not, this is the kind of constructive activity we should encourage our dissenters to take.”³⁰¹

Some could barely contain their hopes that they, too, might be able to inspire the same sort of dedication, especially if young people were given the vote. In arguing for eighteen-year-old voting, Senator Javits cited the McCarthy campaign as “a very constructive object lesson about how to turn boundless energy, great ideals, and the burning resentments which young people have about many things . . . into action channels which are entirely in line with our system.” Although McCarthy was a Democrat and he was a Republican, Senator Javits noted, he was “absolutely convinced that . . . candidates in my party . . . could benefit from similar infusions of youthful talent and dedication to their own cause.” In his own reelection campaign, he added, he “hope[d] very much to have just this kind of youthful enthusiasm.”³⁰²

C. Undermining Protest

Beyond these cheerful hopes that lowering the voting age would mitigate the student protests and encourage young people to participate in the established political system, another, darker, thread also ran through the safety valve argument: the idea that

³⁰⁰ *Lowering the National Minimum Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (February 5, 1969): 2827.

³⁰¹ Written statement, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong. 2d sess., May 15, 1968, 98.

³⁰² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong. 2d sess., May 14, 1968, 11–12.

public protest itself was an illegitimate form of political participation. By arguing that the demonstrators had taken to the streets because they were denied the vote, many advocates implied that only the disenfranchised had an acceptable reason to protest; those who could vote had no business conducting public demonstrations. Again, this notion resonated strongly with members of Congress who were angered and frightened by what they were seeing on the nightly news.

Advocates of eighteen-year-old voting emphasized that the vote was the best and most acceptable way for American citizens to express their political preferences. In the words of one Congressional witness, the ballot box was the “most effective, most desirable, and most legitimate channel of political participation and expression.”³⁰³

In particular, proponents maintained, voting was the most appropriate venue for expressing dissent. Representative Allard Lowenstein (D-NY) characterized the vote as “the most basic tool for [avoiding] more violent redress of grievances in this country.”³⁰⁴ His compatriot Representative Bertram Podell (D-NY) concurred, “[W]e still look upon the vote as the ultimate weapon in our society . . . the instrument by which citizens may peacefully challenge the status quo”³⁰⁵

Implicit—and occasionally explicit—in these arguments was the idea that casting a vote was the only legitimate way for an American citizen to voice political preferences.

³⁰³ Statement of Ian McGowan, Executive Director, Youth Franchise Coalition, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 16, 1970, 46.

³⁰⁴ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 17, 1970, 115.

³⁰⁵ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20176

Speaking in 1968, Senator Gale McGee (D-WY) made this point obliquely: “The desire of young people to improve their world is a healthy sign, and it needs only to be channeled into an acceptable means of expression.”³⁰⁶ Representative Saylor suggested that the vote was at least the most obvious avenue for political participation:

Since our present political system has evolved as a practical—and effective—system of resolving conflict, I cannot readily imagine what kind of system could be created to replace it in the future. Certainly our young people should be given the opportunity to express themselves in our democratic and traditional way—at the polls.³⁰⁷

Other advocates of eighteen-year-old voting were more pointed, picking up on Representative Saylor’s implication that voting was the sole “democratic” way to voice political dissent. Representative Hogan argued that the vote was “the only way to strike out against the deficiencies in our society without destroying the system itself.”³⁰⁸

But the student protest leaders, declared Senator Charles Percy (R-IL) were “really trying to wreck society.”³⁰⁹ In one May 1968 Senate subcommittee hearing, a college-aged witness tried to defend the protesters, suggesting that students’ exclusion from decisionmaking processes was to blame for campus violence. He was promptly reprimanded by Senator Bayh, who was usually a steadfast supporter of youth concerns:

[T]his would be the same type of lack of maturity that would cause a group of citizens of the State to take arms and march on the State capitol and perhaps do bodily harm to the Governor because he vetoed a bill dealing with alcoholic beverages. We just do not do things this way in this country.³¹⁰

³⁰⁶ *Young People Need a Stake in the Future*, 90th Cong., 2d sess., *Congressional Record* 114 (July 1, 1968): 19491.

³⁰⁷ *The Case for Lowering the Voting Age to 18*, 90th Cong., 1st sess., *Congressional Record* 113 (February 9, 1967): 3178.

³⁰⁸ *Voting Age Legislation*, 91st Cong., 1st sess., *Congressional Record* 115 (August 5, 1969): 22257.

³⁰⁹ *President Nixon Is Urged to Veto H.R. 4249, Amendment to Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 18, 1970): 20350.

³¹⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 16, 1968, 97.

By urging that the voting age be lowered in order to channel youthful dissent away from the streets and towards the ballot box, advocates of eighteen-year-old voting emphasized the importance of the franchise while simultaneously undermining the legitimacy of political demonstrations, especially demonstrations by those entitled to vote. College-aged Americans themselves did not entirely fail to notice this phenomenon: In a Senate subcommittee hearing in early 1970, Senator Bayh asked witness and anthropology professor Margaret Mead why young people themselves did not uniformly favor a reduction in the voting age. Mead replied:

Well, there are some young people who feel if they are given the vote, then everybody will say, 'Now, you have got the vote, why don't you use it? You can settle everything by the vote.' I think there probably are people who will condemn any form of demonstration, no matter how peaceful, from people who have the vote. We have seen this before. We have seen minority groups told that because they have the vote they should use no other method of bringing things to the attention of the American public.³¹¹

Mead's words were prophetic: after the Supreme Court partially upheld legislation reducing the voting age to eighteen in December 1971, longtime eighteen-year-old voting advocate Senator Michael Mansfield of Montana declared:

Up to now the youth of today had a legitimate grievance . . . Now much of this has changed . . . the Supreme Court has shifted the burden and placed it where it belongs—on the young people themselves—on those who have raised their voices and pointed their fingers.³¹²

IV. Conclusion

In the years between 1968 and 1970, as the student protest movement swelled and

³¹¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 228.

³¹² *The Supreme Court Decision on the 18-Year-Old Vote*, 91st Cong., 2d sess., *Congressional Record* 116 (December 21, 1970): 42959.

its leaders' rhetoric became ever more heated, members of Congress became increasingly panicked. Beyond the immediate concerns of disrupted classes, unruly demonstrators, and burned draft cards, many legislators began to fear that the new generation was becoming dangerously cynical about the efficacy of established political institutions. They saw eighteen-year-old voting as a promising way to redirect young people's considerable energies and inspire new confidence in the mainstream political process.

It should be noted, of course, that lowering the voting age was far easier and certainly much cheaper than other possible ways of defusing the protests, such as abolishing the draft and/or pulling American troops out of Vietnam. Many politicians therefore eagerly seized on the safety valve rationale for lowering the voting age, despite its conceptual problems, in the hope that this small 'fix' would remedy a situation that seemed to be spiraling completely out of control.

CHAPTER 6: DISCRIMINATION

In March 1970, the voting age debates took a new and fateful turn. Frustrated by the ossified Congressional committee process and energized by recent Supreme Court decisions that expanded Congress's authority to protect voting rights, Senators Ted Kennedy (D-MA) and Mike Mansfield (D-MT) proposed amending the Voting Rights Act renewal bill to provide for eighteen-year-old voting. As I detailed in Chapter 2 this controversial maneuver proved to be just the catalyst that the voting age movement needed, setting into action a chain of events that led directly to the Twenty-sixth Amendment.

In Chapter 2, I argued that the legislative strategizing around the eighteen-year-old voting rider was rooted in advocates' many years of thwarted efforts. In this chapter, I demonstrate that the intellectual underpinning of Kennedy and Mansfield's proposal was similarly grounded in an argument that had been central to the voting age debates since the 1940s. Specifically, in asserting Congressional authority to lower the voting age through statute alone, those who supported the voting age rider to the Voting Rights Act maintained that excluding eighteen-, nineteen-, and twenty-year-olds from the franchise was as legally unacceptable as racial or gender voting discrimination. The legal angle was new; however, analogies between young Americans and other traditionally discriminated-against groups, especially African-Americans and women, were a longtime staple of campaigns for a lower voting age.

Interestingly, this particular dimension of the voting age debates barely surfaces in the secondary literature. This may be in part because, as I have discussed before, commentary on the Voting Rights Act rider and its subsequent treatment by the Supreme Court has generally been the province of legal scholars, who have tended to focus on the events of 1970 and early 1971 independently of the longstanding debates that preceded them.

It is also likely that, as with the qualified-voter arguments I discussed in Chapter 4, contemporary writers have tended to overlook the significance of advocates' analogies to blacks and women because such arguments are not necessarily compelling, especially to modern ears. Political theorist Judith Shklar, for example, has written that the Twenty-sixth amendment itself was utterly misguided in large part because the position of young Americans was nothing like that of other disenfranchised groups.³¹³

Nevertheless, the Congressional voting age debates demonstrate that whatever their limitations, comparisons between eighteen- to twenty-year-olds and other historically excluded groups played an important role in the quest for eighteen-year-old voting. Furthermore, such analogies were uniquely powerful during the late 1960s. By framing the voting age issue as a matter of unfair discrimination, advocates sought to tap into Congress' and the Court's newfound enthusiasm for protecting minority rights, especially voting rights. More subtly, proponents also both relied on and reinforced legislators' sense of themselves as being part of an inexorable historical march towards universal suffrage.

³¹³ Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991), 17–18. For more discussion of Shklar's assessment, see Chapter 7.

I. Woman Suffrage, African-American Voting, and the Minimum Voting Age

The core of advocates' argument for the legitimacy of the Voting Rights Act rider was that denying voting rights to eighteen- to twenty-year-old year olds amounted to unconstitutional discrimination that violated the Equal Protection Clause of the Fourteenth Amendment. Congress both could and should act to remedy this discrimination, proponents insisted, just as it was trying to remedy voting discrimination against blacks and other minority groups. As I explain in more detail below, the legal aspects to these arguments were derived from several Supreme Court cases and law review articles published in the mid-1960s. However, the notion that the situation of young Americans between the ages of eighteen and twenty-one was comparable to that of other previously-disenfranchised groups had been around for decades.

A. Unfair Treatment

During the 1940s and 1950s, advocates repeatedly compared their campaign to the woman suffrage movement. When the eighteen-year-old voting issue first surfaced at the national level in 1943, the Nineteenth Amendment was recent enough history that some members of Congress could still remember and draw parallels to those debates. At the outset of the very first Congressional hearing on lowering the voting age, Representative Jennings Randolph (D-WV) reminded the group that women's voting rights had once been an unpopular cause as well. "I can remember, as a young man, listening to heated debates . . . on the subject of woman suffrage."³¹⁴ Later in the same hearing, Georgia governor Ellis Arnall suggested that the arguments against eighteen-year-old voting were strikingly similar to those that had been offered against woman

³¹⁴ House Judiciary Committee, Subcommittee No.1., *A 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*, 78th Cong., 1st sess., October 20, 1943, 2.

suffrage, remarking, “As I remember it, one of the argument [sic] against woman suffrage was that women had no place in public affairs, that they knew nothing about it, and that therefore we would bring in a group who knew nothing about public affairs.”³¹⁵

Comparisons to the Nineteenth Amendment surfaced a number of times in the 1954 Senate debate on Senate Joint Resolution 53, the one proposal for an eighteen-year-old voting constitutional amendment ever to make it to the chamber’s floor prior to 1971. In particular, proponents referenced the woman suffrage amendment in response to critics’ frequent charges that a constitutional amendment lowering the voting age would trample traditional state authority over voting. Replying to Senator Richard Russell (D-GA), who was the standard-bearer for states’ rights, Senator Everett Dirksen (R-IL) declared that it was the campaign for women’s voting all over again:

There is no constitutional distinction between the amendment relating to woman suffrage and the question which is before the Senate today. The same argument was made on the floor at the time when the then Senator from California, Senator Sargent, introduced a joint resolution proposing the amendment to the Constitution to provide for women’s suffrage, and it took 41 years before it was adopted.³¹⁶

Throughout the 1960s, advocates of lowering the voting age continued to analogize the situation of modern young people to that of pre-Nineteenth Amendment women. Speaking in 1968, Representative Frederick Schwengel (R-IA) asserted, “For the most part, the argument against the 18-year-old vote smacks of that against woman suffrage: a supercilious view that women had no place in public affairs and that they were

³¹⁵ House Judiciary Committee, Subcommittee No.1., *A 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*, 78th Cong., 1st sess., October 20, 1943, 9.

³¹⁶ *Extension of Voting Rights to Citizens at Age of 18*, S.J. Res. 53, 83d Cong., 2d sess., *Congressional Record* 108 (May 21, 1954): 6970.

not well enough acquainted with political issues to make intelligent choices.”³¹⁷ Senator Joseph Tydings (D-MD) elaborated further:

[A]ll of the arguments made against giving young adults the vote . . . were used against extending the right of franchise to women in the United States. . . . It was argued that giving the vote to women would add to the population many persons whose idealism had not been tempered by practical experience. It was argued that women would be influenced by their parents and schools, by handsome rogues, by demagogues. Women, it was said, would affect elections even though they had little knowledge of or interest in local affairs.³¹⁸

In Senate debate on the Kennedy-Mansfield proposal, Senator Fred Harris (D-OK) reiterated the point, “Many of the arguments used today against the right of 18-year-olds to vote were also used in the fight against women’s suffrage 50-odd years ago. They are no longer acceptable.”³¹⁹

Beginning in the mid-to-late 1960s, though, proponents increasingly expanded their analogies beyond woman suffrage. Many, like Representative Shirley Chisholm (D-NY), the first black woman elected to Congress, drew comparisons to the African-American experience, noting that there were “close parallels between [the] situation [of young people] and the struggle of black Americans for political freedom in this country.”³²⁰ In Senate hearings held in early 1970, representatives from the National Association for the Advancement of Colored People testified in favor of lowering the

³¹⁷ *Are We Denying the Civil Rights of 30 Million?—The 18- to 21-Year-Olds and the Movers*, 90th Cong., 2d sess., *Congressional Record* 114 (August 1, 1968): 24811.

³¹⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary United States Senate Ninetieth Congress Second Session on S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 14, 1968, 8–9.

³¹⁹ *Voting Rights Act Amendment of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6946.

³²⁰ *Lowering the Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (July 29, 1969): 21301.

voting age to eighteen, explicitly connecting their own organization's core mission of racial equality to the campaign for eighteen-year-old voting.³²¹

Advocates repeatedly stressed that the reasons being advanced for the twenty-one-year minimum voting age were identical to the wrongheaded reasons that had historically been advanced to deny the franchise to various groups of American citizens. In the same set of 1970 Senate subcommittee hearings, Theodore Sorenson, who had been special counsel to President Kennedy, referenced earlier campaigns to abolish voting restrictions based on property ownership, race, and gender: "The arguments heard now—that the new group will be gullible, reckless, or improperly swayed—were heard and rejected then. Today there is no longer any valid reason or evidence to distinguish between the voting rights of 21-year-old citizens and 18-year-old citizens."³²² Representative Lee Hamilton (D-IN), speaking in 1969, argued that eighteen- to twenty-one year-olds, like previously disenfranchised groups, were being held to unreasonable standards:

Those opposed to lowering the voting seek proof positive that youth will handle their franchise intelligently even before having the opportunity to vote. The same impossible demand was made in opposition to female suffrage [sic] 50 years ago and equal voting rights for Negroes only 3 years ago."³²³ Recognizing the error of these previous judgments, proponents insisted, meant further expanding the franchise.

Before the Kennedy-Mansfield proposal appeared on the horizon, these sorts of arguments went largely unchallenged by those who opposed eighteen-year-old voting.

³²¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 9, 1970, 150–154

³²² Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 16, 1970, 16.

³²³ *New American Politics: Voting at 18*, 91st Cong., 1st sess., *Congressional Record* 115 (July 28, 1969): 14232.

Opponents were clearly troubled by advocates' comparisons to previous suffrage campaigns, but they struggled to articulate their objections. In debate on the Senate floor in 1954, Senator Russell became agitated when advocates analogized eighteen-year-old voting to woman suffrage, sputtering, "[I]f people cannot understand the difference between discrimination on account of sex and a classification on the basis of age, it is useless to argue and debate with them this or any proposed constitutional amendment."³²⁴ When the voting age debates peaked again in 1969–70, President Nixon trod cautiously, coming out in favor of a constitutional amendment permitting eighteen-year-old voting in national elections only. In explaining the President's rationale to a Senate subcommittee, Deputy Attorney General Richard Kleindienst betrayed discomfort with analogies to African-American and woman suffrage but did not elaborate: "I am not urging an across-the-board provision as in the existing 15th and 19th amendments because in my judgment age—unlike race and sex—may be a legitimate qualification on the right to vote. It is a question upon which differences of opinion may properly exist."³²⁵

B. Unconstitutional Discrimination

The Kennedy-Mansfield proposal gave new energy what had been up to that point a rather muted debate. By repackaging their arguments about discrimination into specific constitutional claims, and also by attaching the voting age issue to a landmark African-American rights bill, advocates raised the stakes of their analogies between young Americans and other historically excluded groups.

³²⁴ *Extension of Voting Rights to Citizens at Age of 18*, S.J. Res. 53, 83d Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6964.

³²⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., February 17, 1970, 79.

The proposed voting age rider to the Voting Rights Act renewal bill was inspired directly by the Supreme Court’s 1966 decision in *Katzenbach v. Morgan*,³²⁶ in which the Court upheld a challenged section of the Voting Rights Act of 1965. The Act had dramatically expanded the federal government’s authority over state voting practices. Designed to end persistent racial voting discrimination in the Deep South, the statute immediately suspended the use of literacy tests and other exclusionary ‘devices’ in jurisdictions that used such tests and had reported low voter turnout in the 1964 elections. These same jurisdictions were also required to obtain “preclearance” from the federal government before making any changes to their voting practices. The law further authorized federal examiners to go into the South to register voters and monitor local compliance.³²⁷

In a pair of 1966 cases, the Supreme Court upheld the Voting Rights Act as a legitimate exercise of federal authority under both the Fifteenth and Fourteenth Amendments. In *South Carolina v. Katzenbach*,³²⁸ the Court held that the Act’s core provisions were an “valid means” for Congress to enforce the long-ignored Fifteenth Amendment. Writing for the Court, Chief Justice Earl Warren noted that gentler measures had been unsuccessful: “Congress felt itself confronted by an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution.”³²⁹

³²⁶ 384 U.S. 641 (1966).

³²⁷ Samuel Issacharoff, Pamela S. Karlan, and Richard H. Pildes, *The Law of Democracy: Legal Structure of the Political Process* (Westbury, NY: Foundation Press, 1998), 274–75; Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), 263–64.

³²⁸ 383 U.S. 301 (1966).

³²⁹ *Ibid.*, 309.

In *Katzenbach v. Morgan*,³³⁰ the Court further rooted federal power over voting in the equal protection clause of the Fourteenth Amendment. *Morgan* dealt with the constitutionality of a provision in the Voting Rights Act establishing that no person who had successfully completed the sixth grade in a public or accredited private school in Puerto Rico in which the language of instruction was other than English could be denied the right to vote because of his or her inability to read or write English. This clause, Section 4(e), effectively outlawed New York's then-requirement that prospective voters pass an English literacy test.³³¹

The Court upheld Section 4(e) as a legitimate exercise of Congressional authority under Section 5 of the Fourteenth Amendment,³³² which grants Congress "the power to enforce, by appropriate legislation, the provisions of [the Fourteenth Amendment]."³³³ Writing for the majority, Justice William Brennan construed Congress's enforcement powers broadly. The legislature, he said, had clearly passed Section 4(e) as a way to enforce the equal protection clause.³³⁴ He offered two possible theories: First, Congress might have thought that disallowing New York's literacy test would enhance the Puerto Rican community's political power, which would "be helpful in gaining nondiscriminatory treatment in public services"³³⁵ Alternatively, Congress might have considered New York's literacy requirement in and of itself an "invidious discrimination" that violated the equal protection clause.³³⁶ In any event, the Court declined to second-guess Congress's judgment. "It is not for us to review the

³³⁰ 384 U.S. 641 (1966).

³³¹ *Katzenbach v. Morgan*, 384 U.S. 641, 643–44 (1966); *Ibid.*, 664 n. 3 (Harlan, J., dissenting).

³³² *Katzenbach v. Morgan*, 384 U.S. 641, 658 (1966).

³³³ U.S. Constitution, amend. 14, sec. 5.

³³⁴ *Katzenbach v. Morgan*, 384 U.S. 641, 652 (1966).

³³⁵ *Ibid.*, 652–53.

³³⁶ *Ibid.*, 653–56.

congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did.”³³⁷

The *Morgan* decision formed the intellectual basis for Senators Kennedy and Mansfield’s argument that Congress, could, and should, further amend the Voting Rights Act to provide for a lower voting age. (Actually, Kennedy may well have first gotten the idea from former Solicitor General-turned Harvard law professor Archibald Cox, who had argued in a 1966 *Harvard Law Review* article that in light of *Morgan*, Congress could likely reduce the voting age without a constitutional amendment.³³⁸) In March 1970 Senate hearings, Kennedy maintained that the Court’s logic applied as well to eighteen- to twenty-one year-olds as it did to New York’s Puerto Ricans. In his written statement, Kennedy drew on Brennan’s first theory, suggesting that those between the ages of eighteen and twenty-one needed the franchise in order to protect themselves against discriminatory treatment:

Congress could reasonably find that the reduction of the voting age to 18 is necessary in order to eliminate a very real discrimination that exists against the nation’s youth in the public services they receive. By reducing the voting age to 18, we can enable young Americans to improve their social and political circumstances, just as the Supreme Court in the *Morgan* case accepted the determination by Congress that the enfranchisement of Puerto Ricans in New York would give them a role in influencing the laws that protect and affect them.³³⁹

In his oral testimony, though, Kennedy extrapolated from Brennan’s second theory, arguing that denying the franchise to eighteen-, nineteen-, and twenty-one year-

³³⁷ *Ibid.*, 653..

³³⁸ Archibald Cox, “Foreword: Constitutional Adjudication and the Promotion of Human Rights,” *Harvard Law Review* 80 (November 1966): 107.

³³⁹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 9, 1970, 167.

olds was itself ‘invidious discrimination’ that violated the Equal Protection Clause of the Fourteenth Amendment:

Just as Congress has the power to find that an English literacy test discriminates against Spanish-speaking Americans, so Congress has the power to recognize the increased education and maturity of our youth and to find discrimination in the fact that young Americans who fight, work, marry, and pay taxes like other citizens are denied the right to vote, the most basic right of all.³⁴⁰

This constitutional angle breathed new life into advocates’ analogies between young Americans and other traditionally discriminated-against groups. Furthermore, the very fact that the voting age issue was now connected with the Voting Rights Act of 1965 intensified the analogy to black Americans in particular. By seeking to attach an eighteen-year-old voting provision to a landmark piece of legislation that was specifically designed to redress persistent voting discrimination against African-Americans, advocates pointedly linked the plight of eighteen- to twenty-one year-olds to that of disenfranchised Southern blacks. Representative Howard Robison (R-NY) made the connection explicit in June 1970:

There are two groups in our Nation which are excluded from the elective process in significant numbers—black citizens and those young people under 21. This legislative package is aimed at bringing to significant numbers in both groups the right of suffrage.³⁴¹

Similarly, Representative Carl Albert (D-OK) warned, “The House, if it votes down [the eighteen-year-old voting amendment to the Voting Rights Act], will have informed both

³⁴⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 9, 1970, 159.

³⁴¹ *Extending Voting Rights Act of 1965*, H.R. 4249, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20191.

the young and the Blacks that there is no place for them in the orderly political process.”³⁴²

The Kennedy-Mansfield proposal also finally galvanized a coherent response from those who resisted the notion that age restrictions on voting were comparable to racial or gender voting discrimination. Foes noted that some point of eligibility for the vote had to be set; after all, no one was suggesting that the minimum age requirement be discarded entirely. Testifying before a Senate subcommittee in March 1970, then-Assistant Attorney General William Rehnquist asked:

[W]hat is the ‘discrimination’ which Congress would seek to eliminate? Unless voting is to be done from the crib, the minimum age line must be drawn somewhere; can it really be said that to deny 20-, 19-, and 18-year-olds is ‘discrimination,’ while to deny the vote to 17-year-olds is sound legislative judgment?³⁴³

In a letter introduced into the *Record* by then-Representative Gerald Ford (R-MI), President Nixon noted, “[T]o set the limit at 18 is to recognize that it has to be set somewhere If it is unconstitutional for a State to deny the vote to an 18-year-old, it would seem equally unconstitutional to deny it to a 17-year-old.”³⁴⁴ Representative George Andrews (D-AL) warned that lowering the voting age on a theory of equal protection could be a slippery slope:

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.³⁴⁵

³⁴² *Extending Voting Rights Act of 1965*, H.R. 4249, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20165.

³⁴³ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 236.

³⁴⁴ *Extending Voting Age*, 91st Cong., 2d sess., *Congressional Record* 116 (April 28, 1970): 13321.

³⁴⁵ *Ibid.*, 20165.

Interestingly, however, those legislators who opposed the voting age rider mostly shied away from confronting advocates' assertions that eighteen- to twenty-one year-olds to the vote was philosophically akin to racial or gender discrimination.³⁴⁶ By and large, they did not try to draw meaningful distinctions between the situation of eighteen- to twenty-one year-olds and those of African-Americans, women, and nonpropertyholders in earlier eras.³⁴⁷ The very few legislators who dared to suggest that differential treatment based on age was just not as problematic as other kinds of discrimination confined themselves to arguing that advocates' analogies were *legally* inapt.³⁴⁸

While it is of course impossible to determine the extent to which proponents' arguments about discrimination actually propelled the voting age rider to the Voting Rights Act to victory, advocates had the upper hand in setting the terms of debate with respect to this particular issue. In the next section, I argue that framing the voting age issue as a matter of unfair discrimination was a uniquely powerful rhetorical strategy, at least in the halls of Congress during 1969 and 1970.

II. A Most Congenial Climate

While analogies between young Americans and other traditionally discriminated-against groups had been part of the voting age debates since the 1940s, as detailed above,

³⁴⁶ It is possible that this was related to legislators' fears of being caught on the wrong side of historical change, as I discuss later in this chapter.

³⁴⁷ Hardly anyone, for example, noted that being young is a temporary state, as opposed to being black or female.

³⁴⁸ See, for example, Senator Roman Hruska's (R-NE) comment that "invidious discrimination in a constitutional sense is by no means so readily demonstrated when a State sets the voting age at 21 for all citizens, regardless of race, color, or religion." *Voting Rights Act Amendment of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6946. Similarly, Senator John Stennis (D-MS), who had quietly opposed a lower voting age for years, asserted, "Setting the minimum voting age at 21 years certainly does not discriminate against prospective voters on the grounds of race, creed, or national origin and, therefore, would not be violative of the 14th amendment." *Voting Rights Act Amendment of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6948.

such arguments had unprecedented resonance in the late 1960s. By repackaging these arguments into constitutional form, Kennedy and Mansfield sought not only to bypass legislative deadlock, but also to tap into important political trends.

A. Victims of Discrimination

Most broadly, the claim that eighteen- to twenty-one year-olds were a distinct discriminated-against group was all of a piece with the rights consciousness of the time and place. Late 1960s and early 1970s America saw a wide array of groups making equal rights claims. Inspired by the success of the African-American civil rights movement of the early 1960s, groups representing women, Latinos, Native-Americans, the disabled, and the elderly followed black Americans in lobbying the federal government to act to ensure their social and/or economic equality.³⁴⁹ While some of these groups were considerably more successful than others, all three branches of government responded with a dramatic increase in laws, regulations, and court decisions establishing antidiscrimination policies, a phenomenon that scholars refer to as the “rights revolution.”³⁵⁰

While commentators disagree over much about the rights revolution, it seems uncontroversial to say that during the late 1960s, the language of discrimination and rights was very familiar to federal legislators. It is rather more controversial, but supportable, to suggest that by 1970, when Congress began considering the voting age issue with renewed seriousness, many of these politicians were not only familiar but also

³⁴⁹ James T. Patterson, *Grand Expectations: The United States, 1945–1974* (New York: Oxford University Press, 1996), 452–53, 637–38.

³⁵⁰ John D. Skrentny, *The Minority Rights Revolution* (Cambridge, MA: Harvard University Press, Belknap Press, 2002), 4.

quite comfortable with this language.³⁵¹ In this atmosphere, descriptions of eighteen- to twenty-one year-olds as a distinct, discriminated-against class had unusual resonance.

Indeed, a striking feature of the 1970 debates in both the House and the Senate is the way in which advocates reframed longstanding arguments for lowering the voting age in terms of ‘discrimination.’ Senator Tydings, for example, put this new spin on the ‘old enough to fight, old enough to vote’ chestnut:

Certainly one can perceive a basis for a congressional conclusion that the application of State voting requirements to deny the vote in Federal elections to that class of citizens who bear the total burden of compulsory military service constitutes discrimination in violation of the equal protection clause.³⁵²

Senator Marlow Cook (R-KY), speaking in a Senate subcommittee hearing, energetically made the same point:

These people have assumed the responsibilities of adulthood, they are subject to adult criminal penalties, they are subject to taxes, and as a matter of fact, I will remind you that if you think they are not being discriminated against that as of June 1968 of a military force of 3,510,000, 956,000 of those are aged 18, and 19, and 20, and of those then through December of 1969 who have lost their lives in Southeast Asia, of 40,000 people 19,202 of them were 18-, 19- and 20-year-olds.³⁵³

Others used the discrimination label more broadly, suggesting that the general lack of reciprocity between civic obligations and rights for those between eighteen and twenty-one qualified as unconstitutional discrimination. Speaking on the Senate floor, Senator Kennedy declared:

We give responsibility to 18-year-olds in terms of contracting, in terms of criminal responsibility, in terms of being able to drive, and in terms of owning

³⁵¹ Ibid., passim.

³⁵² *Voting Rights Act Amendment of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6951.

³⁵³ Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 245.

guns or weapons. It is generally agreed that 18 is the appropriate age of maturity with respect to many basic responsibilities. It is not unreasonable for Congress to make a finding that the 18 to 21 age group has been denied the equal protection of the laws by having been denied the opportunity to vote.³⁵⁴

Representative Tom Railsback (R-IL) made a nearly identical statement on the House floor:

T]here is ample basis for a congressional determination that states unfairly discriminate against persons between eighteen and twenty-one when they deny those persons the right to vote. The fact that eighteen year olds assume so many of the responsibilities of older citizens. . . offers sufficient justification for a congressional judgment that it is unreasonable to deprive them of the essential right to vote.³⁵⁵

Some proponents of lowering the voting age by statute also began to couch qualified voter arguments in terms of discrimination. Representative Robison, for example, suggested that under *Morgan*, Congress could make a factual finding that restricting the franchise to those twenty-one and older was “an irrational and [] invidious discrimination. . . . by making its own factual assessment that an 18-year-old of today is equal in judgment, maturity, character, education and knowledge to a 21-year-old of 50 or 100 years ago.”³⁵⁶ His fellow New Yorker Representative Bertram Podell (D) concurred: “This Congress cannot claim to be upholding and enforcing the 14th Amendment, which provides for the equal protection of the laws, when it denies the right to vote to these individuals who are so informed about the issues of our society. . . .”³⁵⁷

³⁵⁴ *Voting Rights Act Amendment of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6931.

³⁵⁵ *Substantial and Permissive Support of a Statutory Approach to Lowering the Voting Age*, 91st Cong., 2d sess., *Congressional Record* 116 (June 16, 1970): 19870.

³⁵⁶ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20192.

³⁵⁷ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20176.

B. Broadening the Franchise

Just as the notion that eighteen- to twenty-one year-olds were a discriminated-against class fit neatly with the heightened rights consciousness of the time, so too did the notion that exclusion from the franchise was a particularly invidious form of discrimination. Voting rights were a core element of the rights revolution. Beginning in the mid-1960s and continuing for about ten years, Congress and the Supreme Court, with the support of some state governments, largely abolished all restrictions on adult citizens' right to vote. Formal and informal racial barriers to the franchise were effectively outlawed through the Voting Rights Act of 1965 and a series of Supreme Court decisions that upheld and interpreted various of the Act's provisions. The Twenty-fourth Amendment, ratified in 1964, prohibited poll taxes in federal elections, and only two years later the Court held that state poll taxes were unconstitutional as well.³⁵⁸ During these years, some states abolished pauper exclusions and shortened residency requirements, but the 1970 Voting Rights Act renewal bill went further; beyond the eighteen-year-old voting provision, the extension act also contained provisions that banned both literacy tests and lengthy residency requirements throughout the country. Finally, beginning with its 1962 decision in *Baker v. Carr*,³⁵⁹ the Supreme Court plunged into the area of legislative apportionment, an issue that would occupy the Court for decades.³⁶⁰

Those who favored a lower voting age often characterized eighteen-year-old voting as an integral part of this bigger movement towards a broader and more meaningful franchise. Speaking on the House floor in 1967, Representative Daniel

³⁵⁸ *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966).

³⁵⁹ 369 U.S. 186 (1962).

³⁶⁰ For more details on all of these developments, see Keyssar, *The Right to Vote*, 256–77, 285–287.

Button (R-NY) cited a number of recent Congressional and Court actions, arguing. “In our day, when the whole thrust of democracy is to make it easier for qualified people to vote, the maintenance of the arbitrary and artificial 21-year limit is unjustified and undesirable.”³⁶¹ The next year, Representative Claude Pepper (D-FL) similarly linked his proposed eighteen-year-old voting to other contemporaneous electoral reforms:

Recent years have seen a liberalization of both State and Federal laws dealing with the right to vote. . . . Action on [this] proposal to amend the Constitution to permit 18-year-olds to vote will be another important step in the effort to assure that every qualified citizen has a hand in molding the Nation’s political future.³⁶²

Representative Seymour Halpern (R-NY) agreed: “In this same decade, in which voting discrimination based on poll taxes, on race or color, or on voting districts have all been outlawed, the discrimination which deprives over 10 million of our younger citizens of their rightful vote must be our next objective.”³⁶³ Rather more floridly, Representative Abner Mikva (D-IL) made the same connections, speaking on the House floor in defense of the Kennedy-Mansfield proposal:

Nor is there substance to the captious charge that 18-year-old voting is some kind of ‘ungermane’ rider to this bill. It is a very easy rider – because age, like race, residence, and reading, has a history of being used as an excuse to keep people from participating in the choosing practice.

If the question of voting eligibility means something more than eligibility of a fraternity – then we have the obligations to remove all impediments that deny people the most fundamental blessing of liberty, and that keep the Union from being more perfect.³⁶⁴

³⁶¹ *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 2, 1967): 4186.

³⁶² *Congressman Pepper’s Bill to Lower Voting Age Strongly Endorsed by President Johnson’s Recent Message to Allow 18-Year-Olds to Vote*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19217.

³⁶³ *Our Young People Deserve to Vote*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19137.

³⁶⁴ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20164.

Indeed, a couple of legislators seemed somewhat more enthusiastic about lowering the voting age than they were about some of these other changes. In March 1970 Senate hearings, Senator Cook became asked Rehnquist with irritation how he could oppose eighteen-year-old voting but still maintain that literacy tests should be abolished and “that everyone should be allowed to vote in a presidential election who seems to be wandering all over the country.”³⁶⁵ Even the staunch liberal Mike Mansfield let slip the rather caustic remark, “[W]hy should a 50- or 60-year-old illiterate be allowed to vote when we have high school and college graduates in the 18- to 21-year-old classification. . . who are not being allowed to vote?”³⁶⁶

A few legislators connected eighteen-year-old voting not only to other contemporaneous suffrage reforms, but also to an even broader agenda of further democratizing the political process. When he introduced his own voting age bill in February 1969, Representative Podell cited not only the abolition of poll taxes and racial barriers, but also recent proposals to elect the President and Vice-President through direct elections.³⁶⁷ Representative James O’Hara (D-MI) elaborated further:

Our political parties have pledged themselves to making their proceedings more responsive to the people. We in Congress are working to abolish the electoral college and to establish a procedure for the direct election of the President and Vice President. Again, our goal is to insure that the will of the people will govern. If full participation in our political process is to be more than a high sounding ideal, I believe we must extend the franchise to those between the ages of 18 and 21.³⁶⁸

³⁶⁵ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 87, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 245.

³⁶⁶ *Voting Rights Act Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 12, 1970): 7087.

³⁶⁷ *Reduce the Voting Age*, 91st Cong., 1st sess., *Congressional Record* 115 (February 5, 1969): 2917.

³⁶⁸ *The Right to Vote for 18-Year-Olds*, 91st Cong., 1st sess., *Congressional Record* 115 (March 6, 1969): 5452.

Senator Mansfield went furthest with this line of thinking; in 1968 he urged a series of electoral reforms that included not only eighteen-year-old voting, but also abolishing the convention system and the Electoral College, holding all primaries on the same day throughout the nation, limiting the President to one six-year term, and reforming the campaign finance system.³⁶⁹

C. The Federal Government and States' Rights

The eighteen-year-old voting movement also fit neatly with another crucially important theme of the times, the idea that it was the federal government's job to protect minorities against discrimination, especially voting discrimination by the states. Determining who could vote had long been the prerogative of state governments; Article I, Section 2 of the Constitution established that the right to vote in Congressional elections was dependent on state voting qualifications.³⁷⁰ The Civil War Amendments and, later, the 19th amendment put some limits on the states' authority, but by and large, voting rights were a state issue until the 1960s. The Voting Rights Act of 1965, and the Supreme Court decisions supporting the law's constitutionality, radically rejiggered this power dynamic. From the mid-1960s through the mid-1970s, Congress and the Court together essentially supplanted the states' traditional role as the arbiters of voting

³⁶⁹ *Inequities and Inadequacies of Our Electoral System*, 90th Cong., 2d sess., *Congressional Record* 114 (June 11, 1970): 16603.

³⁷⁰ Article I, Section 2 provides: "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." U.S. Constitution, art. I, sec. 2, cl. 1. The Seventeenth Amendment, which establishes the direct election of Senators, contains the identical provision. U.S. Constitution, amend. 17, sec. 1.

qualifications, establishing a franchise that was not only broader but also more uniform across the country.³⁷¹

The notion that Congress both could and should mandate a single, lower voting age throughout the nation meshed with this broader trend of federal intervention into what had been the states' domain. Indeed, defenders of states' rights had long argued that a national voting age, even one established by constitutional amendment, would trample on state sovereignty. Senator Richard Russell (D-GA), speaking on the Senate floor in 1954, argued strenuously against the proposed eighteen-year-old voting amendment:

I . . . can see no reason on earth for [this legislation], except to promote the idea that all the wisdom of government resides in the Chief Executive and here in this Capitol Building—the idea of saying to all 48 States, to the State legislatures, and the State governors, ‘You are incapable of performing the State function of prescribing the qualifications of your voters, or of classifying them by age. Therefore, the Federal Government is going to put you in a straitjacket and coerce you into taking the steps which, we in our omniscient, all-pervading wisdom, think you should take.’³⁷²

As the voting rights revolution got under way, some legislators continued to object to eighteen-year-old voting as yet another in way in which the federal government was abrogating the states' control over voting. In 1968, Senator Spessard Holland (D-FL) suggested that the eighteen-year-old vote campaign was the work of “ultraliberal Americans” who sought “to take the complete control of voters and voting in Federal Elections away from the States and vest it exclusively in the Federal Government.”³⁷³

The Kennedy-Mansfield proposal, however, took the debate about eighteen-year-old voting and states' rights to a whole new level. The idea that the federal government

³⁷¹ Keyssar, *The Right to Vote*, 281–84.

³⁷² *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d sess., *Congressional Record* 108 (May 21, 1954): 6966.

³⁷³ *Lower Voting Age*, 90th Cong., 2d sess., *Congressional Record* 114 (May 24, 1968): 14913.

could simply legislate a national minimum voting age for both federal and state elections, without having to bother with the constitutional ratification process, was a radical notion even by 1970 standards. But at that particular moment, there was unprecedented enthusiasm among both members of Congress and the Supreme Court for using the power of the federal government to shield citizens against any potential discrimination in exercising their right to vote. An eighteen-year-old voting statute, which would have been a preposterous suggestion only a few years earlier, was no longer outside the realm of possibility.

Advocates were particularly emboldened by the Supreme Court's recent series of decisions interpreting the equal protection clause of the Fourteenth Amendment. *Morgan* was but one of several cases in the 1960s in which the Warren Court upheld federal intervention into state voting practices on equal protection grounds. The Court rooted its decisions in a theory of "fundamental rights;" according to this new strand of doctrine, state classifications that burdened individuals' ability to exercise certain core rights were subject to close judicial review, or "strict scrutiny." Voting was the paradigmatic fundamental right, being "preservative of other basic civil and political rights,"³⁷⁴ and in practice, strict scrutiny nearly always meant striking down the law in question.³⁷⁵

³⁷⁴ *Reynolds v. Sims*, 377 U.S. 533, 562 (1966). See also *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), in which the Court struck down Virginia's poll tax, and *Kramer v. Union Free School District No. 15*, 395 U.S. 621 (1969), in which the Court ruled that a New York law that limited the right to vote in certain school district elections to residents who either owned property or had children in public school was unconstitutional.

³⁷⁵ For a detailed discussion of the state of equal protection doctrine as of 1969, see "Developments in the Law—Equal Protection," *Harvard Law Review* 82 (1968–1969):1065–1192. For more on the Warren Court's equal protection jurisprudence, especially as it pertained to voting rights, see Gerald Gunther, "Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection," *Harvard Law Review* 86 (November 1972): 8–10; Keyssar, *The Right to Vote*, 266–73, 283, 285–87, Ronald D. Rotunda and John E. Nowak, *Treatise on Constitutional Law: Substance and Procedure*, vol. 3 (St. Paul, MN: West Group, 1999): 220, 329, 684–85; Lucas A. Powe, Jr., *The Warren Court and American Politics* (Cambridge, MA: The Belknap Press of Harvard University Press, 2000): 239–71.

Needless to say, these jurisprudential developments were highly controversial both inside and outside the legal world. Among legal scholars, the proposed voting age amendment to the Voting Rights Act became something of a touchstone for both those who supported and opposed the ‘new equal protection.’ Indeed, in reading the Congressional debates on the Kennedy-Mansfield proposal, one is struck by the prominent role of legal academics. As noted earlier, Senator Kennedy may have first gotten the idea of lowering the voting age through statute from a law review article. As the proposal moved forward, numerous law professors weighed in on both sides of the debate, testifying before Congressional committees, offering statements, and writing letters. At one point, Kennedy wrote to every professor of constitutional law listed in the Directory of Law Teachers to ask their opinion about the constitutionality of his proposed legislation. He proudly announced that of twenty-five respondents, eighteen agreed that the statute was constitutional.³⁷⁶

The legal commentary added a certain depth to the voting age debates, as the professors argued amongst themselves about whether Congress could reasonably find that the equal protection clause mandated a lower voting age. One group of professors—hailing mainly from Yale Law School—argued that the protection of the Fourteenth Amendment simply did not extend to those treated differently because of their age. The Fourteenth Amendment had long been interpreted as specifically protecting racial and ethnic minorities, they maintained, and it was a mistake to read the *Morgan* decision as expanding the amendment’s scope to other groups, especially eighteen- to twenty-one year-olds. Testifying before a Senate subcommittee in March 1970, Yale Law Dean

³⁷⁶ *Additional Legal Scholars Support Statute Lowering Voting Age to 18*, 91st Cong., 2d sess., *Congressional Record* 116, pt. 12 (May 18, 1970): 15870.

Louis Pollak acknowledged that the minimum voting age might qualify as a form of ‘discrimination,’ but not one that the Constitution forbade:

[I]t was perfectly clear that what was passed by Congress in section 4(e) of the Voting Rights Act and supported by the Court in *Katzenbach v. Morgan* was a remedy addressed to a particular situation of disadvantage to a definable racial group, which is the kind of situation to which the 14th amendment is conventionally addressed.

Now, in that sense, *Katzenbach v. Morgan* is very unlike the far more diffuse ‘discrimination’ that we are concerned with in a proposal which seeks to enlarge the voter population by lowering the age from 21 to 18. I do not mean there is not any distinction there, but it is not a distinction that falls along the central line that the 14th amendment is conventionally addressed.³⁷⁷

A month later, Pollak joined five Yale Law colleagues in a collective letter to the editor of the *New York Times*, asserting, “*Katzenbach v. Morgan* makes sense as part of the main stream of 14th amendment litigation, policing state restrictions on ethnic minorities. But it has little apparent application to a restriction affecting all young Americans in 46 states.”³⁷⁸

What’s more, they argued, the very text of the Fourteenth Amendment acknowledged a minimum voting age of twenty-one. They pointed to Section 2, which establishes that a state’s number of federal Representatives is proportional to its population, except in cases of voting discrimination:

[W]hen the right to vote at [federal and state] election[s] . . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion

³⁷⁷ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 264.

³⁷⁸ Alexander Bickel, Charles Black, Jr., Robert Bork, John Hart Ely, Louis Pollack, and Eugene Rostow, “Amendment Favored for Lowering Voting Age, *New York Times*, April 5, 1970, introduced into *Record* by Senator Gordon Allott (R-CO), *Lowering the Voting Age*, 91st Cong., 2d sess., *Congressional Record* 116 (April 6, 1970): 10396.

which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

In light of this passage, maintained the Yale professors, the Equal Protection Clause could not possibly be interpreted as mandating a lower a voting age. “It surpasses belief that the Constitution authorizes Congress to define the 14th amendment’s equal protection clause to as to outlaw what the Amendment’s next section approves.”³⁷⁹

This was not an altogether new argument; opponents of eighteen-year-old voting had long noted the Section 2 reference to twenty-one as a minimum age qualification.³⁸⁰ Still, when advocates began to offer constitutional arguments for lowering the voting age, Section 2 took on new importance, at least among the legal academics enmeshed in the debates. Pollack, for example, emphasized that the presence of Section 2 seriously undermined the argument that Congress could deploy its Section 5 authority to lower the voting age by statute:

It is to me particularly interesting . . . to refer to the language in section 2 . . . that when the amendment spells out the legitimate criteria for exclusion from the franchise it . . . mentions not being male. That was legitimate. It mentions being under 21. That was legitimate. It mentioned having committed a crime. That was legitimate grounds for being kept out of the voting population. It mentions

³⁷⁹ Ibid.

³⁸⁰ In 1954 Senate floor debate, Senator Holland highlighted Section 2 as evidence that the at the time the Fourteenth Amendment was passed, at least, twenty-one was recognized as the appropriate age for voting rights. *Extension of Voting Rights to Citizens at Age of 18*, 83d Cong., 2d sess., *Congressional Record* 100 (May 21, 1954): 6970. Testifying before a Senate subcommittee in 1961, Assistant Attorney General Nicholas Katzenbach voiced the Kennedy administration’s official position against lowering the voting age through constitutional amendment, warning that any such amendment would have to be harmonized with Section 2. Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 28, S.J. Res. 48, S.J. Res. 96, S.J. Res. 1–2, S.J. Res. 113, and S.J. Res. 114, Proposing Amendments to the Constitution Relating to the Method of Nomination and Election of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 58, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitution Relating to Qualifications for Voting*, 87th Cong., 1st sess., June 18, 1961, 369.

having participated in a rebellion. That was a legitimate reason for having being kept out of the voting population.³⁸¹

Paul Kauper of the University of Michigan agreed, noting that Section 2 reinforced the whole concept of a minimum voting age: “[I]ndeed, the authority of the state to fix an age limit is confirmed in the very language of Section 2 of the Fourteenth Amendment.”³⁸²

Other academics offered a much broader interpretation of the Fourteenth Amendment. They maintained that at least in the voting context, the amendment’s protections extended well beyond racial minorities, to any group who suffered arbitrary differential treatment. In response to the Yale professors’ letter, Cox and his Harvard colleague Paul Freund, wrote their own letter to the *Times*:

To limit *Katzenbach v. Morgan* to ‘policing state restrictions on ethnic minorities’ is to ignore the fact that the equal protection clause, which Section 5 gives Congress power to enforce, condemns, in the words of the Supreme Court, ‘any unjustified discrimination in determining who may participate in political affairs or the selection of public officials.’³⁸³

Freund and Cox further dismissed their opponents’ arguments about Section 2 as irrelevant. Section 2, they argued, was concerned with restriction, not expansion, of the franchise:

The most that can be inferred is that in 1866-68, Congress and the state legislatures were willing to accept 21 years as a reasonable measure of the

³⁸¹ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 10, 1970, 260

³⁸² Remarks and letters introduced into *Record* by Representative John Ashbrook (R-OH), *Lowering Vote to 18 Raises Serious Constitutional Questions*, 91st Cong., 2d sess., *Congressional Record* 116 (May 6, 1970): 14499. Note that here, ‘state’ means the government generally.

³⁸³ Archibald Cox, Paul Freund, “Power of Congress to Lower Voting Age Upheld,” *New York Times*, April 12, 1970, introduced into *Record* by Representative John McCormack (D-MA), *The 18-Year-Old Provisions of the Voting Rights Bill*, 91st Cong., 2d sess., *Congressional Record* 116 (April 13, 1970): 11385.

maturity and responsibility necessary to vote *at that time*. It is nowise inconsistent to conclude that *in our time* a 21-year requirement unreasonably discriminates against eighteen, nineteen, and twenty-year-olds because of changed conditions—the spread and improvement of education, the age at which young people take jobs, pay taxes, marry and have children, and their interest in public affairs.³⁸⁴

Numerous scholars chimed in on both sides of this debate, especially during the several months in between the Senate and House debates on the Kennedy-Mansfield debate.³⁸⁵ However, this academic squabbling paled next to the vitriolic sentiments voiced by conservative Southern legislators, who immediately recognized the eighteen-year-old voting provision as part of the broader movement towards nationalizing the right to vote.

Legislators like Senator Sam Ervin (D-NC) were irate at what they viewed as yet another instance of the federal government intruding into the traditional domain of the states, telling them whom they could and could not exclude from the franchise. In debate on the renewal of the Voting Rights Act, Ervin specifically targeted efforts to lower the voting age by statute, asking rhetorically:

Are we going to strive to have an indestructible Union composed of indestructible States, or are we going to attempt to destroy, in an unauthorized manner, in an unconstitutional manner, that Union by usurping for the Congress the powers reserve to the States to prescribe the qualifications for voting[?]³⁸⁶

A few months later, in House debate on the Kennedy-Mansfield proposal, his fellow North Carolinian Representative Lawrence Fountain (D) was even angrier, “This is pure bosh to cover up a bold attempt by some in the Congress to usurp jurisdiction in this

³⁸⁴ Ibid.

³⁸⁵ Representative Ashbrook introduced a series of letters opposing the proposed legislation in early May, 1970. *Lowering Voting Age to 18 by Statute Raises Serious Constitutional Questions*, 91st Cong., 2d sess., *Congressional Record* 116 (May 6, 1970): 14494–501. As mentioned above, Kennedy introduced a number of letters in favor of the legislation shortly thereafter. *Additional Legal Scholars Support Statute Lowering Voting Age to 18*, 91st Cong., 2d sess., *Congressional Record* 116 (May 18, 1970): 15870–78.

³⁸⁶ *Voting Rights Act Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 4, 1970): 6013.

matter. . . . [T]here is no end to the folly of man. Let us be done with this charade; with this flimsily disguised seizure of power.”³⁸⁷

For these legislators, it was bitterly fitting that the voting age proposal was attached to the renewal bill for the despised Voting Rights Act. Representative George Andrews (D-AL) remarked that it was “hard to imagine that anything could worsen the Voting Rights Act,” but the voting age provision managed to do just that: “[T]he 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.”³⁸⁸

A few politicians, from the South and elsewhere, noted that the eighteen-year-old voting provision was a particularly offensive attack on state sovereignty because the states, by and large, had emphatically rejected eighteen-year-old voting. In floor debate, Senator Holland detailed the defeats of various voting age proposals around the country. “I know of no issue submitted so often to so many voters by so many legislatures which has been so generally and heavily repudiated and defeated as has been this one.”³⁸⁹

Representative J. Edward Hutchinson (R-MI) voiced similar sentiments: “What an affront to the people of States would it be for us to cavalierly set aside their decisions at the

³⁸⁷ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20174.

³⁸⁸ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20164. Indeed, the opposition of some Southern Representatives to the eighteen-year-old voting provision may well have been at least in part a strategic effort to the kill or weaken Voting Rights extension bill itself. As discussed in Chapter 2, the failure of the Kennedy-Mansfield amendment in the House would send the entire bill back to conference committee, where everyone expected that the legislation would be, at a minimum, substantially watered down.

³⁸⁹ *Voting Rights Act Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970): 6957.

polling places and in the ballot box, and impose upon them conditions contrary to their will. . . .”³⁹⁰

It is worth noting that not all legislators who opposed the Kennedy-Mansfield proposal on states’ rights grounds were against the whole voting rights revolution, and vice versa. Senator Holland had long campaigned against the poll tax and was one of the architects of the Twenty-fourth Amendment.³⁹¹ And über-conservative Senator Barry Goldwater, who had run for President in 1964 on an extreme pro-states’ rights, anti-federal government platform,³⁹² enthusiastically supported the proposed law. Speaking in a March 1970 Senate subcommittee hearing, he distanced himself from the *Morgan* decision but candidly admitted, “Since I happen to like the idea of 18-year-old voting, I feel it is entirely appropriate to use the Morgan approach.”³⁹³

Still, the most vociferous objections to lowering the voting by statute came from those who saw themselves as the victims of Congress’s and the Court’s efforts to stamp out voting discrimination during the latter half of the 1960s. During debate on the Kennedy-Mansfield proposal, especially in the House, Southern politicians lamented that the Voting Rights Act “shackle[d] and humiliate[d]”³⁹⁴ the South, making their own states into “the whipping boys for the Nation.”³⁹⁵ Representative John Rarick (D-LA)

³⁹⁰ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20182.

³⁹¹ University of Florida Smathers Libraries, Special and Area Collections, “A Guide to the Spessard L. Holland Papers,” July 2005, <http://www.uflib.ufl.edu/spec/pkyonge/Holland.htm>.

³⁹² Patterson, *Grand Expectations*, 548–50; 557–560.

³⁹³ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninety-First Congress Second Session on S.J. Res. 7, S.J. Res. 19, S.J. Res. 32, S.J. Res. 34, S.J. Res. 38, S.J. Res. 73, S.J. Res. 78, S.J. Res. 102, S.J. Res. 105, S.J. Res. 141, S.J. Res. 147*, 91st Cong., 2d sess., March 19, 1970, 143.

³⁹⁴ Representative Thomas Downing (D-VA), *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20175.

³⁹⁵ Representative William Chappell (D-FL), *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20195.

was perhaps the most dramatic, declaring that the Voting Rights Act of 1965 had “reduc[ed] our States to the condition of conquered provinces and our citizens to the status of less than 100 percent Americans.”³⁹⁶ The eighteen-year-old voting provision was just insult on top of injury, according to Senator James Allen (D-AL). In Senate debate, Allen introduced an amendment to remove the extension bill’s penalty provision (which may or may not have actually applied to the voting age provision):

Where in the world does this come from, to fine somebody \$5000 or imprison him for 5 years, or both, because he denies an 18-year-old the right to register? We have enough Federal registrars, Federal vote observers, Federal election officers, and Federal bureaucrats swarming over Alabama. They cover the State like locusts. We do not need somebody down there fining any of our citizens \$5,000 or sending them to the penitentiary for not more than 5 years.³⁹⁷

Despite the protestations of a small but vocal group of dissenters, though, by mid-1970 advocates of eighteen-year-old had momentum on their side, and they knew it. Indeed, as I discuss in the next section, a sense of being part of a historically significant trend was itself a powerful force in propelling the eighteen-year-old voting movement to victory.

III. On the Right Side of History

Characterizing eighteen- to twenty-one year-olds as a discriminated-against minority group was a particularly powerful argument in the political environment of the late 1960s, as Congress at that time was unusually sympathetic to claims of discriminatory treatment, especially in the voting context. However, in analogizing young Americans to the propertyless, African-Americans, and women, advocates also tugged on some unexamined but powerful assumptions about the nature of political

³⁹⁶ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20190.

³⁹⁷ *Voting Rights Amendments of 1969*, 91st Cong., 2d sess., *Congressional Record* 116 (March 11, 1970):190.

change. In particular, they both relied on and reinforced the notion that the nation's slow shift from a sharply limited franchise to near-universal suffrage had been, and continued to be, an inexorable process of reform.

During the decade's waning years, those who favored a lower voting age frequently described eighteen-year-old voting as the inevitable next step in a long but consistent progression. In 1968, Senator Birch Bayh (D-IL) declared:

The religious and property requirements for voting were removed in colonial America. Racial barriers to voting have been coming down for a century. Women were given the right to vote in 1920. [Lowering the voting age] seems to me to be in keeping with the tradition of expansion of the franchise³⁹⁸

Representative Halpern agreed, "The history of the United States describes a long but unbroken process from the rule of a tiny minority in its earliest day to what is now an almost universal suffrage. . . . [O]utlaw[ing] [] the discrimination which deprives over 10 million of our younger citizens must be our next objective."³⁹⁹

This motif recurred during the House debate on the voting age amendment to the Voting Rights Act renewal bill. Representative Robison, for one, maintained:

During our Nation's history, various groups of people have found themselves without the right to vote, but gradually and steadily we have extended the franchise to most portions of our population. Today, however, there is a large segment of our population which is denied access to the voting booth. This group is not delineated by race, by sex, by education, or by wealth, but by age.⁴⁰⁰

Representative Charles Vanik (D-OH) similarly asserted, "We have taken giant strides to bring about equality among the races. Women have gained throughout the years a

³⁹⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2d sess., May 14, 1968, 3.

³⁹⁹ *Our Young People Deserve to Vote*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19137.

⁴⁰⁰ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20191.

substantial part of their goals of equal rights. And now we deal with the rights of our younger citizens.”⁴⁰¹

This history, proponents suggested, had been a march from darkness into enlightenment. Representative Frederick Schwengel (R-IA) remarked in 1968:

In the beginning, the only person uniformly assured of the right to vote was the white 21-year-old male, propertied, literate, a fixed resident, and with means to pay any tax. Gradually these restrictions have fallen by the wayside, as custom and prejudice gave way to reason, or the coercion of law.⁴⁰²

Two years later, Representative Albert described the expansion of the suffrage in even more lofty terms:

The history of our Republic is a record replete with the continuing broadening of the franchise. Our has been a chronicle without parallel of the further implementation of democracy by the inclusion of an ever greater segment of our citizenry in the political decisionmaking process.⁴⁰³

Against this backdrop, advocates argued, the minimum voting age of twenty-one was the last “medieval vestige”⁴⁰⁴ of an earlier, more ignorant age, an anachronistic and unfair custom that could not withstand the “compelling force of reason and reality.”⁴⁰⁵

To be sure, this perspective was not unique to the voting age debates. As I have discussed elsewhere, the historian Alexander Keyssar has argued compellingly that

⁴⁰¹ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20190.

⁴⁰² *Are We Denying the Civil Rights of 30 Million? – The 18- to 21-Year-Olds and the Movers*, 90th Cong., 2d sess., *Congressional Record* 114 (August 1, 1968): 24812.

⁴⁰³ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20165.

⁴⁰⁴ Statement of Senator Randolph, Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments on the Committee of the Judiciary United States Senate Eighty-Seventh Congress First Session on S.J. Res. 1, S.J. Res. 2, S.J. Res. 4, S.J. Res. 9, S.J. Res. 12, S.J. Res. 16, S.J. Res. 17, S.J. Res. 23, S.J. Res. 26, S.J. Res. 28., S.J. Res. 48, S.J. Res. 96, S.J. Res. 112, S.J. Res. 113, and S.J. Res. 114, Proposing Amendments of the Constitution Relating to the Method of Nomination and Election of the President and Vice President and S.J. Res. 14, S.J. Res. 20, S.J. Res. 54, S.J. Res. 67, S.J. Res. 71, S.J. Res. 81, and S.J. Res. 90, Proposing Amendment to the Constitution Relating to Qualifications for Voting*, 87th Cong., 1st sess., June 8, 1961, 187.

⁴⁰⁵ President Lyndon Johnson, graduation speech at Texas Christian University, introduced into *Record* by the Speaker of the House, *Enlarging the American Franchise—Message From the President of the United States*, 90th Cong., 2d sess., *Congressional Record* 114 (June 27, 1968): 19079.

scholarly discussions of the franchise have long been dominated by the assumption that the history of voting rights is a story of unidirectional, steady, movement towards reform.⁴⁰⁶ Furthermore, he argues, this “progressive presumption” was especially strong among historians and political scientists during the 1960s and 70s.⁴⁰⁷

In the context of Congressional debate, however, characterizing eighteen-year-old voting as the natural next step in a long process of inevitable reform was arguably an effective political strategy. For one thing, it was politically infeasible for opponents to openly challenge the assertion that the move towards universal suffrage had been progress, regardless of their personal feelings about the subject. What elected official could publicly quibble with, for instance, Senator Tydings’s assertion that “our political system is much richer and wiser because of the participation of women in the electoral process.”⁴⁰⁸

Indeed, advocates missed no opportunity to note that the “dire predictions”⁴⁰⁹ of those who had opposed previous expansions of the franchise had not been borne out. In 1969, Representative Peter Rodino (D-NJ) noted that after the Nineteenth Amendment was ratified, “[t]here was no chaos, no confusion, no problems,” contrary to naysayers’ warnings. Senator Javits commented in 1968:

Mr. Chairman, it has always been difficult to enlarge the voting franchise in this country. The colonists who wanted to remove ownership of property as a requirement for voting faced similar arguments about a deluge of irresponsible people entering the voting roles. So did those who fought to grant the vote to women, and those who joined in the struggle to assure the vote to Negroes. But in

⁴⁰⁶ Keyssar, *The Right to Vote*.

⁴⁰⁷ *Ibid.*, xix.

⁴⁰⁸ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., May 14, 1968, 8.

⁴⁰⁹ Representative Peter Rodino (D-NJ), *Lowering the National Minimum Voting Age to 18*, 91st Cong., 1st sess., *Congressional Record* 115 (February 5, 1969): 2829.

each case the eventual expansion of the electorate brought new ideas and new vigor to our national political life.⁴¹⁰

History, proponents implied, had not judged kindly those who had spoken out against broader voter rights. Naysayers and “obstructionist[s]”⁴¹¹ had tried to stop each and every expansion of the suffrage, they suggested, but “those who feared adding more people to the voting rolls”⁴¹² had always ultimately failed.

Advocates framed eighteen-year-old voting as yet another potential landmark for democratic progress, just as woman suffrage and African-American voting rights had been. The warning was subtle, but clear: no reasonable Congressperson should take the chance on being caught on the wrong side of history. During House debate on the Kennedy-Mansfield proposal, Representative Carl Albert (D-OK) declared:

Our forebearers were endowed with unique pragmatic political insight. They thus succeeded in accomplishing the greatest revolution, bloodless or otherwise, ever experienced by mankind. They in effect translated into reality the democratic ideas of the Declaration of Independence. Swept into the dust bin of history were religious tests for public office, property qualifications for voting, the indirect election of U.S. Senators, and bars to voting because of sex, color, or ethnic origin.

Within the hour, the membership of the House will be tested on the fundamental proposition of whether or not we possess a political sagacity and faith in the democratic way of life equal to that of our predecessors.⁴¹³

Before concluding, it is worth noting that one of the greatest weaknesses of this strategy, of painting eighteen-year-old voting as the inevitable next step in a long

⁴¹⁰ Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., May 14, 1968, 14.

⁴¹¹ Representative Daniel Button (R-NY), *Extending Voting Privileges to Citizens Under the Age of 21*, 90th Cong., 1st sess., *Congressional Record* 113 (February 21, 1967): 4186.

⁴¹² Senator Ralph Yarborough (D-TX), Senate Judiciary Committee, Subcommittee on Constitutional Amendments, *Hearings Before the Subcommittee on Constitutional Amendments of the Committee of the Judiciary United States Senate Ninetieth Congress Second Session On S.J. Res. 8, S.J. Res. 14, and S.J. Res. 78 Relating to Lowering the Voting Age To 18*, 90th Cong., 2d sess., May 14, 1968, 68.

⁴¹³ *Extending Voting Rights Act of 1965*, 91st Cong., 2d sess., *Congressional Record* 116 (June 17, 1970): 20165.

historical process, was largely defanged by 1970. Specifically, in earlier suffrage campaigns, those who favored expanding voting rights always had to respond to charges that they were stepping on a slippery slope, that recognizing one group's right to vote would inevitably lead to enfranchising other, less desirable groups. Keyssar suggests that "this dynamic—the embrace of rights arguments by advocates of an expanded suffrage met by a conservative counterargument emphasizing the unacceptable contents of the Pandora's Box"⁴¹⁴ dominated discussion of the franchise for most of American history.

But by 1970, the Pandora's Box was practically empty. The vast majority of American citizens had already been enfranchised, at least officially, and the federal government was making concerted efforts to try and enforce these voting rights. To be sure, many states still applied a number of exclusions—based not only on age, but also felony convictions, mental competence, and citizenship status—but the sharply limited franchise of the Founding was most definitely a thing of the past.

To be sure, as I mentioned earlier, those who opposed the Kennedy-Mansfield proposal did their best to deploy slippery slope arguments, arguing that if it was unconstitutional to deny eighteen-year-olds the vote, than surely it was unconstitutional to prohibit seventeen-year-olds from voting as well. This rider, they suggested, would only lead to pushing the voting age further downward.

Nevertheless, these fears did not seem to gain as much traction as opponents likely hoped. As I discussed in Chapter 4, advocates of eighteen-year-old voting made it absolutely clear that they had no interest in lowering the voting age beneath eighteen, and in fact frequently employed arguments of their own—namely, arguments about education

⁴¹⁴ Keyssar, *The Right to Vote*, 13.

and political knowledgeability—that served to justify lowering the voting age to eighteen but no lower.

IV. Conclusion

The Kennedy-Mansfield proposal was the quintessential right idea at the right time. Although advocates of eighteen-year-old voting had long sought to analogize their quest to the campaigns for woman suffrage and African-American voting rights, it was not until Senator Kennedy repackaged such arguments into a constitutional framework that they really gained momentum. Claims that it was not just unfair, but actually unconstitutional to exclude eighteen- to twenty-year-olds from the franchise met an unusually warm reception in the halls of Congress during the last years of the 1960s, when legislators were especially attuned to issues of minority discrimination, especially when it came to voting rights.

The Supreme Court ultimately rejected advocates' constitutional arguments, striking down the part of the voting age rider that applied to federal elections. Nevertheless, the eighteen-year-old voting amendment would likely not have come to pass for years, if ever, had it not been for Kennedy and Mansfield's machinations. The importance of their proposal, and the logic that underpinned it, cannot be overstated.

CHAPTER 7: CONCLUSION

In her well-known and justly lauded collection of brief essays about American citizenship, published in 1991, political theorist Judith Shklar argues that the right to vote is, above all, an emblem of one's full membership in the political community. The women, African-Americans, and unpropertied men who so urgently sought the franchise were fighting not just for representation but also for the recognition that they too were first-class citizens, she maintains.⁴¹⁵

In contrast to these "primordial struggle[s] for recognition,"⁴¹⁶ Shklar asserts, the Twenty-sixth Amendment was a "frivolous exercise . . . based on a complete misunderstanding of the value of enfranchisement." There is nothing inherently degrading about being young, she notes, and the fact that young people themselves were not especially interested in the eighteen-year-old voting movement demonstrates that their political standing was not at stake.⁴¹⁷

While I can understand why Shklar finds the story of the Twenty-sixth Amendment irksome, I must disagree with her conclusions. For one thing, the amendment was not based on a misunderstanding of the meaning of the vote. Rather, it was based on multiple understandings of the franchise, only one of which was the notion that the right to vote is valuable chiefly because it is a symbol of membership. In the

⁴¹⁵ Judith Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991).

⁴¹⁶ *Ibid.*, 17.

⁴¹⁷ *Ibid.*, 17–19.

voting age debates, some suggested the franchise was important primarily because it gives citizens a way—albeit a weak way—to influence the government’s actions. Others suggested that that voting rights were properly doled out as a reward for good citizenship. Still others maintained that the vote could be a useful training device for socializing young people into the habits of good citizenship.

Nor is it accurate to describe the voting age debates as “frivolous.” To be sure, some of the arguments that were offered in favor of a lower voting age seem unconvincing or even foolish to some contemporary readers. Claims that young people were better educated than those in previous generations, for instance, grate oddly on modern ears. Nevertheless, the voting age debates were not frivolous to those involved in them. Both sides simultaneously tried to respond to immediate pressing political needs while also grappling—sometimes explicitly, sometimes more subtly—with difficult theoretical questions about citizenship, adulthood, and voting. The resulting discussions may have been messy and sometimes confused, but they were not thoughtless.

It is interesting to think about the arguments that animated the Twenty-sixth Amendment in light of contemporary conversations about the minimum voting age. For those who have missed it, in recent years, a number of legislators—in the United States and elsewhere—have introduced proposals to reduce the voting age below eighteen. State lawmakers in Texas, Minnesota, and Maine have considered the notion of sixteen- or seventeen-year-old voting, as have city council members in New York City, Baltimore, and Cambridge, Massachusetts.⁴¹⁸ In 2004, a California state legislator made

⁴¹⁸ Pam Belluck, “Sixteen Candles, but Few Blazing a Trail to the Ballot Box,” *New York Times*, August 26, 2007, 3; Keith O’Brien, “Youths Campaign to Have a Say: New Effort by Teens to Lower Voting Age to 17,” *Boston Globe*, November 12, 2006, 8; Marilyn Rauber, “Vote Early—And Young/It’s the Goal of Plans to Lower the Voting to 16, or Even 14,” *Richmond Times Dispatch*, June 13, 2004, A9.

headlines by introducing a bill that would have granted fractional votes to those between fourteen and seventeen: sixteen- and seventeen-year-olds would be able to cast half a vote in state elections, and fourteen- and fifteen-year-olds would have a quarter of a vote.⁴¹⁹

In America, at least, such efforts have been so far largely unsuccessful, although a number of states do permit seventeen-year-olds to vote in primary elections if they will turn eighteen before the general election. Outside the United States, though, several other nations—some of whom lowered their voting ages to eighteen around the same time of the Twenty-sixth Amendment—have recently instituted sixteen-year-old voting. Austria, Brazil, Cuba, Nicaragua, and the Isle of Man have lowered their voting age to sixteen for all elections, and both Germany and Slovenia allow sixteen-year-olds to vote in certain circumstances. The British prime minister has suggested that he might support a lower voting age, and the government of the Australian Capital Territory is currently reviewing a proposal to lower the voting age to sixteen.⁴²⁰

A number of the arguments offered in support of lowering the voting age below eighteen are virtually identical to those voiced by those who advocated for eighteen-year-old voting several decades ago. In particular, proponents have been emphasizing the notion that lowering the voting age will improve turnout among younger voters, rates of which have fallen steadily since 1971.⁴²¹ Interestingly, advocates seem entirely

⁴¹⁹ Kate Folmar and Julie Patel, “Senator Seeks Lower Vote Age: Fractional Ballots Offered for 14 On Up,” *San Jose Mercury News*, March 9, 2004, 1A.

⁴²⁰ Belluck, “Sixteen Candles”; “Move to Lower Voting Age to 16,” *Daily Telegraph (Australia)*, September 27, 2007, 5.

⁴²¹ One study reports that Americans between the ages of eighteen and twenty-four declined between thirteen and fifteen percent from 1972 to 2000, a far steeper rate of decline than among older age groups. Peter Levine and Mark Hugo Lopez, “Youth Voter Turnout Has Declined, by Any Measure,” Fact Sheet, The Center for Information & Research on Civic Learning and Engagement, September 2002, www.civicyouth.org/research/products/Measuring_Youth_Voter_Turnout.pdf. The voter turnout rate for

undaunted by the fact that the Twenty-sixth Amendment failed to live up to exactly the same promise, continuing to insist that involving even younger citizens in the political process will get them in the habit of voting before leaving home for college.⁴²²

Some also echo the qualified voter arguments of the earlier voting age debates; the California state senator mentioned above remarked in one interview that contemporary children were “profoundly different” from earlier generations, being “exposed to the internet, through television, through the cell phones, to all kinds of information, and their experiences in life are far more diverse and profound than mine were.”⁴²³ It is hard to tell how much resonance such claims have in today’s climate, when the dominant narratives about teenagers are so overwhelmingly negative. The presence of such arguments, though, prompts broader questions about what—if anything—one really needs to know in order to be a responsible voter. At the moment, United States law seems to embody two wildly different approaches to this issue. By and large, the law prohibits states from subjecting native-born Americans to any but the most minimal of competency standards; literacy tests, English-language requirements, and poll taxes are all prohibited. At the same time, immigrants must take what is reported to be a fairly demanding civics examination before they can receive citizenship, and hence, the right to vote.

those under twenty-five surged in 2004, rising from 37 to 47% between 2000 and 2004, as opposed to the overall voter turnout rate, which rose from 60 to 64% during the same time period. “Census Data Shows Youth Turnout Surged More Than Any Other Age Group,” Press Release, The Center for Information & Research on Civic Learning and Engagement, May 26, 2005, www.civicyouth.org/PopUps/ReleaseCPS04_Youth.pdf.

⁴²² While many blame low turnout rates on political apathy among college students, a few commentators have detailed the considerable legal and political barriers that college students seeking to vote often face. See, for example, Kenneth L. Eshleman, *Where Should Students Vote? The Courts, the States, and Local Officials* (Lanham, MD: The University Press of America, 1989); Patrick J. Troy, “Note: No Place to Call Home: A Current Perspective on the Troubling Disenfranchisement of College Voters,” *Journal of Law and Politics* 22 (2006), 591–617.

⁴²³ Kathleen Hays, Valerie Morris, JJ Ramberg, “Civics Lessons Give Teens the Right to Vote,” *CNNfn*, Transcript #063003cb132, June 30, 2004.

Finally, advocates often cite reciprocity concerns, although in the absence of a draft, they have focused largely on the unfairness of taxing teenage workers who cannot vote.⁴²⁴ (Proponents of noncitizen suffrage frequently stress the same point.) As I noted in Chapter 3, the American colonists' slogan "No taxation without representation" has continued to do real political work more than two hundred years after the Revolutionary War. At the same time, though, reciprocity arguments seem to lose quite a bit of their rhetorical power when military service—perhaps the prospect of death?—is taken out of the equation. The image of a seventeen-year-old worker at the Gap being forced to make FICA payments before he or she can cast a ballot certainly has less emotional heft than the vision of an eighteen-year-old soldier being involuntarily drafted to fight in a war launched by leaders against whom he cannot vote.

Beyond these similarities, though, there are some important differences between the voting age debates of yesteryear and those of today. For one thing, the fact that advocates do not appear to be offering any sort of theory analogous to the 'channeling' rationale that appeared in the voting age debates is likely a serious political weakness. As I discussed in Chapter 5, during the late 1960s, federal legislators' worries about the seemingly-unstoppable and ever-escalating campus demonstrations of the late 1960s drove them to finally consider an issue that had been a minor political concern since World War II. Absent a similar or equally galvanizing series of events, it is frankly difficult to imagine that sixteen- or seventeen-year-old voting will find much momentum.

The analogies to woman and African-American suffrage that were so popular in the debates leading up to the Twenty-sixth Amendment also seem to have fallen off the table. Presumably this is connected with the fact that, as I discussed at length in Chapter

⁴²⁴ Rauber, "Vote Early—and Young."

6, the political and legal climate of the late 1960s was unusually receptive to such arguments. However, it is also worth noting that although opponents of eighteen-year-old voting tended not to challenge such claims, arguments that young people are like pre-Civil War blacks or pre-Nineteenth Amendment women have always been especially problematic. As a number of commentators—including Shklar—have remarked, youth is a transitory state, unlike being black or female. While it is fair to describe the minimum voting age as discriminatory, it is a peculiarly egalitarian form of discrimination. Youth is a status that everyone experiences and everyone—barring tragedy—eventually outgrows. Even if one were to argue that excluding anyone from the franchise on the basis of age is unfair—an argument never heard in the voting age debates—the fact that age is both a universal and temporary disability arguably makes such exclusions less morally problematic than restrictions based on race, sex, or even property ownership.

The general lack of scholarly interest in the history of the Twenty-sixth Amendment is in many ways understandable. The amendment was ratified very quickly, has a relatively narrow focus, and includes little ‘open text’ that might lend itself to creative legal analysis. Nonetheless, I believe that legal scholars, historians, and political scientists have been too quick to dismiss the voting age amendment as a legitimate topic for serious inquiry.

As I hope that I have convinced my readers, the story behind the amendment itself is considerably more complicated and multifaceted than it is commonly thought to be. The Twenty-sixth Amendment was not, as has often been suggested, merely Congress’s way of correcting an administrative oversight that had resulted in a three-year gap

between the minimum voting and draft ages. To be sure, arguments about military service played a crucial role in the voting age debates, but the eighteen-year-old voting movement was bound up with the trends and events of the time—including but not limited to the war in Vietnam—in a number of complex ways. Furthermore, just like other substantial political questions, the voting age controversy implicated a number of difficult questions about the meaning of the franchise, the relationship between voting and citizenship, and the contours of membership in the American polity. The politicians involved in the voting age debates did not always do these questions justice, and the arguments they offered were frequently undertheorized and sometimes logically problematic. Nevertheless, for better or for worse, the debates over eighteen-year-old voting illustrate the nature of political deliberation, and as such, the nature of politics itself.

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