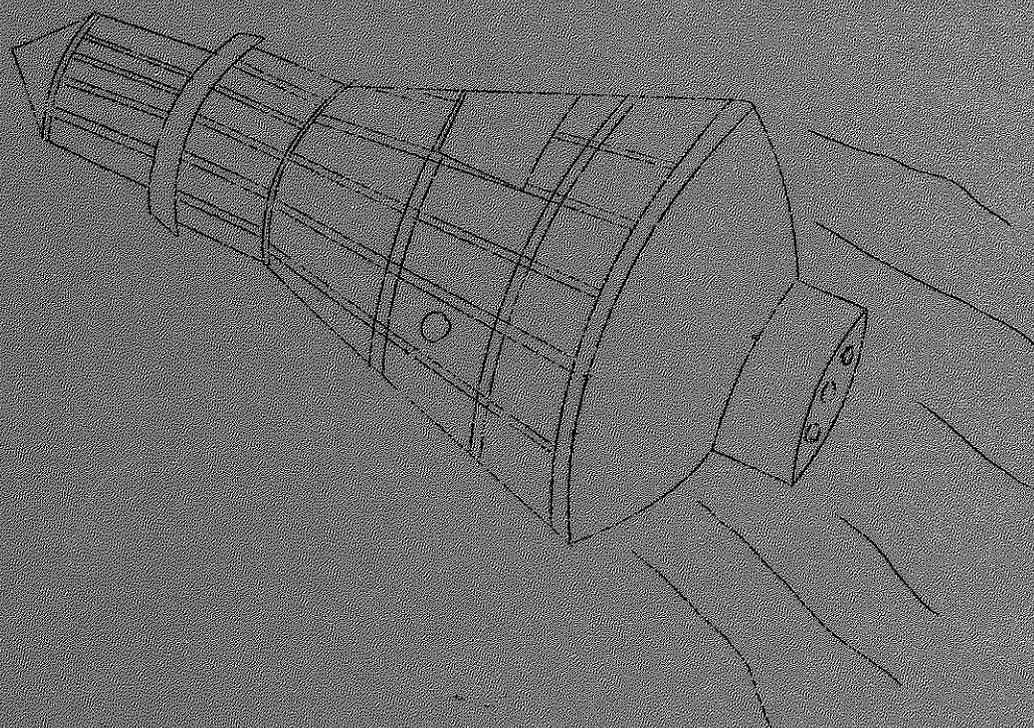


WISCONSIN LEGISLATIVE REFERENCE LIBRARY REPORT



LOWERING THE VOTING AGE - A STUDY
OF STATE AND FEDERAL ACTION

Wisconsin Legislative Reference Library
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LOWERING THE VOTING AGE - A STUDY OF STATE AND FEDERAL ACTION

HIGHLIGHTS

1. Four states now permit persons under 21 to vote. Georgia and Kentucky place the age at 18, Alaska at 19 and Hawaii at 20.
2. Many foreign countries use a different age than 21. Many Latin American countries place the age at 18 while in Turkey it is 22, in the Netherlands it is 23 and in Denmark and Italy it is 25.
3. Virtually every state has considered the problem, but except for the 4 which now have it, the lower voting age has been turned down by either the Legislature or the people.
4. Congress has considered amending the Constitution to permit voting before 21.
5. No less than 15 proposals to lower the voting age have been considered in Wisconsin.
6. In Wisconsin the voting age could be lowered by amending the Constitution or by a statutory change approved by a referendum of the people.
7. Many organizations and prominent people have espoused this movement, but legislatures have been almost uniformly opposed.
8. Studies in Kentucky fail to reveal that younger people are more apt to vote or that their voting habits are any different than those of their elders.
9. Advocates of the measure suggest that people old enough to fight for their country are old enough to vote, but opponents suggest that fighting and voting require different skills.
10. Those who favor the proposal suggest that younger people are better prepared today to assume active citizenship while those opposed suggest that society is so much more complex today that it requires longer to become prepared.
11. Opponents fear that young people would be influenced by their elders while proponents believe that early voting would help young people to assume responsibility.
12. It appears that at least at the moment this will remain a problem for each state to solve.

LOWERING THE VOTING AGE - A STUDY OF STATE AND FEDERAL ACTION*

INTRODUCTION

Since 1943 nearly every state in the Union has considered the question of lowering the voting age from 21 to 20 or 19 or 18 years of age. But so far only 4 states have actually reduced the age. These are Georgia, Kentucky and the 2 new states of Alaska and Hawaii. According to a 1960 survey by the Library of Congress, the Legislatures in at least 47 states have considered the matter, and in some states the proposal has come up repeatedly before the Legislature. On the federal level a number of proposals have been introduced into Congress to amend the United States Constitution to prohibit the states from denying the vote to persons over 18.

The 18-year-old vote issue has received widespread support from organizations and high ranking public leaders. The curious part of it is that legislative action on this matter has not progressed as far as one would expect considering the popularity of the issue. Veterans' groups such as the American Legion and Veterans of Foreign Wars at one time urged the extension of suffrage with the slogan "old enough to fight, old enough to vote." Both the Democratic and Republican national chairmen endorsed the idea in 1952. President Eisenhower recommended it in his 1954 State of the Union address. President Kennedy has supported the principle as have presidential candidates Nixon and Stevenson, and a number of Governors. A New York Times poll of 1952 revealed that 29 Governors favored the measure, 7 opposed it and 12 had not reached a decision. The Model State Constitution by the National Municipal League recommends the 18-year-old vote.

Although most states adhere to the 21 age minimum standard, it is not a standard universally held. Few would argue that individuals automatically attain maturity at 21; and some assert that chronological age bears only a slight relationship with political intelligence. Nevertheless, governments must set a minimum age qualification for the exercise of the serious responsibility of the franchise. The 21-year standard was used in early English common law. Ancient Athens set the minimum age for voting at 18 and Rome at 25. Some variations are found among countries today. Among those with an 18-year minimum are some Latin American countries, Argentina, Brazil, Ecuador, Guatemala, Paraguay and Peru. Czechoslovakia, Yugoslavia, Poland and the USSR also use the 18-year-old standard. A few nations place the minimum above 21 such as Turkey with 22, Netherlands with 23, and Denmark and Italy with 25-year minimums.

WHO DETERMINES MINIMUM AGE FOR VOTING: STATE OR FEDERAL?

The power to determine qualification of voters has been reserved to the states subject to a few limitations imposed by the federal government. Article I, Section 2, of the U.S. Constitution states:

*Prepared by Kathleen R. Kepner, Research Associate, Wisconsin Legislative Reference Library.

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

The 17th Amendment applies the same provision to the election of U.S. Senators. The states, therefore, have been free to set qualifications for voting limited only by the 15th and 19th Amendments (denial of the right to vote on account of race and sex respectively).

The right of 21-year-olds to vote is mentioned specifically in Article 14, Section 8, of the U.S. Constitution. Paraphrased, the section declares that when the right to vote in certain elections is denied to any of the male inhabitants "21 years of age, and citizens of the United States", except for rebellion or other crime, the basis of representation shall be reduced proportionately. For almost a century the penalty provided in this provision has been ignored.

CONGRESSIONAL ACTION

Proposals to amend the U.S. Constitution have been introduced into Congress since the outbreak of World War II and the draft of young men under the Selective Service Act of 1942, see particularly the 78th, 83rd and 87th Congresses.

The question of amending the U.S. Constitution actually includes 2 issues: (1) Should suffrage be extended to include 18 to 21-year-olds? and (2) Is it proper for the federal government to legislate on a matter which has by tradition been left to the states? Some representatives have objected to the legislation on the grounds that it infringes upon states' rights. This is the view of the Kennedy administration according to the testimony by Assistant Attorney General Katzenbach:

"...it should be noted that voting qualifications have traditionally been left for the States to determine, and it may be that each State is in a better position to judge the age qualifications of its voters than are people who do not live and reside within the State. For this reason the administration, while thoroughly believing in the competence of 18-year-olds to discharge their civic responsibilities as voters, is of the view that this judgment should continue to be left to the States."¹

Four resolutions introduced into the 87th Congress provide for an amendment to the U.S. Constitution: S.J. Res. 20 by Senator Kefauver, S.J. Res. 54 by Senator Dirksen, S.J. Res. 67 by Senator Keating and S.J. Res. 71 by Senator Randolph and Senator Byrd. The latter 3 amendments are identical, and the text follows in part:

¹Hearings before Subcommittee on Constitutional Amendments, Committee on Judiciary, U.S. Senate, 87th Cong., 1st Sess., p. 370.

"SECTION 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation..."

Several bills were also introduced into the 87th Congress to lower the age qualifications for electors in the District of Columbia, H.R. 7144 and S. 1883. Neither have come to a vote in either house so far. Another bill relating to elections in the District, H.R. 8444, contained a provision for lowering the age minimum. This bill passed Congress but the age provision was struck out by an amendment.

HOW CAN THE STATES LOWER THE AGE QUALIFICATION FOR VOTING?

Specific age qualifications for voting are embodied in all State Constitutions except West Virginia's Constitution which prohibits "minors" from voting, the word "minors" being defined by statute. Therefore, any change in the age qualification would have to take the form of a constitutional amendment unless otherwise provided. The difficulty here is that the amending procedure of the various states entails more than merely passing a law by majority vote of the Legislature. Often times, a proposal to amend the Constitution must be passed by a large majority of each house--two-thirds or three-fifths vote in some cases. Then it must be submitted for approval to the people in a referendum. Too, some states require that the proposal be approved by 2 successive Legislatures (as in Wisconsin) before submission to a referendum.

The 1960 survey of the states by the Library Congress gives a number of cases where the amendment lost due to these restrictions--cases in which both houses passed the measure but one house did not have the constitutional majority, or it lost in the referendum or the succeeding Legislature failed to approve upon second consideration. This may be one of the reasons why the proposal has not gained much headway.

AMENDING PROCEDURE IN WISCONSIN

Article III, Section 1, of the Wisconsin Constitution provides that every person of the age of 21 years or upwards shall be deemed a qualified elector at such election. Subsection (3) of Section 1 sets out a unique procedure for extending suffrage:

Article III, Section 1

"(3) The legislature may at any time extend, by law, the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election, and approved by a majority of all the votes cast on that question at such election; and provided further, that the legislature may provide for the registration of electors, and prescribe proper rules and regulations therefor."

This provision simplifies the amending procedure in Wisconsin. It enables the Legislature to pass a law by simple majority and submit it to the people for approval. The Wisconsin Constitution may be amended by 2 methods: approval by majority vote of 2 consecutive sessions of the Legislature and then approval by a referendum vote, or approval by a constitutional convention and a referendum vote.

The proposals to lower the age for voting have taken 2 forms: joint resolutions to amend the Constitution, and simple bills to submit the question to the electorate for approval (see appendix for illustration of each form). Recently the Attorney General delivered an opinion to the Assembly on this matter in connection with Bill No. 46, A., 1961, proposing to extend suffrage to those 18 years old and above by using the special procedure contained in Article III, Section 1. The opinion concluded that "The voting franchise can be expanded and extended to new classes of persons by the legislature, subject to a referendum, but it cannot be restricted in this way." (50 OAG 50, May 8, 1961)

The Wisconsin provisions, relating to qualifications to vote, have been amended by this special process on 2 separate occasions: in 1849 by Chapter 137 when the Legislature extended the right to vote to Negroes, and in 1885 by Chapter 211 when women were allowed to vote on school matters. These laws were upheld by the State Supreme Court.

STATES WHICH HAVE LOWERED THE VOTING AGE

In 1943 Georgia became the first state to lower the age qualifications for voting to 18. The constitutional amendment was approved in a referendum by a large majority: yes, 42,284; no, 19,687. In 1955 Kentucky amended its Constitution to permit 18-year-olds to vote. The new states of Alaska and Hawaii entered the Union in 1959 with lower voting age provisions in their respective Constitutions.

While Georgia and Kentucky set the minimum age for voting at 18, Alaska and Hawaii have used a 19 and 20 minimum respectively. In Hawaii 20 is the age of majority at which time a person may enter into contracts, sue and be sued, enter marriage without parental consent, etc.

ATTEMPTS TO LOWER VOTING AGE IN OTHER STATES

Practically all the other states have considered lowering the voting age and there are a number of cases in which the proposal narrowly missed passage. The Legislatures in the 3 states listed below passed the amendment but it was subsequently defeated in a referendum. The South Dakota Legislature passed the amendment and submitted the question to the people in a referendum on 2 separate occasions. In 1952 the proposed amendment lost by only 685 votes: no, 128,916; yes, 128,231. A reversal of public feeling was indicated in the decisive defeat of the amendment in the 1958 referendum by a vote of 137,942 to 71,033.

States That Have Defeated in Referenda the Proposal
to Lower Voting Age from 21 (1943-1960)

| State | Proposed Age | |
|--------------|--------------|------|
| | Minimum | Year |
| Idaho | 19 | 1960 |
| Oklahoma | 18 | 1952 |
| South Dakota | 18 | 1952 |
| " " | 18 | 1958 |

Source: Study prepared by Walter Kravitz, Legislative Reference Service, Library of Congress, March 28, 1961.

Some 14 other states have approved the proposal in at least one house of the Legislature. Both houses of the Indiana Legislature approved of the amendment in 1945 and 1953, but the amendment was defeated in both cases when the next succeeding Legislature failed to act on its second consideration as required for constitutional amendments. This happened in Pennsylvania, too, when the 1957 Legislature approved the proposed amendment. The 1957 Tennessee Legislature passed the amendment but the 1959 Legislature instead of acting on the amendment itself called a constitutional convention to consider the amendment along with 3 other measures. The convention voted decisively 60 to 33 to leave the age provision for voting unchanged.

14 States in Which at Least a Single House of the Legislature
Has Voted in Favor of Lowering the Voting Age, 1943-60¹

| State | Year | Passed by House | Passed by Senate |
|--------------|------|--------------------|---|
| Arkansas | 1943 | X | |
| Delaware | 1953 | X | |
| | 1955 | | X (Lacked constitutional majority in House) |
| Florida | 1951 | X | (Defeated in Senate) |
| | 1955 | | X |
| Indiana | 1945 | X | X (Failed in next Legislature) |
| | 1953 | X | X " " " " |
| Montana | 1957 | X | (Defeated in Senate) |
| Nevada | 1953 | X | |
| New York | 1943 | X | |
| Ohio | 1959 | X | |
| Oregon | 1955 | | X |
| Pennsylvania | 1957 | X | X (Failed in next Legislature) |
| Tennessee | 1957 | X | X (Failed in constitutional convention) |
| Utah | 1955 | X | |
| Washington | 1955 | X | |
| Wisconsin | 1943 | X | |
| | 1945 | | X |
| | 1953 | X | |
| | 1959 | X | |

¹There are probably more instances than those enumerated in the table.

Source: Study prepared by Walter Kravitz, Legislative Reference Service, Library of Congress, March 28, 1961. Information on Wisconsin added.

HISTORY OF THE PROPOSED AMENDMENT IN WISCONSIN

In Wisconsin the proposed amendment to lower the voting age has come before the Legislature 15 times since 1943, but it has never passed both houses of the Legislature. The Assembly approved of it on 3 separate occasions in 1943, 1953 and 1959; and the Senate approved it once in 1945. The interesting reversal of feeling about the matter is again revealed in Wisconsin when the 1943 Assembly approved of the measure by a vote 55 to 29; the Senate nonconcurred in it. Yet only 2 years later the Senate favored it by a 2 to 1 vote (22 to 10) and the Assembly nonconcurred in it by a vote 48 to 39. The chart on the following page gives the history of the various measures introduced into the Wisconsin Legislature.

VOTING BEHAVIOR OF 18 TO 20-YEAR-OLDS

"How do 18-year-olds vote?" is a recurring question. The proponents of lowering the age affirm their belief in the idealism of youth and their recent educational attainments; the critics point out that the immaturity of youth subjects them more easily to influence and unreasonableness. Even though 4 states now have lowered the voting age, little is actually known about the voting behavior of this group.

The Political Science Department of the University of Kentucky has made 2 studies of the voting behavior of Kentucky youth between the ages of 18 and 21. One survey was made of the voting participation of college and high school students in the 1956 and 1957 elections, the first 2 years after the voting age was lowered. Some evidence is given that the level of participation is higher for the group between 18 and 21 years old as compared to the level of voting of the general electorate. This was apparently true in Kentucky at the outset of 18-21 year old voting law as demonstrated in the 1956 presidential elections. However, the study concludes that "The enthusiasm of eighteen to twenty-one year old Kentucky residents for registering and voting is disappearing since their large initial vote in the 1956 presidential election. Their voting participation is probably not greater than is evidenced by the older part of the population..." Another finding of the survey was that the young people in the group did not vote in accordance with their party registration. A majority of them voted a split ticket. A second survey on a much smaller scale was made for the 1959 elections, and its results generally substantiate the first survey--that there is no great difference between the levels of registration and voting of college students and the general electorate.

Legislation Introduced into the Wisconsin Legislature
to Lower the Age for Voting 1943-1961

| Year | Jt. Res. No. | Bill No. | Proposed Age Minimum | Author(s) | Assembly Action and Vote When Given | Senate Action and Vote When Given |
|------|--------------|----------|----------------------|---|--------------------------------------|-----------------------------------|
| 1943 | 30,A | | 18 | Catlin, Jr. | Adopted 55-29 | Nonconcurrent in |
| | 80,S | | 18 | Leverich | None | Ruled out of order ¹ |
| 1945 | 9,A | | 18 | Collar | Returned to author | None |
| | 24,A | | 18 | Schaeffer | Refused to order engrossed | None |
| | 8,S | | 18 | Leverich, Fellenz | Nonconcurrent in 48-39 | Adopted 22-10 |
| 1947 | 18,A | | 18 | Betts, B.A. Clark, Dancy, Harper, Mockrud, Sengstock | Passage refused 48-44 | None |
| 1951 | | 132,S | 18 | Gettelman, Krueger, Leverich, LaFond, Dempsey | None | Indefinitely postponed |
| 1953 | 39,A | | 18 | Merz, O'Connell, Wicklund | Adopted 64-15 | Nonconcurrent in |
| | | 598,A | 19 | Committee on Mfg. and Commerce ² | Returned to author | None |
| 1955 | 1,A | | 18 | Windrow | Indefinitely postponed 52-38 | None |
| | | 184,A | 18 | C. Brown | Refused to order engrossed, 52-38 | None |
| 1959 | | 52,A | 20 | Belting, Calvert, Crawford, Haase, Merriam, Morton, Stauffer, Wackett | Indefinitely postponed | None |
| | | 63,A | 18 | Harper | Passed by voice vote | Nonconcurrent in 16-17 |
| 1961 | | 32,A | 19 | Mathews | Indefinitely postponed 66-22 | None |
| | | 61,A | 18 | Harper | Indefinitely postponed 54-42 | None |

¹Ruled out of order because a like resolution had been previously rejected at this session.

²Introduced by committee but bill was drafted by request of Assemblyman Hutnik.

ARGUMENTS FOR AND AGAINST LOWERING THE VOTING AGE

Many of the arguments for and against lowering the voting age deal directly or indirectly with the question "do you think that 18, 19 or 20 year olds are capable of voting as intelligently as the rest of the electorate?" Since there is no known test to determine what is "intelligent voting" the answers to this question invariably involve a value judgment of these young people as a group. This may be one reason why public opinion has wavered so much on this issue. For example, in times of war when young men are going off to fight, they are held in higher esteem than the same age group would be in times of peace.

Furthermore, it is difficult, if not impossible, to evaluate a group of 18, 19 and 20-year-olds comprising a cross section of the entire population. There are great individual differences in terms of native intelligence, maturity, educational opportunity and interest in government.

It is interesting to note that 2 Wisconsin Governors have taken the opposite positions on the question of the maturity of 18 to 20-year-olds as a group. Former Governor Walter J. Kohler, Jr. commented that while some 18-year olds were as mature as 49-year olds "the chances are that having the necessary good judgment and the information necessary to make a good political choice is less likely at 18 than at 21." (New York Times, 1/22/54) On the other hand, Governor Gaylord Nelson in a letter to a constituent said "I believe that the voting age should be lowered to 18 since I think that at that age boys and girls are mature enough to be able to vote intelligently."

Two Wisconsin Legislators wrote editorials in 1959 giving their views for and against the 18-year-old vote as proposed in Bill No. 63, A., Wisconsin Legislature, 1959. Taken from the Wisconsin State Journal, April 2, 1959, they appear below.

A Wisconsin Legislator's Arguments For:

"I sincerely believe that Wisconsin should allow its 18-year-old citizens to vote.

"Many of them are taxpayers, many have families, and all of them (male) are subject to serve their state and nation in the military services. They are entitled to have a voice in determining how the government is run.

"But even of greater importance is the fact that at present there is a three-year lag between the time these citizens graduate from high school and the time they become eligible to vote. While in school, they study the issues, become informed of society's problems, and begin to take an interest in governmental operation.

"But they are forced to wait three years before they can take an active part in government. Naturally they begin to lose interest and by the time they become 21 a surprisingly small number of them ever register to vote. We would have a more active electorate if they started at 18 and then continued without interruption.

"We all say that we must build the future of our state and nation on these young citizens and I believe they will be far better able to accomplish this purpose if we allow them to take an active part when they are studying these problems and are interested in governmental operations."

A Wisconsin Legislator's Arguments Against:

"The voting age is logically set at 21 years to coincide with the age whereby a person legally becomes an adult and has legal privileges and responsibilities of majority.

"The years up to 21 are considered the development or learning years. The period is designed to prepare the person to take on his responsibilities as a citizen.

"While many of our youths under 21 have mature judgments, most of them have not had the practical experience to make independent, mature decisions.

"There is no strong feeling to lower the voting age.

"Only one state (Georgia) has made the change although about 40 states have considered the issue. There has never been any strong demand to lower the age in Wisconsin.

"It is illogical to say that the voting age should be lowered because 18-year-olds pay taxes or serve in the armed forces. To pay taxes or be in service does not necessarily indicate maturity. They also can be in service and pay taxes at 17 years and no one suggests lowering it to that age.

"Voting privileges should be given to the responsible citizens with experience as adults. A foolish, immature vote cancels out one vote cast by the most responsible citizen in the state."

Some of the More Common Arguments For and Against

For

1. Old enough to fight, old enough to vote. If a young man is drafted, he should be given a voice in government.
2. Young people today are better educated than a generation ago. Modern schools and the widespread media of communication keeps them better informed.
3. Young people would benefit from an earlier experience in public affairs if encouraged to vote when they are just finishing high school. They would also bring fresh viewpoints into politics and government.

Against

1. Fighting and voting do not require the same skills. Fighting is done under orders and direction with a virtual relinquishment of personal responsibility.
2. Society is more complex today and it takes as long or longer to prepare for responsible citizenship.
3. Young people would be unduly influenced by parents, teachers, pressure groups, etc. They are not mature enough to make independent judgments.

4. Four states have set the voting age below 21 with apparently no adverse results.

4. Most states have rejected the proposal, and some states have rejected it many times.

5. There are many examples of laws conferring special responsibility on young people in the 18-20 category; driver's license, marriage without parental consent for girls. In Wisconsin a child for juvenile court and public assistance purposes includes only those under 18.

5. The voting age should coincide with the age of majority which has traditionally been 21.

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APPENDIX 1.

JT. RES. NO. 39, A.

March 12, 1953--Introduced by Messrs. O'CONNELL, MERTZ and WICKLUND. Referred to Committee on Elections.

JOINT RESOLUTION

To amend section 1 (introductory paragraph) and section 2 of article III of the constitution, providing that persons of 18 years or more shall be electors.

Resolved by the assembly, the senate concurring, That section 1 (introductory paragraph) and section 2 of article III of the constitution are amended to read:

(Article III) Section 1. (introductory paragraph). Every person, of the age of ~~twenty-one~~ eighteen years or upwards, belonging to either of the following classes, who shall have resided in the state for one year next preceding any election, and in the election district where he offers to vote such time as may be prescribed by the legislature, not exceeding thirty days, shall be deemed a qualified elector at such election:

Section 2. No person under guardianship, except a person of the age of eighteen years or more and under guardianship only because of being a minor, non compos mentis or insane shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights. Be it further

Resolved, That the foregoing proposed amendment to the constitution be published for three months preceding the next general election, and is hereby referred to the legislature to be chosen at such election.

January 18, 1961--Introduced by Mr. MATHEWS.
Referred to Committee on Judiciary.

A BILL

To amend 6.01 (1) and 6.185 (5) of the statutes, relating to extending the right to vote to persons of the age of 19 years and upwards.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 6.01 (1) of the statutes is amended to read:

6.01 (1) Every citizen of the United States of the age of ~~21~~ 19 years or upwards, who ~~shall have~~ has resided in the state one year next preceding any election, and in the election district, or precinct where he offers to vote, for 10 days, shall be deemed an eligible elector. Any citizen of The United States of the age of 21 19 years or upwards, who ~~shall have~~ has resided in the state one year or more and who ~~shall have~~ has resided in an election district or precinct less than 10 days next preceding any election shall be entitled to vote at such election in the election district or precinct in this state where he was last a qualified elector.

SECTION 2. 6.185 (5) of the statutes is amended to read:

6.185 (5) Any person who is not ~~twenty-two~~ 20 years of age before the date when the registration is required to be corrected, and who will, if he lives until the day of the election, attain the age of ~~twenty-one~~ 19 years on or before such day, shall have his name included in such registration if he be is otherwise qualified to be an elector.

SECTION 3. Whenever the age "21" appears in sections 6.16 (2), 6.18 (2), 6.44 (2), 6.50 (4), 6.53, 9.046 (2) (b) and 10.16 (1) of the statutes, "19" shall be substituted. The revisor of statutes shall show the change in printing the statutes.

SECTION 4. There shall be submitted to the vote of the people at the spring election in April 1961 the following question:

"Shall Chapter ____ (insert on the ballot the number of the chapter) of the laws of 1961, which proposes extending the privilege of voting to persons of the age of 19 years and upwards, be adopted?"

If the above question is approved by a majority of all votes cast on that subject at said election, Chapter ____ shall be law, otherwise it shall be considered as of no effect.

(End)