



Curriculum Units by Fellows of the National Initiative
2008 Volume III: Democracy in Theory and Practice

The Elections of 1800 and 2000. How Crisis Elections Have Shaped the Practice of Democracy in United States History

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Rationale

Democracy is a vital word in the function and form of American politics. We are fed a steady diet of the word and its derivatives on a daily basis. Election coverage features news correspondents and political candidates using the word freely. Federally elected officials employ the word as a measuring stick. How many times have we heard or read about something being maligned as undemocratic or as violating democratic principles? The word also fuels the engine of foreign policy. Economic aid flows from the United States to developing countries, when these developing countries agree to work on building a more democratic society. Military interventions seek to create opportunities for more stable democracies.

I presume others, as I do, often find themselves nodding in agreement with the free association of the term 'democracy' employed so readily by public officials. But aside from being victimized by the slick political ads that promote an image of democracy with a candidate, the windswept flag, or me casting a vote in the upcoming election, I really find the subject of democracy in America difficult to concisely define. While I think I grasp the fundamental idea that my voice or vote counts, I am not sure exactly how it counts when considering it in light of the electoral process. Instead more and more questions come to mind. How does my voice or vote fit into political parties, primaries, the Electoral College, local elections, state elections, and special referendums? Does it mean that my voice or vote should matter for each issue that arises? Or does it mean that my elected representative should act on his or her own judgment? Should everyone have the right to vote? What is the correct age for granting voting rights? Has the power of expanded suffrage been negated by strong federal powers? Lastly, if my voice is in the minority why should I consent to the majority's will? If as an adult, I grapple with these questions, I can only imagine the confusion that my students face as they develop their own working definitions of democracy in America. If we are to maintain or even build a higher level of legitimacy for our democracy students need opportunities to examine how it works.

I propose that critically examining two crisis elections in American history in my 10th grade United States History I class will allow my students and me to address some of the questions I posed above while we cover required historical material from the district curriculum. The elections of 1800 and 2000 were knife-edge elections that raise important issues about the form and function of democracy in America. From an historical perspective, one can gain much knowledge of the electoral process in studying these elections. "Who can

vote?" and "how they vote" in each election reveals a cultural portrait of democracy in America over the course of 200 years. Additionally, how these crisis elections were resolved also demonstrates procedural differences in the electoral process from then to now. Moreover, the Supreme Court's role in the resolution of the election of 2000 distinguishes the Supreme Court as a factor in national politics.

The Supreme Court hardly proved a factor in the Election of 1800 even though one of its great justices, John Marshall, was one of the 'midnight appointments' to the court following John Adams' election loss in 1800. ¹ The election of 1800 ultimately, though precariously, proved to be the first peaceful transfer of power from one political party to another. The event revealed a constitutional defect in the election process that was addressed by ratifying the 12th Amendment. ² The election deadlock in the House of Representatives between Aaron Burr and Thomas Jefferson proved that having the electorate vote for two presidential candidates was problematic. Additionally, it proved that having both leading candidates of the opposition party only exasperated the situation for the lame-duck federalists. In this election, party loyalties and allegiance to sectional and state interests were serious enough to threaten the unity of the states.

In the 1840's Alex de Tocqueville wrote, "There is hardly a political question in the United States which does not sooner or later turn into a judicial one." ³ Certainly this turned out to be the case regarding the 2000 election. In 2000, the Supreme Court of the United States ultimately decided that the integrity of the election was at risk when it stopped any extensions for recounting ballots in Florida. Scrutiny of voting procedures, voting machines, recounting procedures and deadlines resulted in a national fervor about how elections are conducted around the country. The butterfly ballot became one casualty due to this outcry. In addition some critics have taken aim at the Electoral College as an undemocratic means of voting for the executive. ⁴

My hope is that by critically studying these elections, my students and I will deepen our understanding of the history of democracy and democracy today in the United States. Deeper understanding may lead to more meaningful participation in the democratic process. This may not lead to uniformity but in turn may create questions, criticism, and different points of view. However, this is not inconsistent with democratic ideals. Jefferson believed an educated populace is the key to a thriving democracy. Madison who initially criticized factions, ultimately came to believe that many factions representing many interests would create a healthier democracy. ⁵

Alternatively, I wish for students and me to distinguish between conditions that hold democracies together in the face of crisis, knife-edged elections and situations that leave democratic governments vulnerable to ruin when close elections excite cleavages to disregard rule of law. A comparative look at the effect of historical knife-edged elections in democracies around the world may reinforce our study.

Objectives

Objectives of the unit will include having students critically examine some fundamental concepts of the theory and practice of democracy as these concepts were explored in our Yale National Initiative seminar *The Theory and Practice of Democracy* led by Ian Shapiro, Sterling Professor of Political Science at Yale. Particulars will include examining the emergence of federalism and party politics, comparing the demographics and qualifications of suffrage over time, exploring constitutional issues regarding the electoral process,

investigating the role of the courts in the electoral process, critiquing the Electoral College system, and exploring novel ways to improve democratic participation, such as Deliberative Polling. The knife-edge elections of 1800 and 2000 serve as the historical framework for this unit.

Activities in this unit will include having students read about and discuss constitutional changes in the electoral process. Additional activities will include critically reading select primary and secondary source material about democratic theory and practice based upon seminar readings and resources gathered during the 2008 Yale National Initiative. Additionally, through the introduction of principles regarding contested and deliberative models of democracy, students will explore the conditions that hold democracy together in the face of knife-edged elections. Ultimately, I want the unit to be an effective tool for my students and me that will encourage our developing a critically informed understanding of democracy and how it has been practiced in America from times in the early republic until present.

One measure of legitimacy for a democracy is whether it can sustain peaceful transfers of power from one government to another. Modern political theorists such as Joseph Schumpeter and Samuel P. Huntington have advocated that the true test of a democracy is a country's surviving not one but two peaceful transfers of power. ⁶ While the number of countries fashioning themselves as democracies has risen dramatically in the last century, a significant number have experienced difficulty in passing this test or have miserably failed this test. In *On Democracy*, Robert Dahl points out that at least 70 of the new democracies founded in the 20th century faltered and succumbed to more coercive authoritarian forms of government. ⁷ Examples include Sub-Saharan African countries such as Nigeria and Zimbabwe which have consistently struggled with securing elected governments over military or dictator rule. Most currently, Zimbabwe's presidential election has been subject to widespread international scrutiny due to violent oppression of the opposition. ⁸ Latin American countries such as Argentina and Mexico have also historically struggled. The close Mexican presidential election of 2006 was criticized for wide-scale corruption at the polls. Additionally, government officials such as the head of the Mexican police force have recently been the victims of assassination. ⁹

Violence has also plagued large powers such as Russia and China as they have attempted democratic reforms. China has successfully repressed democratic challenges to its status quo. Russia has experienced more dramatic moments. In 1991 Boris Yeltsin survived a coup attempt. In the 1993 constitutional crisis, he used the military to bomb opponents out of the Russian White House. ¹⁰

Given the poor historical record against peaceful transfers of power around the world, the consistency of the United States as a democracy is impressive. Nonetheless, knife-edge elections and crisis elections can threaten even the most stable governments. Why did the crisis elections of 1800 and 2000 not lead to a breakdown of the system?

Students will explore this question in the context described before investigating answers. In accordance with Lord Acton's maxim that "power corrupts and absolute power corrupts absolutely", most governments are loath to surrender power once power has been achieved. This makes the elections of 1800 and 2000, which are two precariously close and complicated elections, that much more interesting to study.

Professor Shapiro suggests that answering, "Why didn't the system break down?" might lead my students' and my exploration toward four areas of interest: law, cross cutting cleavages, wealth, and problems of recurrence.

The first concerns the realm of law. As mentioned, one of Alexis de Tocqueville's observations of democracy in

America was that questions over politics more often than not have ended up as judicial matters. In the election of 1800 and more specifically the election of 2000, concerned parties turned to the law and specifically the courts in 2000 to resolve deadlock.

Second, I want my students to demonstrate understanding of the importance of cross-cutting cleavages as an incentive to keep election losers as loyal opposition. Critics of democracy beginning with Plato pointed out that majority rule can be tyrannically unfair to the losers. Given this point, how can democracy best be structured in order to keep loyal opposition? Reading and discussing the evolution of Madison's ideas of factions will allow us to see the point that winner-take-all politics leaves no incentive for political losers to stay loyal to the democratic system.

Wealth as a factor is the third area of interest. Democracy appears to work best in wealthier countries where losing power in political contests does not preclude one from being successful in other areas of society. In poorer democracies where winning political office results in control of a country's scarce resources, much more is at stake regarding the quality of life between the winners and losers.

The fourth area for my students and I to consider is the danger of recurrence. Just as repeated trauma to the body can result in permanent injury or death, a democratic system, exposed to the direct and indirect effects of repeated knife-edged, crisis elections may invariably not be able to survive. We may want to look for examples that demonstrate periods of adjustment or recovery that are meant to ease trauma from crisis.

I am content to let our study of the issues involving the resolution of crisis elections shape our concept of democracy. However, if time permits I may seek to augment my unit activities with some exploration of democratic theory as presented through our seminar readings and discussion. Selections include John Stuart Mill's *On Liberty*, Plato's *Republic*, Robert Dahl's *On Democracy*, and/or Joseph Schumpeter. Two of my colleagues in seminar, Jesse Senechal and Megan McGowan deal more specifically with the issue of what are the conditions of democracy in America. Their work may be useful in drawing out student responses directly on the conditions that define a democracy. Additionally, while this is an election year, I hope the unit will stimulate interest in the issues, candidates, and outcome of the presidential election. Since the 2008 election itself is not the focus of this unit, the work of my colleagues, Adam Kubey and Lisa Lee may be useful in generating or focusing interest in the election as it draws near.

The Elections of 1800 and the Election of 2000 will offer my students insight into the electoral process when knife-edged elections test the integrity and strength of our democratic system. I have selected these elections as fence posts in the rich electoral history of the United States. However, examples of other elections might be added for excellent comparison. The two other elections probably most worth examining are the Election of 1824 and the Election of 1876, the latter of which occurs in the nation's centennial year. Arguably a strong case can be made that these two presidential knife-edge elections along with the Election of 1800 and the Election of 2000, were the most threatening challenges to completing elections in accordance to the framework outlined in the Constitution. The Election of 1800 produced a tie between candidates from the same party and could not be immediately resolved by the House of Representatives as prescribed by the Constitution. The House of Representatives was called on in the Election of 1824 when none of the four major candidates (John Quincy Adams, Andrew Jackson, Henry Clay, and William Crawford) received a majority. John Quincy Adams won the election when Henry Clay threw his support to Adams. Clay's "corrupt bargain" as the Jackson camp later called it, enabled the first instance of a president being elected who had not won the popular vote or the electoral vote. In 1876 no candidate again received a majority of the electoral vote. After deadlock in the House of Representatives, the House set up a special Electoral Commission which included

members of the Supreme Court. The Supreme Court intervened in the Election of 2000 when it stopped hand recounts in Florida and allowed the election to be certified for George W. Bush. The Election of 2000 not only proved that knife edged elections could still happen in contemporary modern society, but that the Supreme Court as a body could be a deciding factor in determining the election. The four elections demonstrate the wide range of possible outcomes when knife-edge elections test strength of the electoral process. They also reveal the strengths and/or good fortune of our system's survival.

The turmoil produced by a knife-edged election almost derailed the nation's political process in 1800. As one might suspect, close elections often accompany turbulent times. The works I have consulted suggest that the fledgling democracy of the United States faced a myriad of challenges in the decade leading up to the Election of 1800. These challenges culminated in a potentially lethal crisis election in 1800. In "The Presidential Election of 1800: A Story of Crisis, Controversy, and Change", Joanne Freeman characterized the decade of the 1790's as fraught with mounting crisis. Trouble started in 1790 with debate over relocating the nation's capital and with controversy over Hamilton's economic plans. In 1792, division among George Washington's administration threatened to divide government and country. In 1793, "Citizen" Genet's agitation for support of the French Revolution further stoked division. Washington suppressed agrarian revolt by putting down the Whiskey Rebellion of 1794. Then he experienced the angry public protests to the Jay Treaty of 1795. Not surprising he decided to save himself from re-election in 1796 and retired from politics. The uneasiness of electing a president other than Washington was soon overshadowed by further challenges and controversies. John Adams' administration faced the disrespect of the XYZ Affair, the Quasi-War with France, the Alien and Sedition Acts, Kentucky and Virginia Resolutions, Fries Rebellion, and Washington's death in 1799. ¹¹

The new capital in Washington D.C. in the late 1790's became a dubious setting as factional politics began to challenge the status quo. Division within the Federalist party between moderates under President Adams and more aggressive Federalists, who subscribed to Hamilton's ideas, worsened as issues in dealing with the French and English became manifest. Republican denunciation of Adams' policies, particularly the Alien and Sedition Acts further diminished Adams' presidency and fueled speculation and undoubtedly ambition toward political change.

Jefferson biographer R.B. Bernstein characterized the time period between May and October 1800 as a disintegration for the Federalists. During that time, Adams confronted Hamilton about meeting and advising the cabinet behind Adams' back. In response, Hamilton meant purposely, yet quietly to secure Federalist support for Charles Pinckney for the upcoming election. When his derogatory pamphlet "A Letter from Alexander Hamilton, Concerning the Public Conduct and Character of John Adams, Esq., President of the United States" which was meant for the only leading Federalists to read, fell in the hands of the newspapers in the fall of 1800, the effect damaged Adams, Hamilton, and the Federalist en masse. Moreover, it mobilized the Republicans to stay united. ¹²

The Election of 1800: What do I want my students to know?

To capture the essence of these events students will need to become familiar with the names, characteristics of, issues, and candidates of the federalists and republicans. They will also need to demonstrate orally and in writing characteristics of the process of the election of 1800. Characteristics will include: who could vote, how the vote was carried out, and what role the electoral system played in the election. Students will also need to be able to describe orally and in writing the circumstances that led to deadlock in the House of Representatives and how the deadlock was broken. Lastly, students will need to examine how the election revealed a constitutional flaw and how the flaw was remedied through constitutional amendment.

Candidates for the election of 1800 included Federalists John Adams, Charles Pinckney and John Jay as well as Republicans Thomas Jefferson and Aaron Burr. The outcome of the ballots cast by the Electoral College resulted in one vote for John Jay, 64 votes for Pinckney, 65 votes for Adams, 73 votes for Burr, and 73 votes for Jefferson. ¹³ Subsequently, and as defined by the Constitution, breaking the tie between Jefferson and Burr passed to the House of Representatives. On the 36th vote, the deadlock was broken when Federalists from four states led by James Bayard of Delaware, cast blank ballots and threw the election in Jefferson's favor. ¹⁴

The crisis caused by the inability of the Constitution's contingency plan to resolve an election tie after the Electoral College ballot ultimately led to Constitutional change. Hamilton's proposal to have Presidential electors cast separate ballots for President and Vice President was eventually passed in the form of the 12th Amendment before the Presidential election of 1804. ¹⁵

The election also demonstrated the dubious freedom of state legislation's ability to choose proportional representation or winner take all in casting their electoral votes.

"Given that each state followed a different electoral schedule, returns from the states dribbled into the press through the summer and fall of 1800. In key states, Federalist and Republicans each sought to erode the other side's likely victories, suggesting that the state legislatures divide their state's electoral votes in proportion to the Federalist or Republican strength in that state, or, by contrasts, lump their votes in a "winner-take-all" system in states where their political strength was dominant." ¹⁶

Today technology has expedited the election process to where election results can be gathered and reported in a day. However, as the election of 2000 has shown, inconsistencies in the type of voting methods from state to state and even within voting districts within states need to be addressed. Additionally, changes in voting technology have not alleviated questions about the Electoral College System. Moreover, changes in voting technology may actually contribute to closer elections where popular vote majority and electoral college majority becomes precariously thin.

The Election 2000: What do I want my students to know?

Although Al Gore conceded the election of 2000 after the Supreme Court halted the hand re-count in Florida districts, he could have listened to a number of reasons why he should not have conceded. First was the fact that he had won, although narrowly, the popular vote. Second he could have continued to question the balloting in other Florida districts and in other states. His not doing so arguably saved our political system from the potential specter of illegitimacy which plagues many newly democratized countries particularly in developing countries. To better understand the backdrop for the election, students will become familiar with the names, characteristics, issues, and candidates of the democrats and republicans in the election of 2000. They will be able to describe orally and in writing the process of the election of 2000 and how it differed from the process of electing president in 1800. Students will be able to demonstrate an understanding of the role of the Electoral College in this election and contrast it with the role of the Electoral College in the election of 1800. In addition, students will describe the crisis in Florida and how the Supreme Court's decision ultimately ended calls for hand recounts. Students will be able to describe the controversy over different types of ballots, cast votes, and voting machine flaws. Lastly, students will analyze the efficacy of the Electoral College system in electing president.

The presidential election of 2000 was not resolved until mid-December 2000 when the Supreme Court issued a controversial decision to stop recounts in some Florida counties. Prior to the court's decision, neither George

Bush nor Al Gore could be declared a winner of the presidential election. Without Florida's electoral votes, neither candidate had the sufficient number of electoral votes to be declared a winner. Florida's 25 electoral votes were needed to tip enough electoral votes toward the necessary majority of 270 electoral votes.

Unfortunately, Florida's vote had failed to show a conclusive winner and fell within the parameters of necessitating a recount. Controversies over hand recounts, machine recounts, and interpreting ballots resulted in legal action taken to the Florida Supreme Court. Ultimately, the United States' Supreme Court intervened and ordered a halt to all ballot recounting within a couple hours of the statutory deadline to certify the Florida election results. Subsequently, George W. Bush was declared the winner of Florida and as a result, he received the necessary votes cast by the Electoral College to be declared the winner of the 2000 election.

17

As the Electoral College figures into the election of president, its form and function may need to be discussed with students. Below is some information to clarify any questions that may come up in discussing elections.

How and why does the Electoral College function?

Article 2 of the Constitution designates electors chosen through the states to elect the president in a federal (not national) election. When a citizen casts his or her vote for president in the popular vote, he or she is really voting for the ballot of electors who will actually participate in the federal election. The slate of electors will vote for the president in a federal election. However, not all states require electors to vote for a specific candidate. Moreover there is no Constitutional amendment that specifies that electors must vote for a certain candidate. Currently, 24 states do not require the electors to vote in favor of the candidate who has won the state. This leaves 26 states, including Connecticut, which do require electors to vote for a specific candidate. It is uncommon of electors to vote contrary to their states' popular vote. Ninety-nine percent of the electors have voted as pledged in the history of the United States. ¹⁸

All but two states, Maine and Nebraska, allocate votes on a "winner take all system". If candidate A receives a simple majority (50.1% or greater) of the state's vote then all of the states electoral votes go to candidate A. In Maine and Nebraska, a system of proportional allocation is practiced. The total number of electoral votes may be split among candidates based upon how the states structure their districts and/or allocate "at-large" votes. ¹⁹

The number of electoral votes allocated for each state is three or more. The total number for each state includes one elector for each senator and representative. Yet, no elector may be a senator or representative. The Twenty-Third Amendment allows the District of Columbia to have three electoral votes despite D.C.'s not having any elected representatives or senators. ²⁰

The total number of electoral votes is 538. In order for a winner to be declared in the federal election for president, a candidate must receive at least a majority (270 or more) votes. Article 2 prescribes that if no candidate receives 270 or more votes then the House of Representatives will cast ballots for president among the three candidates receiving the most electoral votes. This election is held by giving each state one vote. The election of 1800 and the election of 1824 are the only instances where a presidential election has been turned over to the House of Representatives. ²¹

Strategies

Strategies for examining the elections of 1800 and 2000 will include assessing students' knowledge of the events, reading multiple texts, reflective writing, and persuasive writing. Role play and debate will be employed to introduce students to the issues and relative events of each crisis election. Students will also critically review segments of the news coverage of the event as well as view *Recount* a dramatic representation of the election of 2000 produced by HBO. Deliberative polling, a practice developed by James Fishkin, shows promise for facilitating the behavior of the "ideal" citizen, one who explores different dimensions of public issues through reading and public discourse. It also models critical thinking skills that parallel state content standards. Subsequently, I would like to employ deliberative polling as a strategy in this unit that focuses on educating students about the form and function of the Electoral College.

The K-W-L model for assessing student knowledge, interest, and results will serve as a good starting point. By incorporating journal writing as the medium for recording responses, I will have written samples of students' progress. I hope that writing first will lead to more quality discussion. Beyond recording factual material about the elections, I hope to frame my prompts to encourage higher order thinking on Bloom's Taxonomy. So while it is important that students can recall certain elements the elections studied, it is also important that they analyze and apply information toward developing their opinions on larger democratic concepts such as the role of citizen participation.

What does 'democracy' mean to students?

As a measure of assessing student thought regarding democracy, I will check students' knowledge through a reflective prompt. At the onset and conclusion of the unit, students will address these questions in their journals:

What does your knowledge of the electoral process tell you about democracy in America in regard to the following?

- A citizen's rights
- A citizen's responsibilities
- A government's rights
- A government's responsibilities

In your response keep in mind in that the electoral process includes the laws and practices regarding voting (who can vote), holding office (can anyone?), and relinquishing office (how long one can hold office for).

How have historical developments changed the electoral process from 1800 until present?

How have these developments changed the rights and responsibilities of both citizens and government?

Reading selections from multiple texts individually or in groups will provide the material to construct understanding and more informative answers to the above questions. Reading multiple texts provides opportunity for students to reinforce a variety of skills such as identifying bias, summarizing, and reading for information. These skills are particularly necessary in order to construct a supported opinion for research papers and for the state interdisciplinary writing test. I include a list of material below from which I draw selections.

The Election of 1800

Joanne Freeman's "The Presidential Election of 1800: A Story of Crisis, Controversy, and Change" from ***History Now***.

"Federalist 68" from *The Federalist Papers*

NARA Election Results

"Article 2 The Executive Department" *The United States Constitution*

"Amendment 12" *The United States Constitution*

Alien and Sedition Acts

"First Inaugural Address" Thomas Jefferson

The Election of 2000

- Bush v. Gore
- NARA Election Results
- Ricard Posner's *Breaking the Deadlock (selections)*
- "A Badly Flawed Election" Ronald Dworkin
- "A Badly Flawed Election: An Exchange" Charles Fried, Reply by Ronald Dworkin
- "Article 2 The Executive Department" *United States Constitution*
- "Amendment 12" *The United States Constitution*
- CNN Articles

Journal responses to Federalist 68

In Federalist 68, Hamilton sheds light on the purpose of having electors vote in a federal election. As I might do with my students, I will analyze segments of the primary source by responding with questions and comments. If I were completing this in class, I would have students respond to each quotation in their journals by writing one to three questions and one to three comments for each quote. Federalist 68 describes the method by which the president is to be chosen. It extols the virtues of having electors and outlines what happens if no candidate wins a clear majority of electoral votes for president or vice president.

Quote 1:

"It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under the circumstances favorable to deliberation and to a judicious combination of all the reasons and inducements, which were proper to govern their choice. A small number of persons, selected by their fellow citizens from a general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation."

Sample Response 1:

Hamilton's belief in the superiority of the aristocracy or educated class immediately jumps at me. His elite crew is a small group not a broad coalition of the populace. Furthermore he asserts that the elections being "so complicated an investigation" can only be handled by the elite group. When I read the passage above

three questions that come to mind are: How were these electors to be chosen? Who would have met Hamilton's criteria in his day? Would today's electors meet his criteria?

Quote 2:

"It was also peculiarly desirable, to afford as little opportunity as possible to tumult and disorder....But the precautions which have been so happily concerted in the system under consideration, promise an effectual security against this mischief. The choice of several to form an intermediate body of electors will be much less apt to convulse the community, with any extraordinary or violent movements, than the choice of one who was himself to be the final object of the public wishes. And as the electors, chosen in each state, are to assemble and vote in the state, in which they are chosen, this detached and divided situation will expose them much less to heats and ferments, which might be communicated from them to the people, than if they were all to be convened at one time, in one place."

Sample Response 2:

Hamilton obviously thinks his system will limit "tumult and disorder". Generally he is probably correct, however, the elections of 1800 and 2000 caused quite a bit of crisis.

This is Hamilton saying that the electoral system is a protection against the tyranny of the majority. Having the electors selected in each state is seen as protection against mass hysteria and/or protest.

Three questions: What historical examples is he drawing on? What is the inspiration for his ideas? Why would a small group of electors be any less apt to arouse a community?

Quote 3:

"Nothing was more to be desired, than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this, than by raising a creature of their own to the chief magistracy of the union? But the convention have guarded against all danger of this sort with the most provident and judicious attention."

Sample Response 3:

It appears Hamilton is suspicious that foreign powers could corrupt a popular election. I suppose he is thinking that a foreign government could fund and support subversive candidates. He makes the case that the enemies of republican government are present and plotting against the United States.

Three questions: Which countries would he have identified as threats to the US at that time? How could a foreigner infiltrate the system and affect the presidency? Is the same threat spoken about today?

Incorporating Maps, Charts and Graphs

Online resources are readily accessible today for review. Moreover, much data is represented through maps, graphs, and charts. The NARA (National Archives and Records Administration) appears to be an excellent source for showing visual representations to students. Maps of the electoral vote for all presidential elections including the elections of 1800 and 2000 are readily accessible. I consider these resources instrumental in

understanding and critiquing the form and function of the Electoral College.

Is the Electoral College to blame?

I have read in a textbook and online that 700 proposals have been introduced in Congress over the last 200 years which call for the modification or abolishment of the Electoral College. Those in favor of modifying or abolishing the Electoral College system point to any discrepancies in election procedure or outcome to justify their case. Close elections particularly those in which a winning candidate loses the popular vote is a favorite criticism. The Election of 2000 should serve as a case in point. The contrary point is that abolishing the Electoral College may not alleviate the resolution of a knife-edge election. In fact, it might be more problematic to resolve a knife-edge election that is based solely on the popular vote. Nonetheless, it may be a productive exercise for students to explore the criticisms of the Electoral College because upon review one may interpret that the very existence and function of the Electoral College allows it to be the best hedge against factional crisis. Discussion of the Electoral College with students can focus on two questions: What are the strengths and limitations of the Electoral College System? Would modifying or abolishing the Electoral College produce a suitable alternative?

Readings from a variety of critical works will provide support for students' responses. Some promising selections include Richard Posner's *Breaking the Deadlock The 2000 Election, the Constitution, and the Courts*, selections from Houghton Mifflin's *The Challenge of Democracy* (see section on the Electoral College), and articles and data from the NARA website look adequate for review.

The Electoral College: Leave Alone, Modify, or Abolish

Strengths and weaknesses regarding the Electoral College System were exposed in the elections of 1800 and 2000. First, in 1800, the electors carried out their duty in accordance with laws at hand. They cast ballots for two candidates as was prescribed in Article 2 of the Constitution. When the resulting totals showed Jefferson and Burr tied with 73 votes each, the constitutional contingency for dealing with elections that failed to produce a majority winner should have alleviated any potential widespread alarm or concern. The House of Representatives, also as prescribed in Article 2, voted to elect the president among the three candidates with the most votes. Had Burr deferred to the more universally recognized Jefferson as the Republican leader, the system would have worked as planned. As R.B. Bernstein states in *Thomas Jefferson, The Revolution of Ideas*, "In 1787-88, when the Constitution was adopted, most Americans expected most Presidential elections to give no candidate a majority. The Electoral College would thin the field, not decide the election. Instead, the House of Representatives, with each state delegation having one vote, would choose the President and Vice President." ²²

Had Burr not refused to endorse Jefferson and allow the Federalists to try and supplant Jefferson's chances, the system would have worked in tune with how it was intended. Instead, the resulting deadlock vote in the House of Representatives of 35 consecutive votes without a majority, revealed a weakness in the law. The Twelfth Amendment modified how the electors would vote beginning in 1804. The correction called for electors to vote separately for the office of president and vice president. This correction appears to have worked in avoiding prolonged deadlock in the House. The Election of 1824 had to be decided by the House of Representatives when none of three candidates received a majority. Despite receiving fewer electoral votes and popular votes than Andrew Jackson, John Quincy Adams won the election in the House of Representatives.

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In the election of 1824 as in the election of 2000, a different criticism arose regarding the Electoral College.

Some people feel it is apparently unfair when a candidate wins the popular vote but loses the presidency. In both elections the winner of the election, Adams in 1824 and Bush in 2000, received fewer popular votes than at least one of their opponents. While this is an apparent weakness of the system as is, the most acknowledged solution, having a national election determine the presidency, is not without its own weaknesses. The foremost weakness of having a national election would be a minimizing effect on the votes from states with small populations. Conceivable, candidates with an eye of campaign budgets and votes might concentrate their campaigns only in the most populated areas. This would leave smaller, less populated states marginalized in presidential elections. Under the current system, even the smallest states and the District of Columbia can be guaranteed at least 3 electoral votes.

How can Deliberative Polling engage students in learning about the Electoral College?

Through its emphasis on reading and having discourse regarding an issue, Deliberative Polling not only will give students vital information regarding their civic participation, but it will also directly apply toward achieving proficiency in state standards. Critique of the Electoral College is an excellent place to introduce a deliberative polling exercise. In this exercise students will closely examine and critique the Electoral College system before making a recommendation regarding continued use.

Setting up a deliberative poll

According to James Fishkin, the ingredients to deliberative polling include: having a random, representative sample polled on a target issue, inviting the members of the sample from the baseline poll to gather at a single space for a couple of days, having them read and discuss carefully balanced briefing materials, and having them engage in dialogue with competing experts and political leaders, and having them complete the sample questions they addressed at the outset of the study. ²⁴ While I am not an experienced trainer in deliberative polling, I am confident that my students and I can learn enough about the program to conduct a sampling.

Deliberative Poll

Tenth grade students in Connecticut are required to take the CAPT (Connecticut Academic Performance Tests). In the New Haven School District, students prepare for the Interdisciplinary Writing Section of the test through their History and English classes.

Each quarter students are required to complete classroom activities that will prepare them for this test. Preparation for the CAPT persuasive essay is conducted primarily in ninth and tenth grade history classes. Preparation work includes reading informative yet opposing viewpoints and developing an organized and supported stance that addresses a target audience. The characteristics of deliberative polling mirror many aspects of skill sets necessary to successfully complete the Persuasive writing section. Subsequently, given the opportunity to participate in deliberative polling exercises, students will experience an activity pertinent toward meeting district and state standards. Additionally, the exercise offers the benefit of meeting district, state, and national standards regarding civic participation.

Reform and the Electoral College: A Deliberative Exercise for Strengthening Participation in American Democracy

Given the criteria for deliberative polling outlined by the Center for Deliberative Politics at Stanford University, my students and I will plan on creating, issuing, and assessing a deliberative poll in our school. The 2000

election raised significant issues regarding the practice of democracy in the United States. Not only were problems with the types of balloting exposed, but constitutionally defined practices of the Electoral College came into question. Arguably if it weren't for the crisis of 9/11 and relative pervasive preoccupation with Homeland Security and the war on terror, these issues would be at the forefront of political agendas.

Role Play

Role play can be an effective strategy in studying crisis. As an introductory exercise, the class will receive roles with essential but limited information to begin the play. So essentially Jefferson and Burr will be deadlocked and Adams as president will have lost re-election. Additional characters would include Alexander Hamilton, and members of the House of Representatives from each state. As each step to the simulation is announced the players will have a chance to play out their role as best they see fit. Students will record their reactions to the play in journals in the form of comments and questions. As moderator, the teacher can eventually steer the play to its correct end, but not before some alternatives may have been explored and questions raised

For the election of 2000 a similar exercise can be completed. In this case roles would include the presidential candidates Al Gore and George Bush, Florida Governor Jeb Bush, Florida Secretary of State, the Florida Supreme Court, the United States Supreme Court, Jim Baker, Al Gore's counsel, David Boies, and election officials.

The simulation will proceed by the facilitator or teacher introducing developments in the election from the networks wrong tallies in Florida and Gore's first concession to Bush through subsequent court rulings and recounts that must be completed by specific deadlines. Again the teacher can eventually steer the play to fit an historically accurate end after alternatives and questions are explored.

Persuasive writing is an important part of the grade 10 curriculum. Students will have the opportunity to write a persuasive essay on the decision of the Supreme Court to intervene in the case of the 2000 election. In January 2001 the New York Review of Books published an essay by Ronald Dworkin titled *A Badly Flawed Election* in which he criticizes the handling of the election issues by the courts. He additionally criticizes the Electoral College system for electing president. A little over a month later Charles Fried responded with an essay of his own which was accompanied by a reply by Ronald Dworkin. Using these essays as source material students will be assigned to write a persuasive essay agreeing or disagreeing with one or more of the issues aired in the essays: the courts' ruling and the Electoral College system.

Resources

Joanne Freeman's *History Now* article on the election of 1800 is a great source in and of itself for its concise portrayal of the issues and events surrounding the election. However, the resource is still even more valuable because of her review of the landscape of secondary materials on the subject. I have listed these in my bibliography and have begun acquiring them for incorporation into the unit reading list. The history now site also contains a link to an ERIC digest article which again outlines the fundamental issues and events surrounding the election of 1800.

The election of 2000 is well archived electronically and in print. CNN has numerous links to articles, new reports, and data. I enjoyed watching the HBO movie *Recount* and believe it has a place in my unit as an overview of the issues involved in the election.

As I mentioned previously, the Fried-Dworkin exchange in *The New York Review of Books* is also an enlightening read for discussing the role of the courts in elections and the Electoral College system itself.

Resources for the Election of 1800

Larson, Edward. *A Magnificent Catastrophe The Tumultuous Election of 1800, America's First Presidential Campaign*, Simon and Schuster, 2007.

Freeman, Joanne. "The Presidential Election of 1800: A Story of Crisis, Controversy, and Change". **History Now. American History Online** Issue I September 2004

http://www.historynow.org/09_2004/historian4.html

Parton, James. "The Presidential Election of 1800." *The Atlantic Monthly Online* (7/13/2008) Article first published July 1873.

<http://www.theatlantic.com/politics/policamp/parton.htm>

Resources for the Presidential Election of 2000

2000 Election Results

<http://www.cnn.com/ELECTION/2000/results/> (accessed July 2008)

NPR Site containing links to audio and written stories regarding the court decisions and election results.

<http://www.npr.org/news/national/election2000/> (accessed July 2008)

The Presidential Election of 2000. How Candidate Won But Still Lost (American History, Junior Scholastic)

<http://www.infoplease.com/ipa/A0876793.html> (accessed July 2008)

Posner, Richard A. *Breaking the Deadlock: The 2000 Election, the Constitution, and the Courts* Princeton: Princeton University Press, 2001

Pomper, Gerald M., Anthony Corrado, E. J. Dionne Jr., Kathleen A. Frankovic, Paul S. Herrnson, Marjorie Randon Hershey, William G. Mayer, Monika L. McDermott, Wilson Carey McWilliams; *The Election of 2000: Reports and Interpretations*

Chatham House Publishers, 2001.

Resources for other Knife-edged Elections

Election of 1824

"The Election of 1824" Constitutional Rights Foundation

http://www.crf-usa.org/bria/bria8_4.htm

Contains analysis of the election and links to related webpages.

Election of 1876

Rehnquist, William H. *Centennial Crisis The Disputed Election of 1876*. New York: Alfred A. Knopf. 2004

International Elections

MacFarquhar, Neil. "U.S. pushes U.N. Sanctions on Zimbabwe and Mugabe", *New York Times* July 4, 2008
http://www.nytimes.com/2008/07/04/world/africa/04zimbabwe.html?_r=1&oref=slogin

This online NY Times article summarizes the developments in the Zimbabwe election of 2008.

Suarez, Ray. "Mexico Election 2006", The Online NewsHour, December 1, 2006.
http://www.pbs.org/newshour/indepth_coverage/north_america/mexico_election06/index.html

This online NewsHour story summarizes the contentious presidential election in Mexico in 2006.

General Resources

Agel, Jerome, and Mort Gerberg. *The U.S. Constitution for Everyone*. New York: A Perigee Book published by the Berkley Publishing Group, 1987.

Dahl, Robert. *On Democracy*. New Haven: Yale University Press, 1998

Hamilton, Alexander, and James Madison, John Jay. *The Federalist Papers*. New York: Bantam Books, 1982

de Tocqueville, Alexis. *Democracy in America*. Edited by Phillips Bradley. New York: Alfred A. Knopf, 1976

Janda, Kenneth. Jeff Barry, Jerry Goldman *The Challenge of Democracy* Houghton Mifflin. 9th edition 2008

Resources for Study of The Electoral College

"House to Consider Bill to Eliminate the Electoral College" *The Boston Globe* boston.com

http://www.boston.com/news/local/articles/2008/07/09/house_to_consider_bill_to_eliminate_electoral_college?mode=PF (accessed July 2008) "Historical Election Results" NARA *Electoral College* website

<http://www.archives.gov/federal-register/electoral-college/historical.html> (accessed July 2008)

"Historical Election Results" *Electoral College Box Scores 1789-1996* NARA
<http://www.archives.gov/federal-register/electoral-college/scores.html#1800> (accessed July 2008)

Mentions elections of 1824 and 1876

Historical Election Results Electoral College Box Scores 2000-2004 NARA
<http://www.archives.gov/federal-register/electoral-college/scores2.html#2000>

(accessed July 2008) Kimberling, William C. Deputy Director FEC Office of Election Administration The Electoral College Revised May 1992 <http://www.fec.gov/pdf/eleccoll.pdf>

(accessed July 2008)

Linder, Doug. *Exploring Constitutional Conflicts* <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/electoralcoll.htm> (accessed July 2008)

"Debating the Merits of the Electoral College" Broadcast from NPR October 27, 2004

<http://www.npr.org/templates/story/story.php?storyId=4127863>

(accessed July 2008)

Schorr, Daniel. "Thoughts on ways to Change the Electoral College" Broadcast from NPR. December 31, 2000.

<http://www.npr.org/templates/story/story.php?storyId=1116298>

Bonsor, Kevin. "How the Electoral College Works". Howstuffworks website <http://people.howstuffworks.com/electoral-college6.htm>

(accessed July 2008)

Ross, Tara. "The Electoral College: Enlightened Democracy" *The Heritage Foundation Leadership for America* website.

<http://www.heritage.org/research/legalissues/lm15.cfm>

(accessed July 2008)

Fishkin, James. "Deliberative Polling, Toward a Better Democracy" *The Center for Deliberative Democracy*

<http://cdd.stanford.edu/polls/docs/summary/>

(site accessed July 2008)

Appendix A. District and State Standards

The activities and the unit relate to the following standards for the New Haven School District:

USI.6.2 Students will analyze the Constitutional Convention, the Constitution and the ratification process. Compromises that were devised for each disputed question, representation with the Great Compromise and a bicameral legislature, the presidency with the Electoral College and a four-year presidential term, slavery with the three-fifths compromise and a ban on the importation of slaves after 1808.

USI.6.3 Students will discuss and explain the organization of the new national government, including the three branches of government.

US.6.4. Students will examine the development of political parties including Federalist and anti-Federalist ideologies, and the impact of the early Supreme Court decisions.

The unit also addresses the following state content standards for grades 9-12:

Content Standard 1: Historical Thinking

Students will develop historical thinking skills, including chronological thinking and recognizing change over time; contextualizing, comprehending and analyzing historical literature; researching historical sources; understanding the concept of historical causation; understanding competing narratives and interpretation; and constructing narratives and interpretation.

- Formulate historical questions and hypotheses from multiple perspectives, using multiple sources
- Gather, analyze and reconcile historical information, including contradictory data, from primary and secondary sources to support or reject hypotheses
- Evaluate data within the historical, social, and economic context in which it was created, testing its credibility and evaluating its bias
- Describe the multiple intersecting causes of events
- Use primary source documents to analyze multiple perspectives

Content Standard 3: Historical Themes

Students will apply their understanding of historical periods, issues and trends to examine such historical themes as ideals, beliefs and institutions; conflict and conflict resolution; human movement and interaction; and science and technology in order to understand how the world came to be the way it is.

- Describe, explain and analyze political, economic and social consequences that came about as the resolution of a conflict

Content Standard 4: Applying History

Students will recognize the continuing importance of historical thinking and historical knowledge in their own lives and in the world in which they live.

- Initiate questions and hypotheses about historic events they are studying
- Describe and analyze, using historical data and understandings, the options which are available to parties involved in contemporary conflicts or decision making
- Be active learners at cultural institutions such as museums and historical exhibitions
- Display empathy for people who have lived in the past
- Describe relationships between historical subject matter and other subjects they study, current issues and personal concerns

Content Standard 5: U.S. Constitution and Government

Students will apply knowledge of the U.S. Constitution, how the U.S. system of government works and how the rule of law and the values of liberty and equality have an impact on individual, local, state and national decisions.

- Apply an understanding of historical and contemporary conflicts over Constitutional principles
- Analyze historical and contemporary conflicts through the respective roles of local, state and national governments
- Explain how the design of the U.S. Constitution is intended to balance and check the power of the branches of government
- Analyze, using historical and contemporary examples, the meaning and significance of the ideal of equal protection under the law for all persons
- Explain why state and federal court powers of judicial review reflect the United States idea of constitutional government
- Evaluate the contemporary roles of political parties, associations, media groups and public opinion in local, state and national politics

Content Standard 6: Rights and Responsibilities of Citizens

Students will demonstrate knowledge of the rights and responsibilities of citizens to participate in and shape public policy, and contribute to the maintenance of our democratic way of life.

- Evaluate whether or when their obligations as citizens require that their personal desires, beliefs and interests be subordinated to the public good
- Identify and explain characteristics needed for effective participation in public life
- Establish, explain and apply criteria to evaluate rules and laws
- Monitor and influence the formation and implementation of policy through various forms of participation
- Take a position on a current policy issue and attempt to influence its formation, development and implementation

Content Standard 7: Political Systems

Students will explain that political systems emanate from the need of humans for order, leading to compromise and the establishment of authority

- Evaluate the importance of developing self-government so as to restrict arbitrary power
- Analyze and evaluate the advantages and disadvantages of limited and unlimited government
- Compare two or more constitutions and how they promote the principles of their respective political systems and provide the basis for government
- Describe how constitutions may limit government in order to protect individual rights and promote the common good
- Explain how purposes served by government have implications for the individual and society
- Provide examples of legitimate authority and exercise of power without authority

Appendix B. Selections from The Federalist Papers

Federalist 68 March 12, 1788

The mode of appointment of the chief magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure, or which has received the slightest mark of approbation from its opponents. The most plausible of these, who has appeared in print, has even deigned to admit, that the election of the president is pretty well-guarded. I venture somewhat further; and hesitate not to affirm, that if the manner of it be not perfect, it is at least excellent. It unites in an eminent degree all the advantages; the union of which was to be desired.

All these advantages will be happily combined in the plan devised by the convention; which is, that the people of each state shall choose a number of persons as electors, equal to the number of senators and representatives of such state in the national government, who shall assemble within the state and vote for some fit person as president. Their votes, thus given, are to be transmitted to the seat of the national government, and the person who may happen to have a majority of the whole number of votes will be the

president. But as a majority of the votes might not always happen to centre one man and as it might be unsafe to permit less than a majority to be conclusive, it is provided, that in such a contingency, the house of representatives shall select out of the candidates, who shall have the five highest number of votes, the man who in their opinion may be best qualified for the office.

The vice president is to be chosen in the same manner with the president; with this difference, that the senate is to do, in respect to the former, what is to be done by the House of Representatives, in respect to the latter.

Appendix C. Selections from The United States Constitution

Article 2 Executive Department

Former Method of electing President and Vice President. The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of the them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

Amendment 12

Election of the President and Vice President

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; -the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes

shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

Endnotes

1. Despite the Republicans dismantling of most of the appointments, Marshall and the judiciary would soon set the precedent for judicial review. See "Midnight Judges," *American Law Encyclopedia Volume 7*, <http://law.jrank.org/pages/8558/Midnight-Judges.html>
2. Jerome Ager, and Mort Gerberg, *The U.S. Constitution for Everyone* (New York: Perilee Book, The Berkeley Publishing Group, 1987), 44-46.
3. Alexis De Tocqueville, *Democracy in America*, ed. Phillips Bradley (New York: Alfred Knopf, 1976).
4. Richard Posner, *Breaking the Deadlock The 2000 Election, The Constitution, and the Courts* (Princeton: Princeton University Press), 221-251. Posner critiques the Electoral College as undemocratic in Chapter 5, "Consequences and Reforms" but suggests it is preferential to the potential problems associated with deadlock should a candidate challenge vote counts in multiple states simultaneously under a system of popular election.
5. Seminar notes from Ian Shapiro, "The Theory and Practice of Democracy", A Yale National Initiative Seminar. Yale University July 2008.
6. Seminar notes from Ian Shapiro, "The Theory and Practice of Democracy", A Yale National Initiative Seminar. Yale University July 2008.
7. Robert Dahl, *On Democracy* (New Haven: Yale University Press, 1998), 145.
8. Neil MacFarquhar, "U.S. pushes U.N. Sanctions on Zimbabwe and Mugabe", *New York Times* July 4, 2008 http://www.nytimes.com/2008/07/04/world/africa/04zimbabwe.html?_r=1&oref=slogin
9. Ray Suarez, "Mexico Election 2006", The Online NewsHour, December 1, 2006. http://www.pbs.org/newshour/indepth_coverage/north_america/mexico_election06/index.html James McKinley, "Gunmen Kill Chief of Mexico's Police", *New York Times* May 9, 2008. <http://www.nytimes.com/2008/05/09/world/americas/09mexico.html?hp>
10. Alessandra Stanley, "Russian Congress Votes to Release Yeltsin's Enemies" *New York Times* February 24, 1994. <http://query.nytimes.com/gst/fullpage.html?res=9D05E3D8113BF937A15751C0A962958260>

11. Joanne Freeman, "The Presidential Election of 1800: A Story of Crisis, Controversy, and Change". **History Now. American History Online** Issue I September 2004 http://www.historynow.org/09_2004/historian4.html
12. R.B. Bernstein, *Thomas Jefferson* (Oxford: Oxford University Press, 2003), p.156.
13. http://www.archives.gov/federal-register/electoral-college/votes/1789_1821.html#1800
14. R.B. Bernstein, *Thomas Jefferson* (Oxford: Oxford University Press, 2003), p. 161
15. R.B. Bernstein, *Thomas Jefferson* (Oxford: Oxford University Press, 2003), p. 162
16. R.B. Bernstein, *Thomas Jefferson* (Oxford: Oxford University Press, 2003), p. 156.
17. Richard Posner, *Breaking the Deadlock The 2000 Election, The Constitution, and the Courts* (Princeton: Princeton University Press), 48-150.
18. For a list of states that do and do not require electors to vote for specific candidates go to the United States National Archives and Records Administration site.)
<http://www.archives.gov/federal-register/electoral-college/laws.html>
19. <http://www.archives.gov/federal-register/electoral-college/faq.html#takeall>
20. Jeff Berry, Kenneth Janda, and Jerry Goldman, *The Challenge of Democracy* (Houghton Mifflin 9th edition, 2008), p.274
21. 21. Jeff Berry, Kenneth Janda, and Jerry Goldman, *The Challenge of Democracy* (Houghton Mifflin 9th edition, 2008), p.274
22. R.B. Bernstein, *Thomas Jefferson* (Oxford: Oxford University Press, 2003), p.157
23. "Historical Election Results" NARA
<http://www.archives.gov/federal-register/electoral-college/scores.html#1824> (accessed July/August 2008)
24. James S. Fishkin, "Deliberative Polling: Toward a Better-Informed Democracy." *The Center for Deliberative Democracy* (Stanford University) <http://cdd.stanford.edu/polls/docs/summary/>

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