

August 2020

If You're Old Enough To Fight, You're Old Enough To Vote

Bob Brown

Follow this and additional works at: <https://scholarship.law.umt.edu/plrlr>



Part of the [Administrative Law Commons](#), [Agriculture Law Commons](#), [Animal Law Commons](#), [Cultural Heritage Law Commons](#), [Energy and Utilities Law Commons](#), [Environmental Law Commons](#), [Indian and Aboriginal Law Commons](#), [Land Use Law Commons](#), [Law and Race Commons](#), [Natural Resources Law Commons](#), [Oil, Gas, and Mineral Law Commons](#), [Science and Technology Law Commons](#), and the [Water Law Commons](#)

Recommended Citation

Brown, Bob (2020) "If You're Old Enough To Fight, You're Old Enough To Vote," *Public Land & Resources Law Review*. Vol. 43 , Article 30.

Available at: <https://scholarship.law.umt.edu/plrlr/vol43/iss1/30>

This Article is brought to you for free and open access by The Scholarly Forum @ Montana Law. It has been accepted for inclusion in Public Land & Resources Law Review by an authorized editor of The Scholarly Forum @ Montana Law.

IF YOU'RE OLD ENOUGH TO FIGHT, YOU'RE OLD ENOUGH TO VOTE

Bob Brown

In 1928, when my father was nine years old, he was seated with his grandmother on the porch of her Iowa farmhouse. In that election year the candidates were Democrat Al Smith and Republican Herbert Hoover. My father remembers his grandmother gushing with pride about the Republican candidate. Hoover was a native son of Iowa; he was a self-made man who had earned a fortune through thrift and hard work; he had dedicated his life to public service; he was meticulously honest; and quite fittingly, he was a Republican.

She went on to angrily list the sins of Smith. He was a “wet” on prohibition; he was a Catholic; he was a crooked Tammany Hall politician from New York City; and of course, he was a Democrat. She proclaimed that she would “never allow a Democrat to pass my front gate.”

My dad asked her why she felt so strongly against Democrats, and her terse reply was that “the Democrats killed two of my brothers.” She was referring to the Civil War. Just as the South was solidly Democratic in the decades following the Civil War, New England and the upper Midwest were just as solidly Republican. The Civil War was the nation’s most memorable and tragic calamity. When “waving the bloody shirt,” northern orators made sure voters remembered that “behind every rebel rifle there was a Democrat.”

My dad wasn’t sure he ever personally knew a Democrat until he entered the army during World War II. That leads me, gentle reader, to the subject of this essay. During the war, G.I.s were essentially allowed to vote regardless of age. The Franklin D. Roosevelt administration assumed most of the troops would support the Commander-in-Chief (as was the case with Lincoln in the Civil War), and the Republicans wouldn’t dare object to allowing our defenders to be participants in the freedom they were risking their lives to defend. When the votes were tallied, the count in Dad’s platoon was 43 for Democrat Franklin Delano Roosevelt and one for Republican Tom Dewey. In telling the story, he always delighted in the punch-line that he was “the only one who knew for sure who the son-of-a-bitch was who voted for Dewey.”

The Vietnam War, like the Civil War and World War II, powerfully impacted the politics of its time. A commonly heard Vietnam era refrain was “if you’re old enough to fight, you’re old enough to vote.” Unsurprisingly, this view had been strongly advocated by World War II commander and later President Dwight Eisenhower, particularly in his

1954 State of the Union address. In the 1960s and 70s, another of its champions was Montana Senator Mike Mansfield, proud veteran of three major branches of our military service.

As student body president at Montana State University in 1969–1970, I first came to know a dear friend who might easily be co-authoring this piece with me if his life had not been sadly cut short. Joe Mazurek was my student president counterpart at the University of Montana. Joe and I met with Governor Forrest Anderson in his office before a meeting of the Board of Regents. The Governor was on board with us completely on lowering the voting age, as well as on granting greater authority to student governments over student fee money.

Our conversation with him was totally positive, but the most memorable thing about it was the Governor himself. He was a tough customer. A small man, he appeared even smaller behind his large desk. His expressions were surly and salty, especially when he commented on then Attorney General Bob Woodahl. He was kind and agreeable to us, but he was a curmudgeon if I ever met one.

A few minutes later, Joe and I were seated in the Governor's conference room waiting for the Governor to come in to preside over the Regent's meeting. We watched the doorway leading into the great room. Then, dramatically, Anderson appeared, seemingly out of nowhere in the middle of the room. He had silently entered directly from his office through a door hidden in the paneling. It was hard to believe he was the same person. His mane of silver hair was regal. He was well-proportioned, and with his shoulders back he didn't appear small as he elegantly glided to his place at the head of the table. He knowledgeably conducted the meeting with perfect poise and not the remotest hint of the curmudgeon. He was the perfect image of a governor.

Either or both of the Forrest Anderson personas were effectively behind the measure in the political-divided 1969 legislative session, which placed the question of lowering the voting age in Montana from 21 to 19 on the ballot for the voters to decide.

The measure to do so, principally sponsored by Representative Tom Harrison (R–Helena) passed the House 84-17, and the Senate 46-7, easily obtaining the two-thirds majorities required to place a measure to amend the Constitution on the 1970 statewide general election ballot for ratification by the people. The people weren't so sure, though, and only barely approved the 19-year-old voting age 51.6 percent to 48.4 percent (At the same time, they approved a measure to convene a constitutional convention, 65 percent to 35 percent.)

The 1970 election returns largely followed the voting trends for partisan offices, with the 19-year-old measure running well where

Democrats ran well, and poorly where they didn't. I strongly supported it in my first election to the Montana House of Representatives that year, but it failed in Flathead County 46 percent to 54 percent. I barely won, placing fifth out of ten candidates in the at-large countywide election.

The "Second Progressive Era" in Montana politics, or "Glory Days" as reflected elsewhere in this collection, both burst into our history and faded away in the span of a few years in the decade of the 1970s. That is the period when serious legislation to protect our environment came in the wake of the great 1972 Montana Constitution. If broadening the franchise to include younger voters fits with progressive reform, however, then lowering the voting age was the first real and tangible accomplishment of the era.

The 1971 Montana legislative session will be remembered for a long and bitter 46 day impasse over the issue of a sales tax. The question of qualifying more young people to vote, however, was front and center in that session, and of far greater historical significance.

After an act of Congress to reduce the voting age in all states to 18 was struck down in a 5-4 United States Supreme Court decision in 1970, Congress began action on a constitutional amendment for that same purpose. The proposed 26th Amendment cleared the U.S. Senate on March 10, 1971 by a vote of 94-0. The only complication was an attempt by Senator Edward Kennedy (D-Massachusetts) to attach a "rider" to the legislation by adding to the amendment a provision to grant the disenfranchised residents of the District of Columbia two Senators and the number of representatives for which their population would qualify them.

Montana Senator Mike Mansfield strongly opposed the Kennedy proposal, and moved to table it, arguing that it would "jeopardize the effort to extend to 18, 19, and 20-year-olds the full franchise of the ballot in all elections." Mansfield's motion carried 68-23, and the Senate immediately and unanimously passed the un-amended 26th Amendment to the House of Representatives.

On March 23, the U.S. House passed the 26th Amendment 401-19, and it was referred to the states for their ratification that same day. Three-fourths of the states are required to ratify an amendment to the United States Constitution. Of the 38 of the 50 states thus required, Montana was the eighth to do so.

Our legislature would ordinarily have concluded what was then its regular 60-day session by March 24, but a deadlock on the budget, caused by the sales tax controversy, had forced the legislature back in special session. The ratifying resolution, principally sponsored by Senate Majority Leader Dick Dzivi (D-Great Falls) was introduced in the special session on March 24, and with the rules suspended to facilitate its passage, cleared

the Senate unanimously on March 25. The House ratified it 88–8 on March 29. Though once ratified, a constitutional amendment applies in all the states, seven states, including Montana’s next-door-neighbor North Dakota, have never approved the 26th amendment.

In a rather ironic twist, the regular 1971 session, in anticipation of the constitutional amendment that the legislature presumed it would not be in session to ratify, passed H.B. 52, principally sponsored by Representative Francis Bardanouve (D–Harlem), to place a measure on the 1972 ballot to lower the voting age from 19 to 18. While it passed the legislature overwhelmingly, it was actually rejected by Montana voters 52 percent to 48 percent. The outcome, however, was meaningless, because the 26th Amendment superseded Montana law by establishing 18 as the national voting age, and in addition, the 1972 constitution, which the voters approved on that same 1972 election ballot, established that “a person 18 years of age or older is an adult for all purposes.”

This state constitutional provision proved controversial because it created an 18-year-old drinking age, which went into effect along with the 1972 Constitution in January of 1973. The legal availability of alcohol to high school students was the talking point that resulted in a citizen’s initiative in 1978, which raised the drinking age from 18 to 19.

On the same 1978 ballot, Montana voters approved an issue referred to them by the 1977 session of the legislature removing the legal age provision from the state constitution so that either the legislature, or the people by their initiative, could establish the legal age for consuming or possessing alcoholic beverages.

In 1987 the legislature used this authority to change the drinking age from 19 to 21 under pressure from the federal government to reduce highway funding in states that did not conform to a national drinking age of 21. The purpose was to eliminate the “bloody borders” problem of young drinkers from states with high drinking ages doing their drinking in neighboring states with lower ages and then driving home.

I remember when we debated the drinking age change to 21 in the 1987 session, that Senator Cecil Weeding (D–Jordan) caused a chorus of chuckles with his observation that to have been effective for him, the age would have had to have been at least 65, because that was about the age of the hired hand who supplied the social needs for him and the kids on his school bus.

Between the 1971 and 1973 sessions of the legislature, I served briefly on active duty in the Naval Reserve. During that period, I corresponded with then AP reporter J.D. Holmes and told him that I was interested in becoming Secretary of State, the state’s chief elections officer, because of my interest created by the voting age legislation. J.D. included

my comment in a story he wrote at the time. He told me afterwards that incumbent Secretary of State, Frank Murray “got a little hot under the collar” when he saw J.D.’s story. Frank needn’t have been concerned. Though I retained a keen interest in the conduct of elections and the qualifications of voters, it would be more than a quarter century before I moved into his office.

Lowering the voting age to 18 was fair and right. However, there was a powerful expectation that an influx of 18, 19, and 20-year-olds onto the voting roles would cause a surge of young voters. That barely happened in the Vietnam War years of the 1970s, and it has never really happened since. The 18 to 24-year-old cohort has consistently had the lowest level of voting participation since the adoption of the 26th Amendment.

In 1972, the first year the new voting age was in effect, an estimated 55.4 percent of the new voters actually voted. It is possible that anti-Vietnam War Democrat George McGovern took the young voters for granted. Ultimate pragmatist Richard Nixon carefully included appeals to them in his campaign plan. While there is no way of knowing how the youngsters voted, Nixon carried 49 of the 50 states. He beat McGovern in Montana by more than 20 points.

The 2008 election of Barak Obama saw a definite upswing in the 18–24 voting-age-group, when they had a 49 percent rate of participation. At the time of this writing, incumbent Donald Trump appears unpopular with young voters heading into the 2020 election, and I think, therefore, there is no chance Democrats will take them for granted. The “youth vote” may indeed be a major factor in the 2020 election. If so, that will only be a scant 48 years after it was predicted to be.

Global climate change now haunts the future of all living things on our planet. There is a climate denier in the White House in this critical time. Young people have a clearer understanding of our peril than any other demographic. It is they who will be most impacted if we remain on our current suicidal path. A big turnout among young people could not only sway the upcoming election but might also precipitate new “Glory Days” of progressive reform on a national scale, and maybe even again in Montana.