

YALE UNIVERSITY
LAW SCHOOL
NEW HAVEN, CONNECTICUT
06520

LOUIS H. POLLAK

February 25, 1971

The Honorable Emanuel Celler
House Office Building
Washington, D.C. 20515

Dear Congressman Celler:

I have your letter of February 24 requesting my views on H.J. Res. 223, a proposed amendment to the Constitution of the United States. The proposed amendment would, as I understand it: (1) prohibit the denial of the vote, on grounds of age, in any American election (federal, or state [or subdivision thereof]), to any citizen of the United States eighteen years of age or older; and (2) confer on Congress the authority to enact legislation to enforce this prohibition.

I am happy to endorse the proposed amendment. It seeks to accomplish a very important national purpose -- the extension of the franchise in all elections to millions of American citizens fully qualified to participate in the political processes of the nation and the states. And it seeks to accomplish this purpose in what I believe to be the one proper way to proceed -- amending the Constitution.

One year ago I argued that Congress lacked power to accomplish this purpose by statute, and that to attempt to do so would prove an error of constitutional dimension. To be sure, I did not foresee the result reached in United States v. Arizona, in which a majority of the Court upheld the 1970 statute insofar as it lowered the voting age for federal elections, while a different majority invalidated the statute insofar as it sought to lower the voting age for non-federal elections. That result seems to me, with all respect, to be anomalous; but, whatever view be taken of the result and the arguments advanced in support thereof, the Court's judgment makes it unmistakably clear that the only way federal law can affect the voting age in state (and local -- i.e., state subdivision) elections is through amendment to the Constitution.

For the reasons set forth above, I hope that Congress votes to submit H.J. Res. 223 to the legislatures of the states for speedy ratification.

Sincerely,

LHP:LCW

Louis H. Pollak

Sub 5