

The Twenty-Sixth Amendment and Reduction of the Voting Age (Part 3): The Vietnam War and *Oregon v. Mitchell*

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This Legal Sidebar post is the third in a six-part series that discusses the [Twenty-Sixth Amendment to the Constitution](#), which prohibits the federal and state governments from denying or abridging, on the basis of age, the voting rights of U.S. citizens who are at least 18 years old. The Amendment effectively lowered the minimum voting age to 18 for all federal, state, and local elections. Recent questions about the Twenty-Sixth Amendment’s scope arose during the [COVID-19 pandemic](#) when litigants challenged state laws allowing older voters to cast an absentee ballot by mail upon request, without having to claim that they fell within a specific category of voter entitled to that privilege. These litigants argued that these newly enacted state laws were inconsistent with the Twenty-Sixth Amendment rights of younger voters. The U.S. Courts of Appeals for the [Fifth](#) and [Seventh Circuits](#) rejected these challenges.

Because Congress may play a role in implementing the Twenty-Sixth Amendment, understanding the Amendment’s history and drafting may assist Congress in its legislative activities. This Sidebar post discusses the Vietnam War and the Supreme Court’s 1970 decision in *Oregon v. Mitchell*. Other Sidebars in this series provide an [overview](#) of the Twenty-Sixth Amendment, discuss the [history of voter age qualifications in the United States](#), and examine the Amendment’s [drafting in Congress](#) and [unresolved issues](#). Additional information on this topic is available at the [Constitution Annotated: Analysis and Interpretation of the U.S. Constitution](#) and in a [CRS Legal Sidebar post](#).

The Vietnam War, Voting Rights Act Amendments of 1970, and *Oregon v. Mitchell*

During the 1960s, public support for lowering the minimum voting age increased as the U.S. Armed Forces [became directly involved](#) in defending South Vietnam from North Vietnam and the Viet Cong guerilla forces. Although men as young as 18 [could be drafted](#) to fight in the Vietnam War, [few states](#) allowed persons under the age of 21 to vote. As U.S. involvement in the war reached its peak in the late 1960s, President Lyndon B. Johnson wrote a [message to Congress](#) calling for an amendment to the Constitution lowering the voting age. Referring to the ballot box as the “anvil of democracy, where

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government is shaped by the will of the people,” Johnson [remarked](#) that “reason does not permit us to ignore any longer the reality that eighteen-year-old young Americans are prepared—by education, by experience, by exposure to public affairs of their own land and all the world—to assume and exercise the privilege of voting.”

When extending the Voting Rights Act of 1965 in 1970, Congress included a [provision](#) lowering the age qualification to vote in all elections—federal, state, and local—to 18. In the findings section accompanying this provision, Congress [explained](#) that the law was necessary to protect the “inherent constitutional rights” of 18- to 20-year-old citizens, particularly in light of “the national defense responsibilities imposed upon such citizens.” Congress asserted that it possessed the authority to enact the youth enfranchisement provision because it was necessary to enforce the [Fourteenth Amendment’s equal protection and due process guarantees](#) against the states.

On June 22, 1970, President Richard Nixon signed the Voting Rights Act Amendments into law but [issued a statement](#) questioning the constitutionality of the legislation’s provision lowering the voting age in all elections to 18. Nixon wrote, “Although I strongly favor the 18-year-old vote, I believe—along with most of the Nation’s leading constitutional scholars—that Congress has no power to enact it by simple statute, but rather it requires a constitutional amendment.” Nixon directed the U.S. Attorney General to file a lawsuit seeking a court’s judgment on the provision’s constitutionality and called upon Congress to propose an amendment to the Constitution lowering the minimum voting age.

Subsequently, the Supreme Court considered several challenges to the constitutionality of the Voting Rights Act Amendments of 1970, including Title III, which lowered the minimum voting age. In a divided decision in the 1970 case [Oregon v. Mitchell](#), the Supreme Court held that Congress was empowered to lower the age qualification in federal elections, but voided the application of Title III of the Act in all other elections as beyond congressional power. Confronted with the possibility that they might have to maintain two sets of registration books and incur the expense of running [separate election systems](#) for federal elections as compared to all other elections, many states were receptive to Congress proposing a constitutional amendment to establish a minimum age qualification of 18 for all elections.

Click [here](#) to continue to Part 4.

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