

# THE LOCH NESS MONSTER, HAGGIS, AND A LOWER VOTING AGE: WHAT AMERICA CAN LEARN FROM SCOTLAND

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*This Article, prepared for an American University Law Review symposium, explores what the United States can learn from Scotland's experience in lowering the voting age to sixteen. The minimum voting age in American elections seems firmly entrenched at eighteen, based in part on the Twenty-Sixth Amendment, which prohibits states from denying the right to vote to anyone aged eighteen or older. Yet the conversation about lowering the voting age to sixteen, at least for local elections, has gained steam in recent years. The debate in America, however, is nascent compared to the progress in Scotland, which lowered the voting age to sixteen for its Independence Referendum in 2014 and for all Scottish elections in 2015. Using original research from interviews I conducted in Scotland, this Article offers three main takeaways for American jurisdictions considering this reform: the Scottish experience in lowering the voting age has been mostly successful because advocates (1) went into schools to register students to vote and encourage them to participate; (2) offered meaningful civics education, though that instruction was somewhat uneven across the country; and (3) created a bipartisan coalition of policymakers who supported the change. As the debate on the voting age in the United States expands, advocates should draw upon these lessons from Scotland.*

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## INTRODUCTION

Almost fifty years ago, America enacted a major change to its voting laws, lowering the minimum voting age from twenty-one to eighteen and thereby enfranchising about eleven million citizens.<sup>1</sup> Prior to the Twenty-Sixth Amendment to the U.S. Constitution, which made this change nationwide, the minimum voting age had always been twenty-one.<sup>2</sup> This

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1. THOMAS H. NEALE, CONG. RESEARCH SERV., 83-103, THE EIGHTEEN YEAR OLD VOTE: THE TWENTY-SIXTH AMENDMENT AND SUBSEQUENT VOTING RATES OF NEWLY ENFRANCHISED AGE GROUPS 16 (1983), [https://www.everycrsreport.com/files/19830520\\_83-103GOV\\_f7c90f8fb698968e03f7ce5e3b45288dffcce08f.pdf](https://www.everycrsreport.com/files/19830520_83-103GOV_f7c90f8fb698968e03f7ce5e3b45288dffcce08f.pdf) [<https://perma.cc/AEP6-QS7K>].

2. Jenny Diamond Cheng, How Eighteen-Year-Olds Got the Vote 9 (Aug. 4, 2016) (unpublished manuscript), <https://ssrn.com/abstract=2818730>. Some jurisdictions in

voting age was, to some degree, a historical accident, borrowed from British common law, which in turn rested on medieval practices.<sup>3</sup> Eventually, advocates won the argument to lower the voting age to eighteen for all elections in the United States. Now, several jurisdictions in America are debating whether to lower the voting age even further, this time to sixteen.<sup>4</sup> U.S. Senator and presidential candidate Bernie Sanders embraced the idea.<sup>5</sup> So have several congressional, state, and local legislators.<sup>6</sup> A handful of localities have even enacted the change for local elections.<sup>7</sup>

Scotland is a few steps ahead of America on this issue. Scotland, like the United States, inherited its original voting age of twenty-one from the United Kingdom.<sup>8</sup> The United Kingdom, and therefore Scotland, lowered the voting age to eighteen in 1969.<sup>9</sup> Yet Scotland now enjoys the

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the United States lowered the voting age to eighteen before the Twenty-Sixth Amendment mandated this change nationwide. *See* NEALE, *supra* note 1, at 6.

3. Cheng, *supra* note 2, at 9.

4. *See* Sarah Anne Hughes, *Takoma Park's 16-Year-Olds Can Now Vote in Local Elections*, DCIST, (May 15, 2013, 10:14 AM), <https://dcist.com/story/13/05/15/takoma-parks-16-year-olds-can-now-v> [<https://perma.cc/YM2J-AB9T>].

5. Shannon Barbour, *Bernie Sanders Is Open to Lowering the Voting Age to 16 Years Old*, COSMOPOLITAN (Sept. 27, 2019), <https://www.cosmopolitan.com/politics/a29267215/bernie-sanders-lower-voting-age-16-2020-presidential-election> [<https://perma.cc/BY9E-SJLL>] (discussing Bernie Sanders's belief that states should be able to lower the voting age if they wish and that a broader movement among states could lead the federal government to do the same).

6. *See* Peter Hasson, *125 Democrats and 1 Republican Vote to Lower Voting Age to 16*, DAILY CALLER (Mar. 8, 2019), <https://dailycaller.com/2019/03/08/house-democrats-voting-age-16> [<https://perma.cc/HJT8-V98N>].

7. *See generally* Rachel H. Janfaza, *A Local Crusade to Lower the Voting Age*, HARV. CRIMSON (Sept. 19, 2019), <https://www.thecrimson.com/article/2019/9/19/lower-voting-age> [<https://perma.cc/3U6X-372D>]; Fenit Nirappil, *D.C. Council Declines to Take Up Bill to Lower Voting Age to 16*, WASH. POST (Nov. 13, 2018), [https://www.washingtonpost.com/local/dc-politics/should-16-year-olds-be-able-to-vote-for-president-in-the-nations-capital/2018/11/12/f2c32d34-e699-11e8-b8dc-66cca409c180\\_story.html](https://www.washingtonpost.com/local/dc-politics/should-16-year-olds-be-able-to-vote-for-president-in-the-nations-capital/2018/11/12/f2c32d34-e699-11e8-b8dc-66cca409c180_story.html); Kelsey Piper, *Young People Have a Stake in Our Future. Let Them Vote.*, VOX (Sept. 20, 2019), <https://www.vox.com/future-perfect/2019/9/10/20835327/voting-age-youth-rights-kids-vote> [<https://perma.cc/ZG45-9JN9>]; Ted Siefer, *Vermont Town Rejects Lowering Voting Age to 16: Report*, REUTERS (Mar. 3, 2015), <https://www.reuters.com/article/us-usa-vermont-election/vermont-town-rejects-lowering-voting-age-to-16-report-idUSKBN0LZ1NQ20150304> [<https://perma.cc/5N8S-CSWY>].

8. Cheng, *supra* note 2, at 9.

9. *See* Representation of the People Act 1969, c. 15 (Eng.), <https://www.parliament.uk/about/living-heritage/transformingsociety/elections>

authority to determine the voting qualifications for its own elections.<sup>10</sup> In 2014, Scotland allowed sixteen- and seventeen-year-olds to vote in a referendum on Scottish independence.<sup>11</sup> This experience convinced many Scottish politicians and civilians that sixteen-year-olds deserve the right to vote and can exercise it responsibly.<sup>12</sup> In 2015, Scotland granted the right to vote to sixteen- and seventeen-year-olds for all Scottish elections.<sup>13</sup>

There are various theoretical justifications for lowering the voting age. Granting the right to vote to sixteen-year-olds helps to establish a habit of electoral participation while these young people are in a more stable point in their lives. Eighteen-year-olds are moving, starting college, or entering the workforce, so they are already experiencing a lot of change. They then face various barriers to voting, such as registering ahead of the election, requesting an absentee ballot if needed, and obtaining a proper voter ID. It is no wonder that, relative to other age cohorts, a smaller percentage of these young people successfully jump through these hoops and participate in the election. The result is a disengaged young citizenry: many simply do not bother, and nonvoting becomes routine. But voting early in life can create a habit of electoral participation. Therefore, the United States would be wise to follow Scotland's example and enfranchise sixteen- and seventeen-year-olds, at least for some elections, which in the long run can increase overall voter turnout. If the United States can inculcate a habit of voting among youth, then these younger voters will become regular voters as they age. Moreover, studies of cognitive brain development show that sixteen-year-olds are perfectly capable of voting. And given that the United States imposes various legal obligations on

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voting/1969-rotp-act/1969-rotp-collections-/1969-sixth-reform-act-  
[<https://perma.cc/KDT8-5FF6>].

10. NEIL JOHNSTON & NOEL DEMPSEY, HOUSE OF COMMONS LIBRARY, VOTING AGE 4 (2019), <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01747> [<https://perma.cc/59BR-95RM>].

11. Scottish Independence Referendum (Franchise) Act 2013, (ASP 13) § 2, [http://www.legislation.gov.uk/asp/2013/13/pdfs/asp\\_20130013\\_en.pdf](http://www.legislation.gov.uk/asp/2013/13/pdfs/asp_20130013_en.pdf) [<https://perma.cc/B7N7-5JZD>]; Scottish Independence Referendum Act 2013, (ASP 14) § 3(3), [http://www.legislation.gov.uk/asp/2013/14/pdfs/asp\\_20130014\\_en.pdf](http://www.legislation.gov.uk/asp/2013/14/pdfs/asp_20130014_en.pdf) [<https://perma.cc/VT7F-VDGD>].

12. JOHNSTON & DEMPSEY, *supra* note 10, at 17–19.

13. Scottish Elections (Reduction of Voting Age) Act 2015, (ASP 7) § 1, <http://www.legislation.gov.uk/asp/2015/7/enacted/data.pdf> [<https://perma.cc/8KJ9-AFD8>].

sixteen-year-olds, such as compulsory education and collecting taxes on part-time wages, letting them vote is a matter of democratic fairness.<sup>14</sup>

But this Article is not about why lowering the voting age to sixteen is a good idea. I have explored that foundational topic in other scholarship.<sup>15</sup> Instead, it presents a case study from another country to show how the reform can actually work. This Article explores the Scottish experience in lowering the voting age to sixteen and extrapolates the lessons America can learn from Scotland's implementation of this reform.

Many people lament the state of American democracy and the country's woefully low turnout rates, especially in non-presidential elections. Turnout during the 2018 midterm elections was about 50% nationwide and that was the *highest* it had been in decades.<sup>16</sup> But no one should celebrate voter engagement when half of the eligible electorate stays home. Moreover, the numbers are much starker for younger voters, who participate at significantly lower rates than older voters.<sup>17</sup> We must embrace bold reforms to fix our election system and improve voter turnout. Lowering the voting age is one such bold reform. Scotland can show us the way.

Part I of this Article discusses the history of the voting age in America and the impetus behind the change from twenty-one to eighteen through the Twenty-Sixth Amendment in 1971.<sup>18</sup> The major takeaways are that the voting age is not set in stone, that a few states were first movers, and that the change took decades to come to fruition nationwide. Part II chronicles the history of the voting age in the United Kingdom, with a detailed account of the recent change in

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14. See generally JOSHUA A. DOUGLAS, *VOTE FOR US: HOW TO TAKE BACK OUR ELECTIONS AND CHANGE THE FUTURE OF VOTING 15–29* (2019) [hereinafter DOUGLAS, *VOTE FOR US*]; Joshua A. Douglas, *In Defense of Lowering the Voting Age*, 165 U. PENN. L. REV. ONLINE 63, 66–69 (2017) [hereinafter Douglas, *Lowering the Voting Age*].

15. Douglas, *Lowering the Voting Age*, *supra* note 14.

16. See Jordan Misra, *Voter Turnout Rates Among All Voting Age and Major Racial and Ethnic Groups Were Higher Than in 2014*, U.S. CENSUS BUREAU (Apr. 23, 2019), <https://www.census.gov/library/stories/2019/04/behind-2018-united-states-midterm-election-turnout.html> [https://perma.cc/YUC4-43KP].

17. THOM FILE, U.S. CENSUS BUREAU, *WHO VOTES? CONGRESSIONAL ELECTIONS AND THE AMERICAN ELECTORATE: 1978–2014*, at 5 & fig.4 (2015), <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p20-577.pdf> [https://perma.cc/38GJ-VS9E].

18. My prior writing has chronicled in more detail the history of the voting age in America. See, e.g., Joshua A. Douglas, *Lowering the Voting Age from the Ground Up: The United States' Experience in Allowing 16-Year-Olds to Vote*, in *LOWERING THE VOTING AGE TO 16—LEARNING FROM REAL EXPERIENCES WORLDWIDE* 211 (Eichhorn & Bergh eds., 2020).

Scotland. One key finding is that the reform happened only because of the work of numerous stakeholders, particularly young people themselves. Finally, Part III offers three lessons the United States can learn from the Scottish experience in enfranchising sixteen-year-olds. The Scottish reform was mostly successful because advocates (1) went into schools to register students to vote and encourage them to participate; (2) offered meaningful civics education, although that instruction differed across the country; and (3) created a bipartisan coalition of policymakers who supported the change. The upshot of the Scottish experience is that jurisdictions in the United States that are considering this reform should partner with schools and teachers in a more meaningful way and reach across the aisle as much as possible.

Scotland, a small country, has had a significant impact on American culture. J.K. Rowling began writing the first Harry Potter book at a café in Edinburgh.<sup>19</sup> Most of us have heard of haggis (a sausage-like “pudding”), though the United States actually forbids the importation of traditional Scottish haggis because one of the ingredients is sheep’s lung.<sup>20</sup> We grew up with stories of Nessie, the Loch Ness Monster who is the star of Scottish folklore, though recent research suggests that Nessie may actually be a giant eel.<sup>21</sup> And a Scottish electoral reform could have a real and significant impact on American democracy: the United States can learn a lot from Scotland’s experience in lowering the voting age to sixteen.

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19. See Francesca Street, *‘Harry Potter’ Guide to Edinburgh—Follow in J.K. Rowling’s Footsteps*, CNN (June 23, 2017), <https://www.cnn.com/travel/article/edinburgh-harry-potter-guide/index.html> [<https://perma.cc/KR3D-UYE9>].

20. John Glover, *Trump Administration to Blame for “Incredibly Frustrating” 2-Year Delay Still Facing Haggis Exports*, DEADLINE (Jan. 25, 2019), <http://www.deadlinenews.co.uk/2019/01/25/trump-administration-to-blame-for-incredibly-frustrating-2-year-delay-still-facing-haggis-exports> [<https://perma.cc/MKZ2-ACGR>]; *Why is Haggis Banned in the USA?*, SCOTLANDNOW (Nov. 6, 2015), <http://www.scotlandnow.dailyrecord.co.uk/news/editors-picks/haggis-banned-usa> [<https://perma.cc/7TQC-YN6S>]. The Trump administration has considered lifting the ban on importing haggis. See Glover, *supra*.

21. *Loch Ness Monster May Be a Giant Eel, Say Scientists*, BBC (Sept. 5, 2019), <https://www.bbc.com/news/uk-scotland-highlands-islands-49495145> [<https://perma.cc/XEQ5-PWQG>].

## I. A BRIEF HISTORY OF AMERICA'S CHANGE TO THE VOTING AGE

Like most other countries, the voting age in the United States for the majority of its history was twenty-one.<sup>22</sup> That age was likely taken from British common law, which in turn stemmed from medieval times.<sup>23</sup> The theory was that a man could wear a suit of heavy armor and thus was eligible for knighthood by age twenty-one, so society should also let him vote.<sup>24</sup> The U.S. colonies merely adopted the prior British practice.<sup>25</sup> One might say, then, that setting the voting age at twenty-one in the United States was somewhat of a historical accident.

The first major discussion of lowering the voting age to eighteen came amid World War II, when Congress lowered the draft age from twenty-one to eighteen.<sup>26</sup> At the same time, Congress considered a legislative proposal to lower the voting age, but it failed to advance. The slogan “old enough to fight, old enough to vote” derives from this era.<sup>27</sup> In 1942, Congressman Jennings Randolph of West Virginia proposed a constitutional amendment to lower the voting age.<sup>28</sup>

States then began to lower the voting age for their own elections. In 1943, Georgia set the voting age for its elections at eighteen, and Kentucky followed suit in 1955.<sup>29</sup> During his 1954 State of the Union address, President Dwight D. Eisenhower proclaimed, “[f]or years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons.”<sup>30</sup> In 1959, Alaska and Hawaii each entered the Union and set lower voting ages, with Alaska’s at nineteen and Hawaii’s at twenty.<sup>31</sup>

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22. See WASH. OFFICE OF THE SEC’Y OF STATE, TEACHING ELECTIONS IN WASHINGTON STATE: HISTORY OF VOTING IN AMERICA 8–9 (2019), [https://www.sos.wa.gov/\\_assets/elections/history-of-voting-in-america-timeline.pdf](https://www.sos.wa.gov/_assets/elections/history-of-voting-in-america-timeline.pdf) [<https://perma.cc/B94A-L854>].

23. Cheng, *supra* note 2, at 9.

24. *Id.*

25. *Id.*

26. *Id.*

27. See Hilary Parkinson, *Records of Rights Vote: “Old Enough to Fight, Old Enough to Vote”* NAT’L ARCHIVES: PIECES HIST. (Nov. 13, 2013), <http://blogs.archives.gov/prologue/?p=12964> [<https://perma.cc/LW7-Q2NM>].

28. *Id.*

29. Cheng, *supra* note 2, at 10, 20.

30. *Eisenhower’s State of the Union Address, 1954*, PBS: AM. EXPERIENCE, <https://www.pbs.org/wgbh/americanexperience/features/eisenhower-state54> [<https://perma.cc/779L-RCL3>].

31. NEALE, *supra* note 1, at 6.

In 1970, Congress passed the Voting Rights Act Amendments,<sup>32</sup> which lowered the voting age to eighteen for all federal, state, and local elections.<sup>33</sup> Opponents, however, thought Congress had exceeded its constitutional authority and filed suit. In a fractured opinion in *Oregon v. Mitchell*,<sup>34</sup> the Supreme Court held that although Congress has the authority to dictate the voting age for elections for President and Congress, it cannot dictate voter qualifications for state and local elections.<sup>35</sup>

Congress quickly responded with the Twenty-Sixth Amendment. In January 1971, Jennings Randolph—the same West Virginia Congressman who initially proposed a constitutional amendment in 1942 and who was now in the Senate—reintroduced the amendment with virtually the same language as the original 1942 proposal.<sup>36</sup> Randolph was a lifelong champion of lowering the voting age and saw voting as the most fundamental aspect of citizenship.<sup>37</sup> He had, in fact, introduced the proposed constitutional amendment eleven times during his tenure in Congress.<sup>38</sup> As Randolph noted, young people “possess a great social conscience, are perplexed by the injustices in the world and are anxious to rectify those ills.”<sup>39</sup>

The Senate passed the proposed amendment unanimously on March 10, 1971.<sup>40</sup> The House followed suit with a 401 to 19 vote on March 23, 1971.<sup>41</sup> The amendment flew through the states. With Ohio’s ratification on the evening of June 30, 1971, the amendment had passed in thirty-eight states, marking the necessary three-fourths to become the Twenty-Sixth Amendment to the U.S. Constitution.<sup>42</sup>

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32. Pub. L. No. 91-285, 84 Stat. 314.

33. NEALE, *supra* note 1, at 6.

34. 400 U.S. 112 (1970).

35. *Id.* at 134–35.

36. Eric S. Fish, *The Twenty-Sixth Amendment Enforcement Power*, 121 YALE L.J. 1168, 1194 (2012); *see also* Yael Bromber, *Youth Voting Rights and the Unfulfilled Promise of the Twenty-Sixth Amendment*, J. CONST. L. 1105, 1133 (2019).

37. *See* Kelly Sarabyn, *The Twenty-Sixth Amendment: Resolving the Federal Circuit Split over College Students’ First Amendment Rights*, 14 TEX. J. C.L. & C.R. 27, 54 (2008).

38. *The 26th Amendment*, HISTORY.COM (Feb. 16, 2010), <https://www.history.com/topics/united-states-constitution/the-26th-amendment> [<https://perma.cc/Y2T8-R52W>].

39. *Id.*

40. *Id.*

41. *The 26th Amendment*, U.S. HOUSE REPRESENTATIVES: HIST., ART & ARCHIVES, <https://history.house.gov/HistoricalHighlight/Detail/37022> [<https://perma.cc/7A49-MLMA>].

42. *Just Which State Ratified the 26th Amendment?*, NAT’L CONSTITUTION CTR. (June 30, 2017), <https://constitutioncenter.org/blog/just-which-state-ratified-the-26th->

President Nixon officially signed the amendment as a witness—along with three eighteen-year-olds—on July 5, 1971.<sup>43</sup> After almost thirty years of debate about lowering the voting age to eighteen for all elections, the actual ratification of the Twenty-Sixth Amendment marked the fastest amendment process in history.<sup>44</sup>

Voter turnout among young people saw a blip after the ratification of the Twenty-Sixth Amendment but has fallen since. In 1972, the first presidential election after eighteen-year-olds gained the right to vote in U.S. elections, about half of voters aged eighteen- to twenty-nine turned out, but youth participation has declined steadily in subsequent years.<sup>45</sup> The 1974 midterm elections saw only 20.8% turnout for eighteen to twenty-year-olds.<sup>46</sup> In the 2016 presidential election, turnout was 43.4% for eighteen- to twenty-nine-year-olds but 60% overall; in the 2018 midterms, it was 32.6% for that group and 50% overall.<sup>47</sup>

Thus, the Twenty-Sixth Amendment did not produce a sustained surge in voter turnout among young people. Yet in recent years a few

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amendment [<https://perma.cc/X9JG-47KH>]. There is apparently some confusion over whether Ohio or North Carolina was the final state needed to pass the amendment. President Nixon recognized Ohio as the state that put the amendment over the top after it passed the measure in the evening of June 30. But the National Archives and the Library of Congress both note that although North Carolina's legislature voted on the measure earlier in the day on June 30, it actually concluded its action on July 1, 1971, making it the 38th state to formally ratify the amendment. *Id.*

43. *Id.*

44. *The Twenty-Sixth Amendment, 1971*, NAT'L MUSEUM AM. HISTORY, <https://americanhistory.si.edu/democracy-exhibition/vote-voice/getting-vote/sometimes-it-takes-amendment/twenty> [<https://perma.cc/AN5V-3CS3>].

45. See THOM FILE, U.S. CENSUS BUREAU, P20-573, YOUNG ADULT VOTING: AN ANALYSIS OF PRESIDENTIAL ELECTIONS, 1964-2012, at 2 fig.1 (2014), <https://www.census.gov/prod/2014pubs/p20-573.pdf> [<https://perma.cc/SE5Z-MRPH>]; U.S. CENSUS BUREAU, HISTORICAL REPORTED VOTING RATES, tbl.A-1 (2019), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/voting-historical-time-series.html> [<https://perma.cc/96QU-9ADP>]; *Broadening Youth Voting, Youth Voting in Recent Elections*, CIRCLE, <https://circle.tufts.edu/our-research/broadening-youth-voting#youth-voting-in-recent-elections> [<https://perma.cc/UV2Q-QUCV>]; *National General Election VEP Turnout Rates, 1789-Present*, U.S. ELECTIONS PROJECT, <http://www.electproject.org/national-1789-present> [<https://perma.cc/G7NJ-8KSA>].

46. See U.S. CENSUS BUREAU, P-20, No. 293, CURRENT POPULATION REPORTS: VOTING AND REGISTRATION IN THE ELECTION OF NOVEMBER 1974, at 11 tbl.1 <https://www.census.gov/programs-surveys/cps/tables/p20/293/tab01.pdf> [<https://perma.cc/GA8E-7A6K>] (linked from <https://www.census.gov/library/publications/1976/demo/p20-293.html>).

47. Michael P. McDonald, *Voter Turnout Demographics*, U.S. ELECTIONS PROJECT, <http://www.electproject.org/home/voter-turnout/demographics> [<https://perma.cc/C5CD-9Z5A>].

localities in the United States have lowered the voting age even further, to sixteen.<sup>48</sup> The theory is that eighteen-year-olds are less likely to start voting at that time given the numerous life changes they are experiencing, but that starting the habit of voting at sixteen, when young people are in a more conducive environment for education and encouragement, is more likely to create lifelong voters.<sup>49</sup>

The rationales for lowering the voting age to sixteen, at least for local elections, are manifold. I have fleshed out these policy arguments more extensively in prior work, so I will merely sketch them here.<sup>50</sup> The bottom line is that lowering the voting age to sixteen can help to create a new generation of engaged voters. Voting is habit forming, and studies suggest that an individual who skips the first election for which they are eligible to vote is much less likely to become a habitual voter.<sup>51</sup> Yet eighteen is an odd time to start the habit of voting in our society. Many eighteen-year-olds are moving out of their homes to enter the workforce or go to school, and they face various obstacles to the polling booth such as registration requirements and absentee balloting procedures. These obstacles can discourage eighteen-year-olds from voting in their first election and therefore may also lessen the likelihood they will become habitual voters, especially with so many other things happening in their lives.

Perhaps the Twenty-Sixth Amendment has not led to a massive increase in voter turnout among young people because we give them the right to vote at such a tumultuous time in their lives. Maybe sixteen, when young people's lives are more stable, is a better time to start the habit of voting. Psychological studies suggest that sixteen-year-olds are cognitively developed for "cold cognition," or slower, reasoned decision making, as compared to later brain development for "hot cognition," which entails heat-of-the-moment decision making that often involves peer pressure.<sup>52</sup> Most sixteen-year-olds are in high school, so advocates could easily register them and then educate them about relevant issues and the importance of

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48. Douglas, *Lowering the Voting Age*, *supra* note 14, at 63.

49. *Id.* at 66–69, 68 n.20 (describing multiple studies showing a habit-inducing effect when people choose to vote).

50. *Id.* at 72.

51. Alan S. Gerber, Donald P. Green & Ron Shachar, *Voting May Be Habit-Forming: Evidence from a Randomized Field Experiment*, 47 AM. J. POL. SCI. 540, 545–48 (2003).

52. Laurence Steinberg, Opinion, *A 16-Year-Old Is as Good as an 18-Year-Old—or a 40-Year-Old—at Voting*, L.A. TIMES (Nov. 3, 2014), <https://www.latimes.com/opinion/op-ed/la-oe-steinberg-lower-voting-age-20141104-story.html> [<https://perma.cc/EQ8J-DFH8>].

democratic engagement. If the Twenty-Sixth Amendment did not fulfill the promise of engaging young people in our democracy, would lowering the voting age even further achieve these goals?

Proponents in the United States think the answer is yes and have correspondingly championed a voting age of sixteen for local elections.<sup>53</sup> In 2013, Takoma Park, Maryland was the first mover. Rob Richie, the Executive Director of a voter advocacy organization called FairVote and a city resident, learned that younger people in Austria and Denmark were more likely to turn out to vote than older teenagers.<sup>54</sup> Richie was already drafting a resolution for the city to support stronger voting rights, and he took the idea to Tim Male, a local Council Member. Male also embraced the reform, ultimately seeing its passage through the city council.<sup>55</sup> Other Maryland cities took notice and the idea spread to Hyattsville and Greenbelt.<sup>56</sup> That action inspired further discussion in other places. In 2016, Berkeley, California voters adopted a voting age of sixteen for school board elections, while San Francisco voters narrowly rejected a similar measure.<sup>57</sup> San Francisco advocates will likely try again in the future. In late 2018, the D.C. City Council considered a proposal to lower the voting age for all elections in the city but then tabled the measure amid some political maneuvering.<sup>58</sup> The Los Angeles School Board is also considering whether to lower the voting age for school board elections.<sup>59</sup> Numerous towns in Massachusetts have adopted resolutions for a lower voting age for local elections, but Massachusetts law requires state legislative approval before those measures can go into effect.<sup>60</sup> The legislature is now debating whether to give localities that authority.<sup>61</sup> Voters in Yellow

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53. I tell a detailed history of localities lowering the voting age in chapter one of *Vote for US*. See DOUGLAS, *VOTE FOR US*, *supra* note 14; *see also* Hughes, *supra* note 4.

54. E-mail from Rob Richie, President and CEO of FairVote, to author, (Feb. 23, 2017) (on file with author).

55. See DOUGLAS, *VOTE FOR US*, *supra* note 14, at 15–17.

56. *Id.*

57. Lydia O'Connor, *Lower Voting Age Proposal Fails in San Francisco, Wins Smaller Victory in Berkeley*, HUFFINGTON POST (Nov. 10, 2016), [https://www.huffpost.com/entry/voting-age-proposals\\_n\\_581919bce4b00f11fc5c859c](https://www.huffpost.com/entry/voting-age-proposals_n_581919bce4b00f11fc5c859c) [<https://perma.cc/9QC8-4QEV>].

58. Nirappil, *supra* note 7.

59. Sonali Kohli, *L.A. Students are Already Activists. Now They Want to Vote at 16*, L.A. TIMES (Apr. 23, 2019), <https://www.latimes.com/local/education/la-me-edu-lausd-teen-voting-20190423-story.html> [<https://perma.cc/8HDD-QPR5>].

60. Janfaza, *supra* note 7.

61. See *Committee Considers Bills that Would Allow Lower Voting Age in Massachusetts*, WCVB (Jan. 22, 2020), <https://www.wcvb.com/article/joint-committee-on-elections->

Springs, Ohio, a suburb of Dayton, will also consider a measure in 2020 to lower the voting age for their local elections.<sup>62</sup>

This is an issue where advocacy can change minds. In 2015, Brattleboro, Vermont voters rejected a proposal to lower the voting age by a two to one margin.<sup>63</sup> But four years later, in March 2019, the idea passed with 69% of the vote.<sup>64</sup> Young people in the city drove the campaign and all five candidates running for school board in 2019 supported the initiative.<sup>65</sup> The measure will not go into effect unless the Vermont legislature approves it. This example demonstrates that the debate on lowering the voting age in the United States is moving quickly. Many people change their minds after learning about the merits of a lower voting age, often after hearing arguments from young advocates themselves.

In sum, since 2013, there has been a lot of activity on lowering the voting age for city or school board elections. However, many states do not grant localities “home rule” authority, so it is not possible for jurisdictions in those states to enact a measure to lower the voting age for local elections without state legislative approval.<sup>66</sup> Thus, there are several dimensions to the debate: do localities even have the ability to dictate their own election rules; if not, should states grant home rule authority; and for the places that already have home rule, should they ultimately lower the voting age?

The early experiences of the localities that have lowered the voting age have demonstrated some success in the ultimate goal of engaging young voters, though the evidence is mixed. Turnout among sixteen-

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considers-bills-that-would-allow-lower-voting-age-in-massachusetts/30629657# [https://perma.cc/4S48-K44Y].

62. See Sarah Franks, *Teen Voting Back on Town's Ballot*, DAYTON DAILY NEWS, [https://epaper.daytondailynews.com/popovers/dynamic\\_article\\_popover.aspx?guid=b06142eb-dc04-4a3d-ae24-66109eb635ae&pbid=66ab59ea-5cfc-438d-83e4-dc9e4a34f79d&utm](https://epaper.daytondailynews.com/popovers/dynamic_article_popover.aspx?guid=b06142eb-dc04-4a3d-ae24-66109eb635ae&pbid=66ab59ea-5cfc-438d-83e4-dc9e4a34f79d&utm) [https://perma.cc/L4NU-KPQV].

63. Siefer, *supra* note 7.

64. Press Release, Brattleboro Common Sense, Win for the Movement to Lower the Voting Age: Brattleboro VT Passes Charter Change as State and Federal Efforts Build (Mar. 5, 2019), <https://brattleborocommonsense.org/wp-content/uploads/2019/03/Youth-Vote-Victory-Press-Release-190310.pdf> [https://perma.cc/7EJP-AXVV].

65. Ross Ketschke, *Town Considers Lowering Voting Age to 16*, NBC5 (Mar. 5, 2019), <https://www.mynbc5.com/article/town-considers-lowing-voting-age-to-16/26681182> [https://perma.cc/Y3EB-GRF9].

66. See Joshua A. Douglas, *The Right to Vote Under Local Law*, 85 GEO. WASH. L. REV. 1039, 1081 (2017) (explaining home rule as the provision of authority to municipalities dictate rules for their own jurisdictions).

and seventeen-year-olds in Takoma Park has been about double that of older voters.<sup>67</sup> Turnout of young people in Hyattsville, Maryland, however, has not outpaced other age groups in the same way.<sup>68</sup> And the jury is still out in other places that have approved a lower voting age but have not yet implemented it for their elections. The evidence does suggest that, to instill strong voting habits, proponents must couple a lower voting age with sustained advocacy and educate young people about overall democratic engagement.<sup>69</sup>

Again, this summary is purposefully brief because I have written extensively in other venues on the history of lowering the voting age to sixteen in U.S. jurisdictions.<sup>70</sup> The focus of this Article is on lessons the United States can learn from the Scottish experience in lowering the voting age. The Article turns next to the history of Scotland's voting age and the impetus for its more recent reforms.

## II. THE EVOLUTION OF THE VOTING AGE IN THE UNITED KINGDOM AND SCOTLAND

Scotland provides a useful comparison for U.S. jurisdictions that are contemplating a reduction in the voting age for their own elections. Much like America, Scotland's history is tied to England's; England (which included Wales) and Scotland formed the United Kingdom in 1707 after the Parliaments of England and Scotland both ratified the Acts of Union.<sup>71</sup> For many years, the laws in Scotland—including voting rules—were the same as the laws for all of the United Kingdom. It is therefore helpful to consider the history of the voting age in the United Kingdom to provide context for how Scotland lowered its own voting age in recent years.

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67. See Douglas, *supra* note 18, at 217–18.

68. *Id.* at 219.

69. *Id.* at 215, 217.

70. See, e.g., *id.*

71. *Rise of Parliament: Uniting the Kingdom?*, U.K. NAT'L ARCHIVES, [http://www.nationalarchives.gov.uk/pathways/citizenship/rise\\_parliament/uniting.htm](http://www.nationalarchives.gov.uk/pathways/citizenship/rise_parliament/uniting.htm) [<https://perma.cc/2YL3-8QM2>].

A. *The Voting Age in the United Kingdom: A Brief History*

Prior to the union of England and Scotland in 1707, voting in both places was limited to noble property-owning males.<sup>72</sup> That did not change with the Acts of Union. The Scottish Parliament determined voter eligibility rules for their representatives to the United Kingdom; representatives were to be elected by those “such as are now capable by the laws of [Scotland] to elect.”<sup>73</sup> Thus, the qualifications to vote for members of parliament remained the same, still largely dependent on an adult male’s status as a landowner. It does not appear that any authorities considered the voting age explicitly; voting was simply understood, by custom, to be limited to “adult” males who owned property. “Adult,” in turn, seems to be those who were at least twenty-one years old. Much like the case in early America, twenty-one may have been widely understood as the age of majority stemming from medieval times, as that “was the age at which a medieval adolescent was thought capable of wearing a suit of heavy armor and was therefore eligible for knighthood.”<sup>74</sup>

The earliest mention of a specific age for voting in Scotland appears to be in the Representation of the People (Scotland) Act 1868,<sup>75</sup> which provided that a voter must be a man “of full Age.”<sup>76</sup> Again, presumably that language suggests that the franchise was restricted to those aged twenty-one and older.

1. *Early efforts to lower the voting age in the United Kingdom*

The Representation of the People Act 1918<sup>77</sup> was a major piece of legislation that enfranchised at least 3,000,000 men and 6,000,000 women for parliamentary elections.<sup>78</sup> The law granted voting rights to

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72. HOW DID THEY BECOME VOTERS? THE HISTORY OF FRANCHISE IN MODERN EUROPEAN REPRESENTATION 418–20 (Raffaele Romanelli ed., 1998); NEIL JOHNSTON, HOUSE OF COMMONS LIBRARY, THE HISTORY OF THE PARLIAMENTARY FRANCHISE 13–17 (2013), <http://researchbriefings.files.parliament.uk/documents/RP13-14/RP13-14.pdf> [<https://perma.cc/558N-FWXA>].

73. Act Settling the Manner of Electing the Sixteen Peers and Forty-Five Members to Represent Scotland in the Parliament of Great Britain 1707, (RPS 1706/10/293), <https://www.rps.ac.uk/trans/1706/10/293> [<https://perma.cc/MJU2-M7ER>].

74. Cheng, *supra* note 2, at 9.

75. 31 Vict. c. 48 (Scot.), <http://www.legislation.gov.uk/ukpga/Vict/31-32/48/section/3/enacted> [<https://perma.cc/WKE6-T27P>].

76. *See id.* § I(3)(1).

77. 7 & 8 Geo. 5 ch. 64 (Eng.), [http://www.legislation.gov.uk/ukpga/1918/64/pdfs/ukpga\\_19180064\\_en.pdf](http://www.legislation.gov.uk/ukpga/1918/64/pdfs/ukpga_19180064_en.pdf) [<https://perma.cc/MUH5-3YVT>].

78. Sir Hugh Fraser, The Representation of the People Act, 1918, with Explanatory Notes xxiii-iv (1918), [https://archive.org/stream/representationof00frasrich/representationof00frasrich\\_djvu.txt](https://archive.org/stream/representationof00frasrich/representationof00frasrich_djvu.txt) [<https://perma.cc/W4GG-EZ9U>].

men of “full age”<sup>79</sup> and, as the accompanying explanatory notes provided, “[f]ull age is by the Common Law the age of 21 years.”<sup>80</sup> Section 5(4) of the Act further granted voting rights to men who turned nineteen while serving in the military during World War I.<sup>81</sup> As recounted above, that same Act enfranchised some women for the first time: women aged thirty and older could vote in parliamentary elections if they were eligible for a local government franchise, which essentially meant that they or their husband owned property.<sup>82</sup> Parliament then put the voting age for women on par with men in the Representation of the People (Equal Franchise) Act 1928,<sup>83</sup> which gave women the right to vote at age twenty-one without any property qualification.<sup>84</sup>

The next major change to the voting age in the United Kingdom occurred over forty years later through the Representation of the People Act 1969,<sup>85</sup> which reduced the voting age to eighteen.<sup>86</sup> A Speaker’s conference, comprised of members of all parties, met in 1965 to consider a number of changes to the voting process, including the minimum voting age.<sup>87</sup> The conference recommended lowering the age to twenty, but supporters ultimately introduced a proposal to reduce the voting age to eighteen.<sup>88</sup> Parliament was also considering the Family Law Reform Bill at the same time, which reduced the age of legal majority from twenty-one to eighteen, but that bill specifically

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79. Representation of the People Act 1918 § I(1), [http://www.legislation.gov.uk/ukpga/1918/64/pdfs/ukpga\\_19180064\\_en.pdf](http://www.legislation.gov.uk/ukpga/1918/64/pdfs/ukpga_19180064_en.pdf) [<https://perma.cc/N2TJ-NT58>].

80. FRASER, *supra* note 78, at 4.

81. Representation of the People Act 1918 § I(5)(4).

82. See JOHNSTON, *supra* note 72, at 1.

83. Representation of the People (Equal Franchise) Act 1928, 18 & 19 Geo. 5, c. 12, <https://www.parliament.uk/about/living-heritage/transformingsociety/elections/voting/womenvote/case-study-the-right-to-vote/the-right-to-vote/birmingham-and-the-equal-franchise/1928-equal-franchise-act/1928-equal-franchise-act-first-page> [<https://perma.cc/6C7L-MLTP>].

84. See *id.* § I(1) (detailing the residence requirement but excluding any property requirement).

85. See Representation of the People Act 1969, c. 15, <https://www.parliament.uk/about/living-heritage/transformingsociety/elections/voting/1969-rotp-act/1969-rotp-collections-/1969-sixth-reform-act-> [<https://perma.cc/9SX7-4MLG>].

86. *Id.*

87. JOHNSTON, *supra* note 72, at 47. For more on Speaker’s conferences throughout the years, see ISOBEL WHITE & ANDREW PARKER, HOUSE COMMONS LIBRARY, SPEAKER’S CONFERENCES (2009), <http://researchbriefings.files.parliament.uk/documents/SN04426/SN04426.pdf> [<https://perma.cc/V44Q-AW5K>].

88. JOHNSTON, *supra* note 72, at 48.

excluded voting from its definition of legal majority.<sup>89</sup> The debate on that measure, however, likely influenced members also to reduce the voting age to eighteen. As Home Secretary James Callaghan explained:

I sum up what I have said. It will become increasingly difficult to explain to young people why for all social purposes they are entitled to regard themselves as adult at the age of 18, except on the question of the vote. I believe that this would be an anomaly that would become increasingly difficult to explain.<sup>90</sup>

The Representation of the People Act 1969 ultimately passed, officially changing the voting age to eighteen in the United Kingdom beginning with the 1970 election.<sup>91</sup>

## 2. *Recent efforts to lower the voting age to sixteen in the United Kingdom*

Various political parties in the United Kingdom have long supported lowering the voting age to sixteen. The Liberal Democrats' 2001 manifesto included a call to lower the voting age, which it repeated in its 2005 manifesto.<sup>92</sup> The Liberal Democrats also published a paper in 2007, titled *Real Democracy for Britain*, which offered twenty proposals to strengthen British democracy and included lowering the voting age to sixteen as a key recommendation.<sup>93</sup> In 2014, future London mayor Sadiq Khan, speaking on behalf of the Labour Party, expressed his support for the reform.<sup>94</sup>

The movement to lower the voting age to sixteen gained steam in 2003 with the launch of the "Votes at 16" campaign, supported by numerous groups and charities.<sup>95</sup> In 2004, an Electoral Commission

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89. *Id.* ("The *Family Law Reform Act* had no bearing on the age at which people could vote").

90. *Id.* (quoting 774 Parl Deb HC (5th ser.) (1968), col. 424 (UK)).

91. *See* Representation of the People Act 1969, c. 15.

92. *See* LIBERAL DEMOCRATS, THE REAL ALTERNATIVE 18, [http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/LD\\_uk\\_manifesto.pdf](http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/LD_uk_manifesto.pdf) [<https://perma.cc/FD36-UBZE>]; NEIL JOHNSTON & NOEL DEMPSEY, HOUSE OF COMMONS LIBRARY, VOTING AGE 8 (2019), <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01747> [<https://perma.cc/6HT2-W95Y>].

93. Access to the actual report is broken, so see Isobel White for a discussion of these proposals. ISOBEL WHITE, HOUSE OF COMMONS LIBRARY, REDUCTION IN VOTING AGE 3 (2009), <http://www.dobrowol.org/starzymlodzi/voteat16UKparliamentoverviewdocument.pdf> [<https://perma.cc/XL68-B2DJ>].

94. *See* JOHNSTON & DEMPSEY, *supra* note 92, at 8 (supporting a lower voting age tied to an increase in civics education).

95. Filipa Parreira, *New Coalition Bids for Votes at 16*, GUARDIAN (Jan. 28, 2003), <https://www.theguardian.com/politics/2003/jan/28/houseofcommons.uk1> [<https://perma.cc/UNZ9-S2FS>] (noting that the coalition included "Barnardos, the

considered various electoral reforms and concluded that, although the voting age should remain at eighteen, “circumstances may change the context significantly over the next few years.”<sup>96</sup> The Commission proposed “further research on the social and political awareness of those around age 18 with a view to undertaking a further review of the minimum age for electoral participation in the future.”<sup>97</sup> In 2006, the Power Commission—an independent group—offered various recommendations to improve British democracy, including a reduction of the voting age to sixteen.<sup>98</sup> During an address to the House of Commons in 2007, Prime Minister Gordon Brown said that “[a]lthough the voting age has been 18 since 1969, it is right, as part of that debate, to examine, and hear from young people themselves, whether lowering that age would increase participation.”<sup>99</sup>

The voting age remains eighteen for United Kingdom elections, though the campaign to lower it to sixteen remains strong. The U.K. Youth Parliament has continued to advocate for a lower voting age as a main part of its platform.<sup>100</sup> In the House of Commons, the Labour Party, Scottish National Party, Liberal Democrats, and the Green Party have all made lowering the voting age part of their party policies.<sup>101</sup> The U.K. Parliament rejected proposals in 1999 and 2005 to lower the

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Children’s Society, YMCA England, National Youth Agency, National Children’s Bureau, Children’s Rights Alliance for England, Liberal Democrats Youth and Students, SNP, London Young Labour, Plaid Cymru, National Union of Students, Article 12, Charter 88, UK Youth Parliament, Children’s Parliament in Scotland, British Youth Council, Care Leaver’s Association, National Black Youth Forum, Electoral Reform Society and the Carnegie Young People’s Initiative”).

96. ELECTORAL COMM’N, AGE OF ELECTORAL MAJORITY: REPORT AND RECOMMENDATIONS 5 (2004), [http://image.guardian.co.uk/sys-files/Politics/documents/2004/04/19/electoral\\_commission.pdf](http://image.guardian.co.uk/sys-files/Politics/documents/2004/04/19/electoral_commission.pdf) [<https://perma.cc/AK38-CD9Q>]; WHITE, *supra* note 93, at 10.

97. ELECTORAL COMM’N, *supra* note 96, at 5.

98. ISOBEL WHITE, HOUSE OF COMMONS LIBRARY, POWER TO THE PEOPLE: THE REPORT OF POWER, AN INDEPENDENT INQUIRY INTO BRITAIN’S DEMOCRACY 2, 6 (2006), <http://researchbriefings.files.parliament.uk/documents/SN03948/SN03948.pdf> [<https://perma.cc/D2QX-X4UJ>].

99. 3 July 2007, Parl Deb HC (6th ser.) col. 819 (UK), <https://publications.parliament.uk/pa/cm200607/cmhansrd/cm070703/debtext/70703-0004.htm> [<https://perma.cc/TUP8-M6HH>].

100. JOHNSTON & DEMPSEY, *supra* note 92, at 16.

101. *Id.* at 7–8; Jessica Elgot, *Senior Politicians Call for Lowering British Voting Age to 16*, GUARDIAN (June 27, 2017), <https://www.theguardian.com/politics/2017/jun/27/senior-politicians-call-for-lowering-british-voting-age-to-16> [<https://perma.cc/X8T4-9MLT>].

voting age, but there have been renewed calls to adopt the reform.<sup>102</sup> That advocacy has come from opposition parties in the House of Commons and not the Conservatives, who control the government.<sup>103</sup> Yet the fact that Scotland recently lowered the voting age for its 2014 Independence Referendum and then for all Scottish elections may suggest that the United Kingdom could follow suit, especially if public support for the effort continues to grow.

### B. Scotland-Specific Voting Rules

The Scottish experience is a particularly relevant comparison for elections in the United States because the countries share a common history with England. In addition, like the United States, Scotland has a modern democracy with an engaged citizenry. Turnout in the 2016 Scottish Parliament elections was 55.6%, similar to the 60.1% turnout in the 2016 presidential election in the United States.<sup>104</sup> Both countries extended the franchise to women around the same time. In 1918, the U.K. Parliament passed the Representation of the People Act 1918, which granted property-owning women aged thirty and over the right to vote; all women aged twenty-one and older could vote by 1928 without any property qualification.<sup>105</sup> In America, women gained the right to vote in all elections in 1920, when the Nineteenth Amendment

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102. Barney Stephenson, *Should the Voting Age be Lowered to 16?*, INDEPENDENT (May 23, 2019), <https://www.independent.co.uk/news/uk/politics/should-the-voting-age-be-lowered-to-16-a8882731.html> [<https://perma.cc/79KX-T3SB>]; see, e.g., Ruilin Fang, *A Case for Lowering the Voting Age*, OXFORD STUDENT (Nov. 11, 2019), <https://www.oxfordstudent.com/2019/11/11/a-case-for-lowering-the-voting-age> [<https://perma.cc/2MQ8-AR9N>].

103. Stephenson, *supra* note 102. Some in the opposition parties argue that the Conservatives' stance is hypocritical given that fifteen, sixteen, and seventeen-year-olds may vote in the party's leadership elections. *Id.*

104. ANDREW AITON ET AL., SPICE BRIEFING: ELECTION 2016 3 (2016), [http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB\\_16-34\\_Election\\_2016.pdf](http://www.parliament.scot/ResearchBriefingsAndFactsheets/S5/SB_16-34_Election_2016.pdf) [<https://perma.cc/3YN2-4P3U>] (Scotland statistic); Michael P. McDonald, *2016 November General Election Turnout Rates*, U.S. ELECTIONS PROJECT, <http://www.electproject.org/2016g> [<https://perma.cc/L25W-KDNM>] (last updated Sept. 5, 2018) (U.S. statistic).

105. The Representation of the People Act 1918, 8 Geo. 5 c. 64, §4(1), <https://www.parliament.uk/about/living-heritage/transformingsociety/elections/voting/womenvote/case-study-the-right-to-vote/the-right-to-vote/birmingham-and-the-equal-franchise/1918-representation-of-the-people-act/1918-representation-of-the-people-act-second-page> [<https://perma.cc/KT86-DUCC>]. The 1918 Act enfranchised women in Parliament elections who qualified for a "local government franchise" or who were married to a man who qualified. JOHNSTON, *supra* note 72, at 44.

to the U.S. Constitution was ratified.<sup>106</sup> Parliament lowered the voting age in the United Kingdom (including Scotland) to eighteen in 1969;<sup>107</sup> the same change took effect for all elections in America with the ratification of the Twenty-Sixth Amendment in 1971.<sup>108</sup>

Of course, there are also many differences between the two countries. Scotland has a multi-party parliamentary system while America has a presidential system with only two major political parties. Scotland is still part of Great Britain, while America declared its independence long ago. That said, the recent Scottish experience in lowering the voting age can provide insights to American jurisdictions currently debating the issue.

The first step required Scotland to obtain the power to control its own elections. The U.K. Parliament authorized Scotland to hold a referendum in 1997 on devolution,<sup>109</sup> which would give Scotland further powers to regulate its own affairs. The measure passed overwhelmingly. The Scotland Act 1998<sup>110</sup> then created the Scottish Parliament, which has the authority to legislate in any area not reserved to the U.K. Parliament.<sup>111</sup> Her Majesty The Queen formally opened the Scottish Parliament on July 1, 1999.<sup>112</sup> Responsibility for the administration of Scottish Parliament elections is devolved.<sup>113</sup> Although the voting age for U.K. Parliament elections remains at eighteen, the Scottish government lowered the voting age in 2014 for the Independence Referendum and in 2015 for all Scottish elections.<sup>114</sup>

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106. See U.S. CONST. amend. XIX.

107. Representation of the People Act 1969, c. 15 (UK).

108. See U.S. CONST. amend. XXVI.

109. Devolution is “the transfer of power from a central government to subnational (e.g., state, regional, or local) authorities.” Charles Hauss, *Devolution*, ENCYCLOPEDIA BRITANNICA (Dec. 18, 2017), <https://www.britannica.com/topic/devolution-government-and-politics> [<https://perma.cc/8JD6-EQVV>].

110. Scotland Act 1998, c. 46, § 30, sch. 5 (UK), <http://www.legislation.gov.uk/ukpga/1998/46/contents> [<https://perma.cc/Q9HL-MQKF>].

111. *Id.*

112. SCOTTISH PARLIAMENT, THE SCOTTISH PARLIAMENT—PAST AND PRESENT 18, [http://www.parliament.scot/EducationandCommunityPartnershipsresources/SP\\_Timeline\\_English.pdf](http://www.parliament.scot/EducationandCommunityPartnershipsresources/SP_Timeline_English.pdf) [<https://perma.cc/5ACA-RU3P>].

113. See JOHNSTON & DEMPSEY, *supra* note 92, at 4.

114. *Id.*

### 1. *Scottish Independence Referendum of 2014*

As Scotland moved toward a referendum to declare independence from the United Kingdom, the governments of Scotland and the United Kingdom entered into a memorandum of understanding on how the Referendum would proceed.<sup>115</sup> That agreement specified that the Scottish Parliament would determine the voter eligibility rules for the Referendum.<sup>116</sup> The Scottish Parliament, in turn, set the voting age at sixteen for the independence vote.<sup>117</sup> The Act required local registers to maintain a separate roll of young voters for this purpose.<sup>118</sup>

Decades of advocacy were necessary to achieve a lower voting age for the 2014 Referendum. In 1967, Winnie Ewing of the Scottish National Party (SNP) won election to the U.K. Parliament, putting the SNP on the national stage.<sup>119</sup> She delivered a historic speech that called for greater youth engagement and a lower voting age, which was twenty-one at the time.<sup>120</sup> Youth democratic participation has been a part of the SNP's platform ever since. The party's 1997 manifesto pledged to lower the voting age to sixteen and the advocacy increased in the lead up to the 2014 Independence Referendum.<sup>121</sup> Members of the SNP proudly point to Ewing's 1967 "maiden" speech as their inspiration.<sup>122</sup>

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115. Agreement Between the United Kingdom Government and the Scottish Government on a Referendum on Independence for Scotland, U.K.-Scot., Oct. 15, 2012, <https://webarchive.nationalarchives.gov.uk/20130102230945/http://www.number10.gov.uk/wp-content/uploads/2012/10/Agreement-final-for-signing.pdf> [https://perma.cc/Q42K-8C8S].

116. *Id.*

117. Scottish Independence Referendum (Franchise) Act 2013, (ASP 13) § 2, [http://www.legislation.gov.uk/asp/2013/13/pdfs/asp\\_20130013\\_en.pdf](http://www.legislation.gov.uk/asp/2013/13/pdfs/asp_20130013_en.pdf) [https://perma.cc/R925-BRU7].

118. *Id.* § 4.

119. See Jody Harrison, *SNP Celebrate 50th Anniversary of Winnie Ewing's Maiden Speech*, HERALD (Nov. 21, 2017), <https://www.heraldsotland.com/news/15675126.snp-celebrate-50th-anniversary-of-winnie-ewings-maiden-speech> [https://perma.cc/N7A E-YXKE] ("Winnie's election established the SNP's place in the House of Commons and sparked the beginning of an incredible journey for the party"). See generally JAMES MITCHELL, HAMILTON 1967: THE BY-ELECTION THAT TRANSFORMED SCOTLAND (2017).

120. See Harrison, *supra* note 119.

121. See Sarah Pickard, *Devolution, the Independence Referendum and Votes at 16 in Scotland: Holyrood, a Pioneer in Democracy Leading the Way for Westminster?*, 4 FRENCH J. BRIT. STUD. 1, 8 (2019).

122. Interview with Scott Martin, Solicitor, & Chris Jones, Head of IT, Scottish Nat'l Party, in Edinburgh, Scot. (May 19, 2017) [hereinafter Martin & Jones Interview]; see also Angus Robertson, *The EU Is Young People's Future. They Must Have the Vote in This*

There were local movements to lower the voting age for specific elections before the nationwide push for the 2014 Independence Referendum. Scotland has various “Community Councils,” which are local bodies that deal with local issues.<sup>123</sup> A “model scheme” published in 2009 proclaimed that Community Councils should allow sixteen- and seventeen-year-olds living in the designated areas to run for the Council and vote in their elections.<sup>124</sup> Also in 2009, the Scottish Parliament enacted the Health Boards (Membership and Elections) (Scotland) Act,<sup>125</sup> which created new Health Boards to the National Health Service and allowed anyone aged sixteen and older to vote in elections for members of the Health Board.<sup>126</sup> Further, the Crofting Commission (Elections) Regulations 2011<sup>127</sup> allowed those aged sixteen or older to vote in elections to the Crofting Commission, which regulates “crofting,” a practice of agriculture on small parcels of land.<sup>128</sup> According to Christina McKelvie, a Member of Scottish Parliament (MSP) of the Scottish National Party, these 2009 and 2011 local enactments laid the groundwork for the SNP to advocate to lower the voting age to sixteen for the 2014 Independence Referendum.<sup>129</sup>

Young people in Scotland have championed a lower voting age for years. The Scottish Youth Parliament, a democratically-elected body that represents the voices of young people in Scotland, has advocated for a voting age of sixteen since its inception on June 30, 1999—a day before

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*Referendum*, GUARDIAN (May 24, 2015), <https://www.theguardian.com/commentisfree/2015/may/24/eu-young-people-vote-referendum> [https://perma.cc/772A-AUVQ].

123. *Community Councils: Model Scheme for Establishment*, SCOTTISH GOV'T (Mar. 23, 2009), <https://www.gov.scot/publications/community-councils-model-scheme-for-establishment> [https://perma.cc/N6HW-3P78].

124. *Id.*

125. Health Boards (Membership and Elections) (Scotland) Act 2009, (ASP 5) § 2(10)(a), sch. 1(a), ¶ 9(1)(a), <http://www.legislation.gov.uk/asp/2009/5/cross-heading/elected-members-of-health-boards/enacted> [https://perma.cc/PP52-AKDB].

126. *Id.* § 2(10)(a), sch. 1(a), ¶ 9(1)(a).

127. Crofting Commission (Elections) (Scotland) Regulations 2011, SI 2011/456, <http://www.legislation.gov.uk/ssi/2011/456/made/data.pdf> [https://perma.cc/3UW2-PUQA].

128. *Crofting FAQs*, SCOTTISH CROFTING FED'N, <https://www.crofting.org/faqs/67> [https://perma.cc/PG3E-B72W]; see FRANCESCA McGRATH, SPICE, SCOTTISH ELECTIONS (REDUCTION OF VOTING AGE) BILL 6 (2015), [http://www.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB\\_15-21\\_Scottish\\_Elections\\_Reduction\\_of\\_Voting\\_Age\\_Bill.pdf](http://www.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB_15-21_Scottish_Elections_Reduction_of_Voting_Age_Bill.pdf) [https://perma.cc/J92X-9Y9C].

129. Interview with Christina McKelvie, Member, Scottish Parliament, in Edinburgh, Scot. (May 16, 2017) [hereinafter McKelvie Interview].

the Scottish Parliament opened following devolution.<sup>130</sup> In March 2012, the Youth Parliament made “Votes at 16” its priority national campaign to coincide with the debate over the Independence Referendum.<sup>131</sup>

The reform effort took off in the lead up to the Independence Referendum in 2014. The SNP had a blatantly political motivation for its support of a lower voting age. The Nationalists sought independence from the United Kingdom and believed that younger voters would vote “yes” on the Referendum.<sup>132</sup> The party noted that young people should have a say regarding the future of the country, but there was also a politically-driven belief that younger people would support independence.<sup>133</sup>

For their part, Conservatives in Scotland opposed the idea of lowering the voting age for the Independence Referendum because of the SNP’s political interest. Jeremy Balfour, a Member of Scottish Parliament for the Conservative Party, said that he was initially skeptical of the reform, especially as it appeared to be a SNP power grab.<sup>134</sup> Gordon Lindhurst, also of the Conservative Party, similarly recounted that the initial idea seemed like an SNP ploy to improve the prospect of a “yes” win on independence.<sup>135</sup>

After less than eight months of debate, the Scottish Parliament passed the rules governing the Referendum vote, which allowed sixteen- and seventeen-year-olds to participate.<sup>136</sup> When Scotland held its Independence Referendum a year later, the measure failed by a vote of about 55% to 45%.<sup>137</sup> Turnout for all voters was 84.6%.<sup>138</sup> There were

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130. Interview with Jamie Dunlop, Deputy Chief Exec., Scottish Youth Parliament, in Edinburgh, Scot. (May 19, 2017) [hereinafter Dunlop Interview].

131. *Votes at 16*, SCOTTISH YOUTH PARLIAMENT (June 1, 2012), <https://www.syp.org.uk/votes-at-16> [<https://perma.cc/LZ2Q-U54T>].

132. Martin & Jones Interview, *supra* note 122; see Edwige Camp, *The Scottish National Party (SNP): A Party of Government in the Early 21st Century*, 12 *REVUE LISA/LISA E-JOURNAL* ¶ 71 (2014), <http://journals.openedition.org/lisa/7008> [<https://perma.cc/EYU2-KN7H>].

133. Camp, *supra* note 132, at 24, ¶ 71.

134. Interview with Jeremy Balfour, Member, Scottish Parliament, in Edinburgh, Scot. (May 24, 2017) [hereinafter Balfour Interview].

135. Interview with Gordon Lindhurst, Member, Scottish Parliament, in Edinburgh, Scot. (May 16, 2017) [hereinafter Lindhurst Interview].

136. Scottish Independence Referendum Act 2013, (ASP 14) § 3(3), [http://www.legislation.gov.uk/asp/2013/14/pdfs/asp\\_20130014\\_en.pdf](http://www.legislation.gov.uk/asp/2013/14/pdfs/asp_20130014_en.pdf) [<https://perma.cc/PPY9-CEHS>].

137. *Scottish Referendum: Scotland Votes ‘No’ to Independence*, BBC (Sept. 19, 2014), <https://www.bbc.com/news/uk-scotland-29270441> [<https://perma.cc/8LRH-5Y3T>].

138. THE ELECTORAL COMM’N, SCOTTISH INDEPENDENCE REFERENDUM: REPORT ON THE REFERENDUM HELD ON 18 SEPTEMBER 2014, at 156 (2014) [https://www.electoralcommission.org.uk/sites/default/files/pdf\\_file/Scottish-independence-referendum-report.pdf](https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Scottish-independence-referendum-report.pdf) [<https://perma.cc/63DS-4RW5>].

109,593 sixteen- and seventeen-year-olds on the registration list, and the Election Commission's surveys suggested that 75% of those individuals turned out to vote, compared to only 54% of eighteen to twenty-four-year-olds.<sup>139</sup> That is, turnout among sixteen- and seventeen-year-olds outpaced the turnout rate of slightly older individuals by over 20%.

Advocates hope that the biggest effect will be on future elections. To that end, "97% of those 16–17 year olds who reported having voted said that they would vote again in future elections and referendums."<sup>140</sup> One study showed that "around 73% of the general youth public indicated that the referendum had increased their interest in politics a lot."<sup>141</sup> That said, the reality of young people actually voting in subsequent elections is not yet clear because turnout data from recent elections does not include a breakdown by age.<sup>142</sup>

Among these youngest voters in the 2014 Referendum, one survey estimated that 62.5% voted for independence and 37.5% voted "no," though those numbers were for voters aged sixteen to nineteen, not just sixteen- and seventeen-year-olds.<sup>143</sup> Overall, older voters tended to vote against independence: the survey estimated that 65.7% of voters aged seventy and older voted "no," which was the largest "no" vote among all age groups.<sup>144</sup> Thus, there was a skew among younger voters to support independence—but the votes of sixteen- and seventeen-year-olds obviously did not change the outcome as the measure ultimately failed. Moreover, one researcher noted that sixteen- and seventeen-year-olds did not simply follow their parents' views and instead offered an independent voice: over 40% of young people interviewed before the

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139. *Id.* at 1, 64.

140. *Id.*

141. Graeme Baxter et al., *The Scottish Independence Referendum Shows that Young People can be Mobilized Politically Given the Right Circumstances*, DEMOCRATIC AUDIT UK (July 11, 2015), <http://www.democraticaudit.com/2015/11/07/the-scottish-independence-referendum-shows-that-young-people-can-be-mobilized-politically-given-the-right-circumstances> [https://perma.cc/B6W7-XFQM].

142. See, e.g., *Youth Participation in Representative Democracy*, EUR. COMMISSION (May 8, 2019), <https://eacea.ec.europa.eu/national-policies/en/content/youthwiki/52-youth-participation-representative-democracy-united-kingdom-scotland> [https://perma.cc/NSY8-TAUM]; E-mail from Jan Eichhorn, Senior Lecturer in Social Policy, Univ. of Edinburgh, to author (Mar. 26, 2020).

143. See AILSA HENDERSON & JAMES MITCHELL, *THE SCOTTISH QUESTION, SIX MONTHS ON 7 2015*, <http://spotidoc.com/doc/1008393/the-scottish-question-six-months-on> [https://perma.cc/3YCA-8U3Q].

144. *Id.*

Referendum planned to vote differently from their parents.<sup>145</sup> As Member of Scottish Parliament McKelvie said, allowing sixteen- and seventeen-year-olds to vote in the Independence Referendum created a whole new generation of politically engaged citizens, which would benefit all political parties.<sup>146</sup>

Politicians from both the Scottish National Party and the Conservative Party touted the strong youth civic participation during the campaign and the work of schools to engage young voters.<sup>147</sup> Many schools played a vital role in discussing the Referendum with their students. Teachers received a guidance packet, funded by the government and put together by university researchers, to assist them in their classroom discussions about the Referendum.<sup>148</sup> The guide demonstrated to teachers how to instruct using impartial facts. As the introduction to the guide stated, “The authors would like to emphasise that none of the materials suggest or support a particular outcome of the referendum. [sic] Throughout the research process, the authors have taken a neutral position and these materials are reflective of that.”<sup>149</sup> The newspaper *The Guardian* also offered teacher resources.<sup>150</sup> As the general secretary of Scotland’s largest teacher’s union said, “Teachers are professionals and well aware of the potential dangers of giving their own views to pupils on various topics. [sic] I think most teachers would be most concerned to involve young people in that process of inquiry and least concerned about actually conveying their own opinion about something.”<sup>151</sup> MSP Gordon Lindhurst explained that Scotland enjoys a cultural norm of trust for teachers to facilitate an open debate and

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145. JAN EICHHORN, D|PART, HOW LOWERING THE VOTING AGE TO 16 CAN BE AN OPPORTUNITY TO IMPROVE YOUTH POLITICAL ENGAGEMENT 1 (2014), <https://dpart.org/wp-content/uploads/2019/08/How-lowering-the-voting-age-to-16-can-be-an-opportunity-to-improve-youth-political-engagement.pdf> [<https://perma.cc/AF8Z-LMQG>].

146. McKelvie Interview, *supra* note 129.

147. Lindhurst Interview, *supra* note 135; McKelvie Interview, *supra* note 129.

148. *Impartial Teaching Material Produced for Schools*, HERALD (Dec. 6, 2013), <https://www.heraldsotland.com/news/13135198.impartial-teaching-material-produced-for-schools> [<https://perma.cc/PU9Y-AUWD>].

149. *Id.*

150. *How to Teach . . . the Referendum on Scottish Independence*, GUARDIAN (Sept. 1, 2014), <https://www.theguardian.com/education/2012/aug/13/scotland-independence-referendum> [<https://perma.cc/3XXU-E83G>].

151. *Scottish Independence: Call to Halt Referendum Teacher Packs*, BBC (June 4, 2013), <https://www.bbc.com/news/uk-scotland-scotland-politics-22764829> [<https://perma.cc/KTM3-225N>].

not indoctrinate their pupils.<sup>152</sup> The key is to ensure that teachers have resources that express all viewpoints.

Dr. Jan Eichhorn noted that it is not enough just to have students enroll in a civics or “Modern Studies” class: teachers also need to discuss actively the political issues of the day. As he wrote:

The decisive factor [in increasing political understanding or the likelihood to vote] was not whether young people had taken Modern Studies, but whether they had actively discussed the referendum in class (though in many instances Modern Studies classes could provide this space). Schools therefore need to provide the space for young people to actively discuss politics in an informed way, if we want to activate young people’s political interest not only in relation to issue-based, but also representative politics.<sup>153</sup>

The experience in allowing sixteen- and seventeen-year-olds to vote in the 2014 Independence Referendum was mostly positive, though the overall effect is nuanced and requires some circumspection, especially regarding the unequal provision of meaningful civics education across the country.<sup>154</sup> On the plus side, these newly enfranchised voters embraced their new voting power at high rates. They remained engaged and interested in the Referendum. Schools became places of meaningful debate. Yet their participation did not ultimately change the outcome. Although only a few political parties supported a lower voting age for the Referendum, the experience in that election convinced members of other parties to embrace a lower voting age for future elections. Conservative MSP Jeremy Balfour noted that he was a skeptic before but now supports a lower voting age given Scotland’s experience in 2014. The engagement of young people on substantive issues during the Referendum debate changed his mind.<sup>155</sup>

In the end, the majority of Scottish voters rejected independence in the 2014 Referendum, but the experience of having younger people vote in that election paved the path for another reform: lowering the voting age to sixteen for all Scottish elections.

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152. Lindhurst Interview, *supra* note 135.

153. EICHHORN, *supra* note 145, at 2.

154. See *infra* Section III.B.

155. Balfour Interview, *supra* note 134.

2. *Scotland changes its voting age to sixteen for all Scottish elections*

Following the Independence Referendum, which failed, the U.K. government created the Smith Commission, comprised of all five political parties in Scotland, to determine what additional powers the U.K. government should devolve to the Scottish Parliament.<sup>156</sup> That commission recommended that the United Kingdom give the Scottish Parliament the power to, among other things, reduce the voting age to sixteen for Scotland-only elections.<sup>157</sup> Stephen Herbert, a civil servant with the Scottish Parliament who served as a nonpolitical member of the Smith Commission, noted that the Referendum experience seemed to change the discussion on lowering the voting age; youth participation on the Referendum debate surprised many people and demonstrated that younger individuals could be a viable and engaged voting constituency.<sup>158</sup> The U.K. government followed the Smith Commission's recommendation, authorizing Scotland to lower the voting age for future Scottish elections.<sup>159</sup> On June 28, 2015, the Scottish Parliament passed the Scottish Elections (Reduction of Voting Age) Bill.<sup>160</sup>

Although the Conservative Party in Scotland initially opposed lowering the voting age for the 2014 Referendum, Conservatives ultimately embraced the Scottish Elections (Reduction of Voting Age) Bill in 2015 after witnessing the success of the reform for the Referendum. Jeremy Balfour, a Member of Scottish Parliament for the Conservative Party, noted that he did not believe a lower voting age would change electoral outcomes.<sup>161</sup> Instead, he said that youth in general have become more knowledgeable and engaged in the political issues of the day. School groups visiting the Parliament in 2017 were, in his view, better informed than even slightly older constituents.<sup>162</sup> Balfour explained that there is no longer a party-line view on this issue in Scotland; everyone seems to agree that allowing sixteen-year-olds to vote has worked quite well.<sup>163</sup>

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156. JOHNSTON & DEMPSEY, *supra* note 92, at 19.

157. *Id.*

158. Interview with Stephen Herbert, Civil Servant, Scottish Parliament, in Edinburgh, Scot. (May 19, 2017).

159. *Id.*

160. Scottish Elections (Reduction of Voting Age) Act 2015, (ASP 7) § 1, <http://www.legislation.gov.uk/asp/2015/7/contents/enacted> [<https://perma.cc/8KJ9-AFD8>].

161. Balfour Interview, *supra* note 134.

162. *Id.*

163. *Id.*

Ruth Davidson, the Leader of the Conservative Party in Scotland, wrote that she initially opposed lowering the voting age for the Referendum but that seeing young people vote had changed her mind:

[H]aving watched and debated in front of 16 and 17 year olds throughout the referendum, I have found myself unable to agree [with those who opposed the reform]. My position has changed. We deem 16 year olds adult enough to join the army, to have sex, get married, leave home and work full-time. The evidence of the referendum suggests that, clearly, they are old enough to vote too.<sup>164</sup>

Davidson also pointed out that, although the Scottish National Party lowered the voting age to improve the chance of winning the Independence Referendum, the strategy did not work: “Far from being dazzled by the Nationalist banner, it appears 16 and 17 year olds considered the facts just as rationally—if not more so—as everyone else. If that doesn’t prove they are worthy of the vote, I don’t know what does.”<sup>165</sup> In the same pamphlet, titled *Giving 16 and 17 Year Olds the Vote: The Tory Case*, Member of Parliament (U.K.) Sarah Wollaston noted that lowering the voting age can create a whole new generation of Conservative voters: “It would be a mistake to assume that Conservatives cannot win the youth vote. This generation looks to itself to take action, believing State action to be less important. Generation Y has strong interest in setting up businesses. These are Conservative values.”<sup>166</sup>

Another Conservative Member of Scottish Parliament, Miles Briggs, echoed the sentiment that sixteen- and seventeen-year-olds’ actions during the Referendum campaign changed many Conservatives’ minds: “This was not 16- and 17-year-olds being dragged along or told how to vote by their elders. This was 16- and 17-year-olds making up their own minds, contributing to the discussion both inside and outside of their schools, making decisions about what they wanted from their futures.”<sup>167</sup>

This shift among Conservative Party members is consistent with the overall public’s changing views on this topic in Scotland. Dr. Eichhorn

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164. RUTH DAVIDSON ET AL., TORY REFORM GRP., *GIVING 16 AND 17 YEAR OLDS THE VOTE: THE TORY CASE* 4–5 (2016), [https://www.trg.org.uk/wp-content/uploads/2015/09/TRG\\_Giving-16-and-17-Year-Olds-the-Vote.pdf](https://www.trg.org.uk/wp-content/uploads/2015/09/TRG_Giving-16-and-17-Year-Olds-the-Vote.pdf) [<https://perma.cc/65QF-G33A>].

165. *Id.* at 5.

166. *Id.* at 6–7 (footnote omitted).

167. Miles Briggs, *Scotland Shows that Votes at 16 Works*, in *CIVIC DUTY: THE CONSERVATIVE CASE FOR VOTES AT 16 AND 17*, at 18 (Charley Jarrett ed., 2018), <https://www.electoral-reform.org.uk/latest-news-and-research/publications/civic-duty-the-conservative-case-for-votes-at-16-and-17/#sub-section-5> [<https://perma.cc/7V4D-WNHR>].

noted that only about a third of the population initially supported lowering the voting age, but that support nearly doubled after younger people participated in the Referendum debate.<sup>168</sup> A consensus has thus emerged in Scotland: lowering the voting age to sixteen has been positive for democracy. Perhaps that is one reason the 2015 law to grant sixteen-year-olds the right to vote in all Scottish elections passed the Scottish Parliament unanimously.<sup>169</sup>

Sixteen- and seventeen-year-olds could vote for Scottish Parliament for the first time on May 5, 2016.<sup>170</sup> Approximately 80,000 sixteen- and seventeen-year-olds registered, representing 2% of the electorate.<sup>171</sup> Two hundred and eighty-two high schools held registration drives two months before the election, representing more than 78% of all high schools in Scotland.<sup>172</sup> In a survey, 69% of young voters said they knew about the election, with 17% saying they knew a “great deal” and 52% saying they knew “a fair amount”—though this knowledge-base was the lowest among all age groups.<sup>173</sup> Unfortunately, there does not appear to be reliable data on the number of these sixteen- and seventeen-year-olds who turned out to vote.<sup>174</sup>

Voting at sixteen years old has now become routine in Scotland. But youth voting also represents an anomaly of sorts: sixteen- and seventeen-year-olds can vote for Scottish Parliament but not U.K. Parliament. They could vote in the 2014 Scottish Independence

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168. Jan Eichhorn, *Beyond Anecdotes on Lowering the Voting Age: New Evidence from Scotland*, LONDON SCH. ECON. & POL. SCI. (Dec. 11, 2017), <https://blogs.lse.ac.uk/europpblog/2018/01/02/beyond-anecdotes-on-lowering-the-voting-age-new-evidence-from-scotland> [<https://perma.cc/3H68-6REW>]; Jan Eichhorn, *Votes at 16: New Insights from Scotland on Enfranchisement*, 71 PARLIAMENTARY AFF. 365, 375 (2018), <https://tinyurl.com/y3onunxu> [<https://perma.cc?W9DL-2NKC>].

169. *Cut in Scottish Voting Age Passed Unanimously*, BBC (June 18, 2015), <https://www.bbc.com/news/uk-scotland-scotland-politics-33173488> [<https://perma.cc/BM83-MKNK>].

170. Scottish Elections (Reduction of Voting Age) Act 2015, (ASP 7) § 2, <http://www.legislation.gov.uk/asp/2015/7/section/1/enacted?view=plain> [<https://perma.cc/8KJ9-AFD8>].

171. THE ELECTION COMM'N, THE MAY 2016 SCOTTISH PARLIAMENT ELECTION: REPORT ON THE ADMINISTRATION OF THE 5 MAY 2016 SCOTTISH PARLIAMENT ELECTION 4 (2016), [https://www.electoralcommission.org.uk/sites/default/files/pdf\\_file/2016-Scottish-Parliament-election-report.pdf](https://www.electoralcommission.org.uk/sites/default/files/pdf_file/2016-Scottish-Parliament-election-report.pdf) [<https://perma.cc/5DNN-UPZQ>].

172. *Id.* at 33.

173. *Id.* at 22.

174. One account says that turnout among sixteen to thirty-four-year-olds was 69%, but the source does not break down the numbers further. See *Youth Participation in Representative Democracy*, *supra* note 142.

Referendum but not on Brexit, the U.K. referendum in 2016 regarding whether the United Kingdom should leave the European Union.

Scotland represents a generally positive story on expanding voting rights to young people. As the next Part of this Article discusses, much of the recent success on this front is due to the efforts of schools and teachers, as well as the crossover political consensus that emerged after the Referendum debate. What started decades ago as part of one party's political platform has now spread to other political parties—including the Conservatives, who initially opposed the idea—as people witnessed the substantive engagement of young people in their government. The Scottish experience can therefore offer lessons to U.S. jurisdictions in their debates over whether to lower the voting age once again.

### III. THREE LESSONS FROM SCOTLAND'S EXPERIENCE

The Scottish experience in lowering the voting age provides three key takeaways for the reform effort in America. First, the United States is missing a huge opportunity to create a culture of democratic participation by not using its schools in a meaningful way. Students are a captive audience, so the United States should enlist its classrooms to promote voter registration and instill the importance of voting. Second, we should encourage school administrators and teachers to revamp civics education to include robust discussion of the political issues of the day. Scottish youth were better educated and more engaged when their Modern Studies teachers brought the campaign into the classroom—though the provision of meaningful civics education was uneven across the country. Finally, lowering the voting age—or any other positive electoral reform—should be a bipartisan effort. Proponents must scrupulously ensure that their messaging focuses on inclusion of all voters. That is, those who support this change must find a way to convince all stakeholders that it is not a partisan power grab. Democrats who support the reform should embrace the Republicans who have signed on to create a bipartisan coalition. Republicans who back the idea should work to inform their fellow legislators of the non-partisan merits of lowering the voting age. The experience in Scotland shows that a bipartisan coalition is the best way to gain broad acceptance that lowering the voting age is not simply a mechanism to shape the electorate for the political benefit of one party.

Importantly, American policymakers should double down on youth political engagement and enhance civics education regardless of changes to the voting age, and all of these ideas can strengthen

democracy regardless of partisan politics. That is, all three lessons are universally applicable to the election system. Strengthening civic engagement and political education is positive for democracy no matter the specific voter qualification rules. And policymakers should always strive to craft rules that will have bipartisan support. Scottish leaders used these strategies when lowering the voting age to sixteen; American policymakers should follow suit.

A. *Students as a Captive Audience for Voter Registration and Political Engagement*

The story of Scotland lowering the voting age must include a discussion of the country's efforts to improve the political acclimation of young people. Advocates recognized the power of reaching these new voters where they are: in school. In particular, many Scottish policymakers and educators embraced the fact that students in school are a captive audience who can learn about voter registration and the importance of democratic participation. As Dr. Alan Britton of the University of Glasgow said, "The idea that we have enfranchised citizens in our schools places a huge responsibility on those schools."<sup>175</sup>

Schools served two main purposes: to promote voter registration and encourage political engagement. It was an integrated approach. For instance, the nonpartisan Scottish Youth Parliament worked with schools to reach youth during the 2014 Independence Referendum campaign.<sup>176</sup> It engaged in an outreach effort it called "Aye No Maybe" that collaborated with schools, colleges, and universities to promote voter registration and encourage increased participation.<sup>177</sup> The Scottish Youth Parliament also created an online portal, working with the government's Election Commission, to ensure that teachers and young voters could access accurate information about the referendum.<sup>178</sup> These efforts helped to register thousands of individuals aged sixteen and seventeen.<sup>179</sup> As Maria McCann of the Scottish Elections Commission and her team explained, it is much easier to reach young people at secondary schools than at colleges or universities for a simple reason: virtually everyone goes to secondary school, while not everyone enrolls in college or

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175. Interview with Alan Britton, Senior Lecturer, Univ. of Glasgow, in Glasgow, Scot. (May 17, 2017) [hereinafter Britton Interview].

176. Dunlop Interview, *supra* note 130.

177. *Id.*

178. *Id.*

179. *Id.*

university.<sup>180</sup> It was harder to find everyone to register them when the voting age was eighteen because the youngest voters were scattered about, but it was much easier to register people beginning at age sixteen because a majority of them were in school.<sup>181</sup> Indeed, although mandatory education in Scotland ends at age sixteen, over 90% of sixteen-year-olds and almost two-thirds of seventeen-year-olds remain in secondary school.<sup>182</sup>

The Scottish Youth Parliament also helped to create a toolkit for teachers to use in their classrooms.<sup>183</sup> The curriculum covered the process of registration and voting, while also providing ideas on how to engage youth about political topics.<sup>184</sup> Many students in Scotland take a course in Modern Studies, which is similar to an American high school class in civics or government. Modern Studies teachers throughout the country used the curriculum from the Scottish Youth Parliament in the lead-up to the 2014 Independence Referendum.<sup>185</sup> The Scottish Youth Parliament then updated

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180. Interview with Maria McCann, Rebecca Whyte & Emelia Skarzypek, Members, Scottish Gov't Elections Team, in Edinburgh, Scot. (May 22, 2017) [hereinafter Elections Team Interview].

181. *Id.*; see also Kyle Thornton, *Voter Registration Levels for the Scottish Independence Referendum are Already Showing the Potential Benefits of Lowering the Voting Age to 16*, DEMOCRATIC AUDIT (Sept. 5, 2014), <http://www.democraticaudit.com/2014/05/09/scottish-votes-at-16> [<https://perma.cc/FZ4Y-245S>] (“[W]e have found the ability to register younger voters is much improved. The primary reason is that it is much easier to engage with 16 and 17 year olds as we can find ‘captive audiences’ in schools and colleges with 75% of young people staying on past the age of compulsory education in Scotland.”). Secondary education past the age of sixteen is not mandatory in Scotland, so some students will leave school at sixteen. An Overview of the Scottish Education System, SCHOOLRUN.COM, <https://www.theschoolrun.com/overview-scottish-education-system> [<https://perma.cc/S5W6-CRHL>].

182. SKILLS DEV. SCOT., ANNUAL PARTICIPATION MEASURE FOR 16–19 YEAR OLDS IN SCOTLAND 2019 10 (2019), [https://www.skillsdevelopmentscotland.co.uk/media/45904/2019\\_annual-participation-measure-report.pdf](https://www.skillsdevelopmentscotland.co.uk/media/45904/2019_annual-participation-measure-report.pdf) [<https://perma.cc/K2RS-9Q93>].

183. Elections Team Interview, *supra* note 180; see, e.g., *Youth Democracy Peer Education: Training and Resources*, GOV.UK (Dec. 24, 2014), <https://www.gov.uk/government/publications/youth-democracy-peer-education-training-and-resources> [<https://perma.cc/9LKR-68BF>].

184. See, e.g., YOUTH DEMOCRACY RESOURCE PACK, U.K. GOV'T CABINET OFFICE & SCOTTISH YOUTH PARLIAMENT 2, 12 (2015) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444583/Youth\\_democracy\\_resource\\_pack\\_July\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/444583/Youth_democracy_resource_pack_July_2015.pdf) [<https://perma.cc/B8VV-YPQ6>] (providing quizzes for teachers asking, for example, what type of voting system is used to elect Members of Parliament in Westminster).

185. Elections Team Interview, *supra* note 180.

the toolkit for the 2016 elections, ensuring it was adaptable for future use.<sup>186</sup> Members of the Youth Parliament also went directly into schools to assist with the program.<sup>187</sup>

Meaningful and well-timed citizenship education in the schools can boost turnout. The former chair of the Scottish Youth Parliament explained how lowering the voting age truly helped to reach these new voters:

[N]eutral organisations [sic] like ourselves are able to run engagement sessions (which we call Democracy Days) which educate on the basic facts, provides [sic] space for the parties to ‘make their pitch’ and give young people the ability to question politicians, engage in issues they care about and give thought to their own political beliefs. Indeed, the only sentiment we try to impart on these days is that voting is important no matter how you vote and for the sake of the health of our democracy, we should all be agreed on this principle.<sup>188</sup>

He concluded, “It is also clear from our work that we are able to have much greater access to 16 and 17 year old electors than those 18-24 years old.”<sup>189</sup>

The political parties also recognized the importance of schools in influencing youth to engage in the campaign, particularly through voter registration drives. Scott Martin and Chris Jones, who worked for the Scottish National Party (SNP), explicitly pointed to schools as the driving force behind youth voter registration because students are a captive audience.<sup>190</sup> Each of the political parties also provided teachers with “school packs” to use as they wished.<sup>191</sup> Of course, the parties were pushing their candidates and ideas, but they were also encouraging electoral participation more generally. The SNP staff’s only complaint was that not all schools provided access to the political parties to engage with students.<sup>192</sup>

Both formal civics education and informal discussion of current events in the classroom had a large impact on achieving a significant turnout for the 2014 Independence Referendum.<sup>193</sup> Research from Dr.

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186. *Id.* This 2016 toolkit does not appear to be available online, but Martin and Jones described it to me during our interview.

187. *Id.*

188. Thornton, *supra* note 181.

189. *Id.*

190. Martin & Jones Interview, *supra* note 122.

191. *Impartial Teaching Material Produced for Schools*, *supra* note 148; *Scottish Independence: Call to Halt Referendum Teacher Packs*, *supra* note 151.

192. Martin & Jones Interview, *supra* note 122.

193. Interview with Jan Eichhorn, Senior Lecturer in Social Policy, Univ. of Edinburgh, in Edinburgh, Scot. (May 15, 2017) [hereinafter Eichhorn Interview].

Jan Eichhorn of the University of Edinburgh found a strong correlation between discussing the Referendum in the classroom and discussing it at home.<sup>194</sup> It is highly likely that, after learning about the issues in the classroom, students brought the ideas home to discuss with their parents.<sup>195</sup> Moreover, although there is no evidence that education in schools impacted *how* students voted, it played a large role in *whether* they voted in the Referendum: greater classroom engagement produced a higher likelihood that those students would vote.<sup>196</sup>

The fact that students are a captive audience was crucial to the effort to engage them in political discourse. The government-sponsored registration toolkit targeted to schools helped to put more young people on the voter rolls. Political parties and youth advocacy organizations promoted democratic engagement and increased awareness among young voters. Most importantly, teachers introduced students to the political issues they would have to consider at the ballot box.<sup>197</sup>

These lessons are all transferable to American classrooms. The United States can strengthen its efforts to register voters in high schools, even if jurisdictions do not lower the voting age, to ensure that young people are on the voter rolls when they turn eighteen years old. Several states allow for “preregistration” of sixteen- and seventeen-year-olds, but there is considerable variation among states.<sup>198</sup> All states should offer this opportunity. In addition, government agencies, nonprofit organizations, and even the political parties should create dynamic model curricula for teachers to use to register voters and engage young people in the political issues of the day. It is also important to consult with teachers in this process to connect the materials to classroom practices. They need not start from scratch: many of the materials developed recently for Scottish youth, as well as existing American resources, are relevant to participation in any democracy.

This discussion is not meant to suggest that some American schools are not already taking on the vital project of registering students and educating them about the importance of political participation. But it

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194. *Id.*; see EICHHORN, *supra* note 145, at 6.

195. Eichhorn Interview, *supra* note 193.

196. Elections Team Interview, *supra* note 180; see EICHHORN, *supra* note 145.

197. See *infra* Section III.B.

198. *Preregistration for Young Voters*, NAT’L CONF. ST. LEGISLATURES (Feb. 12, 2019), <http://www.ncsl.org/research/elections-and-campaigns/preregistration-for-young-voters.aspx> [<https://perma.cc/7KZY-U4LG>].

is not enough. Civics education in general is on the decline.<sup>199</sup> Many social studies teachers use a model known as “action civics” to teach their students how to debate civilly and solve real-world problems, but they have too few resources and too little public support.<sup>200</sup> Of course, any model, if implemented without proper care and foresight, will fail to achieve its goals, so it is crucial that schools weave these “action civics” programs seamlessly into the curriculum. The United States must double down on its commitment to use schools to create a new generation of engaged youth. The experience in Scotland can help to provide evidence on why it is so important.

*B. Revamping Civics Education to Focus on Current Political Issues and Real-World Problem Solving*

The fact that students are a captive audience provides an important opportunity beyond just registering them and encouraging their participation: teachers can educate them about the actual political issues of the day, thereby increasing their political knowledge.

Scottish teachers took that lesson to heart, particularly in their Modern Studies classrooms. Modern Studies, a course that combines aspects of social studies and civics,<sup>201</sup> has been a component of childhood education for decades.<sup>202</sup> Experts note that early childhood civics education instills in students a sense of democratic duty.<sup>203</sup> For instance, curriculum about “people in society, economy and business,” presented to Scottish elementary and middle school-age students, demonstrates how individuals have a voice in society and can make

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199. See, e.g., Megan McClure, *Tackling the American Civics Education Crisis*, 25 LEGISBRIEF, Mar. 2017, at 1, [https://www.ncsl.org/documents/legisbriefs/2017/lb\\_2509.pdf](https://www.ncsl.org/documents/legisbriefs/2017/lb_2509.pdf) [<https://perma.cc/L5FY-NZ9Y>] (noting that “[l]ess than 30 percent of fourth-, eighth-, and 12th grade students were proficient in civics”).

200. See Douglas, *supra* note 18, at 173–75.

201. See *Modern Studies*, SCOTTISH QUALIFICATIONS AUTHORITY, <https://www.sqa.org.uk/sqa/45629.html> [<https://perma.cc/HCR5-3H5Y>] (describing the course as an opportunity to “develop candidates’ knowledge and understanding of contemporary political and social issues” in varying contexts).

202. Britton Interview, *supra* note 175; see Henry Maitles, *Political Education In Scottish Secondary Schools: The Effectiveness Of Modern Studies* (Sept. 1998), (paper presented at the Scottish Educational Research Association Annual Conference, University of Strathclyde), <http://www.leeds.ac.uk/educol/documents/000000929.htm> [<https://perma.cc/4QL6-F97J>] (describing studies of Modern Studies teaching from the early 1970s).

203. Britton Interview, *supra* note 175.

choices.<sup>204</sup> There is also a long tradition of holding mock elections in schools to engage students in the current political debate.<sup>205</sup> Thus, by the time of the Scottish Independence Referendum, the climate was already conducive to the notion that young people should participate in democratic decision making. The big difference, starting in 2014, was that sixteen- and seventeen-year-olds enrolled Modern Studies could now vote in the actual election.

One important study showed that many students who had this educational opportunity embraced the subject.<sup>206</sup> Students sought to discuss the issues surrounding the Independence Referendum in the classroom. Dr. Jan Eichhorn found that classroom education had a positive effect on youth engagement.<sup>207</sup> Many students—at least a quarter in one survey—wanted even *more* political discussion than they received.<sup>208</sup> As Eichhorn stated, “There is a distinct effect political discussion in class can have on young people that no other institution could replicate for all young people after the age of 18.”<sup>209</sup>

The instruction that many Scottish students receive is unique. In the United States, civics education typically consists of bland units on the three branches of government and checks and balances.<sup>210</sup> Classes are mostly about the procedure of government and often include little substance regarding modern-day issues.<sup>211</sup> Scottish education during the Referendum debate, and beyond, was quite different. Students actually engaged in detailed substantive discussions of political issues.<sup>212</sup> They debated the impact of independence on immigration,

204. *Id.*; see SCOTTISH GOV'T, CURRICULUM FOR EXCELLENCE: SOCIAL STUDIES 12–17, <https://education.gov.scot/Documents/social-studies-eo.pdf> [<https://perma.cc/5Z4B-6UER>].

205. Britton Interview, *supra* note 175.

206. EICHHORN, *supra* note 145, at 2, 11.

207. *Id.* at 11.

208. GEORGE HEAD, ET. AL, STEVENSON TR. FOR CITIZENSHIP, SCHOOLS, POLITICAL LITERACY AND THE 2014 SCOTTISH REFERENDUM 29 (2015), [https://www.gla.ac.uk/media/Media\\_404843\\_smxx.pdf](https://www.gla.ac.uk/media/Media_404843_smxx.pdf) [<https://perma.cc/H8SZ-VCCR>].

209. EICHHORN, *supra* note 145, at 2.

210. For instance, the National Education Association's website for Civics Education focuses on the three branches of government, with no discussion of current civic, social, or political debates. See NEA Staff, *Civics Education: Learning About the Rights and Obligations of Citizenship*, NAT'L EDUC. ASS'N, <http://www.nea.org/civicseducation> [<https://perma.cc/9QAE-MV4J>].

211. There are, however, some innovative social studies and civics teachers who are incorporating “action civics” projects into their classrooms. See Douglas, *supra* note 18, at 173–75.

212. Britton Interview, *supra* note 175.

taxes, fiscal policy, education, and international law.<sup>213</sup> The students also heard from candidates and political party leaders who came into the classrooms.<sup>214</sup> Because young people could vote, the impact of the Referendum on youth issues became an important part of the political and educational discourse. The only limiting factor seemed to be that some schools and teachers eschewed all discussion of the Referendum, perhaps wary of bringing politics into the classroom.<sup>215</sup> But, as Dr. Eichhorn found, it is vitally important to let students actually debate the political issues of the day.<sup>216</sup> Parental guidance on politics is not enough. Eichhorn's surveys of young voters after the Referendum found that although parental discussion can help, schools play a unique role in instilling civic and political knowledge:

[Y]oung people who had discussed the referendum in class . . . were significantly more likely to say that politics was not difficult to understand for young people. Here the effect of school is distinct from parents. Those who had talked to their parents about the referendum did not feel any more confident in evaluating politics as understandable. So engagement with a political issue in class can have positive effects on building the understanding of politics in a way that parents cannot.<sup>217</sup>

Many Modern Studies teachers actively helped their students critically analyze political issues. Consider the example of Andy McLaughlin. In 2014, Mr. McLaughlin was teaching in Orkney, a small, isolated island community off of the northeast coast of the Scottish mainland.<sup>218</sup> As the Referendum campaign heated up, he took purposeful actions to engage his students, especially because many of them were now newly enfranchised for the election. He invited various speakers from each of the political parties to the classroom. He ensured that the students received a balanced viewpoint by keeping a

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213. Interview with Andy McLaughlin, Modern Studies Teacher, in Edinburgh, Scot. (May 24, 2017) [hereinafter McLaughlin Interview].

214. PETER MCLAVERTY ET AL., WHITE ROSE UNIV. CONSORTIUM, NEW RADICALS: DIGITAL POLITICAL ENGAGEMENT IN POST-REFERENDUM SCOTLAND 21–22 (2015), <http://eprints.whiterose.ac.uk/114810/1/New-Radicals-Final-Report.pdf> [<https://perma.cc/C4MX-7NBJ>] (“Many schools sought to promote discussion around the referendum within schools, including inviting in external speakers to help build students’ knowledge or to contribute to debates . . .”).

215. *Id.* at 22.

216. Eichhorn Interview, *supra* note 193; *see* EICHHORN, *supra* note 145, at 2.

217. EICHHORN, *supra* note 145, at 8–9.

218. The information in this paragraph and the ones that follow come from McLaughlin Interview, *supra* note 213.

log of everyone who had come into his class, helping him determine if he was missing a different perspective. He also routinely played Devil's Advocate when discussing the issues surrounding the Referendum.<sup>219</sup> And he assigned a research project that helped students dive deeply into the issues. The students had to pick a social, global, or political issue and write a report on how the Referendum vote would impact that area. This exercise helped to teach students how to make substantive arguments involving a complex policy issue. After the Referendum, his students conducted research projects on current policy questions, such as "should there still be a Queen?" or "should the Scottish Parliament disband and give more control to the Westminster Parliament?" The students researched both sides of an issue and came to a policy recommendation, all while ensuring a proper balance between the various arguments. This kind of project makes current events and modern policy debates relevant to the students, ultimately creating better-educated voters. The students learned how to research issues, separate truth from opinion, and debate in a civilized manner.

Mr. McLaughlin also helped students register to vote and then conducted a mock election using actual election machines, with the assistance of local election officials. This lesson helped students understand the process of voting itself. The results of the mock election closely mirrored the final election results in his community. Classroom discussion continued on the substantive issues of the campaign leading up to the vote. On Election Day, Mr. McLaughlin walked with his students to the polls. The fact that these students could vote while engaging in these educational activities made the projects relevant and fresh, instilling the importance of democratic engagement.

After the Referendum, Mr. McLaughlin moved to Edinburgh, the Scottish capital, where he continued this robust political engagement in his new school—demonstrating how modern civics education is possible regardless of the setting. For the 2016 Scottish Parliament election, he worked with his students to analyze each of the political parties' campaign platforms. The students picked out eleven powers

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219. One education scholar has advocated for teachers to take on a role of "committed impartiality" when covering controversial topics in the classroom: "First, teachers should state rather than conceal their own views on controversial issues. Second, they should foster the pursuit of truth by insuring that competing perspectives receive a fair hearing through critical discourse." See Thomas E. Kelly, *Discussing Controversial Issues: Four Perspectives on the Teacher's Role*, 14 THEORY & RES. SOC. EDUC. 113, 130 (1986).

that the United Kingdom devolved to Scotland and analyzed how each actually affects them as youth. The students then completed a research paper on a specific issue, such as “does the government do enough about child poverty?” A research topic on a current political issue is much more interesting than simple lectures on how government works. Students completed this research while the political parties and candidates were campaigning for the upcoming election, teaching young people how to evaluate political statements. Further, various political party leaders came to the school to hold an assembly. Anyone who would be sixteen or older on Election Day could interact with the candidates and ask questions. The students demonstrated a notable depth of knowledge and engagement. Mr. McLaughlin remembered that most of these party leaders were women, which impressed him as it demonstrated to students the important role women should have in political leadership.

The impact of Mr. McLaughlin’s activities during the 2017 local elections were perhaps the most impressive of all. Scotland’s local elections are typically low-stakes and low-turnout affairs. At the beginning of a six-week curriculum before the election, only eight of Mr. McLaughlin’s forty-five students (split between two Modern Studies classes) indicated that they were registered to vote. The first component of the curriculum included registering—though no students were compelled to register if they did not want to. After registering, about half of the students said they planned to vote in the upcoming local election. Then Mr. McLaughlin conducted lessons in which the class discussed the local political issues of the day. Several of the candidates or political party representatives, from all sides, came to class to speak with the students. The students completed research projects on current policy issues. Mr. McLaughlin brought in every piece of campaign material he received in the mail for the students to analyze. He pushed students to question the statements on the campaign flyers and research their veracity. The students were extremely engaged. After the election, he conducted an anonymous survey to ask about the curriculum and whether the students voted. Only eight of the forty-five students said they did *not* vote. Mr. McLaughlin’s instruction reversed the numbers: from only eight students registered to only eight students who did not participate. As Mr. McLaughlin explained to me, if teachers conduct this kind of lesson in the right way, it is replicable year in and year out. His dynamic engagement has created lifelong voters who are politically educated and motivated. In turn, youth engagement can counter the notion that politicians do not listen to young people because they do not vote.

Yet not all schools provided the same kind of supportive environment as Mr. McLaughlin's schools. Some Local Authorities (the governing bodies) prohibited discussion of the referendum in schools out of a fear of imbalance and indoctrination.<sup>220</sup> The concern was that teachers would influence their students on how to vote. In surveys, some students indicated that they received little or no instruction about the Independence Referendum in their classes,<sup>221</sup> though those students wished they could have engaged in meaningful discussions of the issues.<sup>222</sup> That inequality led to criticism of the Scottish government, with the suggestion that the majority party sought a lower voting age merely to win votes for independence instead of as a commitment to foster more meaningful civic and political engagement:

According to critics, the SNP Scottish Government has failed to provide young people with adequate citizenship education that would help inform and empower them to accompany the lowering of the voting age. This points to the SNP being primarily interested in harvesting the votes of 16 and 17-year-olds, rather than educating young Scots about citizenship and democracy in school.<sup>223</sup>

The lack of uniform standards surely contributed to the inequities in the education that some students received. Moreover, the reasons for forbidding relevant civics instruction during the Referendum campaign were likely overblown. Experts in Scotland, as well as teachers themselves, disputed the concern of indoctrination that led some Local Authorities to forbid political discussions in schools. Dr. Britton of the University of Glasgow noted that when asked about the possibility of indoctrination, students essentially said “don't patronize us!”<sup>224</sup> The students could not be so easily swayed, and a teacher who came on too strong was likely to see adverse results, with their students turning on them.<sup>225</sup> Dr. Eichhorn, too, noted that teachers—if trained properly—are unlikely to influence their pupils inappropriately.<sup>226</sup> Education professors like Dr. Britton can

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220. See Marc Ellison, *Scottish Independence: Councils Bar 'Yes' and 'No' Campaigns from Schools*, BBC (Aug. 22, 2014), <https://www.bbc.com/news/uk-scotland-scotland-politics-28803581> [<https://perma.cc/QUT6-ASAG>].

221. See HEAD, *supra* note 208, at 29 (“[N]early half of the pupils stated that only ‘a little amount’ of discussion had taken place (237, 46%), while as many as fourteen percent (70) claimed to have had no discussion of the topic at all.”).

222. *Id.* at 29–30; Britton Interview, *supra* note 175.

223. Pickard, *supra* note 121, at 40.

224. Britton Interview, *supra* note 175.

225. *Id.*

226. Eichhorn Interview, *supra* note 193.

create strong training materials for Modern Studies teachers to use that emphasize how to present all sides without politically influencing their students. Dr. Britton explained that teachers must have access to resources that show them how to communicate with parents transparently about what the students will be discussing in class.<sup>227</sup> As researchers Graeme Baxter, Lizzy Tait, Ian McLeod, and Paul Smith of Robert Gordon University in Aberdeen observed, lowering the voting age, by itself, is not enough; reformers must actively involve civic institutions and schools to help young individuals learn how to evaluate public discourse.<sup>228</sup> For instance, Robert Gordon University held an event for Modern Studies teachers to explain best practices for engaging their students in political discussions.<sup>229</sup>

The key, as Modern Studies teacher Andy McLaughlin demonstrated, is balance, at least for issues where people can reasonably disagree. When engaging students in political discussion, teachers must always remember the need to present all relevant sides. There must be breathing space for students to engage in political discourse in the supportive environment of a classroom, but teachers have a responsibility to ensure evidence-based balance in that discussion. Schools should also invite candidates and political parties of all stripes to speak with students. Mr. McLaughlin further pointed to the need for clear communication with parents. The instruction should revolve around real world, modern day issues, not just historical facts requiring rote memorization. Of course, many teachers in the United States also foster creative work in their classrooms about these topics.<sup>230</sup> But it is not enough. Our policymakers must double down on their commitment to provide meaningful, engaging civics instruction.

Scotland has a culture of trusting their teachers. Virtually everyone I spoke with in Scotland suggested that there was little concern of indoctrination because of the culture of trust. “Trust” was a common theme among academics, politicians of all parties, and the general public. Christina McKelvie, a Member of Scottish Parliament for the Scottish National Party, explained that people simply trusted teachers to present the facts and different viewpoints, allowing students to come to

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227. Britton Interview, *supra* note 175.

228. Interview with Graeme Baxter, Ian McLeod, Paul Smith, & Lizzy Tait, Researchers, Robert Gordon Univ., in Aberdeen, Scot. (May 28, 2017) [hereinafter Robert Gordon Univ. Interview]; *see* EICHHORN, *supra* note 145, at 2.

229. Robert Gordon Univ. Interview, *supra* note 228.

230. I devote an entire chapter of my book *Vote for US* to these excellent teachers because of the importance of tying civics education to voting. DOUGLAS, *VOTE FOR US*, *supra* note 14, ch. 10.

their own opinions.<sup>231</sup> MSP Gordon Lindhurst of the Conservative Party similarly remarked that there is a cultural norm that expects teachers to introduce political information with a great deal of open debate—with the assistance of their training and the government-sponsored toolkit—so that teachers do not indoctrinate their students. Students should not even know their teachers’ own political persuasion.<sup>232</sup>

Politicians were very supportive of engaging, substantive discussion in the classroom. MSP Jeremy Balfour, a Conservative, noted that civics education should include substance, not just the procedure of government.<sup>233</sup> Recall that MSP Balfour changed his mind on the issue of lowering the voting age after he interacted with sixteen- and seventeen-year-olds who were visiting Parliament; he realized that these young citizens were better educated and more engaged than some of his older constituents.<sup>234</sup> The media, too, helped to promote young people as a vital constituency. The BBC, for instance, created a “Generation 2014” panel of young people in the lead-up to the referendum vote, thereby “increas[ing] the presence of young people in their programming on general political (and not only so-called youth) issues.”<sup>235</sup>

This is not, however, just about education itself, but about creating an entire culture of citizenship and engagement.<sup>236</sup> As Dr. Britton said, “there should be an entitlement to political literacy.”<sup>237</sup> He explained this idea further in a PowerPoint presentation he gave as part of the University of Glasgow’s “Political Literacy Conversation Day”:

Political literacy is one of the foundations of modern democracy and its guardian. It is the means by which citizens make informed choices about the kind of society they want to live in. It helps everyone to understand political decisions and how they affect their own lives. It is the vital set of attributes and higher-order thinking skills that enables evidence and reasoned debate to trump unsubstantiated assertion and hyperbole. Political literacy matters in a society whose values are wisdom, justice, compassion and integrity, one which demands

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231. McKelvie Interview, *supra* note 129.

232. Lindhurst Interview, *supra* note 135.

233. Balfour Interview, *supra* note 134.

234. *See supra* Part II.

235. Christine Huebner & Jan Eichhorn, *Votes at 16 in Scotland: Political Experiences Beyond the Vote Itself*, in *LOWERING THE VOTING AGE TO 16*, *supra* note 18, at 124.

236. Robert Gordon Univ. Interview, *supra* note 228.

237. Britton Interview, *supra* note 175.

equalities and fairness for all, and one which cherishes the right of every citizen to make up and express her/his own mind.<sup>238</sup>

As this formulation suggests, civics education in Scotland is quite different from the common approach in the United States, and that more robust and interactive instruction seems to work quite well for students who receive it. Youth can engage with the substance of policy debates. They thrive on the discussion of real-world problems. Classroom instruction works to produce a more informed and confident young citizenry: “While it seems that young Scots turn to friends and family for political opinions, they seem to rely on schools to provide factual or educational information that, ultimately, gives them confidence in their own judgment.”<sup>239</sup> There is little concern of bias or indoctrination because Modern Studies teachers receive training and resources, and because there is a culture of trust in teachers.

When I traveled to Scotland to study lowering the voting age, I did not expect my research to turn toward education to this extent. But virtually everyone I interviewed about lowering the voting age encouraged me to speak with Modern Studies teachers. Of course, Scotland’s educational system is not itself a panacea, especially given that not all sixteen- and seventeen-year-olds stay in school, not all of them take Modern Studies, and those that do face unequal educational standards. Nevertheless, there is still a lot to emulate from those programs that truly engage students.

The ultimate lesson is evident: lowering the voting age in American cities cannot happen in a vacuum. To make it work, we need to include schools, teachers, and civic organizations in the effort. The United States must strive to create a culture of civic engagement in everyday life. Scotland’s experience shows that the path toward this cultural change should include buy-in from various stakeholders in the community and, in particular, a reformulation of how we think about civics education.

Indeed, too often the call to improve civics education in the United States focuses on rote memorization of facts about government. For instance, several states have enacted laws that require high school students to pass the U.S. naturalization test that new citizens must

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238. Alan Britton, Reasserting the Place of Political Literacy in the Scottish Schools Curriculum, University of Glasgow: Political Literacy Conversation Day (Feb. 27, 2015) (PowerPoint presentation on file with author).

239. Huebner & Eichhorn, *supra* note 235, at 133.

take.<sup>240</sup> But, as the Scottish experience shows, that is not good enough—and it could even be counterproductive if legislators think they have solved the civics education problem with this simple measure. Instead, states should focus on promoting “action civics”—real-world problem solving—that teaches students how to be engaged members of our democracy.<sup>241</sup> If states want to add a high school graduation requirement, then they should take Massachusetts’s lead and mandate that students complete an action civics project that forces them to grapple with the policy issues of the day.<sup>242</sup> The Illinois Democracy Schools offer a more holistic approach, as the entire curriculum is infused with a “Lived Civics” framework to “center[] race, identity, and the lived experiences of young people as core elements of civic education efforts.”<sup>243</sup>

Reform advocates should include teachers, principals, school boards, and professors of pedagogy who work together to improve civics education. San Francisco’s effort to lower the voting age for city elections acknowledged the need to couple a lower voting age with improved civics education, with the school board unanimously supporting the voting age proposition and pledging to improve civics instruction in the city’s

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240. See, e.g., *Lawmakers to Debate Testing Nebraska Students About Civics*, ASSOCIATED PRESS (Mar. 29, 2018), <https://oklahoman.com/article/feed/1947316/lawmakers-to-debate-testing-nebraska-students-about-civics> [<https://perma.cc/BQU4-S97B>].

241. See generally Douglas, *supra* note 18, at 171–85. For a discussion on the importance of including students’ lived experiences in civics education, see Kathleen Knight Abowitz & Dan Mamlock, *The Case of #NeverAgainMSD: When Proceduralist Civics Becomes Public Work by way of Political Emotion*, 47 THEORY & RES. SOC. EDUC. 155 (2019), <https://doi.org/10.1080/00933104.2019.1586611> [<https://perma.cc/C2AT-8YEY>] (arguing that “much civics education ignores the worth of political emotion” and “describ[ing] both the important role of affect in civic culture and curricular possibilities for working with students around the intersections of affect, civic culture, and public work as citizens”); CATHY COHEN, JOSEPH KAHNE, & JESSICA MARSHALL, GENFORWARD, LET’S GO THERE: RACE, ETHNICITY, AND A LIVED CIVICS APPROACH TO CIVICS EDUCATION (2018), [https://www.civicsurvey.org/sites/default/files/publications/LetsGoThere\\_Paper\\_FINAL\\_1538504773.pdf](https://www.civicsurvey.org/sites/default/files/publications/LetsGoThere_Paper_FINAL_1538504773.pdf) [<https://perma.cc/9J6R-VJUS>] (arguing that “civic educators and advocates must ensure that attention to race, identity, and the lived experiences of youth are central elements of civic education efforts”).

242. See Linda K. Wertheimer, *If We Want Democracy to Endure, Shouldn’t We Know Something About It?*, BOS. GLOBE (Oct. 1, 2019), <https://www.boston-globe.com/magazine/2019/10/01/want-democracy-endure-shouldn-know-something-about/rw8OIlgT0TyYBa31ok8RIM/story.html> [<https://perma.cc/672N-AD2V>] (requiring students to do one civics project based on a “local, state, or federal policy issue”).

243. *Democracy Schools*, ROBERT R. MCCORMICK FOUND., <https://donate.mccormick-foundation.org/democracy/democracy-schools> [<https://perma.cc/KF7U-5JBF>].

schools.<sup>244</sup> But a vague promise to discuss the election in class is not enough. We should encourage our teachers to engage students in substantive discussions of current political events. In addition, university professors in education schools should provide instruction to future teachers on how to include civics as a core component of a strong classroom education. For instance, instructors in Florida can earn a Civics Teaching Certificate from the University of Central Florida to gain specialized knowledge on teaching civics and government.<sup>245</sup>

None of these tactics will be easy to adopt in the United States, especially given increased polarization. Americans already view their education system through a political lens, and that viewpoint is only worsening: one study from 2016 showed that “32 percent of Republicans approve of the nation’s K–12 education system, while 53 percent of Democrats feel the same[,]” and yet just two years before the number was 48% approval across the political spectrum.<sup>246</sup> Introducing overtly political topics could exacerbate those figures. Therefore, educators should remain careful and deliberate when infusing their curricula with political issues. But they should not shy away from the challenge. Incorporating civics education into the entire curriculum need not devolve into inappropriate indoctrination if policymakers provide clear guidelines and educators take their responsibilities seriously to offer all meaningful perspectives. Transparency, communication, and accountability can counter parental and societal fears that teachers will become too political.

Once again, America can take some lessons from Scotland. As Mr. McLaughlin explained: “The GTCS [General Teaching Council for Scotland] Code of Conduct and the professional standards set out for

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244. See Brandon Klugman, *Historic Measure Almost Passes: More than 172,000 Vote to Extend Voting Rights to 16-year-olds for Municipal Elections*, VOTE16USA (Nov. 28, 2016), <https://vote16usa.org/press-release-historic-measure-almost-passes-more-than-172000-vote-to-extend-voting-rights-to-16-year-olds-for-municipal-elections> [<https://perma.cc/KF94-A5TB>] (“The Board recognized that voting on the local level could play a key role in civic education and committed to implementing curriculum to prepare students for the ballot if Prop F had passed.”).

245. *Civics Teaching Certificate*, UNIV. CENT. FLA., [http://catalog.ucf.edu/preview\\_program.php?catoid=3&poid=743](http://catalog.ucf.edu/preview_program.php?catoid=3&poid=743) [<https://perma.cc/288X-QPQ8>].

246. See Anya Kamenetz, *Americans Like Their Schools Just Fine—But Not Yours*, NPR (Aug. 23, 2016), <https://www.npr.org/sections/ed/2016/08/23/490380129/americans-like-their-schools-just-fine-but-not-yours> [<https://perma.cc/YH7Z-WYJ5>]; Lydia Saad, U.S. Education Ratings Show Record Political Polarization, GALLUP (Aug. 17, 2016), <https://news.gallup.com/poll/194675/education-ratings-show-record-political-polarization.aspx> [<https://perma.cc/6FLU-SRVV>].

teachers gives us very little wriggle room. Adhering to these is key.”<sup>247</sup> He also noted that the Modern Studies Association offers professional development opportunities that touch upon political balance, where appropriate.<sup>248</sup> The Scottish Qualifications Authority, which is Scotland’s education accreditation body, assures uniformity across the country.<sup>249</sup> For instance, the Scottish Qualifications Authority employs teachers to assess how well educators provide useful information to students about analyzing the source of information they receive.<sup>250</sup> As Mr. McLaughlin said, “All of these things combined provide an eco-system in which balanced, non-partisan delivery is protected (albeit not foolproof).”<sup>251</sup> Although nothing can completely prevent the concern of partisanship inappropriately entering the classroom, American educators and policymakers can look to these standards from Scotland for guidance. The payoffs are worth it for a more engaged and educated young population.

Students can learn to be critical thinkers about political statements and media narratives. Education can counter the current crisis involving so-called “fake news” by teaching students about digital literacy. We should trust teachers to ensure ideological balance and trust students and parents to call them out if they go too far. These are important lessons for improving political literacy and policy engagement. Coupling them with lowering the voting age will improve American democracy. As Willie Sullivan of the Electoral Reform Society in Scotland said, “Democracy is a muscle you have to use. Learning about how it works is not enough. Young people need to experience it as well.”<sup>252</sup>

### C. *Lowering the Voting Age as a Bipartisan Endeavor*

The issue of lowering the voting age should not devolve into politics and partisanship. Reducing the age when individuals may first vote to sixteen can enhance democracy for everyone, and all political parties can benefit through the opportunity to recruit informed and engaged new members.

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247. E-mail from Andy McLaughlin, Modern Studies Teacher, to author (Feb. 27, 2020) (on file with author) [hereinafter McLaughlin E-mail].

248. *Id.*

249. *Id.*; see also *About Us*, SCOTTISH QUALIFICATIONS AUTHORITY, <https://www.sqa.org.uk/sqa/5656.html> [<https://perma.cc/A2JR-FEWG>].

250. McLaughlin E-mail, *supra* note 247.

251. *Id.*

252. Interview with Willie Sullivan, Senior Dir., Electoral Reform Soc’y, in Edinburgh, Scot. (May 22, 2017).

But, to make it work, we must create a bipartisan coalition of democracy champions who can convince others who may be more reticent.

As discussed earlier, party politics drove the initial push to lower the voting age in Scotland.<sup>253</sup> The Scottish National Party had long included outreach to youth as part of its platform and its desire to influence the Independence Referendum brought the issue to the forefront. That did not work: although more youth voted “yes” than “no” on the proposition, many young people—much like the rest of the population—were against independence.<sup>254</sup> Yet, after the campaign, all other political parties joined in to reduce the voting age to sixteen because young people’s political knowledge and engagement convinced politicians of all stripes to support the idea. Youths themselves, when given the opportunity in the Referendum, changed people’s minds.<sup>255</sup> The proposal to lower the voting age for all Scottish elections passed unanimously.<sup>256</sup>

Importantly, most politicians recognized that lowering the voting age is unlikely to change electoral outcomes very much—even if the initial goal was politically-motivated. As Conservative Jeremy Balfour said, “you can’t assume that enfranchising 16- and 17-year-olds will change the results and harm Conservatives, particularly on the local level.”<sup>257</sup> He also observed that it is dangerous for politicians to patronize young citizens: “they can understand policy issues and make logical decisions.”<sup>258</sup> MSP Christina McKelvie, a member of the Scottish National Party, echoed this sentiment: “it is counterproductive for older people to tell young people what to think. We need to let young people lead the debates.”<sup>259</sup> MSP Gordon Lindhurst of the Conservative Party noted that because lowering the voting age is unlikely to alter results, the real question is whether policymakers want

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253. See *supra* Part II.

254. See *supra* Part II.

255. Josiah Mortimer, *The Scottish Parliament Is Leading the Way on the Issue of Lowering the Voting Age to 16*, DEMOCRATIC AUDIT (June 25, 2015), <http://www.democraticaudit.com/2015/06/25/the-scottish-parliament-is-leading-the-way-on-the-issue-of-lowering-the-voting-age-to-16> [<https://perma.cc/EN2T-KKQ7>] (“Even those opposed to extending the franchise for the referendum now agree that they participated with enthusiasm and made valuable contributions to the debate.”).

256. *Cut in Scottish Voting Age Passed Unanimously*, *supra* note 169.

257. Balfour Interview, *supra* note 134.

258. *Id.*

259. McKelvie Interview, *supra* note 129.

to encourage younger citizens to engage in politics.<sup>260</sup> Evidence of young people's engagement during the Referendum debate changed people's minds.<sup>261</sup> A bipartisan approach can shift public sentiment: although two-thirds of Scots opposed lowering the voting age before the 2014 Referendum, around 60% of the Scottish public supported the idea after the Scottish Parliament unanimously changed the rule for all Scottish elections.<sup>262</sup>

The debate over lowering the voting age should not deteriorate into partisan warfare about political effects. Any partisan impact should be irrelevant if the outcome is a more engaged citizenry with higher overall turnout. Scottish politicians found that youth were extremely well educated on the issues and engaged in substantive discussions of the policy ramifications of independence. This engagement continued after Scotland lowered the voting age for all elections in 2016, with little evidence that youth voting changed outcomes.<sup>263</sup> Instead, the reform brought in a new population of excited, well-educated voters. Because of their engagement, all political parties wanted be part of this reform so that they could promote themselves as inclusive and forward-thinking. Sarah Wollaston, a U.K. Member of Parliament for the Conservative Party, noted that “[e]mbracing votes at sixteen would also send the powerful message that young people are trusted by and welcome in the Conservative Party.”<sup>264</sup> She continued, “[e]mbracing a change in the voting age is an important way to rebalance the consequences of demographic change and address the harmful effects of political disengagement.”<sup>265</sup>

Of course, Scottish politics differ from American politics in many respects. Yet the main point on engaging young people in democracy crosses country borders. No one can predict how all young people will vote in any particular election—especially if policymakers and teachers provide them with adequate tools to analyze policy issues deeply and independently. Moreover, as the Conservative Party members who initially opposed the reform explained, they do not want youth to think of them as the party of exclusion.<sup>266</sup> The Conservative politicians

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260. Lindhurst Interview, *supra* note 135.

261. Eichhorn Interview, *supra* note 193.

262. Huebner & Eichhorn, *supra* note 235, at 124.

263. Eichhorn Interview, *supra* note 193.

264. DAVIDSON ET AL., *supra* note 164, at 7.

265. *Id.*

266. Balfour Interview, *supra* note 134; Lindhurst Interview, *supra* note 135.

ultimately recognized that lowering the voting age, and combining the reform with meaningful civics education, can give the party the opportunity to increase its own membership.<sup>267</sup>

To be sure, surveys suggest that young people in America are more liberal than their older counterparts.<sup>268</sup> Yet, in a 2016 survey, over 20% of college freshman identified themselves as “conservative or far right” and 42% of the respondents identified themselves politically as “Middle of the Road.”<sup>269</sup> Around 35% said they are “liberal or far left.”<sup>270</sup> Many issues that young people care about in particular, such as climate change,<sup>271</sup> have bipartisan approaches. Thus, although it is quite possible that younger voters will skew liberal, there is a lot of opportunity for conservatives to embrace a new voting population.

The current push to lower the voting age in America is occurring mostly in Democratic-controlled areas, like Takoma Park, Maryland and places in California, but Republicans should join the cause as well. Republicans do not want to be known as the party of exclusion. They too can increase their membership by capturing young people when these new voters first begin to interact with the political system.<sup>272</sup>

One place to start is to herald the votes and positions of Republicans who have already expressed their support, being more purposeful in creating a bipartisan coalition. The following Republican elected officials have publicly supported a voting age of sixteen or seventeen:

- Texas Congressional Representative Michael Burgess
- California Assembly Member Phillip Chen
- California Assembly Member Tyler Diep
- California Assembly Member Randy Voepel
- Massachusetts state representative Matthew Muratore<sup>273</sup>

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267. Balfour Interview, *supra* note 134; Lindhurst Interview, *supra* note 135.

268. *The Generation Gap in American Politics*, PEW RES. CTR. (Mar. 1, 2018), <https://www.people-press.org/2018/03/01/the-generation-gap-in-american-politics> [<https://perma.cc/2HGZ-DP8M>].

269. KEVIN EAGAN ET AL., HIGHER EDUC. RES. INST. UCLA, *THE AMERICAN FRESHMAN: NATIONAL NORMS 4* (2016), <https://www.heri.ucla.edu/monographs/TheAmericanFreshman2016.pdf> [<https://perma.cc/UY7L-FCRD>].

270. *Id.*

271. *Id.* at 5.

272. See Douglas, *Lowering the Voting Age*, *supra* note 14, at 71 (“We simply do not know, ex ante, who might benefit from this reform. Further, an expanded electorate gives all political parties the opportunity to recruit new members at an early age.”).

273. See the following paragraph for further discussion and citations regarding each of these elected officials. In addition, New York Assembly Member Fred Thiele,

Texas Representative Michael Burgess was the only Republican to vote “yes” for a 2019 congressional proposal to lower the voting age to sixteen in federal elections.<sup>274</sup> But few congressional Democrats have actively reached across the aisle, at least publicly, to create a coalition on this issue. Representative Burgess’s position is one that anyone who cares about a strong democracy can embrace. As he told conservative Fox News anchor Tucker Carlson, “If what we are afraid of is they’ll vote Democratic, then that’s on us [...] . . . We need to talk to people. We have better ideas. We’re the party of emancipation.”<sup>275</sup> After receiving pushback from Carlson, Burgess said, “What are we afraid of? Sixteen-year-olds are going to be 18-year-olds in the next election cycle [...] . . . They’re not going to be in charge of the government any more than 18-year-olds are.”<sup>276</sup> Democrats should hold up Burgess as a voting rights champion. They should use his statements as examples of how the idea need not just come down to party politics. They should approach him to recruit other Republicans and to make the case in additional cities, particularly those with a conservative-leaning electorate. Similarly, California Republican Assembly Members Phillip Chen, Tyler Diep, and Randy Voepel joined Democrat Evan Low to sponsor a proposed state constitutional amendment to lower the voting age in California to seventeen.<sup>277</sup> Massachusetts Republican state representative

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who is now an Independent who caucuses with Democrats, but was previously a Republican, supports a bill to lower the voting age to seventeen. *See* Assemb. Res. A6840, 2017-2018 Reg. Sess. (N.Y. 2017), <https://nyassembly.gov/leg/?term=2017&bn=A06840> [<https://perma.cc/NLW7-H46K>]. In addition, Kentucky Secretary of State, Republican Michael Adams, said during his campaign that he could support a pilot program in cities to lower the voting age if the state legislature approved it; he also supports preregistration for sixteen- and seventeen-year-olds. *See Candidates for Secretary of State*, KET (Oct. 8, 2019), <https://www.ket.org/program/kentucky-tonight/secretary-of-state-34347> [<https://perma.cc/A2ZL-4QQN>] (approximately 54:00 minute mark).

274. Peter Hasson, *125 Democrats and 1 Republican Vote to Lower Voting Age to 16*, DAILY CALLER (Mar. 8, 2019), <https://dailycaller.com/2019/03/08/house-democrats-voting-age-16> [<https://perma.cc/EXZ2-S4ZZ>].

275. Zack Burdryk, *GOP Rep Who Supports Lowering Voting Age: 'It's on Us' if 16-year-olds Vote Democratic*, HILL (Mar. 27, 2019), <https://thehill.com/homenews/media/436010-gop-rep-who-supports-lowering-voting-age-its-on-us-if-16-year-olds-vote> [<https://perma.cc/FB89-BXBU>].

276. *Id.*

277. Assemb. Const. Amendment 8, Assemb. 2019-2020 Reg. Sess. (2019 Cal.) [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200ACA8](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACA8) [<https://perma.cc/2C7R-T5ET>]; Katy Murphy, *Proposed California Amendment Would Lower Voting Age to 17*, MERCURY NEWS (Mar. 7, 2019), <https://www>.

Matthew Muratore cosponsored a bill that allows localities to lower the voting age to sixteen without seeking further state legislative approval, which essentially changes the state's "home rule" law for this issue.<sup>278</sup> Democrats should approach these Republicans to seek their assistance in making the case to additional legislators.

Further, anecdotal evidence suggests that opinions on lowering the voting age can change through sustained advocacy about the merits of the reform. Recall that voters in Brattleboro, Vermont strongly rejected a lower voting age in 2015 only to reverse course and overwhelmingly support the idea in 2019.<sup>279</sup> Advocates in San Francisco also found that they gained more support once they explained to voters, through a grassroots campaign, why voting at age sixteen makes sense.<sup>280</sup> This is an issue of democratic participation and sustained engagement that can gain the support of anyone who cares about fostering a healthy democracy. Advocates should focus their efforts on finding more champions across the political spectrum and fighting for wins in more conservative places.

The reform to lower the voting age in Scotland worked only after Conservatives joined in. That cross-party support occurred only after Conservatives recognized the vigorous, educated engagement of youth during the Referendum campaign. America can learn from that experience. It is unfair to assume that all or even most youth will support only liberal values; lowering the voting age is unlikely to change the outcome of most elections; all political parties should strive to be inclusive, especially for new voters; and with improved civics education, young people will be engaged and can bring meaningful insights into the political process. This is about a stronger democracy with a more engaged electorate, not partisan outcomes. The Scottish experience shows that a bipartisan push to lower the voting age is a key way to achieve this reform.

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[mercurynews.com/2017/03/07/california-proposal-would-lower-voting-age-to-17](https://mercurynews.com/2017/03/07/california-proposal-would-lower-voting-age-to-17) [<https://perma.cc/YA2U-6GDR>]; Joe Szydowski, *Bid to Let Some Monterey County Teens Vote Won't Pass Muster*, CALIFORNIAN (Apr. 27, 2019), <https://www.the-californian.com/story/news/2019/04/27/proposal-lower-voting-age-monterey-county-legal-issue/3578241002> [<https://perma.cc/YVRS-PWDA>].

278. H.B. 720, 191st Gen. Court (Mass. 2019), <https://malegislature.gov/Bills/191/H720> [<https://perma.cc/Q24H-W9KX>]. For more on home rule, see Douglas, *supra* note 66, at 1084.

279. See *supra* Part I.

280. See Douglas, *supra* note 18, at 222–23.

## CONCLUSION

Several years ago, after Takoma Park lowered the voting age to sixteen, many people said that the reform was “crazy.” The common sentiment seemed to be that sixteen-year-olds are surely too young to vote. But now, the idea has entered the mainstream conversation of American politics. Those who support the change have somewhere to look for useful lessons on the merits of the practice and important implementation strategies: Scotland.

As advocates begin to convince skeptics of the benefits of lowering the voting age, they can explain that sixteen- and seventeen-year-olds are cognitively capable and deserving of the right to vote and that a lower voting age may establish a more engaged citizenry, with long-term positive effects on voter turnout. But beyond just offering pie-in-the-sky arguments, proponents have even better evidence from across the pond: the Scottish experience provides a real-world example of progress. By using students’ presence in school, energizing civics education, and encouraging bipartisan support, American policymakers can enact a lower voting age and successfully implement it in a way that could create lifelong, engaged citizens. Scotland offers best practices that could make a lower voting age work just as well in America. Maybe, by focusing on the Scottish experience, the reform will seem just a little less “crazy” to those who might initially oppose the idea.