

Op-Ed/Editorials - It's Not Just About Voting

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Should 14-year-olds be allowed to play poker for money in California card clubs? As silly as the idea sounds, that could be the unexpected result of an even sillier proposal by State Sen. John Vasconcellos' (D-Santa Clara), to give 14-year-olds one-quarter of a vote and 16-year-olds one-half in state elections.

Until the mid-1960s, American society conventionally viewed 21 as the most appropriate age for full adult status, as reflected in most state and federal laws. It was not an issue of great controversy. But the Vietnam War brought the age of majority status into the spotlight. Eighteen-year-olds were sent off to kill or be killed, without having a political voice in this unpopular war.

The result was the 26th Amendment to the United States Constitution, which lowered the voting age to 18 for all elected positions, federal and state. After it was ratified in 1971, it seemed logical to change all minimum age limits to 18.

If a person is competent at 18 to make decisions about whom should be elected to every office in the land, that person must also be competent to serve on juries. If a person is competent to make those types of decisions that vitally affect the lives of others, that person must be able to make similar choices for himself or herself, such as deciding to enter into legally enforceable contracts. Because the law set 18 years as the legal floor for every other activity, there seemed little reason to keep the age at 21 for drinking, smoking and gambling. The law of unexpected consequences stepped in.

Experience with the lowered age of majority has led legislators to conclude that

some activities are just too dangerous for too many individuals who are only 18 years old and too dangerous for society.

In the last 33 years, state legislatures have moved to raise the age limits for more dangerous activities back to 21. The dangers created by minors' drinking and driving was pushed to the forefront by well-organized advocacy groups such as Mothers Against Drunk Driving (MADD). Their success can be seen in the states' drinking ages.

Although almost every state lowered the drinking age to 18 during the early 1970s, the 1980s saw a nationwide movement to return it to 21. In 1984, Congress required a drinking age of 21 for states to be eligible for federal highway funds. By 1993 the National Transportation Safety Board reported that "no state allows the sale of alcohol to persons under the age of 21." Because the proliferation of legal gambling began prior to the War in Vietnam and has continued up to the present, virtually all gambling age limits range from 18 to 21, with the ages differing according to the perceived danger of the particular form of gambling involved. So the minimum age to play bingo and most state lotteries is usually 18, but casino gambling and slot machines is 21.

One of Gov. Gray Davis least known, but most bizarre, decisions was to sign compacts opening California's tribal casinos to 18-year-olds. Most tribes voluntarily require bettors to be over 21, because they serve alcoholic beverages.

The law almost always declares that a minor is automatically legally transformed from being an incompetent child into a competent adult on the day the minor reaches a certain age. Yet we all know that 100 percent of all minors do not become instantly wiser the day they turn 18 or 21. So why is the law enforcing a legal fiction?

The legal system has only two ways of dealing with legal competence. It can either take each and every person as he or she is at any moment and conduct hearings to determine that person's actual competence. Or it can impose irrebuttable presumptions. Both solutions create real-world problems. A case-by-case analysis of each individual would burden the court system beyond its breaking point. Yet whenever the law saves judicial resources by making broad generalizations, some individuals outside the norm will be harmed. A 17-year-old college political science student cannot vote while truly incompetent adults, who have not been institutionalized, can.

In the end, the decision is political rather than scientific. If 14-year-olds have one-quarter of a vote for Governor, they should one-quarter of a vote on a jury. And they should be able to gamble in California's licensed card clubs. That Vasconcellos' "Training Wheels for Citizenship" is universally ridiculed shows that society is not willing to start down that slippery slope again.

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What do you think? You can address comments to Prof. I. Nelson Rose.