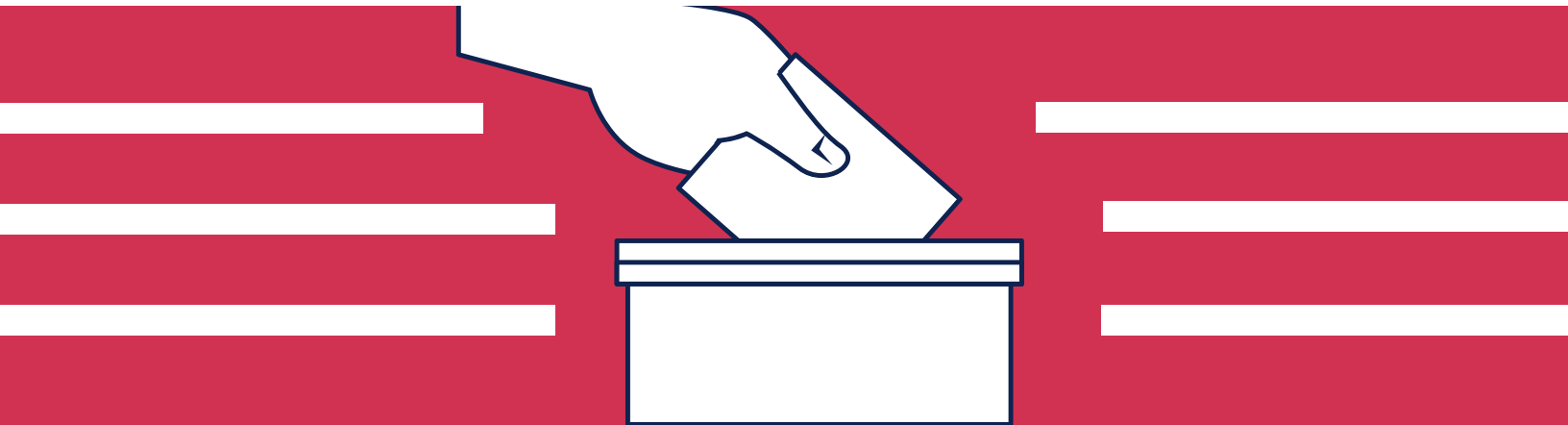




Civic participation begins with civic education

From our Challenge of Democracy: Governance series

TWO LESSONS TO GET YOUR STUDENTS READY FOR U.S. ELECTIONS



**270 Votes to Win:
The Electoral College in the U.S.**

Slavery and the Electoral College

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THE CHALLENGE OF DEMOCRACY: GOVERNANCE

270 Votes to Win: The Electoral College in the United States

Overview

In the first part of this lesson, students read, annotate, and discuss a text that provides background on the creation, functioning, and debates over the Electoral College. Then they participate in a role play in which they act as members of a presidential commission making recommendations on whether (or how) to change the way presidents are elected in the United States.

In the second part of the lesson students delve into the historical question of slavery's role in the development of the Electoral College.

Standards and Topics

- **CCSS.ELA-LITERACY.RH.11-12.1:** Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.
- **CCSS.ELA-LITERACY.RH.11-12.3:** Evaluate various explanations for actions or events and determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.
- **CCSS.ELA-LITERACY.SL.11-12.4:** Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

Topics: presidential elections, Electoral College, 12th Amendment, voting

Objectives

Students will be able to:

1. Explain the origins of the Electoral College.
2. Describe the structure and function of the Electoral College in United States history and the contemporary United States.
3. Evaluate arguments for and against keeping the Electoral College.
4. Take and defend a position on possible changes to presidential elections in the United States.

Materials

Handout A: 270 Votes to Win: The Electoral College in the United States (one per student)

Handout B: What Should We Do About the Electoral College? (one per student)

Procedure

I. Focus Discussion

Ask students to brainstorm words or phrases that come to mind when they think of a presidential election in the United States. (You can record their responses on the board or in a projected document or slide.)

Answers may include: names of candidates in a recent (or current) presidential election; names of political parties; relevant words or phrases such as political ads, campaign finance, PACs, voter IDs, super PACs, running mate, voter suppression, convention, attack ads, “swing state,” and, hopefully, Electoral College.

Tell students that today they’re going to have the chance to zero in on one of the most controversial and widely misunderstood elements of U.S. presidential elections: the Electoral College.

II. Reading — 270 Votes to Win: The Electoral College in the United States

- A. Distribute a copy of **Handout A: 270 Votes to Win: The Electoral College in the United States** to each student. Have students read the handout and annotate the text by jotting down questions in the margins, circling unfamiliar terms, and underlining the main points of the text.
- B. Conduct a whole-class discussion using the Writing & Discussion questions or assign the questions as a written assessment.

III. Activity: Role Play: What Should We Do About the Electoral College?

- A. Divide the class into groups of 3-5 students.
- B. Distribute **Handout B: What Should We Do About the Electoral College?** to each student and go over the instructions in a whole-class discussion, taking any clarifying questions.
- C. Give groups time to read the arguments for and against the Electoral College and to complete the task outlined on the handout. Remind them to refer back to Handout A to help with their discussion.
- D. Have the groups report back to the class. Start by asking which groups favored Option #1. Ask them to outline their reasons; ask groups that did not favor this option to explain why. Allow time for a brief discussion as you repeat this process for each option.

IV. Assessment/Closure

- A. Debrief the activity by holding a class vote on all of the options to see what — if anything — your students would do about the Electoral College.
- B. After the vote, have each student write a paragraph explaining how they voted and why. They should cite at least two specific arguments for their decision.
- C. Possible extension activity: Have each small group research how electors are chosen in your state (those rules may be set by the state legislature and/or state political parties) and find out more about those who currently hold that position.

270 Votes to Win: The Electoral College in the United States

In a U.S. presidential election, voters do not directly vote for their chosen candidate. Though they mark their ballots next to the names of the candidates they want as president and vice president, they're actually voting for members of a body known as the Electoral College that will officially choose the president. When people vote, they are choosing a slate (a group) of these electors in their state who are committed to a certain candidate. To win the presidency, a candidate needs at least 270 votes by electors nationwide out of the Electoral College's total 538.

Usually, the Electoral College vote reflects the will of the general voting public. But this does not always happen. In four clear-cut instances, the Electoral College vote has gone against the popular vote. In 1876, Rutherford B. Hayes lost the popular vote by about 300,000 votes. In 1888, Benjamin Harrison lost by about 100,000. In 2000, George W. Bush lost by about 500,000 votes. In 2016, Donald J. Trump lost the popular vote by nearly three million. All four men won the Electoral College vote, however, and the presidency.

The fact that Electoral College results can diverge from those of the popular vote has led many people to question its value in U.S. democracy. Prominent public figures have done so, including several Democratic Party candidates in the 2020 presidential primary election. Senators Bernie Sanders (VT) and Elizabeth Warren (MA), along with South Bend mayor Pete Buttigieg (IN), have called most directly for a national popular vote and an end to the Electoral College. Asked about it in an interview, Buttigieg said, "It's gotta go."

These candidates' comments come at a time when Americans' opinion of the Electoral College is divided. In December 2016, the Gallup polling company found that 47% of Americans want to keep the Electoral College, an increase from 35% in 2004, with 49% wanting to amend the Constitution to switch to a national popular vote. However, a 2018 PRRI/*The Atlantic* poll found that 65% of Americans support a national popular vote, while only 32% support keeping the Electoral College. It seems safe to expect a lot more debate over this issue leading up to the national election in 2020. So how did the Electoral College come to be, and how exactly does it work?

Origins of the Electoral College

The framers of the Constitution debated extensively about how the president should be selected. Some were fearful of a direct democracy. Some believed that voters would not be well-informed enough to vote responsibly. Most did not take into account the role that political parties might play in the process. And

For President and Vice President (Vote for not more than 1 pair) A vote for any candidates for President and Vice President shall be a vote for the electors of those candidates whose names have been certified to the Secretary of State.	
<input type="radio"/>	For President Stewart Alexander For Vice President Alex Mendoza Socialist
<input type="radio"/>	For President Richard Duncan For Vice President Ricky Johnson Nonparty candidates
<input type="radio"/>	For President Virgil Goode For Vice President Jim Clymer Constitution
<input type="radio"/>	For President Gary Johnson For Vice President James P. Gray Libertarian
<input type="radio"/>	For President Barack Obama For Vice President Joe Biden Democratic
<input type="radio"/>	For President Mitt Romney For Vice President Paul Ryan Republican
<input type="radio"/>	For President Jill Stein For Vice President Cheri Honkala Green
<input type="radio"/>	For President Write-in _____ For Vice President Write-in _____
0080 AKRON 1-H 01	

The instructions on this Summit County, Ohio absentee ballot – from the 2012 presidential election – explain that the voter is choosing electors associated with a certain ticket.

framers from slave states wanted to avoid an election system that would place them at a disadvantage given their large but widely disenfranchised populations.

The framers settled on a system and laid it out in Article II of the Constitution. The system placed the final decision of who would be president and vice president into the hands of a separate voting body called the Electoral College. Its members (known as electors) would vote for the president. Each state was given a number of electors equal to the total of its congressmen. It was left to the states to determine how those electors would be chosen. When all the electors' votes were tallied in each state, the candidate receiving a majority of the electors' votes from across the nation would be elected president. The person with the second highest vote count would be vice president.

But the first two presidential elections under the rules set out in Article II revealed serious flaws in this system. After George Washington's retirement, the election of 1796 was the first contested presidential election in U.S. history. Party politics and failed partisan schemes within the Electoral College resulted in the first and only time in U.S. history that a president and vice president came from different political parties: John Adams, a Federalist, became president, and Thomas Jefferson, a Democratic-Republican, became vice president.

Four years later in the election of 1800, each state was free to determine the time and method for choosing its electors. So the election dragged on from April until December. When the Electoral College finally did vote, the result was a tie between Thomas Jefferson and his candidate for vice president Aaron Burr. It was up to the House of Representatives to break the tie, and it took them 36 votes to do so, finally in favor of Jefferson, who then became president.

Changes Under the 12th Amendment

Seeking to avoid further turmoil in the next presidential election, Congress took up the issue and passed the 12th Amendment, which was ratified by enough states by June 1804 to go into effect. The modifications provided by this amendment — not the process outlined by the framers — largely govern how presidential elections work today.

Under the 12th Amendment, each state still gets a number of electors equal to the number of members in the House of Representatives for that state plus its two U.S. senators. An important change, however, was that electors would cast one vote for president and a separate vote for vice president (to avoid the Jefferson-Burr situation of 1800). Furthermore, the Jeffersonians in Congress who dominated the debate on the amendment stressed the importance of majority rule. So they set up a system that they believed would reflect and preserve that goal. It was a system they thought would translate into a candidate winning a majority of Electoral College votes by winning the majority of support within the states.

The Electoral College Today

The 12th Amendment still left it up to the state legislatures to determine *how their state's electors would be selected*, as well as *how their electoral votes would be awarded*. Today, each state has its own rules for nominating these slates of electors, and sometimes these rules even vary by political party. Then, it is decided through a popular vote in each state on Election Day which group of electors will cast that state's votes for president and vice president. On an appointed date after Election Day, the electors meet in their respective states and cast their votes for president. (The electors do not ever meet all together in one place.)

But not quite every state awards their electoral votes in the same way. Forty-eight out of 50 states have moved away from the majority-rule rationale behind the 12th Amendment. In all states except Maine and Nebraska, whichever candidate gets the most votes, even if it's not a

majority, gets *all* of that state's electoral votes. This is known as a plurality winner-take-all system. The table below shows how this works in practice in very close races.

Examples of Close Plurality Winner-Take-All Results from the 2016 Presidential Election

	Electoral College Votes	% of Popular Vote Trump (R)	% of Popular Vote Clinton (D)	All Electoral College votes awarded to:
Michigan	16	47.6	47.3	Trump
Minnesota	10	45.4	46.9	Clinton

Maine and Nebraska are the only two states that do not have a winner-take-all system of assigning electoral votes. They both use what is known as the Congressional District Method, in which one electoral vote is assigned to each congressional district, and then the statewide winner of the popular vote gets the state's other two electoral votes. (Remember: the number of electoral votes each state has is equal to one per congressional district plus two for the number of senators each state has).

Under this system, it is possible for electoral votes to be shared between candidates. In the 2016 presidential election, for example, Hillary Clinton got three of Maine's electoral votes, and Donald Trump got one. In 2008, Republican John McCain got four of Nebraska's electoral votes, and Democrat Barack Obama got one.

Opponents of the Electoral College believe it is archaic and undemocratic. The president, they say, is the president of all the people and should be the candidate with the most votes nationwide.

Supporters say the Electoral College reflects our federal system. And by requiring a candidate to gain support from across various regions to reach 270 votes, they argue, the Electoral College does provide a president who represents people from across the country.

Writing & Discussion

1. What is a plurality winner-take-all system? Do you think this is a good way to decide elections? Why or why not?
2. Many times in our history it has been suggested that the Electoral College be changed or abolished. Why do you think this has not happened?

What Should We Do About the Electoral College?

You have been appointed to a presidential commission tasked with making recommendations on whether the United States should change the system it uses for electing the president, and, if so, what that system should be.

Taking into account the background that you explored in Handout A, read and discuss some of the most frequently cited arguments for and against the Electoral College listed below. Then discuss and decide on one of the options listed on the next page. (Most of these options will require a constitutional amendment.) Be prepared to report on the reasons for your decision.



Arguments Against the Electoral College

1. It allows a president to be elected who does not win the popular vote. This has occurred at least four times (in 1876, 1888, 2000, and 2016).
2. It undermines the fundamental democratic principle of “one person, one vote.” Since every state gets at least three electoral votes regardless of the state’s population, the influence of voters in small states is artificially inflated. For example, under the current system, each elector for California — the most populous state in the union — represents 712,000 residents of that state. Each elector for Wyoming — the least populous state in the union — represents about 193,000 residents. In fact, the District of Columbia (which has only been able to vote in presidential elections since the ratification of the 23rd Amendment in 1961) has the same number of electoral votes as Wyoming but has almost 135,000 more residents.
3. Deadlocks can happen. A third party candidate or a close election can prevent any candidate from getting a majority of Electoral College votes. When no one candidate captures a majority of electoral votes, the House of Representatives — with each state delegation having just one vote — decides who is president. This has occurred twice in our history (in 1800 and 1824). On four other occasions, including the hard-fought elections of Abraham Lincoln in 1860 and John F. Kennedy in 1960, elections came within just 30,000 votes of having to be decided by the House, with three additional close calls in the elections of 1912, 1924, and 1968.
4. The Electoral College may hold down voter turnout. If opinion polls show one candidate far ahead in a state, then voters in that state who prefer another candidate may not bother to vote, figuring that their vote won’t really affect the outcome of the election. And U.S. territories such as Puerto Rico and American Samoa have no electors at all, so residents of those territories cannot vote in presidential elections — even though they are U.S. citizens.
5. The Electoral College leads candidates to largely ignore states — large or small — that are either solidly “blue” or solidly “red.” They concentrate their efforts and attention almost exclusively on so-called battleground or swing states that have many votes in the Electoral College. In the final months of the 2016 campaign, candidates Trump and Clinton made a combined 178 campaign trips to 24 states, but 111 of those trips were visits to just six battleground states (Florida, Michigan, North Carolina, Ohio, Pennsylvania, and Virginia).

Arguments in Favor of the Electoral College

1. The Electoral College is a reflection of our federal system as described in the U.S. Constitution. It properly places power with states and their representatives rather than the national government.
2. No one region in the U.S. (South, Midwest, Northeast, etc.) controls enough electoral votes to elect a president all by itself. Therefore, successful presidential candidates must appeal to voters across multiple regions. This gives candidates for the presidency an incentive to campaign in smaller swing states with proportionally large rural populations. For example, Donald Trump held rallies in Iowa, Nevada, and New Hampshire in the general election in 2016, even though those states have relatively few electoral votes. Iowa is in the Midwest, Nevada is in the Southwest, and New Hampshire is in the Northeast.
3. It has contributed to political stability by promoting the two-party system, which encourages the major parties to represent a wide range of interests. Since the first presidential election under our Constitution in 1788, third parties have only won one or more electoral votes 12 times. In 1912, Theodore Roosevelt from the Progressive Party, a third party, won six states and their electoral votes. He beat the Republican candidate William Howard Taft, but both lost to the Democrat Woodrow Wilson. The last third party candidate to win any electoral votes was George Wallace in 1968, who appealed to white racists with a pro-segregation platform and won five Southern states. He still came nowhere near to winning that year's general election.
4. It is the system we have and in which candidates and the public know how to operate. Any change to it could bring negative unanticipated consequences. For example, the 12th Amendment was ratified in 1804 to solve problems in the previous two elections. Its supporters intended to instill majority rule in how states' electors voted. Today, however, 48 out of 50 states use a plurality winner-take-all system rather than a simple majority-rule system in electoral votes.
5. Switching to a national popular vote, in particular, could require significant changes to who runs elections and how. Article II of the Constitution leaves it up states to decide how to appoint electors, as long as the number equals the number of senators and congressional representatives. A national popular vote would take that power from the states entirely. It is extremely rare to get states to ratify any constitutional amendment. This one would be just as difficult, if not more so. It could also open the door to problems for the federal government in administering an election across 50 states. Imagine contested results in multiple states. That would be even harder to manage and resolve than, for example, the recount in the single state of Florida in 2000.

Possibilities for abolishing or changing (or keeping) the Electoral College

Option #1: Amend the Constitution to eliminate the Electoral College and switch to a national popular vote. Decide the presidency based on the candidate who receives the most votes in a national popular vote. Voters in territories as well as states would all be able to vote in the national election.

Option #2: Amend the Constitution to eliminate the Electoral College and switch to a majority popular vote with a run-off election. Decide the presidency based on the candidate who receives a majority (more than 50%) in a national popular vote. If no candidate receives a majority, then a run-off election between the two highest vote-getters would take place.

Option #3: Keep the Electoral College, but urge states to switch to district electoral votes. Each state gets electoral votes based on its number of congressional representatives plus its two U.S. senators. The district electoral vote system gives one electoral vote to each congressional district, and the overall winner in the state gets two electoral votes (those represented by the Senate seats). This is the system currently used in Maine and Nebraska. If every state were required to use it, a constitutional amendment would be necessary. But your commission could also simply recommend that each state adopt this system.

Option #4: Urge states to adopt the National Popular Vote Interstate Compact. This initiative, which has been approved by 12 states and the District of Columbia, is a pledge from its member states to give their electoral votes to whichever candidate wins the popular vote nationwide, regardless of which candidate wins in that state. The compact would go into effect once the electoral votes of the states signing on to it add up to 270; with the addition of Colorado in March 2019, the number now stands at 181. Because this initiative is coming *from* the states, many analysts have argued that it would not require a constitutional amendment, though they expect it to face challenges in the courts.

Option #5: Retain the Electoral College as it is.

Slavery and the Electoral College

Overview

This lesson follows the reading “270 Votes to Win” and the activity “What Should We Do About the Electoral College?.” With a background on the history, function, and contemporary criticisms of the Electoral College, students delve into the historical question of slavery’s role in the development of the electoral college. It is essential that students have the information and context from the previous lesson in order to participate effectively in this lesson.

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 the previous lesson and activity 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.
- B. Call their attention back to one of the points mentioned in the previous lesson's reading about the origins of the Electoral College. Specifically, remind them that one of the concerns of framers from slave states to the Constitutional Convention was that they "wanted to avoid an election system that would place them at a disadvantage given their large but widely disenfranchised populations."
- 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.



Wikimedia Commons

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

Name: _____ Class: _____

Title of Reading: _____

Step 1: Read.

1. Read through the entire selection without stopping to think about any particular section.
2. 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.

<p>A. This reading is about...</p>	<p>B. The MAIN POINTS are:</p>
<p>C. In the reading, I agree with:</p>	<p>D. In the reading, I disagree with:</p>

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.

RULES FOR 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.

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.

At the end of the reading, you will likely find at least one discussion question. Use that question to get started. 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.

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? (Be sure to reference the text!)