

LESSON 1: AN INTRODUCTION TO VOTING AND THE US CONSTITUTION

Overview

You may choose to use all or part of this lesson if students do not have a solid understanding of the foundations of voting rights in the United States and how those rights evolved. Students may read and select important phrases from a scholarly introduction to how voting was incorporated into the US Constitution and how access to the vote has changed. They may also examine related clauses in the US Constitution of 1787; the Fourteenth, Fifteenth, Nineteenth, and Twenty-Sixth Amendments; and the Voting Rights Act of 1965. They will restate the provisions in these documents in their own words to ensure comprehension of how control of access to the polls has changed over the past two centuries.

Objectives

Students will be able to

- Understand a scholarly essay that puts the content of the unit into historical context
- Interpret key sections of the US Constitution and federal legislation
- Compare key documents related to voting rights in the United States

Essential Questions

- What role has been played by state governments when it comes to voting rights?
- How did individuals and groups from different states take a stand for voting rights?
- How do actions taken at the state level impact voting rights nationally?

Procedure

1. Depending on the time available and your students' previous knowledge and abilities, you may choose to discuss the information in the Historical Background by Kermit Roosevelt with the students, assign it for homework, or "share read" it in class. This is done by having the students follow along silently while you begin reading aloud, modeling prosody, inflection, and punctuation. Then ask the class to join in with the reading after a paragraph or two. Continue to read along with the students, still serving as the model for the class. This technique will support struggling readers as well as English language learners (ELL).
2. If you have asked the students to read the Historical Background and complete the Important Phrases activity

Materials

- Historical Background and Important Phrases activity sheet
 - "The Origins and Evolution of Voting Rights in the United States" by Kermit Roosevelt, David Berger Professor for the Administration of Justice, University of Pennsylvania Carey Law School
- Foundational Voting Rights Documents activity sheet
 - US Constitution, Article 1, Section 4, Clause 1, National Archives, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution).
 - US Constitution, Fourteenth Amendment, Sections 1 and 2, National Archives, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution).
 - US Constitution, Fifteenth Amendment, Section 1, National Archives, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution).
 - US Constitution, Nineteenth Amendment, National Archives, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution).
 - US Constitution, Twenty-Sixth Amendment, Section 1, National Archives, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution).
 - Voting Rights Act of 1965, Section 2, National Archives, [archives.gov/milestone-documents](https://www.archives.gov/milestone-documents).

- sheet (as a class, in small groups, or individually), use the students' responses as a starting point for a class discussion. Ensure that the students understand how access to the vote has evolved in the United States and the interplay between state and federal governments.
3. Distribute the "Foundational Voting Rights Documents" activity sheet. You may choose to share read the texts with the students as described above. Students will read the excerpts from the key voting rights documents and restate those texts in their own words.
4. Have students share their restatements with the class. Conduct a class discussion about the changes in voting rights at the federal level in the United States to ensure all students have a working knowledge of this topic.

HISTORICAL BACKGROUND

The Origins and Evolution of Voting Rights in the United States

by Kermit Roosevelt, University of Pennsylvania Carey Law School

Key terms in this essay:

- *disenfranchised*: having lost the right to vote
- *ratification*: formal addition of a change to the Constitution
- *suffrage*: the right to vote

We like to think of America as a nation committed to democracy. Democracy underpins our other fundamental values. Giving all people equal voice in the political process is one of the best ways to achieve equal justice under law. But the history of voting rights shows us a picture in which the ideal of democracy is more complicated and contested than we might imagine.

Start with the Constitution written in 1787. The federal government it creates is as democratic as the states want it to be. The 1787 Constitution gives the people a voice only in the election of US representatives. Furthermore, it defers to the states as to voting qualifications. The people entitled to vote for representatives under the Constitution are those entitled to vote for the most numerous branch of the state legislature under state law. That could mean only White property-owning men—and it often did. At the time of the Constitution's ratification, US senators were chosen by state legislatures in the manner of their choosing. That could mean a popular vote, but it need not. To this day, electors choose the president. Each state appoints its electors as the state legislature directs. Who gets to participate in the election of federal officials, and of state officials as well, is left up to the states under the original Constitution.

Change on this issue came from the conflict over slavery. After the Civil War, the idea that voting rights could be left up to the states lost much of its appeal. The Reconstruction Amendments began to regulate state voting laws with respect to both state and federal officials, largely in the hopes of preserving Republican political power. The Fourteenth Amendment provided that if a state denied the right to vote to any male inhabitants over the age of twenty-one, except for participation in crime or rebellion, the state would not be able to count the disenfranchised people in determining its number of US representatives. (Notably, this provision penalized race discrimination but allowed discrimination based on sex and age.) The Fifteenth Amendment went further and banned race discrimination with respect to the right to vote.

Later amendments largely followed the same path. The Nineteenth Amendment banned sex discrimination in

voting. The Twenty-Fourth Amendment banned poll taxes in federal elections. And the Twenty-Sixth Amendment banned age discrimination against those over eighteen. The Seventeenth Amendment made more of a structural change, again in a pro-democracy direction. It took the selection of US senators away from state legislatures and gave it directly to the people.

Behind these changes to the Constitution is the story of the Americans who fought for them—and the Americans who fought against them. The Fifteenth Amendment sought to create self-sustaining multiracial democracies in the former Confederate states. It briefly succeeded in doing so, but White supremacist terrorism overthrew those governments. States adopted restrictions on voter eligibility that did not explicitly mention race but worked to disqualify most Black voters. If those measures failed, they turned to intimidation or outright violence. For almost a hundred years, the promise of the Reconstruction Amendments was denied. It took a massive social movement for civil rights and federal laws enforced by federal authority to bring change. Most notably, the Voting Rights Act of 1965 outlawed the restrictions that had kept Black citizens from voting. Through the twentieth century, other marginalized groups argued for the right to vote. American Indians, Latina and Latino Americans, and Asian Americans and Pacific Islanders argued that suffrage was essential to their full inclusion in *We the People*.

The struggle continues today, as legislatures, courts, and activists argue over voting regulations. Recently, the US Supreme Court invalidated key parts of the Voting Rights Act. In response, states have enacted new restrictions. A meaningful right to vote comes, as it always has, from people fighting for it in the present, not from a constitution written in the past.

Kermit Roosevelt is David Berger Professor for the Administration of Justice at the University of Pennsylvania Carey Law School. He focuses on constitutional law and conflict of laws. He is the author of Conflict of Laws (Foundation Press, 2010), which offers an accessible analytical overview of conflicts, and The Myth of Judicial Activism: Making Sense of Supreme Court Decisions (Yale, 2006).

Analyzing an Essay: “The Origins and Evolution of Voting Rights”

IMPORTANT PHRASES

Which phrases or sentences related to the origins and evolution of voting rights in the essay are the most important or informative? Choose three and give your reason for each choice.

Phrase 1:

Why is this phrase
or sentence
important or
informative?

Phrase 2:

Why is this phrase
or sentence
important or
informative?

Phrase 3:

Why is this phrase
or sentence
important or
informative?

Foundational Voting Rights Documents

Background and Instructions

Article 1, Section 4, Clause 1 of the United States Constitution reads: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.”

According to the Annenberg Foundation, this means that the US Constitution of 1787 “gives state legislatures the task of determining how congressional elections are to be held. For example, the state legislature determines

scheduling of an election, how voters may register and where they may cast their ballots.”²

Because the states run elections and not the federal government, the only way to change all state rules governing elections must happen at the federal level through constitutional amendments or legislation. What follows is a series of key voting rights amendments and legislation. Please read each text and explain in your own words how it changed voting rights in the United States.

Key Voting Rights Amendment or Law	Explain, in your own words, how this amendment or law changed voting rights in the United States.
<p>Fourteenth Amendment (1868)</p> <p>Section 1.</p> <p>All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.</p>	
<p>Section 2.</p> <p>Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.</p>	

² *The Annenberg Guide to the United States Constitution*, Annenberg Classroom, annenbergclassroom.org/constitution/

Fifteenth Amendment (1870)

Section 1.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

Nineteenth Amendment (1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Twenty-Sixth Amendment (1971)

Section 1.

The right of citizens of the United States, who are eighteen years of age or older, to vote, shall not be denied or abridged by the United States or any State on account of age.

Voting Rights Act of 1965

Section 2.

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

Source: US Constitution and Voting Rights Act of 1965, National Archives and Records Administration, [archives.gov/founding-docs/constitution](https://www.archives.gov/founding-docs/constitution) and [archives.gov/milestone-documents](https://www.archives.gov/milestone-documents).