

LESSON 3: STATE VERSUS FEDERAL CONTROL

Lesson Overview:

Students will examine whether state or the federal government should have control over the election process. Students will analyze past history, determine who their state chief election official is, and understand the influence of partisans.

Teaching Procedures:

Activity 1:

Ask students to read Student Handout Number 3. The handout reads as follows:

Writing on “Sectional and Class Divisions, 1760-1775” in **“The Growth of the American Republic”** Samuel Eliot Morison and Henry Steele Commager said:

“Fully as important was the question of who should rule in the colonies. Some colonies, such as North Carolina, were relatively democratic; and others, like New York, fully aristocratic in their social structure. In some, such as Massachusetts and New Hampshire, the franchise was fairly broad; in others, such as South Carolina, it was very narrowly restricted. But no one of the 13 was really democratic in political or social structures, much less ‘dedicated to the proposition that all men are created equal.’ Class distinctions had been brought from England by the colonists, and since maintained; and class distinctions, in the 17th and 18th centuries, implied political privilege.

“In all the colonies in 1760, the franchise was limited by property qualifications, which were much higher for office-holding; and the newly settled regions were under-represented in colonial legislatures, and in many other ways treated unfairly by colonial politicians and men of wealth. There was nothing new in this, but the majority were beginning to resent it, and the political controversy with the mother country enabled them to make this resentment felt. An internal quarrel, partly class and partly sectional, cut athwart the larger contest between colonies and mother country. There were really two American revolutions at the same time: the sectional revolt of 13 colonies against imperial centralization; and a class upheaval against vested interests and local governing classes.”

Prepare a time line tracing these battles through watershed periods in our history such as the Constitutional Convention, the rise of Jacksonian Democracy, the Civil War, Reconstruction, World War I, the Great Depression, World War II, the Civil Rights Revolution, the Cold War, the end of the 20th century and the beginning of the 21st century.

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Did the founding fathers foresee these divisions? Do the battles about state versus federal control continue? Was election law left under the control of the individual state or under the federal government in the nation's Constitution? Why did every state constitution except Vermont's place control of the government in the hands of property holders? Why did Benjamin Franklin, champion of democracy, declare "as to those who have no landed property ... allowing them to vote for legislators is an impropriety?" How has the right to vote expanded through the years by amendments to the Constitution? Which voting responsibilities does the Constitution now give to the federal government? to the states? When can the U.S. Department of Justice exercise its authority over a state? the U.S. Supreme Court?

Activity 2:

One of the major issues in election reform is whether states should retain control or the federal government. The National Association of Secretaries of States (NASS) analyzed the Senate (Dodd-McConnell-Schumer-Bond-Torricelli) and House (Ney Hoyer) proposals of election reform legislation for 2002. Read the following excerpt written by the NASS to the class: "While NASS supports the principle that every eligible voter should be guaranteed absolute and unobstructed access to the voting process, our policy states that the format for administering this principle should remain with the states. Many states currently utilize various methods to achieve this objective: challenged ballots, special ballots, provisional ballots, affidavits, and same-day voter registration. In fact, affidavit and same-day voter registration methods allow voters to have their ballots cast in a manner similar to all other ballots once voters have affirmed their eligibility. States with laws that currently do not allow for some form of provisional voting should be able to choose from many options to update their procedures. Unfortunately, S.565 lays out a clearly defined procedure for administering provisional voting, which would preclude the practice of affidavit voting and same-day voter registration. We realize it is not an easy task to craft a bill that ensures federal voter protections while respecting the right of state and local governments to maintain responsibility for this process." Have students discuss what they think the NASS is trying to say and why it has drawn these conclusions.

In most of the states, the Secretary of State serves as the state's chief election official. Who holds the responsibility in your state? See the chart attached in *Activity 3*. Why did the chief election officials of the states object to the senate's approach of creating a four-member election commission, which provides, in their view, no forum for input by state and local election officials? Why, despite the problems of 2000, did they object to having the federal government impose mandates for election reform on the states? How does the House's bill differ from the Senate's on the question of state versus federal control?

Organize a class debate on state control versus federal control of election procedures. Why did the founding fathers leave the states in control? What were James Madison's fears? Do you think they are still valid concerns for the 21st century? What are the hazards of the hodgepodge of different regulations, systems and procedures that now constitute the American system of elections? What are the dangers of tampering with local control? Will what works for a predominantly rural state work well in a state where the vast majority of citizens live in urban centers? Why? Why not? Investigate the election reforms your own state is undertaking. Do you believe they will solve the state's

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problems? Why? Why not? Invite your state legislators to speak to your school. How do they feel about state versus federal control? How is their position influenced by their party affiliation? Contact your Secretary of State or state election director or see their web site for more information.

Note to teachers: When doing the above comparisons you may find, “The Book of the States” published by the Council of State Governments, very helpful. It is located on the web at <http://stars.csg.org/bos/web/bos.htm>. The most recent online version of the book is the [1998-99, Volume 32](#).

Activity 3:

Currently 38 Secretaries of State serve as their state’s chief election official. Who holds the responsibility in your state? Check the Web site of The National Council of Secretaries of State at www.nass.org.

Why did the chief election officials of the states object to the Senate’s approach of creating a four-member election commission, which provides in their view, no forum for input by state and local election officials? Why, despite the problems of 2000, did they object to having the federal government impose mandates for election reform on the states? How does the House’s bill differ from the Senate’s on the question of state versus federal control?

Note to teachers: Below is a list of state election officials.

State	Chief Election Official	Position
Alabama	Office of the Secretary of State	Director of Elections, Elections Division
Alaska	Office of the Lieutenant Governor	Director, Division of Elections,
American Samoa		Chief Election Officer
Arizona	Office of the Secretary of State	Director of Elections, Elections Division
Arkansas	Office of the Secretary of State	Director of Elections, Elections Division
California	Office of the Secretary of State	Chief of the Election Division, Elections Division
Colorado	Office of the Secretary of State	Director of Elections, Elections Division
Connecticut	Office of the Secretary of State	Director of Elections, Division of Elections
Delaware	State of Delaware, Department of Elections	Election Director
Washington D.C.	Board of Elections and Ethics	Executive Director
Florida	Florida Department of State	Director of Elections, Elections Division
Georgia	Office of the Secretary of State	Director of Elections, Elections Division
Guam	Election Commission	

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Hawaii	Office of Elections	Chief Election Director
Idaho	Office of the Secretary of State	State Election Director, chief Deputy Secretary of State for Elections
Illinois	State Board of Elections	Executive Director
Indiana	Office of the Secretary of State	Co-Director, Election Commission
Iowa	Office of the Secretary of State	Director of Elections, Elections Division
Kansas	Office of the Secretary of State	Deputy Assistant for Elections, Elections/ Legislative Matters
Kentucky	State Board of Elections	Executive Director
Louisiana	Department of Elections and Registration	Commissioner of Elections
Maine	Office of the Secretary of State	Director of Elections Bureau of Corporations, Elections and Commissions
Maryland	State Board of Elections	Chairman, State Board of Election Law
Massachusetts	Secretary of the Commonwealth	Director of Elections
Michigan	Office of the Secretary of State	Director, Bureau of Elections
Minnesota	Office of the Secretary of State	Director, Elections Division
Mississippi	Office of the Secretary of State	Assistant Secretary of State for Elections
Missouri	Office of the Secretary of State	Co-Director of Elections, Secretary of State's Office
Montana	Office of the Secretary of State	Deputy for Elections, Elections Division
Nebraska	Office of the Secretary of State	Assistant Secretary of State
Nevada	Office of the Secretary of State	Department of Secretary of State for Elections
New Hampshire	Office of the Secretary of State	Secretary of State
New Jersey	State of New Jersey, Department of Law & Public Safety	Director, Elections Division
New Mexico	Office of the Secretary of State, Bureau of Elections	Director of Elections
New York	New York State Board of Elections	Executive Director
North Dakota	Office of the Secretary of State	Deputy Secretary of State
Ohio	Office of the Secretary of State	Director of Elections
Oklahoma	Oklahoma State Election Board	Chairperson
Oregon	Office of the Secretary of State	Director of Elections, Elections Division
Pennsylvania	Department of State, Bureau of Commissions, Elections & Legislation	Commissioner of Elections
Puerto Rico	Puerto Rico State Election Commission	President
Rhode Island	Office of the Secretary of State, RI Elections Division	Executive Director
South Carolina	State Election Commission	Executive Director
South Dakota	Office of the Secretary of State	Election Supervisor
Tennessee	Office of the Secretary of State	Coordinator of Elections
Texas	Office of the Secretary of State	Director of Elections
Utah	State Elections Office, Office of the Lieutenant Governor	Director of Elections, Office of the Lieutenant Governor
Vermont	Office of the Secretary of State	Director of Elections and Campaign Finance
US Virgin Islands	Election System of the Virgin Islands	Supervisor of Elections

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Virginia	State Board of Elections	Secretary
Washington	Office of the Secretary of State	Director, Elections Division
West Virginia	Office of the Secretary of State	Assistant Secretary of State
Wisconsin	State Elections Board	Executive Director
Wyoming	Office of the Secretary of State	Elections officer

Activity 4:

Organize a class debate on state control versus federal control of election procedures. Why did the founding fathers leave the states in control? What were James Madison's fears? Do you think they are still valid concerns for the 21st century? What are the hazards of the hodgepodge of different regulations, systems, and procedures now constituting the American system of elections? What are the dangers of tampering with local control? Will what works for a predominantly rural state work well in a state where the vast majority of citizens live in urban centers? Why or why not?

Activity 5:

Investigate the election reforms your own state is undertaking. Do you believe they will solve the state's problems? Why or why not?

Activity 6:

Invite your state legislators to speak to your school. If a legislator does not have time to visit, ask a member of his or her staff to speak. Another option is to log on to www.freeconference.com.

Note to teachers: The Web site permits conference calls. The charge is each participant paying for the cost of the long distance call. The teleconference could be possible if your school has a phone with a loudspeaker.

How do they feel about state versus federal control? How is their position influenced by their party affiliation? Contact your Secretary of State or state election director and visit their Web site for more information.

Note to teachers: Activities 6 through 9 are centered on partisan influences.

Activity 7:

How has partisan politics influenced election reform? Read the following quotes and discuss their implications.

- Richard E. Cohen writing in the *National Journal* states "... Democrats, pointing to reports of disenfranchisement of poor and minority voters, see the Florida mess as a powerful symbol of continuing voting-rights injustices that the federal government needs to remedy. For many Republicans, the haphazard *election*-recount procedures were evidence of *election* fraud."

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- "...Democrats are chiefly concerned with individuals who are denied the right to vote, Republicans appear most troubled by instances of improper voting or *election* fraud, such as cases of double voting, voting by illegal immigrants and convicts, and votes cast on behalf of dead people many Democrats contend that the Republicans' approach is motivated by their view that nonvoters are predominantly Democrats.
- "Despite these differences an aide to Tom Davis of Virginia, who chairs the National Republican Congressional Committee said, "There is strong bipartisan support to bring *elections* into the 21st century."

Read the two quotes below aloud. Then discuss which statement *you believe* was from a Democrat. Which statement *you believe* was from a Republican? Why? What statement most reflects your views? Why?

- "Across the country, the votes of poor and minority voters were three times more likely to go uncounted than the ballots of wealthier Anglo voters. That kind of disparity-based on race, income, ethnicity, language, and physical ability is unacceptable, at least it ought to be, in any nation that calls itself a democracy. For a nation such as ours, which is the birth place of modern democracy, which holds itself out among the community of nations as an emblem of self-governance, 6 million people out of 100 million who cast their ballots, were thwarted. That is more than unacceptable, it is unconscionable."
- "Voter fraud and voter disenfranchisement are different wrongs, but they have a similar impact. They both debase our electoral system. They both distort the value of votes lawfully cast, and they both diminish the true will of the American people. We need reforms that ensure that more Americans can vote and that fewer can cheat."

Activity 8:

Read the Voting Rights Act of 1965, Help America Vote Act of 2001, HR 3295, and the Equal Protection of Voting Rights Act of 2001, S565.

*For the Voting Rights Act of 1965 go to the U.S. Department of Justice's Civil Right Division, Voting Section, Web site at www.usdoj.gov/crt/voting/intro/intro_b.htm
For HR 3295 and S565, go online to the Thomas Web site at <http://thomas.loc.gov>
where you can type in the bill number to read about these voting acts.*

Discuss what protections have been included in the voting rights acts of 2001 that were not included in the Voting Rights Act of 1965. Which do you believe should have been included in 1965 to protect a broader range of voters? Why were 1965 legislators unable to prevent the problems uncovered in 2000? Which protections would you like to see included in the election reform legislation before the Congress today? Are they there?

Activity 9:

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Compile a portfolio of newspaper and magazine clippings on election reform that demonstrate partisan positions.

Explain why you believe each clipping demonstrates a partisan position.

Share your portfolio with other students and ask for their evaluation of its usefulness to them.

Activity 10:

Contact your state's Representatives and Senators.

What are their positions on election reform? What is yours?

Share your positions with your legislators!

What pressures may make it possible for an election reform bill to be passed before the election of 2002 despite the bitter partisan conflict, just as campaign finance reform was passed? What pressures may prevent passage of the bill?

Activity 11:

Brainstorm a list ways to answer the following question: What can *you* do to help make election reform happen?

Pick a way make election reform a reality from the above list and act upon it.