RATIFICATION OF THE TWENTY-SIXTH AMENDMENT

by

Anne Frazier Yowell

Thesis submitted to the Graduate Faculty of the
Virginia Polytechnic Institute and State University
in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

in

Political Science

APPROVED:

Philip L. Martin, Chairman

James F. Herndon

Thomas H. Roback

May, 1973

Blacksburg, Virginia

ACKNOWLEDGMENTS

This paper is a study of efforts on both the state and national levels to lower the voting age in the United States, and the successful passage of the Twenty-sixth Amendment, which lowered the voting age in all elections to eighteen. It also examines the role which Common Cause, a nonpartisan, citizens' lobby located in Washington, D.C., played in the ratification of the amendment and Common Cause's effect on the ratification process.

I am indebted to Common Cause and especially to Pat Keefer and Ian MacGowan, who were the co-directors of Common Cause's eighteen-year-old-vote project and who were more than willing to give me their time and any information which would aid me in the research of this paper. Both of these people spoke candidly and openly about Common Cause and its participation in the campaign to secure ratification of the Twenty-sixth Amendment, and I appreciate not only their cooperation, but also their frankness.

I am also deeply grateful for the help I received from my Graduate Committee, especially from Philip L. Martin, who served as Chairman of that Committee. Dr. Martin not only guided me in the planning and organization of this work, but also gave me moral support and encouragement when I needed it most. To him, I extend my special appreciation.

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INTRODUCTION

On June 30, 1971, Ohio became the thirty-eighth state to ratify the Twenty-sixth Amendment, thus making that amendment part of the Constitution of the United States. The Twenty-sixth Amendment provides that no citizen having reached the age of eighteen shall be denied the right to vote because of age. It also has a provision which gives Congress the power to carry out the new law. The passage of this amendment ended a twenty-eight year old struggle which began in 1943 to lower the voting age. At times, the effort met with success, such as in Georgia in 1943, and in Kentucky in 1955, but more frequently, it has failed. Overall, the campaign to lower the voting age was not characterized by a constant degree of interest, activity, or strength, even though these qualities increased as the years passed.

After a number of years, the movement gained such momentum that Congress passed a law, the Voting Rights Act of 1970, lowering the voting age to eighteen. The law was then tested in the Supreme Court, Oregon v. Mitchell,[1] resulting in its being declared half constitutional and half unconstitutional. The law was ruled valid in federal elections and invalid in state and local elections. The split ruling created such overwhelming problems that intensive efforts were begun to secure

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[1] 43 U.S. 400, (1970).

a constitutional amendment to lower the voting age to eighteen in all elections.

Many groups and individuals lobbied for the passage of the proposed amendment. One of the most influential of these organizations was Common Cause, a national, non-partisan, nonprofit, citizen's lobby. Common Cause directed the first nationwide, state-by-state campaign to secure ratification of a federal constitutional amendment. Prior to this time, efforts had been made by the prohibitionists and the suffragettes to pressure some state legislatures to ratify the Eighteenth and Nineteenth Amendments, but these were individual campaigns which concentrated on particular sources of opposition.[2] In neither case was there any concerted drive to influence the nation or an entire state or even an entire state legislature.

Though the amendment could have been adopted without the help of Common Cause, it is doubtful whether it would have been ratified with such speed without the devotion and work of Common Cause and its lobbyists. This paper deals with the issue of lowering the voting age, past efforts, events leading up to and the passage of the Twenty-sixth Amendment and Common Cause's role in that passage. In a broader sense, it looks at the development of strategy and technique for lobbying to secure ratification of a federal constitutional amendment. Judging from the experience of the Equal Rights for Women Amendment, which is being opposed and supported by organizational campaigns before state

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[2]Lester B. Orefield, Amending the Federal Constitution (Chicago: Callaghan and Co., 1940), pp. 142-143.

legislatures, the precedent set by the Twenty-sixth Amendment may become the pattern followed for the ratification of future amendments.

CHAPTER I

THE ORIGINS OF THE MOVEMENT TO LOWER THE VOTING AGE IN THE UNITED STATES

In most parts of the United States, the age of maturity has traditionally been considered as twenty-one. However, the concept has been different in history because in ancient Rome, the age of majority was fourteen, while in England, prior to the Magna Carta, it was fifteen years. It was not that English youths were suddenly deemed immature until reaching age, but rather that the improvement in weapons of this era had resulted in an increase in weight. Consequently, young men were generally not physically capable of carrying the new armor until they had reached the age of twenty-one. For approximately nine centuries the age of maturity in England was based upon young men's physical ability and not upon actual intellectual and emotional maturity. When the English colonies were settled in America, it was natural that the age of maturity be set at twenty-one. Of course, the setting of age limits and requirements is at best arbitrary. Certainly, age requirements must be established, but these must be set within the context of other important variables.

The determination of voting requirements in the United States is for the most part left up to the individual states. In Article I, Section 4 of the Constitution of the United States, states are given the power to determine the "times, places, and manner" of holding

elections for Senators and Representatives. The Constitution grants states the power of determining suffrage requirements. That this is a state's right is further illustrated by the Tenth Amendment which declares that states retain all the powers which are not specifically granted to the federal government.

Once the terms of eligibility were established, it was not until the period of the Second World War that the subject of lowering the voting age became a popular and much discussed issue. From a broader perspective, changing the voting age is only one aspect of a wider movement toward increasing the electorate. Since the beginning of American history and the subsequent founding of the rules and regulations governing the right to vote, there has been a continuous trend toward expanding the franchise. As early as 1835, Alexis de Toqueville observed that "the further electoral rights are extended, the greater is the need of extending them."[1]

During the earliest stages of our history, most states used property requirements as the most important restriction on voting. Through the years, the property requirements were dropped, though it was still necessary to prove that one was not indigent. The poll tax then became generally accepted evidence of one's sound economic standing. The adoption of the poll tax was a liberalizing measure inasmuch as it expanded the franchise by allowing many who did not own property, such as tradesmen and merchants, to vote. Ironically, this liberalizing

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[1]Alexis de Toqueville, Democracy in America, Vol. I. (New York: Random House, 1945), p. 59.

measure which at first served to expand the electorate, gradually became so discriminatory that it had to be declared illegal.

The electorate has been extended most extensively by the enfranchisement of three groups: Negroes; women; and eighteen to twenty year olds. The end of the War Between the States brought about the end of slavery. The passage of the Fourteenth Amendment on July 28, 1868, provides that all people naturalized or born in the United States are citizens of the United States and the states in which they live. Furthermore, no state may pass laws which abridge privileges or immunities of citizens. Thus, Negroes were given citizenship, but only male Negroes were given the right to vote. As a result of continued voting discrimination against Negroes, the Fifteenth Amendment was passed on May 30, 1830. It provides that the right to vote should not be denied because of race, color, or previous condition of servitude. The Twenty-fourth Amendment was passed on January 24, 1964, for the purpose of abolishing the poll tax in all federal elections because this tax was used to discriminate against poor people, primarily Negroes and other minorities.

Another group which has been enfranchised is women. This took place by virtue of the Nineteenth Amendment which was adopted on August 26, 1920, and provided that the right to vote should not be denied because of sex. The third segment of our society to be enfranchised are the citizens eighteen years old and older as provided for in the Twenty-sixth Amendment which was passed on June 30, 1971. This latest extension of the franchise is truly part of a more extensive

movement toward enlarging the electorate. It is this aspect of liberalizing the suffrage that will be examined in this paper.

The passage of the Twenty-sixth Amendment to the Constitution was not the result of a short term campaign to have the voting age lowered. Actually, it was the end product of many years of struggles and debates over the wisdom and advisability of lowering the voting age. The movement originated during the period of the Second World War when the issue of "soldier voting" was extensively debated. Many people felt that if young men were old enough to fight, then they were old enough to vote. The problem of granting soldiers the right to vote was, of course, more distinct and critical during the war because of the obvious sacrifices that many young people were making for their country. However, the issue of "soldier voting" is only tangentially related to the question of lowering the voting age to eighteen for all citizens. Even though there are many soldiers under the legal age of voting, not all people under twenty-one years old are members of the armed services.

Several movements were initiated during the early 1940's to lower the voting age for everyone with action being taken on both federal and state levels. On the federal level, efforts were made to amend the Constitution of the United States. Joint resolutions were submitted to the 77th Congress proposing such an amendment. The first of these was introduced by Senator Vandenberg and Representative Wickersham on October 19, 1942.[2] A second resolution, House Joint Resolution 354,

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[2] Congressional Record, 77th Congress, 2nd Session, 1942, p. 8316.

was proposed two days later on October 21, 1942, by Representative Jennings Randolph. On October 30, 1943, Emanuel Celler, who was then ranking majority member of the House Judiciary Committee, held hearings on Randolph's proposal, but the resolutions were never reported out of committee.

During this time, efforts were also being made within individual states to lower the voting age to eighteen. On August 3, 1943, an amendment to the State Constitution of Georgia, which provided for the lowering of the voting age to eighteen, was approved by the Georgia electorate. The amendment was supported by Ellis G. Arnall, then Governor of Georgia, and was ratified by a vote of 42,284 to 19,682, a margin of well over two to one. Naturally, the issue of soldier voting was one of the primary arguments in support of the amendment. However, Governor Arnall wrote that there were other sound reasons to favor giving youth the vote. First, government needs the fresh approach and idealism of youth. Second, young people should be able to use their training in citizenship as soon as possible. He states that student populations are "deeply conscious of government and anxious to participate in it," but that inertia can result when three or four years are allowed to elapse between the time of discussion and participation.[3] As the effort to lower the voting age throughout the country gained momentum, Georgia's approval of the eighteen year old vote was used by supporters as an example of progressive action in government.

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[3]Ellis G. Arnall, "Admitting Youth to Citizenship," State Government, Vol. 16 (October, 1943), pp. 203-204.

In addition to federal and state action, student discussions were also heard. A debate on the topic of lowering the legal voting age to eighteen was held in May 1944, between the University of Iowa and the University of Missouri.[4] Some of the affirmative points were: 1) since eighteen year olds fight in wars, they are eligible for the vote; 2) Georgia has already lowered the voting age; 3) the trend in constitutional development has been to extend voting rights; 4) the Constitution itself establishes no age limits; 5) eighteen year olds are intelligent and educated enough to vote; 6) also, while some argue that youth is not interested in participating in politics, this is no valid reason to deny the right to those who do wish to participate. The negative team, on the other hand, argued that eighteen year olds are not sufficiently educated or emotionally stable to vote, nor have they lived long enough to gain knowledge through experience.

When Julia E. Johnson wrote Lowering the Voting Age in 1944, she discussed many of the same pros and cons of the issue as well as including several others. On the positive side is the fact that youth not only contributes to society during times of war, but also during times of peace. They hold jobs, assume the responsibility of home and family, and pay taxes. On the negative side, Johnson states that youth has been apathetic towards obtaining voting rights. Services which youth provide do not necessarily qualify them to vote because other extensions of voting rights have not been made on this basis

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[4]Edith M. Phelps, ed., University Debaters' Annual, 1943-1944 (New York: H. W. Wilson Co., 1944), pp. 306-311.

alone. And, a final conclusion was that the youth vote would not bring about any outstanding benefits. Therefore, efforts to democratize the vote, it was asserted, should be concentrated on those who already possess the right to cast a ballot.[5]

The above arguments for and against, in addition to the other points, were frequently used in subsequent battles over lowering the voting age. In particular, the opinions supporting a lower voting age served as a foundation upon which its advocates built a comprehensive, competent, and valid program in support of the eighteen-year-old vote.

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[5]Julia E. Johnson, Lowering the Voting Age (New York: H. W. Wilson Co., 1944), pp. 209-211.

CHAPTER II

NATIONAL EFFORTS TO LOWER THE VOTING AGE

Since the first joint resolution proposing a constitutional amendment to lower the voting age was introduced in 1942, there have been over one hundred and fifty similar proposals submitted to Congress.[1] A number of Senate Judiciary Committee hearings have been held during the 82nd, 83rd, 87th, 90th, and 91st Congresses. At these times the question of lowering the voting age was thoroughly investigated and discussed. Although there have been many proposals to amend the federal Constitution to lower the voting age, most of these motions have attracted little attention. For this reason the actions of the 83rd Congress become significant. Senate Joint Resolution 53, which provided for an amendment to the Constitution to lower the voting age, was the only resolution until 1970, reported out of committee and debated on the floor of the Senate where the resolution failed by a vote of thirty-four to twenty-four. However, it is important to note that the vote was only five short of the necessary two-thirds majority, demonstrating that the issue was gaining support. Another important event of the same Congress took place on March 10, 1954, when Emanuel Celler introduced a Constitutional amendment providing that no citizen

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[1] Congressional Record, 92nd Congress, 1st Session, 1971, p. 5459.

under the age of twenty-one be given the right to vote.[2] This proposal serves to demonstrate Mr. Celler's opposition to any suggestion of lowering the voting age requirements. Mr. Celler's opposition to the youth vote is significant because of his position in the House of Representatives. As Chairman of the House Judiciary Committee, he held a key post in determining the fate of any attempts to lower the voting age by means of a constitutional amendment. The awesome power of the Chairman of the House Judiciary Committee has been effectively demonstrated in the article "Amending the Constitution: the Bottleneck in the Judiciary Committees," by Donald P. Lacy and Philip L. Martin.[3] Consequently, Mr. Celler was successfully able to block every effort in that direction. It was not until after the Supreme Court decision in the case of Oregon v. Mitchell that Mr. Celler reversed his decision.[4]

The last hearings held by the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, United States Senate, were conducted on February 16 and 17, and March 9 and 10, 1970, under the leadership of Senator Birch Bayh. Spokesmen from numerous organizations and representatives from all areas of the political world testified in support of lowering the voting age. Some of the organizations represented at the hearings were the Youth Franchise Coalition, the

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[2]Congressional Record, 83rd Congress, 2nd Session, 1954, p. 3050.

[3]Donald P. Lacy and Philip L. Martin, "Amending the Constitution: The Bottleneck in the Judiciary Committees," Harvard Journal on Legislation, Vol. 9 (May, 1972), p. 684.

[4]43 U.S. 400 (1970).

National Education Association, the Student National Education Association, the National Businessmen's Council, the American Federation of Teachers, the National Association for the Advancement of Colored People, the American Civil Liberties Union, the American Jewish Committee, and the Association of the Bar of the City of New York.[5] In addition to organizational endorsement, many influential and well informed individuals spoke in favor of a lower voting age. Among these were national political personalities such as Senator Jennings Randolph, Senator Barry Goldwater, Representative William Cowger, Representative Allard Lowenstein, Senator Edward Kennedy, and Representative Tom Railsback.[6] Other witnesses to appear were: Deputy Attorney General Richard Kleindienst of the Justice Department; Ramsey Clark, former United States Attorney General; Assistant Attorney General Rehnquist of the Justice Department; Dr. Walter Menninger, member of the National Commission on the Cause and Prevention of Violence; and Dr. Margaret Mead, well-known professor of anthropology at Columbia University, New York. The testimony presented at these hearings was strongly disposed to lowering the voting age.

Some of the most persuasive arguments in favor of the eighteen-year-old vote were discussed during this hearing. Supporters of the movement believed that young people today are emotionally and mentally prepared to participate in government. Certainly, as pointed out, the

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[5]U.S. Senate, Hearings, Subcommittee on Constitutional Amendments (1969), p. III.

[6]Ibid., p. III.

current generation of young people are more highly educated than any previous generation. Over eighty percent of the eighteen to twenty year olds have graduated from high school. Also, young people in this age group have most of the same responsibilities as citizens over the age of twenty-one. Over half of these people are married, and many have families. Of the approximate eleven million eighteen to twenty year olds, more than three million have jobs and pay taxes. Over 1,400,000 of them were then serving in the Armed Forces. Citizens of this age group are treated as adults in criminal courts of law in forty-nine states.[7] Thus, in almost every way the evidence showed that citizens eighteen years old and older have been treated as adults, except that in most states they had been denied the right to vote.

Despite the fact that there had been many constitutional amendments submitted which would lower the voting age, very little progress was made in that direction. On January 25, 1969, Representative Emanuel Celler proposed House Bill 4249 in the House of Representatives. This bill provided for an extension of the Voting Rights of 1965 with respect to discriminatory use of tests and devices. On December 11, 1969, House Bill 4249 was amended and passed in the House. It was then sent to the Senate on December 15, 1969. There it was referred to the Committee on the Judiciary with instructions to be reported out no later than March 1, 1970. The Senate Judiciary Committee returned the bill on February 28, 1969, without report. Until this time the bill was dealing primarily with discriminatory voting practices such

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[7] Congressional Record, 92nd Congress, 1st Session, 1971, p. 5489.

as literacy tests. However, on March 12, 1970, House Bill 4249 was amended in the Senate to include a clause lowering the voting age to eighteen in all elections. The amendment to the bill was proposed by Senator Scott and was passed by a vote of sixty-four to seventeen. The following day the Senate passed House Bill 4249 as amended. Because its original text had been changed, the bill had to be returned to the House. On April 14, 1970, House Resolution 914, providing for agreement to the Senate amendements to House Bill 4249, was introduced and sent to the Committee on Rules. On June 4, 1970, House Resolution 914 was reported from committee and placed on the calendar. Thirteen days later, House Resolution 914 was approved by a vote of two hundred and seventy-two to one hundred and thirty-two. The next day, June 18, 1970, House Bill 4249, as amended, was approved by both chambers and sent to the President. On June 22, 1970, he signed the bill which became Public Law 91-285, the Voting Rights Act of 1970. Thus, a measure which was primarily designed to extend the Voting Rights Act of 1965 with respect to discriminatory use of test was converted into an act which lowered the voting age to eighteen.

Only the question of the constitutionality of lowering the voting age by statute remained to be determined, and opinion was divided on this issue. Some authorities felt that it was completely within Congressional power to lower the voting age by statute, while others believed that this could only be done through a constitutional amendment. Consequently, Title III of the Voting Rights Act of 1970, which provided that the legal voting age in all elections be eighteen, was

challenged by several states. On December 21, 1970, the Supreme Court handed down its decision on the case of Oregon v. Mitchell, together with Texas v. Mitchell, United States v. Arizona, and United States v. Idaho, also bills of complaint, concerning the constitutionality of Title III of the Voting Rights Act of 1970.[8]

The Supreme Court was divided on the issue with Justices Thurgood Marshall, William Douglas, William Brennan, and Bryon White in favor of upholding the eighteen-year-old-vote clause. They felt that citizens eighteen years old and older were subject to many forms of adult treatment. Therefore, it followed that to deny this age group the right to vote was a form of discrimination outlawed by the Equal Protection Clause of the Fourteenth Amendment. Those opposing Title III of the Voting Rights Act of 1970 were Justices Harry Blackmun, John Harlan, Potter Stewart, and Chief Justice Warren Burger.[9] These men felt that Congress had overstepped its power and had infringed upon states' rights.

The tie was broken by Justice Hugo Black. He agreed that Congress did not have the power to set the voting age in state and local elections, but he also felt that Congress is granted through the Constitution the power to regulate the "times, places, and manners" of federal elections. In his opinion, the Congress clearly has the power to lower the voting age in federal elections. As a result of this division of opinion, the Supreme Court ruled that Title III of the

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[8] 43 U.S. 400 (1970).

[9] 43 U.S. 400 (1970).

Voting Rights Act of 1970 is valid as far as it applies to federal elections. However, Congress does not have the constitutional power to lower the voting age in state and local elections by means of a federal statute.

The decision in the case of Oregon v. Mitchell created a multitude of problems. Only three states, Alaska, Georgia, and Kentucky, allowed eighteen year old citizens to vote. In all other states, arrangements would have to be made to permit eighteen to twenty year olds to vote in federal elections but not in state and local elections. The magnitude of such an operation is difficult to over estimate. Such a system would necessitate a program of dual registration, dual voting, and dual counting of the votes. Each Congressional district would need separate federal ballots. Additional voting machines would be needed to accomodate the new group of voters. All of this would require added personnel, training and work, and subsequently, sharply increased expenses. Increased costs were estimated to run as high as twenty million dollars.[10]

Beyond a doubt separate registration and voting would cause confusion and delay. Many felt that dual voting would also increase the possibilities of fraud. Over half the polling places in the United States were using voting machines. Many election officials reported that their machines could not be used for both types of voters at the same time. Other election officials reported that their machines

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[10] Congressional Record, 92nd Congress, 1st Session, 1971, p. 5491.

could be used simultaneously by both sets of voters, but someone would be needed to guard each machine and adjust it after each use so that voters could only vote in those elections for which they qualified. In some areas, paper ballots were considered, but this type of balloting is more complicated and tends to foster fraud. There was no doubt that dual voting would cause confusion and take more time, which in turn, would result in lowered voter turnout.[11]

All of these obstacles led up to one important factor, dual registration and voting would cause a substantial increase in the cost of elections. Taxpayers, through the state governments, would carry this burden. As was to be expected, most states wished to avoid this extra expense. The only way to do so was to lower the voting age in state and local elections, thereby conforming to the voting age in federal elections. There were only two ways to achieve this goal; either each state could lower the voting age to eighteen or an amendment could be added to the Constitution of the United States.

A survey conducted by Senator Birch Bayh in his official capacity as Chairman of the Senate Committee on Constitutional Amendments showed that while most states found the additional costs of dual registration and voting "prohibitive," the likelihood of state action to lower the voting age to eighteen before the 1972 general elections was poor. Of the forty-seven states affected, only in six was action probable, while in sixteen states, action was possible but improbable, and in

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[11] Ibid., p. 5496.

twenty-five states action was impossible.[12] The table on the following page is a breakdown of Senator Bayh's findings. The last column of the table deals with the probability and possibility of individual state action as deduced from these findings. Thus, the only feasible solution to the problem, if it were to be solved before the general elections in 1972, was the passage of a federal constitutional amendment setting the universal voting age at eighteen.

Because of the complex obstacles resulting from the Supreme Court decision, many members of Congress were anxious to correct the situation as soon as possible. In fact, many who had consistently opposed any prior effort to lower the voting age reversed their positions, most notably Representative Emanuel Celler, Chairman of the House Committee on the Judiciary. On January 25, 1971, Senator Jennings Randolph, a Democrat from West Virginia, introduced Senate Joint Resolution 7. This resolution proposed an amendment to the Constitution which would lower the voting age to eighteen in all elections, federal, state, and local. The Senate Judiciary Committee arranged for speedy consideration of Senate Joint Resolution 7 without holding hearings. Hearings were omitted for two reasons. First, extensive hearings had been conducted by the Senate Subcommittee on Constitutional Amendments in 1969. Second, time was of the essence, and hearings would necessarily take up too much time. Only by making the amendment the first order of business could the possibility of ratification before the next general elections

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[12] Ibid., pp. 5497-5505.

Table 1

Affects of Oregon v. Mitchell Within States and Possibility of State Action

State	Number of Voters Affected	Costs	Possibility of State Action Before 1972 Elections
Alabama	195,000	No estimate	Improbable
Alaska	Voting age already 18 - no affect		
Arizona	95,000	High - no exact estimate	Improbable
Arkansas	100,000	Negligible	Improbable
California	1,000,000	$1.5 million	Improbable
Colorado	120,000	Minimal	Impossible
Connecticut	150,000	$1,300,000	Possible
Delaware	30,000	$13,940	Impossible
Florida	320,000	$422,500	Improbable
Georgia	Voting age already 18 - no affect		
Hawaii	35,000	$63,000	Impossible
Idaho	45,000	High - no estimate	Impossible
Illinois	500,000	High - no estimate	Improbable
Indiana	250,000	$170,000	Improbable
Iowa	130,000	$150,000	Impossible
Kansas	250,000	High - no estimate	Impossible
Kentucky	Voting age already 18 - no affect		
Louisiana	200,000	Minimal	Possible
Maine	50,000	$10,000	Possible
Maryland	200,000	No estimate	Impossible
Massachusetts	100,000	$40,000	Impossible
Michigan	400,000	High - no estimate	Improbable
Minnesota	60,000	No estimate	Impossible
Mississippi	130,000	Negligible	Possible
Montana	10,000	$5,500	Impossible
Nebraska	50,000	$300,000	Impossible
Nevada	26,000	High - no estimate	Improbable
New Hampshire	36,000	$4,000	Impossible
New Jersey	300,000	"Not bad"	Improbable
New Mexico	62,000	$200,000	Improbable
New York	850,000	$5,000,000	Improbable
North Carolina	300,000	High	Impossible
North Dakota	35,000	No estimate	Improbable
Ohio	553,000	$750,000	Possible
Oklahoma	130,000	Up to $150,000	Improbable
Oregon	100,000	High	Improbable
Pennsylvania	500,000	$500,000	Impossible
Rhode Island	50,000	$2,000,000	Improbable
South Carolina	165,000	$30,000 per year	Impossible

Table 1 - Continued

State	Number of Voters Affected	Costs	Possibility of State Action Before 1972 Elections
South Dakota	35,000	$40,000	Impossible
Tennessee	215,000	$800,000	Impossible
Texas	600,000	"Extreme"	Possible
Utah	60,000	20% increase	Impossible
Vermont	21,000	Low	Impossible
Virginia	290,000	No estimate	Impossible
Washington	170,000	$425,000	Impossible
West Virginia	90,000	High	Impossible
Wisconsin	208,000	No estimate	Impossible
Wyoming	20,000	25% increase	Impossible

Source: Congressional Record, 92nd Congress, 1st Session, 1971, pp. 5497-5505.

be maximized. In addition to the necessity of speedy consideration, supporters of the amendment also wished to avoid having the issue become identified with any individual presidential contender. There was only one obstacle that appeared which clearly jeopardized the passage of the amendment in the Senate. Senator Eagleton and Senator Kennedy attempted to attach a rider to Senate Joint Resolution 7 which would include voting representation in the District of Columbia. They did this in spite of a prior agreement to the contrary. By a last minute effort, the rider was defeated, and the Senate passed the Twenty-sixth Amendment to the Constitution of the United States on March 10, 1971, by a vote of ninety-four to zero.

During the same period of time, the House of Representatives was also making efforts to pass a similar amendment. Several proposals were introduced in the House, the most influential being submitted by Representative Emanuel Celler, because of his position as Chairman of the Committee on the Judiciary in the House and his previous opposition, and by Representatives Mikva and Railsback along with a large number of co-sponsors. On January 26, 1971, House Joint Resolution 196 was introduced by Representatives Mikva and Railsback and on January 29, 1971, House Joint Resolution 223 was introduced by Representative Emanuel Celler. Both of these resolutions provided that the voting age in all elections be lowered to eighteen through a constitutional amendment. The Committee on the Judiciary reported out Mr. Celler's resolution on March 9, 1971. Finally, House Joint Resolution 223 was passed by the House of Representatives on March 23, 1971, by a vote of

four hundred and one to nineteen. Having been agreed to in both Houses of Congress, the success of the amendment depended upon state approval. In order to become part of the Constitution of the United States, the amendment had to be ratified by a minimum of thirty-eight states.

CHAPTER III

HISTORY OF STATE ACTION TO LOWER THE VOTING AGE AND RATIFICATION OF THE TWENTY-SIXTH AMENDMENT

Since the success or failure of the Twenty-sixth Amendment now depended upon approval of the states expressed through their legislatures, it is necessary to review previous attempts within individual states to lower the voting in order to show the grounds upon which later decisions were made in the campaign to secure ratification. With the exception of Colorado and Vermont, there had been efforts in every state to lower the voting age. In many states, such proposals began as early as 1943, and in most, they continued into the decade of the Sixties. Only eight states, Arkansas, Idaho, Mississippi, New Mexico, Rhode Island, South Dakota, South Carolina, and Utah, did not persist in trying to lower their voting age in the 1960's. Georgia, in 1943, and Kentucky, in 1955, had already lowered their voting ages to eighteen. By the time the Twenty-sixth Amendment was sent to the states for ratification, nine states had established voting ages of under twenty-one. The voting age in Hawaii, Maine, and Nebraska was twenty. The voting age was nineteen in Massachusetts, Minnesota, and Montana, and eighteen in Georgia, Kentucky, and Alaska. Therefore, at the time the Twenty-sixth Amendment was ratified in Congress, forty-one states retained a minimum voting age of twenty-one and thirty-eight states had attempted to lower their voting ages within the last ten years.

The graph on the following page serves to illustrate several interesting conclusions concerning state activity to lower the voting age. On the vertical axis is plotted the combined number of times all states introduced legislation to lower the voting age below twenty-one, while the horizontal axis represents the year in which these introductions took place.[1] The most evident conclusion is that activity is more frequent in periods of every other year. Also, these are odd years, such as 1943, 1945, 1947, 1949, and so on. Perhaps this occurence can best be explained by the fact that many legislatures meet biennially. For those meeting annually, an explanation for the uneven interest in changing the voting age is probably that even years are election years, during which many legislators are concerned primarily with their election campaigns. Consequently, it is the odd years which are more devoted to the introduction and passage of legislation. This pattern also holds true for national election years as well as state and local election years. The frequency of introduction of legislation drops sharply in these years, as compared to years immediately preceding and following them.

Another significant inference which can be drawn from the graph is that activity in the states over lowering the voting increased during times of war and decreased during the times of peace which followed. The peak years of interest, interest being measured by frequency of introduction of state legislation, were 1943, 1952-1953,

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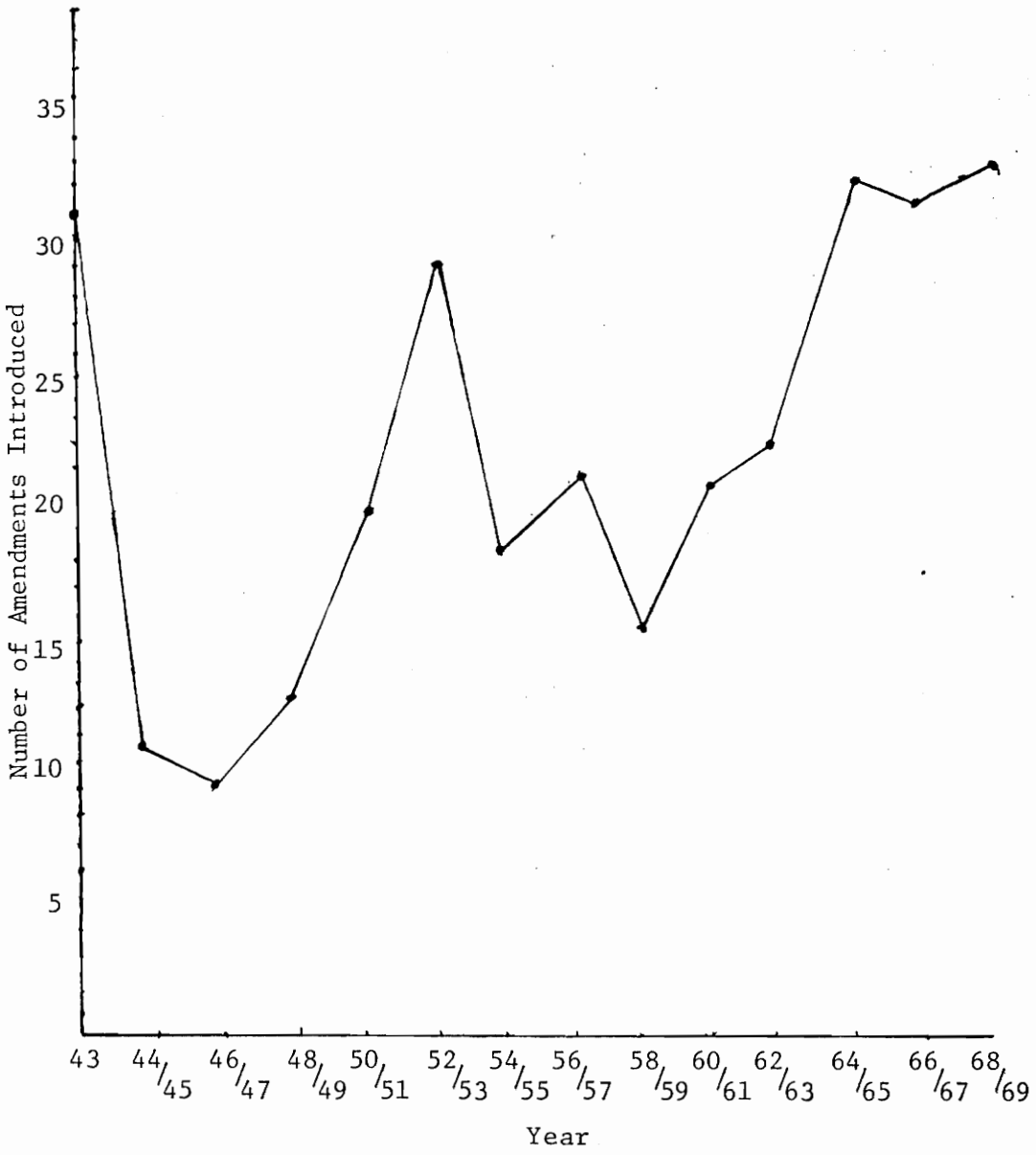
[1] Congressional Record, 92nd Congress, 1st Session, 1971, pp. 5507-5510.

Graph 1

Frequency of State Action



Source: Congressional Record, 92nd Congress, 1st Session, 1971, pp. 5507-5510.

1964-1965, and 1968-1969. The greatest occurence of activity in a single year took place in 1943. It was in this same year that Georgia became the first state to lower its voting age to eighteen.

During 1943, the nation was involved in World War II, and we were fighting in the Korean Conflict in 1952-1953. During the last two periods of intense activity, the United States was involved in the undeclared war in Vietnam. Through all these periods, interest in youth voting sharply increased. Many citizens became concerned over the rights of youth at these times because numerous young people were serving their country, giving their time and even their lives, without the benefit of representation in the government. This circumstance, along with the fact that young citizens' roles and rights became much more evident during times of war, combined to cause an increase in state activity to extend the rights of citizenship by lowering the voting age.

Consequently, it follows that during times of peace, interest and activity in lowering the voting age would decline. The graph tends to support this statement. Immediately after World War II, 1945 to 1950, and after the Korean War, 1954 to 1960, activity was at low ebb. Even though young people were still serving their country, their contributions and sacrifices were not as manifest as during times of war. Other issues became more salient and pressing as a result.

This is not to say, however, that interest or activity completely evaporated at the conclusion of a war. As a matter of fact, although activity generally grew during times of war and lessened during

peacetime, action as a whole increased over the years. For example, 1962, 1964, 1966, and 1968, are all low frequency of activity years, but each of these years realizes additional activity to the previous year. This trend can be seen more clearly in the years 1946-1947 and 1958-1959 which are low activity periods. However, there is more frequency of action during the latter period than during the former. An examination of the graph also shows a similar pattern for the time intervals of 1946 through 1948 and 1958 through 1960 which are the lowest periods of activity. Yet, the latter has more frequency of action than the former. The conclusions which can be drawn from these observations is that since 1943, activity within the states concerning lowering the voting age has risen.

In other words, there has been a general movement toward increased action within the states to lower their voting ages. This trend gained momentum during the decade of the Sixties. One explanation of this fact is that the United States became extensively involved in the war in Vietnam. This war became quite unpopular, especially among the young people, who were doing most of the actual participating in the war. The necessity of having to defend one's country and accept adult responsibilities without having the benefit of representation in government became increasingly questioned.

In addition to the Vietnam War, youth activities and violence, especially on college campuses, caused greater attention by all ages to be focused on young people. Dr. W. Walter Menninger, a member of the National Commission on the Causes and Prevention of Violence, appeared

as a representative of that Commission before the Hearings of the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary in 1969.[2] The Commission recommended that the voting age for all elections be lowered to eighteen and that this be done by an amendment to the Constitution of the United States. According to the Commission, much of the violence in our society is due to the actions of youth on the campus, in the streets, and in the ghettos. The Commission not only supported the idea that young people between the ages of eighteen and twenty are capable of mature voting, but also that this is a privilege of citizenship to which they have a right and which should not be denied to them. The following quote is an excerpt from a statement issued by the Commission which gives a concise yet general picture of the Commission's stand on youth voting.

> The anachronistic voting age limitation tends to alienate them (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. 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.[3]

The rise in the interest over the issue of lowering the voting age is reflected by other phenomena besides youth activity. As mentioned above, one important means of gauging interest in the issue is by measuring the amount of state action. In the graph, the frequency

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[2]U.S. Senate, Hearings, Committee on Constitutional Amendments (1969), pp. 21-36.

[3]Ibid., p. 22.

of introduction of legislation to lower the voting age within the states was used to approximate the degree of interest. The following table, Table 2, serves to illustrate the strength of the issue within the separate states.[4] It is important to note that every state except West Virginia proposed an amendment to the state constitution in order to lower the voting age. Since 1943, thirty-three states have passed in one house of the state assembly legislation providing for a lower minimum voting age. The passage of such state legislation has occurred a total of fifty-two times.

In twenty-five states, similar laws have been passed in both houses of the state legislature, and in Nebraska by the unicameral assembly. South Dakota and Nebraska passed such legislation twice. Therefore, there have been twenty-seven separate times when laws have been passed in state legislatures to lower the voting age. Fifteen of the twenty-seven total proposals were subsequently defeated by the electorates. In Indiana, Pennsylvania, Delaware, and Nevada it is necessary for the legislatures to repass a proposed amendement the following year. Indiana, in 1955, and Pennsylvania, in 1957, failed to do so and the amendment died. In 1969, the Delaware legislature passed a nineteen-year-old amendment, and the Nevada assembly passed an eighteen-year-old vote amendment. Neither of these bodies had had the opportunity to repass the proposed amendments before the Twenty-sixth Amendment was introduced. The electorates of the remaining eight of

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[4] Congressional Record, 92nd Congress, 1st Session, 1971, pp. 5507-5510.

Table 2

States in Which Legislation to Lower the Voting Age Passed in at Least One House

State	Age	Year	House	Senate	Repass in St. Leg.	Election Result
Alabama	20	1967	Defeated	Passed		
Alaska	18	1969	Passed	Passed		Passed Nov. 1970
Arkansas	18	1943	Passed	Defeated		
Connecticut	18	1969	Passed	Passed		Defeated Nov. 1970
Delaware	18	1953	Passed	Defeated		
	18	1955	Defeated	Passed		
	19	1969	Passed	Passed	Awaits next two leg. sessions	
Florida	18	1951	Passed	Defeated		
Georgia	18	1943	Passed	Passed		Passed 1943
Hawaii	18	1969	Passed	Passed		Defeated Nov. 1970
Idaho	19	1960	Passed	Passed		Defeated
Indiana	19	1953	Passed	Passed	Not repassed in leg.	
Kentucky	18	1955	Passed	Passed		Passed 1955
Maine	20	1969	Passed	Passed		Passed Nov. 1970
Maryland	18	1943		Passed		
	19	1969	Defeated	Passed		
Massachusetts	19	1969	Passed	Passed		Passed Nov. 1970
Michigan	18	1966	Passed	Passed		Defeated
Minnesota	19	1969	Passed	Passed		Passed Nov. 1970
Missouri	18	1961	Passed	Defeated		
Montana	18	1957	Passed			
	19	1967	Defeated	Passed		
	19	1969	Passed	Passed		Passed Nov. 1970
Nebraska	19	1968	Passed unicameral leg.			Defeated
	20	1969	Passed unicameral leg.			Passed Nov. 1970

Table 2 - Continued

State	Age	Year	House	Senate	Repass in St. Leg.	Election Result
Nevada	?	1953	Passed	Defeated		
	18	1965	Defeated	Passed		
	18	1969	Passed	Passed	Await leg. repass	
New Jersey	19	1966	Passed	Defeated		
	18	1969	Passed	Passed		Defeated
New York	18	1943	Passed	Defeated		
	18	1966	Passed	Defeated		
North Dakota	19	1967	Passed	Passed		Defeated 1968
Ohio	18	1959	Passed	Defeated		
	19	1969	Passed	Passed		Defeated 1970
Oklahoma	18	1951	Passed	Passed		Defeated 1952
	19	1967	Defeated	Passed		
Oregon	?	1955	Defeated	Passed		
	19	1969	Passed	Passed		Defeated 1970
Pennsylvania	18	1957	Passed	Passed	No leg. repass	
	18	1965	Passed	Defeated		
	18	1969		Passed	Died in conference	
	19	1969	Passed			
South Dakota	18	1951	Passed	Passed		Defeated 1952
	18	1957	Passed	Passed		Defeated 1958
Tennessee	18	1957	Passed	Passed		Electorate rejected a constitutional convention
Utah	18	1955	Passed	Defeated		
Washington	18	1955	Passed	Defeated		
	19	1969	Passed	Passed		Defeated 1970

Table 2 - Continued

State	Age	Year	House	Senate	Repass in St. Leg.	Election Result
Wisconsin	18	1943	Passed	Defeated		
	18	1963	Passed	Defeated		
Wyoming	19	1969	Passed	Passed		Defeated Nov. 1970

Source: Congressional Record, 92nd Congress, 1st Session, 1971, pp. 5507-5510.

the twenty-five states approved a lowered voting age for their states. This left nine states by 1971, with a minimum voting age of under twenty-one. Hawaii had entered the Union in 1959, with a voting age of twenty.

It is interesting, and worthwhile to note, that thirty-one of the fifty-two times, almost 60 per cent of the total when legislation to lower the voting age was passed in one of the houses of the state government, took place during the Sixties. Also, nineteen of the twenty-seven times, approximately 70 per cent of the legislation passed by a state assembly occurred during the 1960's. All these observations serve to uphold the conclusion that not only did interest and activity within the states grow during the ten years prior to the passage of the Voting Rights Act of 1970 and the subsequent proposed constitutional amendment, but also that actual support of a lower voting age greatly increased.

When the Twenty-sixth Amendment was submitted to the states in the spring of 1971, many states had already debated and discussed the advantages and disadvantages of lowering the voting age. What made this amendment of utmost importance was the fact that without its passage, most states would be put to considerable expense in all future elections. Naturally, some states were more reluctant than others to ratify the amendment. On the other hand, ratification posed little problem in several states. Thirteen of the fifteen states which had passed legislation lowering the voting age in 1969, and submitted it to the electorate in 1970, were among the first thirty-eight states to

ratify the amendment. Wyoming became the fortieth state to ratify, while the Nevada assembly adjourned without taking any action. Eight of these were among the first eighteen states to ratify. Thus, most states which had passed similar legislation in their state legislatures the previous year were not hesitant to approve the federal amendment. The table on the following page gives a detailed breakdown on the order of ratification by the states.

The passage of the Twenty-sixth Amendment in Congress and its subsequent ratification by the states did not take place without tremendous effort on the part of many individuals and organizations. Even though the Supreme Court decision concerning the constitutionality of the Voting Rights Act of 1970 created numerous problems which have already been outlined, the success of an amendment to lower the voting age in all elections was not guaranteed. Any constitutional amendment is a major development in our law, and, as such, cannot be easily attained.

Table 3

Order of State Ratification of the Twenty-sixth Amendment

Order of Ratification	State	Date	Order of Ratification	State	Date
1	Minnesota	March 23	21	Colorado	April 27
2	Delaware	March 23	22	Pennsylvania	April 27
3	Washington	March 23	23	Texas	April 27
4	Connecticut	March 23	24	South Carolina	April 28
5	Tennessee	March 23	25	West Virginia	April 28
6	Hawaii	March 24	26	New Jersey	May 3
7	Massachusetts	March 26	27	New Hampshire	May 13
8	Montana	March 29	28	Arizona	May 14
9	Arkansas	March 30	29	Louisiana	May 17
10	Idaho	March 30	30	Rhode Island	May 27
11	Iowa	March 30	31	New York	June 3
12	Indiana	March 31	32	Oregon	June 4
13	Nebraska	April 2	33	Missouri	June 14
14	Kansas	April 7	34	Wisconsin	June 17
15	Michigan	April 7	35	Illinois	June 29
16	Maryland	April 8	36	Alabama	June 30
17	Maine	April 9	37	North Carolina	June 30
18	Alaska	April 9	38	Ohio	June 30
19	Vermont	April 16	39	Oklahoma	July 1
20	California	April 19	40	Wyoming	July 7

Source: Information obtained from Common Cause.

CHAPTER IV

COMMON CAUSE AND ITS ROLE IN THE RATIFICATION OF THE TWENTY-SIXTH AMENDMENT

Considering that our Constitution is nearly two hundred years old, there have been relatively few amendments added to it. This fact, however, is a result of the intentions of the Founding Fathers who composed the Constitution and deliberately made it difficult to change. Article V of the Constitution of the United States sets down the requirements for amending the Constitution. Amendments must be proposed and passed in both houses of Congress by a two-thirds majority or they may be proposed by a minimum of two-thirds of the states at a constitutional convention. Then the proposed amendment must be ratified by three-fourths of the states. Only by this long and difficult process can an amendment become part of the Constitution. There have been almost 7,000 amendments proposed,[1] but most of these have failed in Congress. Five resolutions have been rejected by the states.[2]

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[1] Proposed Amendments to the Constitution of the United States of America, 1963-1969, S. Doc. No. 38, 91st Congress, 1st Session (1969).

[2] In addition to the twenty-six amendments added to the Constitution, five other resolutions submitted to the states have failed to be ratified. These concerned: apportioning the House of Representatives (1789); compensating members of Congress (1789); permitting United States citizens to accept foreign titles of nobility (1810); recognizing slavery where it existed in the United States (1861); and regulating child labor (1924).

Even the amendments which were successfully added to the Constitution have taken some time for passage. For example, it took three and a half years to pass the Twenty-fourth Amendment abolishing the poll tax, fourteen months to pass the Nineteenth Amendment giving women the right to vote, and over a year to pass the Seventeenth Amendment providing for direct election of Senators.[3] On the other hand, the Twenty-sixth Amendment was ratified in under four months, the quickest in American history. Needless to say, this unusual occurence did not take place without much effort. Many factors and groups were influential in speeding up the amending process. One of the most important of these organizations was the citizens' lobby, Common Cause.

In order to understand Common Cause's involvement with the eighteen year-old-vote amendment, it is necessary to know something about the organization itself and how its leaders became interested in the eighteen year-old-vote. Common Cause is a national citizens' lobby which was founded on September 1, 1970. Its basic purpose is to lobby at all levels of government, especially at the national level, for the public interest. It is a nonpartisan organization which is not affiliated with a political party, nor does it support any political candidate. Incorporated in Washington, D.C., as a nonprofit organization, Common Cause was originally supported by a number of contributors, but since then, funds have been provided by the dues of members.

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[3]John Gardner, "Eighteen-Year-Old-Vote Amendment," Report from Washington, Vol. 1 (August, 1971), p. 6.

In order to be an effective lobby, Common Cause has limited itself to a few key issues. For example, in 1971, Common Cause was involved with issues such as the seniority system and reform in Congress, pollution, the Vietnam War, campaign spending, the filibuster in the Senate, and of course, the eighteen-year-old vote.

Common Cause began to lobby for the passage of the Twenty-sixth Amendment as a result of the efforts of two people, Ian MacGowan and Pat Keefer. Both of these people had previously worked for the Youth Franchise Coalition and had lobbied for the passage of the Voting Rights Act of 1970. Ian MacGowan had appeared before the Senate hearing in 1969, as a representative of the Youth Franchise Coalition. After the Supreme Court decision on Oregon v. Mitchell was handed down, they approached Phil Sterm, a well known philanthropist in Washington, D.C., about financing a lobbying campaign for a constitutional amendment. Assuring them that he would be able to get the money for a constitutional amendment lobbying effort, but not for ratification, Mr. Sterm then approached John Gardner, Chairman of Common Cause, about the matter. Shortly afterwards, Common Cause took over the lobbying effort to lower the voting age in all elections to eighteen, and Ian MacGowan and Pat Keefer joined the staff of Common Cause as co-directors of the Eighteen-Year-Old-Vote Project.[4]

One of the first actions which Common Cause took after becoming the advocater for an amendment to lower all voting ages to eighteen was

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[4]The following is an account based on an interview of Common Cause and research of their files.

to conduct a state-by-state survey on the costs of dual voting and registration. These findings were of great value to those who were arguing in favor of ratification because it gave them additional concrete evidence of the necessity of lowering the voting age.

As has been mentioned previously, Senate Joint Resolution 7 was introduced by Senator Jennings Randolph on January 25, 1971. Common Cause worked closely with Senator Randolph at this time, attempting to help him increase the number of sponsors for his proposed amendment. Today, Common Cause takes credit for having been able to produce an additional twenty-four sponsors. Once the amendment was introduced, it was necessary to secure speedy and favorable deliberation in both the Senate Judiciary Committee and on the Senate floor. To achieve this objective, personal meetings were held with members of the Committee, either the Senators themselves or with their staff., and it was arranged that no hearings would be held. This maneuver saved valuable time inasmuch as Common Cause had conducted a detailed survey of adjournment dates of state legislatures and was able to report to the Senate leaders that ratification would be possible by that summer. Because of this information, the Senate leadership agreed upon speedy consideration of Senate Joint Resolution 7. Indeed, Common Cause played a vital role in securing the Senate's unanimous consent to the Twenty-sixth Amendment on March 10, 1970.

At the same time, Common Cause was also performing similar important functions in the House of Representatives. Meetings were held with members of the House Judiciary Committee to secure speedy and

favorable action. Again, no hearings were held. Also, Common Cause provided much of the data used by that Committee. In the mean time, Common Cause had identified House members who remained opposed to the amendment. Consequently, several of its contact personnel met with these Congressmen or their aides, as well as providing lobbyists of other interested organizations with the names of the undecided. Another service which Common Cause provided for Representatives who were in favor of the amendment was speech writing on the subject. Finally, the House passed the amendment on March 23, 1971.

Common Cause was, therefore, quite influential in the success of the Twenty-sixth Amendment from the time it was first introduced in Congress. As a matter of fact, the work its members did to secure Congressional approval was only the beginning. Once Congress had passed the amendment, Common Cause had to lobby in every state in which ratification was a possibility. Even before this happened, Common Cause was hard at work making initial contacts with important state leaders. Also, efforts were made to gain the support of such organizations as the National Association of County Clerks and Recorders, the National Association of Secretaries of State, and the National Association of Attorneys General. Common Cause also attempted to secure a resolution supporting the eighteen-year-old-vote amendment from the National Governors' Conference. Although thirty-eight Governors expressed opinions favorable to such a resolution, procedural rules prevented its adoption.

Then, just prior to the passage of the amendment in Congress, Common Cause sent a mailing to the leaders of all the states. This mailing was sent to all leaders of the state legislatures down to the level of minority whip. The purpose of the mailing was to familiarize these leaders with Common Cause and with the issue of eighteen year old voting. In the mailing was a text of the amendment and a short summary in its support. Thus, the state legislative leaders were not only introduced to the proposed amendment, but also to Common Cause and its interest in the amendment's ratification. Since several states were actually in competition with each other to be the first to ratify the amendment, Common Cause's role among the first thirteen states to ratify was restricted purely to being an informational center. Research was the only input into those states. Further action was unnecessary because these states were anxious to ratify.

Common Cause then went to work on the remaining thirty-seven states. The first decision that had to be made was how the campaign would be organized. Since this was the first truly national campaign which Common Cause had directed, this decision could prove crucial. It was decided that instead of trying to spread themselves too thin by setting up headquarters in every state, that it would be best to centralize all activities in the Washington, D.C., office. Therefore, it was from the nation's capital that the campaign was organized, coordinated, and directed. Both Mr. MacGowan and Miss Keefer felt that this would prove to be the most effective means of organization.

Contacts consisting of membership and personal acquaintances within the states were used to determine the political mood, amount of opposition and support, and the most likely fate of the amendment. When it seemed advisable, representatives were sent from the national office to the states to make personal contacts. Overall, Common Cause staffers personally visited seventeen states. Often this proved to be a successful means of gaining support, however, it occasionally became unnecessary. For example, two staff people were sent to New York to do some personal lobbying, but that night, before they had had a chance to see anyone, they heard on the radio that New York had just ratified. So, they returned home the next day without having seen anyone.

The next important decision which the directors of the project had to make was in which states to place the most concentrated and intensive efforts. They established a set of priorities by which states were rated. It had already been determined that a sufficient number of state legislatures would be in session to make ratification possible by the end of summer, 1971. A deadline date was set toward the end of July when the amendment had to be approved. By that time, most state legislatures would be out of session and quick ratification would be impossible. Then, the states whose legislatures would go out of session soonest were given top priority. Once the legislatures adjourned without having taken action, there was little chance of having them called back into session. For example, the Mississippi assembly did not want to ratify the amendment, nor did they wish to officially reject it. Therefore, they simply adjourned without doing anything.

Next, Common Cause staffers did detailed investigation into the political climate of the individual states. From the results of this work, they were able to establish priorities beyond the time element. They were able to discover the positions of the Governors, the Secretaries of State, and the Attorneys General, as well as the political disposition of the state legislators. Another factor which helped estimate the possibilities of ratification was the minimum voting age which states had already established. As was mentioned above, nine states already had voting ages of under twenty-one. Naturally, these were expected to pose less of an obstacle to ratification than states which continued to maintain a minimum voting age of twenty-one, especially those states which had defeated similar proposals as recently as the previous fall.

Details of these state actions were discussed in Chapter III. However, it is important to note at this time the way in which Common Cause approached these states. Certainly, each state required a different strategy. Common Cause staffers soon discovered that while there would be no problem in some states, others presented great difficulties. A good example of the different strategies needed is a comparison between Common Cause's approach in Washington and Oregon. In 1969, the state legislatures in both states had passed a state constitution to lower the voting age, and the electorates of both states had defeated the amendments in November 1970. Common Cause sent mailings to Washington and talked with legislative leaders and others who had worked for the state amendment the previous year. They were told

that there would be no problem. Washington became the third state to ratify on March 23, 1971. In 1970, the people had defeated a lowered voting age. This time, however, the outcome was left to the state legislature and so the amendment passed. Thus, Common Cause's role remained primarily as a source of information.

Oregon, on the other hand, turned out to be one of the more difficult states. In this case also Common Cause sent out mailings and attempted to discover the political attitude in the state toward passing an amendment to lower the voting age. When they found that there was going to be a problem, they sent out personal representatives and established a full scale lobbying effort in Oregon. They organized Common Cause members, set up telephone networks, saw state legislators personally, conducted a head count to find out which legislators were opposed, and met with other lobbying organizations such as unions, churches, and political parties to see who were its allies. They sent union representatives and church groups out to talk to legislators who remained opposed, depending upon how these groups affected the representatives within their districts. Their efforts were finally rewarded on June 4, 1971, when Oregon became the thirty-second state to ratify. However, it was only after much time was spent and a great deal of concentrated work that this happened.

Another factor which helped determine Common Cause's approach and strategy was the political climate within the individual states. When asked whether more support came from Democrats or Republicans, both Mr. MacGowan and Miss Keefer agreed that this depended upon the state

and the political disposition of that state. Generally speaking, in states where political power was fairly evenly divided between the two major parties, both parties tended to support the amendment. On the other hand, in one-party states, regardless of whether the dominant party was the Democrats or the Republicans, Common Cause staffers found that the party in power was opposed to the amendment. The political party in power was firmly entrenched in office and, therefore, liked their constituency as it was. They did not want the composition of the electorate altered because such a change might result in their losing office. In these one-party states, the political party which was not in power generally favored passage of the amendment. They did want to change the make-up of the constituency as in no way could an increase in voters hurt their cause and it might even help them.

There are many good examples of this situation. The Democratic party was firmly established in Oklahoma. The party felt that eighteen year olds would not vote for their established machine-type candidates, and therefore, they opposed the Twenty-sixth Amendment. On the other hand, the Republicans in Oklahoma supported it. The Republicans in Wisconsin were the entrenched political party and, as such, they opposed the amendment because they felt that they would be the losers by giving eighteen year olds the vote. The Democrats, the party not in power, favored passage of the amendment. The political leaders in Ohio wanted to delay ratification until after September 1, 1971, which was the closing date for registration for the fall elections. In this

way, they would put off eighteen year old vote and its consequences for one more year.

Neither the Republicans nor the Democrats in the State of Washington were afraid of the eighteen year old vote. Members of both parties had supported and worked for a similar state amendment the year before. They stuck to their position when the federal amendment was proposed. Many of these leaders felt that there were merits to youth vote which had not been stressed fully in the previous campaign. In Oregon, where the Republican party was fully in power, the political leaders feared the consequences of giving the eighteen to twenty year olds the vote. The fact that the Speaker of the House in Oregon had won only by a couple thousand votes in the last election and that he was running against a young man who was well capable of getting the youth vote serves to demonstrate that such fears were not unfounded.

Eventually, even entrenched political parties which had strongly opposed any efforts to lower the voting age began to change positions. They watched the movement grow and gain momentum as state after state ratified the amendment. Common Cause attempted to convince these politicians that the eighteen year old vote was inevitable and that they would be well to be on the right side of the issue. They would have a tough time appealing to youth, getting their support and vote, if they had opposed lowering the voting age. Even those who most firmly established in office were, after all, politicians. They wanted to be in a position of being able to say that they had supported a lowered voting age, rather than have to face their new electorate and admit that they had tried to deny youth the right to vote.

After having investigated the political dispositions of the states, Common Cause was ready to begin its lobbying efforts. There were four basic means which Common Cause used to lobby in the separate states: 1) media support; 2) Common Cause state membership; 3) organizational support; 4) and legislative support. Common Cause staffers were able to determine which of these approaches would be most beneficial in the various states. Needless to say, some approaches were used more extensively than others. A detailed state-by-state analysis of these lobbying techniques is given in the following table, Table 4. Information used in this table was obtained through an interview with Ian MacGowan and Pat Keffer, the co-directors of the eighteen-year-old-vote project. As was mentioned above, Common Cause's role in the ratification of the first thirteen states was restricted to mostly an informational center. Most of the lobbying which Common Cause conducted in these states was carried out through the mailings which were sent to the legislators. This is reflected in the table.

The first channel of approach was through generating support of the media. The first contact with the media was made on March 22, 1971, when Common Cause held a press conference in Washington, D.C. The purpose of this press conference was to "kick off" the ratification campaign. Common Cause then sent press kits to nearly three hundred major dailies and television stations as well as to ten fifty-thousand circulation papers. These kits were to encourage news coverage and favorable editorial support. Common Cause staffers attempted to make personal contacts with many newspaper editors. They spoke on a dozen

Table 4

Lobbying Techniques Used by Common Cause

State	Media	Organizations	Common Cause Membership	Legislatures	Denominator
Minnesota		X		X	
Delaware				X	
Washington	X	X		X	
Connecticut				X	
Tennessee					No problem
Hawaii					No problem
Massachusetts				X	
Montana				X	
Arkansas		X	X	X	
Idaho				X	
Iowa					
Indiana				X	
Nebraska				X	
Kansas		X	X	X	
Michigan			X	X	
Maryland			X	X	
Maine			X	X	
Alaska				X	
Vermont	X	X	X	X	
California		X		X	
Colorado		X		X	
Pennsylvania			X	X	
Texas					No problem - efforts minimal
South Carolina		X	X	X	Media never approached
West Virginia	X	X	X	X	
New Jersey	X	X	X	X	

Table 4 - Continued

State	Media	Organizations	Common Cause Membership	Legislatures	Denominator
New Hampshire	X	X	X	X	
Arizona	X	X	X	X	
Louisiana		X	X	X	
Rhode Island	X	X	X	X	
New York	X	X	X	X	
Oregon	X	X	X	X	Heavy
Missouri	X	X	X	X	
Wisconsin	X	X	X	X	Heavy
Illinois	X	X	X	X	Heavy
Alabama		X	X	X	
North Carolina		X	X	X	Especially avoided media
Ohio	X	X	X	X	Heavy
Oklahoma	X	X	X	X	
Wyoming	X	X		X	
Virginia	X	X	X	X	Media anti-Common Cause
Florida	X	X	X	X	Great effort failed
Georgia		X		X	
Kentucky					No efforts - did not meet in 1971
Mississippi				X	Adjourned without action
Nevada	X	X	X	X	Adjourned without action
New Mexico				X	Adjourned before amendment proposed
South Dakota	X	X	X	X	Adjourned before amendment proposed

Table 4 - Continued

State	Media	Organizations	Common Cause Membership	Legislatures	Denominator
North Dakota				X	Adjourned before amendment proposed
Utah	X	X	X	X	Not in session

Source: Information acquired from an interview with Common Cause and their files.

radio and television shows. C.B.S. network news did a major news feature on the eighteen year old vote, the federal law, the Supreme Court decision, and the proposed amendment. It followed Common Cause into Ohio to see what it was trying to do and how it went about lobbying the state for passage of the amendment.

Important as favorable media reporting can be, this type of lobbying was the least used by Common Cause during this campaign. One reason for this was that public opinion was thought not to have as great an effect on the amending process as many people would believe. Certainly, the public at large has rarely shown any great interest in proposed constitutional amendments. To begin with, the amending process is not a familiar topic with the general public, and one can suspect that the media do not understand the workings of Article Five. This is true because the amending of the Constitution is an infrequent occurrence. The only time much interest was manifested was during prohibition which began in 1919, with the passage of the Eighteenth Amendment. Public opinion ran high against this law and in favor of its repeal, but it was not until the end of 1933, that the Eighteenth Amendment was repealed by the Twenty-first Amendment, a period of almost fifteen years. Other amendments have not been the object of so much attention.

Another reason for using the media less than the other lobbying techniques was the attitude of the Southern states. In the Southern region comprising the states of Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Arkansas, Louisiana, and Mississippi, only in Florida and Virginia did Common Cause attempt to

lobby through the media. In Florida, of course, there are many people, especially the retired, who have moved there from other states, so many so that it is difficult to classify Florida as a truly Southern state in its general attitudes. The media in Virginia were supposedly in favor of ratification. However, many felt that the media's coverage of the issue was slanted in opposition and that it did more harm than good. How much media contact in these two states had to do with the fact that neither of these states ratified the amendment is difficult to surmise.

In the remaining eight Southern states, the media were not approached. In some states, such as North Carolina, the media were specifically avoided. There may be several explanations for this. Media in this region are generally considered to have conservative leanings. The issue of lowering the voting age would certainly not fit into this category. Also, the media in these eight states tend to have a sensitivity and distrust toward outsiders, especially outsiders from Washington, D.C. Perhaps this is a result of the racial troubles which have plagued the South for so long. The attitude of many is that everything was fine until outsiders began to interfere. Consequently, Common Cause staffers did not want to be characterized as "outsiders from Washington," so they simply avoided media contact in these states. Such an attitude would have done the project more harm than good.

The second mode of influence that Common Cause used to build support for ratification was by lobbying other interested organizations. Common Cause quickly assumed a leadership-coordinating role among the other organized interest groups. Some of these other organizations were

the A.F.L.-C.I.O., United Auto Workers, Retail Clerks, National Education Association, National Association for the Advancement of Colored People, the American Civil Liberties Union, Young Democrats, Young Republicans, and the B'nai B'rith. One reason Common Cause evolved into the spokesman for these groups on this issue was that while these organizations were in favor of ratification, many had other concerns with which they also had to be involved and they could not devote all their energies to one issue. The Common Cause people who were working on this project, however, had no other issues or commitments to interfere with their efforts. Common Cause became the accepted source of information on the status of ratification and many organizations based their support and actions on information provided them by Common Cause.

Other interested groups took part in the campaign in two ways. First, Washington representatives of these groups would get in touch directly with their state members. Hopefully, the latter would in turn lobby the state legislators for ratification. More frequently, however, the Washington representatives would serve as middle men between Common Cause workers and state representatives. Thus, Common Cause was able to establish many contacts with the state representatives of a number of organizations. Such contacts were regarded as probably helpful in not only this campaign but also for future projects. Lobbying of organizations was used in twenty-nine states and was an effective means of developing support and getting publicity for the issue.

The third technique that Common Cause used to lobby for the amendment was contacting Common Cause members across the nation and encouraging

them not only to support the amendment, but also to do everything they could to encourage others to support it. In twenty-three states the entire membership received the "Time to Act" bulletin from the national office. This bulletin contained a short rationale in favor of the amendment and suggestions of what individual members could do to help the campaign. Each bulletin was designed to fit the particular state to which it was sent. The names of lgislative leaders and their addresses were included, and each member was urged to write his representative. Also, a short summary of the status of the necessary state legislation was given. In addition to this initial contact, telephone networks were set up and special mailings were sent out in states which were proving difficult to persuade. When staff people were required to make special visits to difficult states, meetings with local Common Cause members were always held. In this way, members could be kept informed about the progress of the amendment, as well as feel that they were truly a part of their organization and its national effort to lower the voting age. Common Cause leaders believe that its membership is the first and foremost resource that the organization has.

The most important part of the lobbying effort was, of course, the lobbying of state legislators and executives. Only in Connecticut, Tennessee, Iowa, and Texas were there no legislative contacts of any kind. This was because these states were almost certain to ratify and lobbying of the legislators was not necessary. There were no political contacts made in Kentucky either, because the Kentucky legislature did not meet in 1971, so no lobbying efforts of any kind were attempted there.

Common Cause made political contacts in every other state. The first contact with state legislators was made by mailings similar to those sent to state executive leaders. Before any direct lobbying was attempted, Common Cause identified those legislators who would most likely sponsor the amendment and those who would oppose it. In this way, they would know whom to approach to get help in the state and whom they should try to influence. By early April, regular phone contact had been established between Common Cause and sponsors of the amendment in all the important states.

In some cases, the Common Cause staff from the national headquarters found it necessary to make personal visits to the states. Legislators were approached by the lobbyists who were working as representatives of the local Common Cause members and other interested organizations and groups. Often, when a legislator was unfamiliar with Common Cause, its connections with other organizations and groups served as an entree to that legislator's office. Personal visits were made to Alabama, California, Illinois, Missouri, Nevada, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Virginia, Wisconsin, and Wyoming, a total of seventeen states. Personal lobbying of the state legislators and executives was extensively used in all seventeen of these states.

The question of whether or not the Twenty-sixth Amendment would have been passed without the lobbying conducted by Common Cause is difficult to answer. However, it is apparent that Common Cause did play a major role in the passage of the amendment. Without its participation

in the campaign, ratification would have taken considerably more time and money, instead of taking a record time of four months. That Common Cause did contribute a great deal of time, energy, and money to the ratification campaign cannot be denied. According to their own figures, Common Cause spent 9.7 per cent, or approximately 106,700.00 dollars, of the 1.1 million dollars it used in 1971, for legislative activities on the eighteen-year-old-vote project.[5] The fact that seven states rejected state amendments to lower the voting age in 1970, and that those same states ratified the Twenty-sixth Amendment in 1971, shows that some force was at work to cause such reversal of action. Common Cause worked actively in all seven states to secure ratification of the Twenty-sixth Amendment and, apparently, was quite successful.

According to John Gardner, Chairman of Common Cause, there were four significant ingredients which contributed to Common Cause's success in this project: 1) research; 2) cooperation with other citizen's groups; 3) nationwide efforts of Common Cause members; 4) and systematic and thorough lobbying in every state.[6] Common Cause conducted detailed surveys of costs of dual registration and voting, chances of separate state action, and legislators who sponsored and opposed the amendment. The staff met with other citizen groups and organizations which supported the amendment. They provided these groups with important data, made

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[5]"Accountability Is More Than a Slogan," Report from Washington, Vol. 2 (March, 1972), p. 1.

[6]John Gardner, "Eighteen-Year-Old-Vote Amendment," Report from Washington, Vol. 1 (August, 1971), pp. 6-7.

their research findings available, and served as coordinator and spokesman for a number of these organizations. Many individual members gave their time and energy to personally lobby in their own states. Common Cause workers went into the states, found out who had the power, and lobbied these people. Certainly, if it was not the major catalyst, the campaign for ratification which Common Cause organized and carried out was one of the key factors determining the fate of the Twenty-sixth Amendment.

CONCLUSION

Despite the infrequency of the event of the legislative ratification stage of the amending process, it is obvious that this process can be influenced by lobbying tactics. Since 1967, seventeen states have passed legislation in both houses of the state assembly which lowered the voting age below twenty-one. In both Delaware and Nevada, it was necessary for the legislature to repass the laws in the next session and neither of these had had the opportunity to do so when the Twenty-sixth Amendment was proposed. Delaware became the second state to ratify, while Nevada passed a state constitutional amendment by way of a referendum in place of ratification. The electorates in six of the remaining fifteen states, Alaska, Maine, Massachusetts, Minnesota, Montana, and Nebraska, approved a lowered voting age. All six were among the first half of the states to ratify the amendment. Common Cause employed a minimum of lobbying tactics in these states, relying primarily upon a few legislative contacts.

In Connecticut, Hawaii, Michigan, New Jersey, North Dakota, Ohio, Oregon, Washington, and Wyoming, the other nine states where legislatures had approved a lowered voting age, the people of those states defeated it. Yet, all but one of these states, North Dakota, ratified the Twenty-sixth Amendment. Members of the state legislatures in these states clearly went against the wishes of their constituencies in approving the amendment. Certainly, they did not vote in favor of the amendment without

having pressure of some kind brought upon them. This is where the importance of a lobbying effort becomes most evident. Common Cause's own records show that it lobbied in all these states except Hawaii and Michigan. The most extensively used form of generating support was through lobbying individual state legislators. This technique was used in all seven states. In New Jersey, Ohio, Oregon, Washington and Wyoming, organizational and media support was also utilized, as well as Common Cause membership mailings in New Jersey, Ohio, and Oregon. The use of lobbying tactics in these states was successful in two ways. First, it achieved the set goal of state ratification of the proposed amendment. Secondly, it was influential in causing state legislators to vote in favor of the amendment, deliberately opposing the wishes of their constituencies.

That the state legislatures have the power to ratify federal constitutional amendments without the direct consent of the people is made clear in the Supreme Court cases of Hawke v. Smith[1] and Leser v. Garnett.[2] In both these cases, the power of the state legislature to ratify a constitutional amendment without first having the approval of the people was challenged. The Supreme Court ruled that the right of the state legislatures to ratify an amendment is a power given them by the Constitution, and that a state cannot require popular approval of an amendment before it can be ratified by the state assembly.

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[1] 253 U.S. 221 (1920).

[2] 258 U.S. 130 (1922).

The state of Florida, which did not ratify the Twenty-sixth Amendment, still has a constitutional requirement that there must be an intervening election before a federal constitutional amendment can be ratified. The purpose of this requirement is to give the people an opportunity to voice their opinion on the issue. The contention was rejected by a three-judge federal court in the case of Trombetta v. Florida[3] because of the prior decision in Leser v. Garnett.

Another conclusion which can be drawn from this paper is that the leaders of Common Cause have satisfied themselves that Common Cause can be a successful force in the amending process. This was the first nationwide campaign which Common Cause had undertaken. Through its work on the project, Common Cause made many contacts with its own members, legislators, both state and federal, organizations and the media. These contacts could prove vital in future campaigns. Also, the techniques which were used successfully to test the political climate in individual states and direct the project accordingly, could prove useful later.

Common Cause has set a precedent in lobbying for amendments. It is using its own techniques to lobby for the Equal Rights for Women Amendment. Other groups have also drawn from Common Cause's experience in the lobbying campaign. The Stop ERA Committee under the leadership of Mrs. Schlafley is using such tactics as mailings and press kits to lobby against the Equal Rights for Women Amendment. Common Cause has now moved beyond the scope of lobbying for one amendment and has taken

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[3]United States Law Weekly, Vol. 41, March 1973, p. 2465.

a stand on each federal amendment proposed. Its role in the passage and ratification of the Twenty-sixth Amendment has had a definite effect on the amending process. As a result, the character of that legislative ratification process may come under attack because of the pressure put on legislators by outside groups and the fact that the people are not allowed to voice directly their opinions.

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RATIFICATION OF THE TWENTY-SIXTH AMENDMENT

by

Anne Frazier Yowell

(ABSTRACT)

A general history of voting requirements, primarily minimum age requirements, was reviewed. Merits of and objections to the eighteen-year-old vote were brought out, as well as individual state action and past Congressional action to lower the voting age. However, the main emphasis of the paper concerned efforts to secure ratification of the Twenty-sixth Amendment, which provided that the minimum voting age in all elections be lowered to eighteen.

Common Cause, a nonpartisan, citizens' lobby, headquartered in Washington, D.C., was one of the principal organizations which lobbied for the passage of the Twenty-sixth Amendment. Their lobbying techniques and approach to individual states were investigated. Their campaign was successful in securing ratification of the amendment. It was also important because it was the first nationwide, state-by-state effort to lobby for ratification of a federal constitutional amendment and because of its effect on the ratification process.