

Suffrage, Elections, and Some Implications For Civic Education in the United States

A paper presented at the
German-American Conference, Bloomington, Indiana
March 5, 2011

by

Margaret Stimmann Branson, Associate Director
Center for Civic Education

21600 Oxnard Street, Suite 500 ■ Woodland Hills, California 91367 ■ www.civiced.org

Elections and suffrage have always been important to Americans. Long before the founding fathers gathered in Philadelphia to write the Constitution of the United States, individual states had been writing their own suffrage laws. Massachusetts declared:

All elections ought to be free, and all the inhabitants of the Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employment.¹

Concern for elections and suffrage even extended to the territories. The Northwest Ordinance of 1787 provided that “so soon as there shall be five thousand free male inhabitants of full age in the district ... they shall receive authority ... to elect representatives ... to represent them in the general assembly.”²

During the great debates about the ratification of the new United States Constitution, James Madison not only attempted to define a republic, he also set forth some criteria for elections and suffrage in a republic. In *Federalist 39*, Madison wrote:

... We may define a republic to be ... a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period or during good behavior. It is essential to such a government that it be derived from the great

¹ Massachusetts Constitution 2 Mar, 1780. Art. IX. Reprinted in *The Founders' Constitution*. Kurland, Philip B., and Lerner, Ralph. (Indianapolis: Liberty Fund, 1987) 12.

² Northwest Ordinance, 13 July 1787. Reprinted in *Ibid.* 27.

*body of the society, not from an inconsiderable proportion or a favored class of it.*³

Despite Madison's assertion that it is *essential* that a republic derives from "the great body of society," such was not the case at the time of his writing. More than half the population of the United States—women, African-Americans, and Native-Americans were denied the right to vote. The story of their long and difficult struggles to be enfranchised cannot be recounted here. One example, however, gives some indication of just how long and how arduous such struggles were. Women, as half the population, constituted the largest group of adults excluded from the franchise at the time of the nation's birth and for well into the 20th century. All told, their efforts to gain the right to vote persisted for more than 70 years. When the Nineteenth Amendment to the Constitution was finally ratified in 1920, Carrie Chapman Catt, one of the leaders in the movement, wrote that the women of the country

*... were forced to conduct 56 campaigns of referenda to male voters; 480 campaigns to get legislatures to submit suffrage amendments to voters; 47 campaigns to get state constitutional conventions to write woman suffrage into state constitutions; 277 campaigns to get state party conventions to include woman suffrage planks; 30 campaigns to get presidential party conventions to adopt woman suffrage planks in party platforms; and 19 campaigns with 19 successive Congresses.*⁴

During the 1950s and 1960s, African-Americans intensified their efforts to secure their right to vote and other civil rights. Their initial efforts were spearheaded by the National Association

³ *Federalist 39* in *The Federalist Papers in Modern Language*. Webster, Mary E., ed. (Bellevue, Washington, Merril Press, 1999) 153.

⁴ Catt, Carrie Chapman quoted in Keyssar, Alexander *The Right to Vote: The Contested History of Democracy in the United States*. (New York: Basic Books, 2000) 172.

for the Advancement of Colored People (NAACP). That organization sponsored legal suits and legislative lobbying.⁵ They were supplemented by increasingly massive and militant social movements seeking a broad range of social changes.

The modern African-American civil rights movement, like the woman suffrage movement, transformed American democracy. It served as a model for other group efforts to seek remedies for historically rooted patterns of discrimination. Today, Americans have the opportunity to participate in elections more frequently and for more offices than the citizens of most democracies. Americans vote for their president, senator, representative, governor, state legislator, and a host of other state and local officials, as well as on local and state issues.

James Madison repeatedly emphasized the importance of the right of suffrage and of elections. In *Federalist 53*, Madison concluded that “Frequency of elections is the cornerstone of free governments” and “elections will be safe to the liberties of the people” Americans generally concur.

A Brief Overview of the U.S. Electoral System

The rules by which elections are conducted are referred to as an electoral system. These rules are of great importance, because they determine who can vote, how and when people vote, and how their votes get counted, and how voter choices are converted into seats in governing bodies. There is great variety in electoral systems throughout the world, but they generally are grouped into three broad types: plurality, majoritarian, and proportional representation.

In the United States, as well as in Britain, Canada, and India, legislative election rules divide the country into many election districts. In each district the candidate who has more votes than

⁵ One of the most famous and consequential legal suits brought by the NAACP was *Brown v. Board of Education*, 347 U.S. 483 (1954). In a unanimous decision, the Supreme Court held that segregation in public schools violates the Equal Protection Clause of the Fourteenth Amendment. This case paved the way for a powerful judicial assault on all forms of official racism.

any other—or a plurality—wins the election. This *single-members district plurality (SMDP)* election rule is often called “first past the post,” a horse-racing term. It means that the winner only needs to finish ahead of all the others, but does not have to receive a majority of the votes.

Plurality systems tend to concentrate votes on the two leading political parties and discourage the development of new parties. Supporters of plurality systems contend that they afford political stability by staving off fringe or “frivolous” parties. Supporters also claim that they foster closer ties between elected officials and their constituents, because representatives owe their election more to the voter than to the party. Critics of plurality systems counter that a candidate elected with less than majority support lacks the democratic legitimacy to govern effectively.

The single-member district plurality system seems obvious and natural to most Americans, but it is rarely used in continental Europe or in Latin America. In fact, most democracies use some form of *proportional representation (PR)*.⁶

Proportional representation (PR) systems are designed to insure that all parties receive representation in proportion to the votes they received in the election. Unlike plurality or majoritarian systems, PR can only be applied to the election of multi-member bodies. In contrast to the single-member district system, most PR systems divide their country into a few large districts such as states or provinces which may elect as many as 20 or 30 members apiece. The competing parties offer lists of candidates for the slots in each district. The number of representatives a party wins depends upon the overall proportion of the votes it receives. For example, a party receiving 15 percent of the vote would be awarded 15 percent of the legislative seats. Sometimes parties must achieve a minimum threshold of votes—usually three to five percent nationally—to receive any seats at all.

⁶ See Almond, Gabriel A., et.al. *Comparative Politics Today: A World View*. (New York: Pearson Longman, 2008) 83–92.

Critics of PR claim it can lead to multi-party systems dominated by unstable governments. It also can give rise to fringe or extremist parties, because they are more likely to win seats in the legislature under PR than in any other type of electoral system. Proponents of PR argue that it is more democratic because it provides representation for minority parties and reduces or eliminates machine politics.

Federalism Affects Elections

Fundamental to understanding elections in the United States is federalism or the sharing of power across different levels of governance. States set the rules for conducting elections, as well as for who can participate. States regulate individual participation in elections through their control of the registration process. This process prescreens potential voters to insure that they meet the state's requirements for voting, usually residence in the state and the jurisdiction for a set amount of time and the absence of felony convictions. The state also may set requirements regarding the amount of time that a voter must register prior to an election, in order to be eligible to vote. That requirement is currently being challenged in some states. Some citizens favor same-day registration. There also are challenges in some states to the disenfranchisement of convicted felons. Some Americans contend that voting rights should be restored to felons on completion of their sentences.

Another consequence of federalism is that the responsibility for holding elections, for deciding which nonfederal officeholders will serve again before having to be re-elected is the responsibility of the state. A state may delegate some powers to localities. Thus a local office that is elected in one state may be appointed to another. Terms for state and local offices, such as governors vary. Elections are held by states at different points throughout the year. In some

states that hold primary elections, a primary can be just a month before a general election or as many as ten months before. In short, it is a very decentralized system.

The federal government's role is largely one of setting the times for federal elections, preventing discrimination in the exercise of the right vote, and regulating campaign finance in federal elections. Suffrage qualifications are set by the states, but they are subject to constraints imposed by the Constitution and Congress. Congress, for example, has used its constitutional power to regulate the "Times, Places and Manner of holding Elections" for federal officials:

1. To set uniform dates across the country for the election of representatives, senators and presidential elections, and
2. To set age requirements for voting in federal elections.

Congress has periodically debated legislation for fixing a common poll-closing time across the nation. Such legislation would respond to complaints about television networks projecting election outcomes while polls are still open on the West Coast. Critics allege that such network projections discourage voter turnout.

How American Elections Differ From Other Democracies

During much of its history, Americans have regarded the United States not as just another polity, but as significantly different from other political systems. In fact, the celebrated political scientist, Seymour Martin Lipset, titled one of his prize-winning books *American Exceptionalism*.⁷ That title, drawn from Alexis de Toqueville, did not mean that America is "better," Lipset said, but that it is qualitatively different in certain important respects.

One area of difference pertains to elections. Because of the use of the single-member plurality system, elections in the United States are almost always contested by only two major parties. Not only can the two major parties control different branches of the government at the

⁷ Lipset, Seymour Martin. *American Exceptionalism*. (New York: W.W. Norton and Company, 1996).

same time, but they very often do. Interestingly enough, many Americans like different parties to control the executive and legislative branches. An answer to this seeming paradox is offered by two prominent political scientists.

The answer may be in the fact that throughout history most Americans have strongly held two ideas that may be logically (but not emotionally) inconsistent. One is the idea that ordinary Americans are good, solid, reliable folks with plenty of common sense and that America is a wonderful country. Conversely, they feel that government, which is not the same thing as the country, is, as former President Ronald Reagan put it ‘the problem, not the solution,’ and they feel that the professional politicians who fill its offices, lead its parties and conduct its business are self-seeking lightweights more interested in winning votes and getting reelected than in making courageous and forward-looking policies to solve the nation’s problems, thus many Americans love their country but distrust the politicians who run its governments.⁸

Another important difference is that elections in the United States are held on fixed dates and office-holders serve for fixed terms. In a parliamentary system, the prime ministers and his or her cabinet must at all times enjoy the confidence of the parliamentary majority. Whenever the parliamentary majority, for whatever reason, votes a lack of confidence, the prime minister and all the other cabinet ministers have to resign. The government is said “to have fallen” and new elections must be held.

The role political parties play in the United States also differs from many European countries. Although American parties are regulated by law, they often are described as

⁸ Ranney, Austin and Kousser, Thad. “Politics In the United States” in *Comparative Politics Today: A World View* 9th ed. Almond, Gabriel A., et.al. (New York: Pearson Longman, 2008) 723.

“uncohesive, undisciplined and decentralized. Political parties are not mentioned in the United States Constitution. Parties did not develop in the United States until a decade after the Constitution was ratified and despite the misgivings of many leaders who thought of them as “factions.”

In his Farewell Address, George Washington cautioned his fellow Americans about political parties.

Let me warn you in the most solemn manner, against the baneful effects of the spirit of party generally. This spirit ... exists under different shapes in all government, more or less stifled, controlled or repressed, but in those of popular form, it is seen in its greatest rankness and is truly their worst enemy.⁹

Political parties not only are mentioned in Germany’s *Basic Law*, they are charged with a specific task. Article 21 provides:

- 1. The parties shall help form the political will of the people. They may be freely established. Their internal organization shall conform to democratic principles. They shall publicly account for the sources and use of their funds and their assets.*
- 2. Parties which by reason of their aims or the conduct of their adherents seek to impair to do away with the free democratic basic order, or threaten the existence of the Federal Republic of Germany shall be unconstitutional.¹⁰*

Parties in the United States are highly decentralized and loosely constituted. Parties are organized on precinct, county, congressional district, state and national levels rather than on a hierarchical structure. Parties do not require either formal membership or ideological conformity

⁹ *Great American Speeches*. Edited with Introductions by Suriano, Gregory R. (New York: Gramercy Books, 1993) 18–19.

¹⁰ Basic Law for the Federal Republic of Germany. Promulgated by the Parliamentary Council on 23 May 1949.

as a condition of participation. Parties cannot control who becomes a member or who remains a member, and they cannot exact payment of dues.

Finally and perhaps the most singular feature of the American political system is that a United States voter faces more frequent elections and more decisions to make than voters in any other democratic nation, except Switzerland. In addition, America's systems for registering voters are more decentralized and they put most of the burden of registering on the voters.¹¹

Changes and Trends in Elections and Voting Behavior

Although the importance of voting and elections have long been a concern of Americans, some potentially significant trends and changes in voting behavior are occurring. This paper cannot discuss them as fully as they deserve. They need, however, to be noted, if only in staccato fashion.

- ***Increase in the number and scope of elections***

Over one million electoral contests now occur in the United States in every four-year cycle. The scope of issues that state and local governments refer to voters has increased markedly. Voters are asked to render their judgment not only on candidates, and proposed laws, but on bond issues and even constitutional amendments. Some scholars now warn of what they call "election fatigue."

- ***Increased use of the initiative and referendum***

While the United States Constitution does not provide for national initiative or referenda, the majority of states do. The initiative is an electoral device by which citizens can propose legislation or constitutional amendments through initiatory petitions signed by a required number of registered voters. It is now in use in a majority of states. In some

¹¹ See Ranney, Austin and Kousser, Thad. "Politics in the United States" in *Comparative Politics Today*. Almond, Gabriel A., et.al., eds. (New York: Pearson Longman, 2008) 750–751.

states the ease with which initiatory proposals can be placed on the ballot has contributed to the “long ballot” problem and “ballot fatigue.” Some scholars argue that many initiatives are ill-considered and that they would be better if debated vigorously in legislatures. Critics of the initiative point out that gathering signatures on petitions has now grown into a business in many states. It no longer is indicative of citizens considered protest.

A majority of states now use the *referendum*. Referenda come about when the government decides that a particular issue should be put to a popular vote. Sometimes a referendum is used when those in power are divided over a moral or a practical issue. Letting the people decide affords a way of passing on responsibility or avoiding a party split.

Moral issues and policy issues are most likely to become the subject of referenda. California, a state noted for its repeated and frequent use of referenda, has asked voters to decide on issues ranging from limits on property taxes, services to illegal immigrants, legalizing the use of marijuana, and same sex marriage.

- **Microtargeting is Changing the Political Playing Field**

Microtargeting is not only locating persuadable voters, but also telling them what they want to hear. Campaigns have always been preoccupied with reaching susceptible voters with messages designed to sway them but with the rise of extensive databases, targeting voters has moved from art to science.¹²

One example of microtargeting cited by communications scholars is how the Obama 2008 campaign targeted youth. Harnessing the capacities of new technologies, the

¹² Kenski, Kate, Hardy, Bruce W., and Jamieson, Kathleen Hall. *The Obama Victory: How Media, Money and Message Shaped the 2008 Election*. (Oxford: The Oxford University Press) 210–306.

campaign delivered traditional messages in nontraditional ways, gathered and managed an impressive army of volunteers, and garnered the funds to ensure that every attack was anticipated, the answer tested, and the resulting message deployed in the channels most likely for swing votes By the campaign’s end, the Democrats had sent more than a billion emails.¹³ Just as the digital world can open new ways to inform, engage, and mobilize, it can expand the opportunities to inflame and deceive. A postelection deception survey found that those who received targeted email in the last weeks of the 2008 campaign, were more likely to report that candidate Obama was a Muslim and “palled around” with terrorists—charges debunked by impartial organizations.¹⁴

Microtargeting also is expanding into a form called “interpersonal microtargeting.” An individual generates or relays a message with which he or she agrees to likeminded friends and associates. Regular emails to supporters envelope them in a blanket of reinforcing information that recontextualizes events from the campaigns points of view and offers them talking points. The microtargeting process works optimally when the narrowest messages are not overheard by those likely to be alienated by them and when the national media either fails to observe or chooses to ignore the targeted content.¹⁵

The Cost of Campaigning Continues to Rise

The 2008 campaign was the costliest in United States history. All told, candidates, political parties, and interest groups spent an estimated 5.3 billion dollars. Online fundraising bankrolled the most expensive campaign ever mounted for the presidency. The myth that most of the contributions to the Obama campaign came from single individual donors contributing \$200 or less, thereby creating a new political order uncluttered by the baggage that comes with big

¹³ *Ibid.* 307.

¹⁴ *Ibid.* 307.

¹⁵ *Ibid.* 306–307.

money donors, was exploded. A post-election study of the Federal Election Commission records by the non-partisan Campaign Finance Institute revealed that only 24 percent of Obama's donations came from those who gave \$200 or less, a proportion comparable to that of George W. Bush in 2004.¹⁶

Spending for campaigns in 2008 may have reached a high point, but it was just the continuation of a trend. The rise of candidate-centered elections have fueled that trend. Data for 2004 indicates that the average winning House of Representatives candidate spent more than a million dollars, while Senate campaigns in any of the larger states cost more than \$20 million.¹⁷

Absentee and Early Voter on the Rise

“Election Day” is now a misnomer. So say some Americans who lament the passing of a special occasion—a single day—when Americans shared in a joint patriotic exercise. Election Day made them conscious of being one of “We the People” exercising a democratic right and helping to determine their common destiny. All that changed because by 2008 some 34 states offered no-fault absentee, unrestricted early voting and/or vote only-by mail.¹⁸

Proponents of varied means and times of easier voting tout the advantages. Easing time pressures, they claim, encourages more Americans to vote, eliminates long lines at polling stations, and is a boon to persons with mobility issues or unusual work schedules.

Opponents point out the early and absentee voters often cast their ballots as much as three weeks prior to the election. They are not privy to debates or events that might affect their final decisions about how they choose to vote. Early ballots are not “retractable.”

¹⁶ Kenski et.al. *The Obama Victory* op. cit. 25, 310 – 311.

¹⁷ Jacobson, Gary C.. “Modern Campaigns and Representation” in *The Legislative Branch*. Quirk, Paul J., and Binder, Sarah A., eds. (Oxford: Oxford University Press) 116.

¹⁸ Kenski. *The Obama Victory*. op. cit. 256.

According to data from the National Annenberg Election Survey (NAES), nearly half (49.8 percent) of voters who lived in no-fault absentee and early voting states balloted before election day.¹⁹ Many may have been influenced by headlines proclaiming that exit polls showed this candidate headed for a win or that issue doomed to defeat. The NAES study could not untangle the extent to which such headlines contributed to a bandwagon effect, but campaign managers asserted that they did.

Some Implications for Civic Education

Scholars, civic educators, and thoughtful Americans are aware of the importance of educating the young about the rights and duties of democratic citizenship. They also are concerned about helping them become informed, responsible, and effective participants in the political process.

Fortunately, there are some good, research-based programs that have been found to be effective with students in elementary and secondary schools. Programs such as *Kids Voting* and *Citizens Not Spectators: A Voting Curriculum* provide basic information about voting and elections. They offer age-appropriate simulations and interactive experiences both in the classroom and during on-site visits to polling places or on visits to offices of elected officials charged with responsibilities related to voting and elections. Acquiring basic information and having initial experiences that extend not only knowledge but enhance understanding of what the right to vote in free and fair elections mean for the health and continuance of democratic, constitutional government are important. Good civic education, however, needs to do more than equip students with basic knowledge of the “mechanics” or the “nuts and bolts” of voting and elections. It must inspire confidence in them that they can “navigate the system” and that their participation in that system is not only important but essential to self-governance. Finally, good

¹⁹ *Ibid.* 261.

civic education should encompass the development of both an historic and a comparative perspective. Good civic education also should extend and enhance the skills that not only will enable every American to be an effective participant in a self-governing society, but an informed, responsible, and willing one.