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Congressional Record - Copies of Letter to Editor of the Washington Post - 18 Year Old Vote

Mike Mansfield 1903-2001

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Mr. MANSFIELD. Mr. President, how goes the time?

The PRESIDING OFFICER. The Senator from Montana has 6 minutes remaining and the Senator from Pennsylvania has 3 minutes remaining.

Mr. MANSFIELD. Mr. President, I yield myself as much time as I may require within the 6 minutes.

Mr. President, so far as I am aware, not a Member of this body, to my knowledge, has spoken during this floor debate against extending the voting franchise to those 18 and above. There is a great deal of concern about the proper way to achieve this objective. Some persons think, very honestly, that the only way is through the constitutional process. Others think it is by statute.

There has been a lot of talk this morning about the Randolph constitutional amendment resolution, with 74 or 75 signatures, which now resides within the confines of the Judiciary Committee. There has been some talk, encouraging at least on the surface, that if we do not do anything about this, or let it slide by, it will not be long before the Randolph resolution will be reported out of the Judiciary Committee.

Frankly, I doubt that it will be reported shortly, under the very best of circumstances. Frankly, I know, as far as the House Judiciary Committee is concerned, no action will be taken this year, any more than was taken in previous years.

So what we are going to do if we do not face up to this issue on this basis, not only for this year but perhaps for years to come, is forgo the possibility of a constitutional amendment which will put into effect what every Member of this body desires, at least as far as I am aware---

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. AIKEN. I wonder if perhaps the Senator feels that if the amendment is defeated today the defeat will be taken as the sentiment of this body, and perhaps the constitutional amendment proposal will never come out of the Judiciary Committee at all, since the interpretation will be that the Senate has already voted against it, and so why bother?

Mr. MANSFIELD. That is correct. It is a good burial ground for certain types of legislation, and I do not think we ought to try to blink away the facts.

What we have now is the first chance and the only chance that I can recall, on a national scale, for this institution to face up to this issue squarely.

This amendment would extend the right to vote to every citizen of the United States who is 18 years old and older. It would afford that right in every election, Federal, State, or local.

Much has been said lately about extending the franchise by statute. It is
argued by those that oppose this method that Congress does not have the power to act; only the Supreme Court can make that decision. The Supreme Court is the final arbiter of these questions, but it is about time that Congress assumed its responsibilities as well.

In an effort to determine the limits of Congress' constitutional authority, I sent a telegram to Prof. Paul Freund, professor of constitutional law at Harvard in this country. In addition, I looked up the testimony of the former Solicitor General of the United States, Archibald Cox, talked to other people, and have received information which, to my way of thinking, is not only important but is about time the forefront of the argument was taken to the voting booth.

They are barred from voting. I think those youngsters who are out there fighting into the established parties. Both parties could benefit by the presence of some new blood, some new vigor, some new ideas. Both parties could benefit from the presence of women who could bring new ideas. Both parties could do what they yield. I think the young people are not unreasonable in arguing that the judicial branch was properly concluded that the Fourteenth Amendment provides a broader protection than the Fifteenth Amendment.

In the absence of a basis for the latter, we can ask whether, on the one hand, the Fourteenth Amendment was incorporated. Whether or not one agrees with that decision, for present purposes the case has a twofold significance. First, it is a significant decision in itself, and second, it is a significant decision in the context of the Fourteenth Amendment. Second, in its decision in the context of the Fourteenth Amendment, the Supreme Court held that the unconstitutional provision in the Texas poll tax law was not a violation of the equal protection clause of the Fourteenth Amendment.

The court's decision was based on the argument that the poll tax was a violation of the Equal Protection Clause, and that it was therefore unconstitutional. The court did not rely on the Fifteenth Amendment, which was incorporated in 1870, to strike down the Texas poll tax law. Instead, the court relied on the Fourteenth Amendment, which was adopted in 1868, to strike down the Texas poll tax law.

The decision in Texas v. White is significant because it established the principle that the Fourteenth Amendment, which guarantees equal protection under the law, can override state laws that discriminate against certain groups. This principle has been used by the Supreme Court in subsequent decisions to strike down state laws that discriminate against minorities, women, and other groups.

In the case of Mr. Mansfield, the letter writer, Mr. Mansfield, was a member of the Senate. He was a constitutional lawyer by training, and was the former Solicitor General of the United States. He was a member of the Senate Committee on Rules and Administration, which has jurisdiction over the conduct of Senate proceedings. In 1970, Mr. Mansfield was a Democrat from Montana.

To my family, I am planning to make a speech in support of the Fourteenth Amendment. I hope that my remarks will be understood as an effort to bring attention to this important constitutional provision, which guarantees equal protection under the law. I believe that the Fourteenth Amendment is a crucial part of our constitutional framework, and that it is essential to ensure that all citizens are treated equally under the law.
of the views reflected here. It was actually necessary to have achieved woman suffrage through a constitutional amendment. At the time of the Nineteenth Amendment the power of Congress to enforce the equal-protection guaranty was in a dormant state. The alternatives were thought of as a judicial decision striking down exclusively male suffrage, or an amendment to the Constitution. In retrospect, it seems tolerably clear that from the standpoint of constitutional power (putting aside considerations of political expediency), Congress could have determined by law that exclusion from voting on the basis of sex was an unwarranted differentiation.

The question for Congress is essentially the same, whether the exclusion be on criteria of sex, residence, literacy, or age. It is not my purpose to review the considerations that have been brought forward in favor of reducing the voting age. They involve a judgment whether twenty-one has become an unreasonable line of demarcation in light of the level of education attained by younger persons, their involvement in political discussion, their capacity in many cases to marry, their criminal responsibility, their obligation for compulsory military service. Historically, we are told, twenty-one was fixed as the age of majority because a young man was deemed to have become capable at that age of bearing the heavy armor of a knight.

The cumulative effect of such considerations on the continued reasonableness of twenty-one as a minimum voting age, I am sure, be canvassed by the Congress. My purpose, responsive to your invitation, has been to indicate why I believe that Congress may properly make such a judgment and embody it in the form of a statute.

Yours very sincerely,

P. A. Freund
Professor, Harvard Law School.