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Introduction

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges.

Wesberry v. Sanders, 376 U.S. 1 (1964)¹

The 26th Amendment to the U.S. Constitution ratified in 1971 lowered the voting age from 21 to 18 and further prohibited voter discrimination based on age. It was passed with near unanimity due to its strong bi-partisan support, and swept through the states, marking the quickest amendment process in U.S. history. While much writing on the 26th Amendment focuses on the hypocrisy of youth being forced into a mandatory military draft while being denied the right to vote, there is a more historically nuanced vein of research which situates the fight to lower the voting age within the context of broader efforts to remove barriers to the franchise and democratize society. As Yael Bromberg put it, “the ultimate expansion of youth access to the franchise is a part of the narrative and immediate aftermath of the Second Reconstruction, and it was a natural extension of the nation’s arc towards democratic inclusion.”²

These efforts were punctuated by several important events, such as Martin Luther King’s “Give us the Ballot” speech in 1957 and Freedom Summer of 1964, and realized through several legislative milestones, including the Civil Rights Act of 1964 and the Voting Rights Act of 1965 (VRA), which, among other things, introduced Justice Department pre-approval of electoral changes in counties which had a history of discriminatory practices. A 1970 amendment to the VRA lowered the voting age via statute, leading to a tipping point on the issue after its introduction over 150 times since 1942 as it pressed on for constitutional rati-

1 *Wesberry v. Sanders*, 376 U.S. 1 (1964), <https://supreme.justia.com/cases/federal/us/376/1/>.

2 Yael Bromberg, “Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment,” *University of Pennsylvania Journal of Constitutional Law* 21, (2019): 1123, <https://scholarship.law.upenn.edu/jcl/vol21/iss5/1/>. As Keyssar explains, “What occurred in the course of a decade was not only the re-enfranchisement of African Americans but the abolition of nearly all remaining limits on the right to vote. Poll taxes, literacy tests, understanding clauses, pauper exclusions, and good character provisions had been swept away”; Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (Basic Books, a member of the Perseus Books Group, 2009), 228.

fication.³ The director of NAACP's Youth and College Division, James Brown Jr., summed up the sentiment of voting activists of the time: "It is high time that we realize that black people, poor people, and young people, regardless of color, have been the victims of scorn by those who make our laws. This situation will not be alleviated until all are given full franchise."⁴

The apex on this issue was finally reached after years of movement-building by a youth-led advocacy effort, coalescing in the formation of the Youth Franchise Coalition (YFC).⁵ The YFC organized across college campuses and the country, especially in Appalachia, with the support of a diverse, multigenerational coalition with organizations such as Common Cause, the National Education Association, the NAACP, the American Jewish Committee, and the National Association of Autoworkers.⁶

Debates in Congress over lowering the voting age foreshadowed both the promise and challenges that would later emerge once the 26th Amendment was ratified, particularly on college campuses. In a series of reports and deliberations, legislators expressed a fear that the failure to bring America's youth into the democratic process could contribute to their alienation and fuel the radicalism and protests that were sweeping college campuses across the country,⁷ as well

3 For a summary explanation of the circuitous ratification process, see Bromberg, "Youth Voting Rights." See Jennifer Frost, *"Let Us Vote!": Youth Voting Rights and the 26th Amendment* (New York University Press, 2022) for an in-depth explanation of the process to ratification.

4 Frost, *"Let Us Vote!"* 279.

5 As described by Frost, the YFC was initially founded by "a small group representing key organizations," including the National Education Association, the Student National Education Association, the NAACP, the U.S. National Student Association, Young Democrats, Young Republicans, and others, which met in December 1968 in Washington, D.C. and launched an interim steering committee. Frost, *"Let Us Vote!"* 177. The role of acting executive director was taken on by Tom Hipple, a campaigner from Indiana with close connections to Senator Birch Bayh, chair of the key U.S. Senate subcommittee on constitutional amendments. A separate organization, Let Us Vote, took root in late 1968 by students at the University of Pacific in Stockton, California, following a visit from Senator Bayh. Frost, *"Let Us Vote!"* 179.

6 Bromberg, "Youth Voting Rights," 1120–1123. See also Frost, *"Let Us Vote!"* 188–189. YFC's formation was "welcomed by many politicians" from across the aisle, Frost, *"Let Us Vote!"* at 191, along with their close staff such as Jay Berman, a young staff director for Senator Bayh who organized the Senate hearings and whipped votes in favor of the measure, and Carey Parker, a stalwart aide for Senator Ted Kennedy.

7 Congressman Railsback voiced concern that college students "were being encouraged to try and overthrow the system by the very vocal radical element. They were frustrated that they had no voice in decision-making"; *Extending Voting Rights Act of 1965*, HR 914, June 17, 1970, 91st Cong., 1st sess., *Congressional Record* 116, pt. 15: 20166, <https://www.congress.gov/bound-congressional-record/1970/06/17/house-section>.

as a confidence that young voters could reinvigorate and strengthen American democracy.

In the congressional debate on the Amendment, Democratic Congressman Spark Matsunaga of Hawaii cited the President's Commission on the Causes and Prevention of Violence's warning that "The anachronistic voting-age limitation tends to alienate [youth] from systematic political processes and to drive them into a search for an alternative, sometimes violent, means to express their frustrations over the gap between the Nation's ideals and actions."⁸ Congressman John Anderson of Illinois underlined the stakes: "we will either convince them that the ballot box and the elective process is an effective means of accomplishing change," or they will inevitably "succumb to the same pressures that have brought the demise of democracy when faith in man's right to choose has begun to fade."⁹

The Senate Judiciary Committee's report on *Lowering the Voting Age to 18*, authored by Indiana's Democratic Senator Birch Bayh, took a more positive approach—one which predominated the discussion on the youth vote—as he skillfully steered the process of constitutionalism via the Subcommittee on Constitutional Amendments which he chaired with the support of Senate Majority Leader Mike Mansfield of Montana. Bayh lauded the "dedication and conviction" students brought to the civil rights movement and the "skill and enthusiasm they have infused into the political process."¹⁰

West Virginia Senator Jennings Randolph, known as the Grandfather of the 26th Amendment, had first introduced an identical proposal more than a quarter century earlier in 1942, and diligently continued to champion it until its ratification:

I had then, as I have now, the utmost confidence in the ability of our young citizens to think clearly, to weigh the issues, and to make judicious decisions on matters closely affecting

8 The report continued, "Lowering the voting age will not eliminate protest by the young. But it will provide them with a direct, constructive, and democratic channel for making their views felt and for giving them a responsible stake in the future of the Nation"; *Lowering the Voting Age to 18*, HR 223, March 23, 1971, 92nd Cong., 1st sess., *Congressional Record* 117, pt. 6: 7538, <https://www.congress.gov/bound-congressional-record/1971/03/23/house-section>.

9 *Extending Voting Rights Act of 1965*, HR 914, June 17, 1970, 91st Cong., 1st sess., *Congressional Record* 116, pt. 15: 20163, <https://www.congress.gov/bound-congressional-record/1970/06/17/house-section>. See also Professor Paul Freund of Harvard Law School, cited in: Senator Birch Bayh, *Lowering the Voting Age to 18: A Fifty-State Survey of the Costs and Other Problems of Dual-Age Voting*, report prepared for the Constitutional Amendments Subcommittee of the Committee on the Judiciary, 92nd Cong., 1st sess., 1971, Committee Print 56–103, 6.

10 Bayh, *Lowering the Voting Age to 18*, 6.

their futures. ...They share the burden of fighting our wars and carrying out our national policies, but have no real voice in making those policies. They share the burden of paying our taxes. They stand responsible and adult, not juvenile, before courts of law. They stand responsible for the welfare and the lives of their fellow citizens, traveling on our streets and highways ... allowed to operate motor vehicles. They bear the burden of the future of their families, for we allow them to make wills and to purchase insurance. They bear the burden of financial consequences for their own actions, for we allow them to be sued in court. They are responsible for their own ultimate social future, for we allow them to choose their profession. ... Our youth are the promise, the home, the dream of Americans. This we all recognize as we emphasize education, family, health, and vocational preparation. ... They will bring these new, different ideas. They will bring these new, so necessarily needed, enthusiasms which I sense are valuable.¹¹

Conservative stalwart Senator Barry Goldwater, who claimed to have had “probably visited more colleges and universities in the last decade than anyone in the country,” was convinced that “some more idealism will do us all good. It will help remove the crusty, shop-worn reasons why the policies and goals which are promised to voters don’t ever seem to get accomplished. It will make us find the positive answers that will put us on the right track.”¹² When the Amendment was finally approved, with an overwhelming 94–0 vote in the Senate and 401–19 vote in the House, President Nixon declared “America’s new voters, America’s young generation” would bring “moral courage” and “a spirit of high idealism” to the country. It was the quickest amendment to be ratified in United States history, rounding the requisite 38 states in less than 100 days, in large part due to the cross-partisan support it garnered.

But the enthusiasm was not universal. During a failed 1967 effort to lower New York State’s voting age from 21 to 18, the *New York Times* decried the potential addition of “inexperienced and immature voters” onto the voting rolls.¹³ In the congressional debate on the eve of the 26th Amendment, Republican Congressman Robert Michael of Illinois warned about the impact that a

11 Jennings Randolph, statement appearing in U.S. Congress, Senate, Subcommittee on Constitutional Amendments of the Committee on the Judiciary, *Hearings on S.J. Res. 8, S.J. Res 14, and S.J. Res. 78 Relating to Lowering the Voting Age to 18*, 90th Cong., 2nd sess., 1968, 61–62.

12 *Eighteen is Old Enough*, S. 3560, March 10, 1971, 92nd Cong., 1st sess., *Congressional Record* 117, pt. 5: 5820, <https://www.congress.gov/bound-congressional-record/1971/03/10/senate-section>. The report cited Freund, who asserted that “the student movement around the world” was the “herald of an intellectual and moral revolution,” which, if not subverted, “could portend a new enlightenment”; Bayh, *Lowering the Voting Age to 18*, 6.

13 “The Right Voting Age,” *New York Times*, July 7, 1967.

large concentration of youth voters could have on local elections, specifically youth from college campuses:

My principal concern with this particular measure is one that has to do with permitting 18-year-olds to vote, for instance, in local and municipal elections in college towns. ... For goodness sakes, we could have these transients actually controlling the elections, voting city councils and mayors in or out of office in a town in which they have a dominant voice.¹⁴

Congressman Thomas Railsback, another Illinois Republican, articulated similar concerns and foreshadowed future challenges by suggesting that students should only be able to register if they stated an oath before a local election official testifying to their residency and their intention to remain within a community following graduation, and providing information about things like where they banked and where they paid their taxes.¹⁵

No sooner had the 26th Amendment been ratified than those concerns manifested into practical challenges that threatened students' right to vote in the communities in which they studied. Local officials, often echoing the sentiments expressed by Michael and Railsback, took actions to limit youth political power. Acting at times like Jim Crow-era gatekeepers, they imposed selective residency requirements that barred students from registering to vote locally. These requirements were overturned by numerous state and federal courts across the country,¹⁶ leading to the 1979 case *Symm v. United States*, which emerged from complaints by students at Prairie View A&M University (PVAMU). To this day, *Symm* remains the only United States Supreme Court decision to have substantively considered a 26th Amendment challenge.

Symm, however, did not end discriminatory practices that targeted students. Local and county public officials have repeatedly demonstrated that they are prepared to suppress the vote of college students, continuing to impose residency requirements, instituting bureaucratic address requirements intended to disqualify student voters, and even threatening and arresting college students for voting lo-

¹⁴ *Lowering the Voting Age to 18*, HR 223, March 23, 1971, 92nd Cong., 1st sess., *Congressional Record* 117, pt. 6: 7538, <https://www.congress.gov/bound-congressional-record/1971/03/23/house-section>.

¹⁵ Railsback mentioned several criteria to determine residency, including "where the person intends to reside, and where he does his banking, pays his taxes ... whether he is in effect a transient, which would mean his residence would be his permanent home or where he intends to return." *Lowering the Voting Age to 18*, HR 223, March 23, 1971, 92nd Cong., 1st sess., *Congressional Record* 117, pt. 6: 7539, <https://www.congress.gov/bound-congressional-record/1971/03/23/house-section>.

¹⁶ Bromberg, "Youth Voting Rights," 1135–1136, footnote 126.

cally. They have also created barriers to the act of voting itself, situating polling places at considerable distance from college campuses, limiting voting hours, and sowing confusion by gerrymandering college campuses into multiple election districts.¹⁷ These and other restrictions only metastasized after the notorious *Shelby v. Holder* 2013 Supreme Court decision which eviscerated the Voting Rights Act of 1965, the crown jewel of the Second Reconstruction, and led to new restrictions pertinent to student voters such as the roll-back of accessible polling locations and stripping of student identification as a permissible form of voter identification.

Framework

The goal of this book is to use the history of the 26th Amendment, the ongoing fight to promote and defend youth voter participation and voting rights in general, and the role of college communities in that fight, as a prism through which to teach the history of the struggle for the fundamental right to vote in the United States. The hope is not simply to address a heretofore underdeveloped area of research, but also to shape teaching and inform contemporary civic engagement efforts of students and institutions across the country.

The book explores college campuses which experienced significant threats to voting rights and which, often through lengthy battles, served as host sites to precedential voting rights litigation. It is centered around the experiences of four institutions, some of which have played out over decades: Tuskegee University in Alabama, PVAMU in Texas, North Carolina Agricultural and Technical State University (NC A&T), and Bard College in upstate New York. We explore obstacles to voting and the organizing, advocacy, and legal efforts that went into surmounting them. To contextualize developments, particularly since three of the four cases occurred at Historically Black Colleges and Universities (HBCUs), we explore HBCUs' unique history and interrogate the interplay between age, partisanship, and race in motivating youth voter suppression.

Chapter one provides an overview of the evolution of the right to vote in America with an emphasis on youth political participation during the First and Second Reconstruction, through ratification of the 26th Amendment and its immediate aftermath. The chronological legal overview frames the college case studies in the context of the evolving recognition of the right to vote, and describes indi-

¹⁷ A reader seeking to learn more details about these restrictions may be interested in the 2022 *Rutgers University Law Review* volume, which was the first legal volume dedicated to the 26th Amendment after its ratification over 50 years ago; *The Rutgers University Law Review* 74, no. 5 (2022), <https://rutgerslawreview.com/volume-74-summer-2022-issue-5/>.

viduals involved in those struggles to shape the law through organizing, advocacy, and litigation.

Chapter two then contextualizes the case studies within the environment of higher education by focusing on the historic link between American higher education and democracy, and the unique mission of HBCUs in shaping civic engagement. Particular attention is devoted to the role of key constituencies—students, faculty, and administrators—in the fight for student voting rights, including the role of institutions themselves as civic actors.

The book then moves into the case studies, each of which examines the sources and nature of the threat to voting rights and the methods and mechanisms used to defend those rights. Chapter three explores Tuskegee University (then Tuskegee Institute), which in 1957 was literally gerrymandered out of the municipality of Tuskegee, along with nearly all Black voters in the city. It devotes particular attention to the work of Tuskegee faculty member and administrator Charles Goode Gomillion, who eventually became the named plaintiff in the landmark 1960 Supreme Court case *Gomillion v. Lightfoot* which addressed racial gerrymandering for the first time.

Chapter four examines the protracted fight at PVAMU, beginning with *Symm v. United States* in 1979 and extending across the experience of generations of students who suffered harassment and arrest. Chapter five explores NC A&T, whose campus was divided into two congressional districts in a partisan gerrymander that was featured in recent North Carolina state and federal cases *Harper v. Hall* and *Rucho v. Common Cause*.

Chapter six examines the case of Bard College, which over the last quarter century participated in four successful lawsuits, one federal and three state, that secured student voting eligibility based on residency, established a polling site on campus, and contributed to the adoption of a state law mandating polling sites on college campuses with more than 300 registered student voters. Chapter seven then compares and contrasts the case studies, identifying similarities and differences between the case studies and lessons from the experiences of the four institutions.

The final chapter is a more practical step-by-step guide that offers best practices and frameworks for how college communities address student voting today.

The multidisciplinary approach of the book is reflected in the different perspectives and voice that emerges from each chapter's author, and the book as a whole. The case studies have been written by historians and political scientists based in the institutions examined, the framing chapter on the right to vote and the youth vote has been written by a constitutional rights litigator and legal scholar of the 26th Amendment, while the framing chapter on the civic role of college communities and the chapter on best practices for student voter

engagement have been written by university administrators. By offering the case studies in chronological order, the book offers a multidisciplinary academic tool for classrooms to study evolution of the vote and the youth vote from the locales most familiar to student-readers: their colleges and universities.

This book makes an important contribution to the study of youth voting. The 26th Amendment and its impacts as a whole have been under-studied. This has in part been remedied by a recent book by Jennifer Frost, *“Let Us Vote!”*, and a companion book of primary documents, *Achieving the 26th Amendment*, edited by Frost and Rebecca de Schweinitz.¹⁸ Implementation of the Amendment was addressed by a special volume of *The Rutgers Law Review* in 2022. The volume offers a first-time collection of legal scholarship dedicated to the Amendment since its ratification over 50 years ago. Yet there remain significant gaps in the literature. This is particularly true for college campuses. While the 26th Amendment emerged in part in response to youth activism calling for the youth vote at the end of the Second Reconstruction, colleges and universities have been the centers of most 26th Amendment and youth voting litigation, although very little has been written systematically about the role of these communities in the promotion and defense of student voting rights.¹⁹

In total, the book tells the story of how institutions of higher education, and the critical actors surrounding them, have worked and can continue to work in partnership to register student voters, successfully overcome voter restrictions, and engage in the process of democracy. It demonstrates how it is possible to promote and defend voting rights with the dynamic engagement of a variety of civic actors. And while future proposed restrictions on these campuses are possible, especially if and when advocacy or leadership wanes, those who participate in this journey of participatory democracy are themselves transformed in the process as they work to expand access for others, for democracy is a journey and not a destination.

¹⁸ Rebecca de Schweinitz and Jennifer Frost, *Achieving the 26th Amendment: A History with Primary Sources* (Routledge, 2023).

¹⁹ For example, a survey of the five the most important law review articles on the 26th Amendment over the past fifteen years reveals only two mentions of college leadership (presidents, vice presidents, provosts and deans), and then only in reference to Bard College. References to student and faculty leaders tend to be episodic, and it is difficult to extract lessons for the present. Jonathan Becker and Erin Cannan, “Institution as Citizen: Colleges and Universities as Actors in Defense of Student Voting Rights,” *The Rutgers University Law Review* 74, no. 5 (2022): 1877.

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