

Slavery and the Electoral College

Overview

This Civil Conversation lesson can supplement students' prior knowledge about the Electoral College, particularly its provision in the U.S. Constitution and the basics of how it works.

With a background on the history and function of the Electoral College, students delve into the historical question of slavery's role in the development of the Electoral College.

First, students will read a short text that outlines competing arguments about the significance of the link between slavery and the Electoral College. Next, they participate in a Civil Conversation based on the reading. In this structured discussion method, under the guidance of a facilitator (the teacher), participants are encouraged to engage intellectually with challenging materials, gain insight about their own point of view, and strive for a shared understanding of issues.

Standards and Topics

- CCSS.ELA-LITERACY.SL.11-12.1.A :Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.
- CCSS.ELA-LITERACY.SL.11-12.1.C: Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.
- CCSS.ELA-LITERACY.SL.11-12.1.D: Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

Topics: Electoral College, slavery, three-fifths compromise, 12th Amendment, U.S. Constitution, Constitutional Convention

Objectives

Students will be able to:

1. Analyze the purpose and effects of the three-fifths compromise in Article I of the U.S. Constitution.
2. Evaluate competing arguments about the nature, extent, and impact of connections between the Electoral College and the institution of slavery.
3. Participate in Civil Conversation, which will enable them to:
 - a. Gain a deeper understanding of a controversial issue.
 - b. Use close reading skills to analyze a text.
 - c. Present text-based claims.

- d. Develop speaking, listening, and analytical skills.
- e. Identify common ground among differing views.

Materials

Handout A: Slavery and the Electoral College

Handout B: Civil Conversation Guide (one per student)

Procedure

I. Focus Discussion

- A. Refer students back to any previous instruction they have had on the origins and current controversies over the Electoral College. You may ask them to recall where the class came down on deciding what, if anything, about the Electoral College they thought should be changed, if they discussed that.
- B. Call their attention back to any points they may have learned from previous instruction about the origins of the Electoral College. Remind them that delegates to the Constitutional Convention from both slave states and free states were concerned about how the new election system would give them disadvantages or advantages in the balance of power. Therefore, delegates from both Northern and Southern regions of the country reached compromises to get the Constitution approved.
- C. Tell students that today they will be looking more closely at the question of whether or not slavery played a central role in the creation of the Electoral College, reflecting first on their own, and then again in a small-group discussion.

II. Reading: Slavery and the Electoral College

- A. Briefly provide students with an overview of the purpose and rationale of the Civil Conversation activity. Use the Overview above to help you.

Give each student a copy of **Handout A: Slavery and the Electoral College**

- B. Civil Conversation Guide

Distribute a copy of **Handout B: Civil Conversation Guide** to each student to complete as they read Handout A. (Each student should fill in his/her own guide.)

III. Activity: Civil Conversation

- A. Divide the class into groups of 3–4 students. You may want to have each group select a leader who will get the discussion started, ensure the group stays on-task, and finishes on time.
- B. Determine how much time the groups have to complete the discussion. (You will know what's best for your students, depending on the length of the reading and how experienced your students are in student-directed discussion.)
 - **Time:** Conversations for classroom purposes should have a time limit, generally ranging from 15 to 45 minutes and an additional five minutes to reflect on the effectiveness of the conversations. The reflection time is an opportunity to ask any students who have not spoken to comment on the things they have heard. Ask them who said something that gave them a new insight that they agreed or disagreed with.

- **Small Groups:** This discussion strategy is designed to ensure the participation of every student. Groups of 3-4 students are ideal. If you are scaffolding text for various reading levels, group students who will use the same text together.
- C. Review the rules of a Civil Conversation (listed under Step 3 on the Guide) and direct the groups to follow the instructions on the Guide to get started.
 - D. Let groups know you will be circulating to listen in on their conversations and that each person in a group is expected to participate. The goal is for everyone to contribute equally to the conversation.
 - E. If necessary, remind groups of the time and urge them to move to the next steps.

IV. Assessment/Closure

- A. After the groups have completed their discussions, debrief the activity by having the class reflect on the effectiveness of the conversation:
 - What did you learn from the Civil Conversation?
 - What common ground did you find with other members of the group?
 - Ask all participants to suggest ways in which the conversation could be improved. If appropriate, have students add the suggestions to their list of conversation rules.
- B. If you want to provide some whole-class debriefing or reflection on the topic without opening up to a whole-class debate, you might ask students to answer the following question on a small piece paper or a sticky note: *What is a question you have (or something you're still wondering about) on the issue of slavery and the Electoral College now that you've had a chance to examine it in class?*

You can then collect the notes and either read common questions aloud, or you can review them after class and then use them as the basis for subsequent research or classroom activities.

- C. For assessment, look for the following on each student's Civil Conversation Guide:
 - Step 2 – A, B: Basic understanding of text.
 - Step 2 – C, D: Text-based arguments.
 - Step 2 – E: Appropriate and compelling questions about the text.
 - Step 4 – A: Level of participation (should be “about the same as others”).
 - Step 4 – B: Answer is appropriately related to topic/issue presented in text.
 - Step 4 – C, D: Specificity/text-based.
- D. For additional assessment, you may want to collect the article/text students used to assess the annotations they made in terms of connections to prior knowledge/experience, questions they had while reading, and comments they made.

Slavery and the Electoral College

In 2018, Rep. Alexandria Ocasio-Cortez (D-NY) tweeted from the campaign trail that the United States should eliminate the Electoral College. She called it “a shadow of slavery’s power on America today.” Other politicians dismissed her comment as an exaggeration, or even as inaccurate. Slavery, they said, had nothing to do with the Electoral College.

Did slavery have nothing to do with it? At the Constitutional Convention in 1787, James Wilson of Pennsylvania suggested that the new government include an executive branch directly elected by the people. James Madison of Virginia, often remembered as the “Father of the Constitution” for his central role in drafting the document and getting it ratified, rejected this idea. In the same speech in which he offered an initial version of the Electoral College, Madison — himself a slave owner — said, “The right of suffrage was much more [widespread] in the Northern than the Southern States; and the latter could have no influence in the election on the score of Negroes.”

In other words, Madison said there were far more eligible voters in the North than there were in the South. Southerners would not be able to affect the outcome of an election because so much of the population in the South was enslaved people who could not vote. Indeed, estimates place the number of slaves in the Southern states at this time at over 500,000 and the white population at around 800,000.

Under Article II, Section 1, of the Constitution, votes in the Electoral College would be assigned based on congressional representation. Each state would get electors equal to the number of that state’s representatives in the House plus its two senators. So calculating the number of representatives for each state would be critically important to presidential elections.

That calculation is governed by Article I, Section 2, which at the time of the Constitution’s ratification included the three-fifths compromise. This clause in the Constitution allowed states to count only three out of every five slaves as persons for purposes of calculating the number of congressional representatives. Given the high number of slaves in Southern states, this compromise benefitted those states in Congress and in the process of selecting the president. Under this system, Madison’s home state of Virginia obtained a major share of electoral votes (12 out of a total of 91). The three-fifths clause was part of the Constitution up until the 14th Amendment repealed it in 1868.

Constitutional legal scholar and Yale University professor Akhil Reed Amar breaks down what the Electoral College meant for free states versus slave states. “After the 1800 census,” Amar writes, “[James] Wilson’s free state of Pennsylvania had 10% more free persons than Virginia, but got 20% fewer electoral votes. Perversely, the more slaves Virginia (or any other slave state) bought or bred, the more electoral votes it would receive.” Amar’s illustration of the presidential votes that the compromise cost Pennsylvania is darkly ironic because Pennsylvania’s own James Wilson was one of the original proponents of the three-fifths compromise.



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Samuel Thatcher was a Federalist representative in Congress in 1803 when he called for repeal of the three-fifths compromise.

Amar argues that the resulting imbalance between slave states and free states contributed to Jefferson's victory in the election of 1800. Jefferson won 73 electoral votes, tying with his fellow Republican Aaron Burr and triggering a final vote in the House of Representatives that eventually made Jefferson president and Burr vice president. But Jefferson beat John Adams of Massachusetts, his Federalist Party opponent who won only 65 electoral votes. Jefferson's electoral votes came overwhelmingly from slave states, and the number of electoral votes each of those slave states had was inflated by the inclusion of three-fifths of the slave population. Specifically, Professor Amar calculates that about 12 of Jefferson's electoral votes existed thanks to the three-fifths clause. Without those electoral votes, Jefferson would likely have lost to Adams by four votes instead of winning by eight.

In an April 2019 essay, Princeton University history professor Sean Wilentz challenges some of Professor Amar's conclusions. He cites evidence that key Southern delegates at the Constitutional Convention did *not* throw their support behind having electors choose the president. When the convention first considered the proposal to have electors and not the people directly select the president, the only three states to vote against the proposal were Southern slave states, namely North Carolina, South Carolina, and Georgia.

Wilentz argues that the connection between the Electoral College and slavery was "incidental" and not purposeful. Rather, he describes Southern position as one that sought to protect the elite:

Southerners didn't embrace the idea of electors because it might enlarge slavery's power; they feared, as the North Carolinian Hugh Williamson, who was not a slaveholder, remarked, that the men chosen as electors would be corruptible 'persons not occupied in the highest offices of government.'

As for the election of 1800, Wilentz dismisses the argument that Jefferson won only because of the three-fifths compromise. Pennsylvania, a Northern free state, was largely pro-Jefferson. But anti-Jefferson manipulation of the election in Pennsylvania deprived Jefferson of winning all of that state's electoral votes. Jefferson won eight electoral votes there, and Adams won seven. "Take away that manipulation," writes Wilentz, "and Jefferson would have won [in the Electoral College] with or without the extra Southern votes."

By the time Congress was debating the 12th Amendment, however, there is evidence that politicians at the time saw (and rejected) the impact of inflated Southern influence. During debate in the House of Representatives in 1803, Samuel Thatcher of Massachusetts called on Congress to do away with the three-fifths compromise altogether. He spelled out the problem as he saw it in no uncertain terms. The representation of slaves resulting from the three-fifths compromise "adds thirteen members to this House in the present Congress, and eighteen Electors of President and Vice President at the next election."

For Discussion

Who has the more persuasive argument about slavery and the Electoral College: Akhil Reed Amar or Sean Wilentz? Why? Use evidence from the text in your answer.

Civil Conversation Guide

Step 1: Read.

- A. Read through the entire selection without stopping to think about any particular section.
- B. Re-read the selection and annotate (“talk to”) the text:
- Underline the main/most important points. You can comment on these points in the margins.
 - Circle words or phrases that are unknown or confusing to you.
 - Write down any questions you have in the margin labeling them with a “?”.
 - Draw an ➡ in the margin next to text that connects to something you know from outside the text. Note what the connection is, such as a news item or personal experience.

Step 2: Think about the reading to prepare for the discussion.

A. This reading is about...

B. The MAIN POINTS are:

C. In the reading, I agree with:

D. In the reading, I disagree with:

E. What are two questions about this reading that you think could be discussed? (The best questions for discussion are ones that have no simple answer and that can use the text as evidence.)

1.

2.

Step 3: Discuss and Listen.

You will have ____ minutes to discuss. Your goal is to engage with each other and the text to gain insight about your own point of view while finding a shared understanding of the issue.

To get started, each member of your group can share answers to sections A-D above. At the end of the reading, you might also find at least one discussion question. You can use that question to continue the conversation. If time permits, you can also discuss questions you came up with in Section E above.

If the reading does not provide discussion questions, choose questions to discuss from Section E.

Rules for a Civil Conversation

1. Everyone in your group should participate in the conversation.
2. Listen carefully to what others are saying.
3. Ask clarifying questions if you do not understand a point raised.
4. Be respectful of what others are saying.
5. Refer to the text to support your ideas.

Step 4: After your conversation...

A. Compared to others in your group, did you speak? ____ Less than, ____ About the same as, ____ More than others.

B. Note some of the ways you added to the discussion.

C. What evidence did you use from the text to add to the discussion? Why was this evidence helpful?

D. What did you learn about the topic from the Civil Conversation? (It's helpful to think about something you heard while listening during the Civil Conversation.)