

Extended Controversial Issue Discussion Lesson Plan

Lesson Title: “Did the Constitution include protections for slavery and slaveholders?” Structured Academic Controversy

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Appropriate for Grade Level(s): 5th/7th

US History Standard(s)/Applicable CCSS(s): C13.5.1 Explain . . . Constitution. . . is a written document that [is] the foundation of the U.S. government, SL1.5 Engage effectively in a range of collaborative discussions. . . , W.4.5 Produce clear and coherent writing. . .

Engagement Strategy: Structured Academic Controversy

Student Readings (list): U.S. Constitution, Article I, Section 2 (provided); Article IV, Section 2 (provided); Article I, Section 9 (provided); Quotes: “Mark Anthony”, 1788 (provided); “Adelos”, 1788 (provided); Introductory Essay, “Was the Constitution a Proslavery Document?” (provided)

Total Time Needed: 5-6 days

Lesson Outline:

Day 1:

1. Have students do a “cold read” of the Introductory Essay.
2. Read in small groups, or whole class, aloud.
3. Have students go over it, again, and highlight, code, and annotate.
4. Show PowerPoint on “The Constitution and Slavery”, this PowerPoint is available in “The Constitution and Slavery”, available from MindSparks, a Historian’s Apprentice book.

Teacher role: *Lead class in reading, provide assistance when necessary. Lead discussion about PowerPoint.*

Day 2:

1. Distribute the two quotes, “Mark Anthony” and “Adelos” to each student.
2. Have students, in small groups, read and talk about the quotes. Students should discuss difficult vocabulary and the possible meanings of the quotes.
3. Display the following statements on the board or overhead projector: a) Those opposed to slavery believed the constitution did all it could to limit slavery and end it someday, b) Some opposed to slavery saw the constitution as a proslavery document.

4. Have students, in groups discuss which quote goes with which statement. They are to write a group statement explaining their thinking.
5. Discuss as a class.

Teacher role: Put students into groups, facilitate small group and whole class discussions as needed.

Day 3:

1. Jigsaw students into three groups.
2. Distribute the three Articles of the Constitution, one to each expert group.
3. Students are to read, annotate, and discuss the articles and following information in their expert groups. They are also to fill out the Primary Source Document Analysis page.

Teacher role: Put students into Jigsaw groups, distribute materials, facilitate groups.

Day 4:

1. Have students go back to their original groups and present the information on each article to their group. Teacher should have taken a representative sample from each expert group of the Primary Source Document Analysis page and made copies to distribute to other students. Students who are learning about another Article, other than their own (expert article) can make notes on their copy.
2. Do a class overview of the three Articles. Answer questions, etc.
3. HOMEWORK: All students are given either a “yes” or “no” side to the statement: “Did the Constitution Include Protections For Slavery and Slaveholders?” Students are to write 2-3 ARE paragraphs on their assigned side to answer that question. Distribute the rubric for the SAC so that they know how they will be graded.

Teacher role: Teacher should have a good example from each expert group to distribute to students. Facilitate in small groups. Facilitate class discussion.

Day 5:

1. Pair students with another student who has the same “side”.
2. Pairs are to use the SAC note-taker (Step 1) to map out their side of the argument.
3. Pairs are to practice their presentation for tomorrow.

Teacher role: Pass out note-taker, monitor discussions and help prepare students for tomorrow’s SAC.

Day 6:

1. Put students into groups of four (two “yes” and two “no” students).
2. Students are to follow Step 2 on the SAC note-taker.
3. Afterward, students are to do Step 3.
4. Students are to do the “Student Reflection” at the bottom of the note-taker.
5. Come together as a class and discuss.

Teacher role: Have a copy of the rubric and a student list with rubric headings. Walk from group to group and monitor discussions. Take notes and mark the rubric for each child. Facilitate class discussion.

Description of Lesson Assessment: Students will be assessed on their group work on the quotes, jigsaw documents, written ARE paragraphs, and the SAC (see rubric).

How will students reflect on the process and their learning? Students will reflect with three questions after the seminar.

• **Introductory Essay (From The Historian's Apprentice)**

Was the Constitution a Proslavery Document? •

As the Civil War drew near, some abolitionists like William Lloyd Garrison described the U.S. Constitution as “a covenant with death and an agreement with hell.” For Garrison, the nation’s founding legal document was a hopelessly proslavery “compact formed at the sacrifice of the bodies and souls of millions,” which no moral person should accept as the basis of a free and equal republic. On the other hand, African American abolitionist Frederick Douglass did not quite see it that way. At first, he agreed with Garrison. In time, however, he found a more hopeful potential in the Constitution. As he put it, “interpreted as it ought to be interpreted, the Constitution is a glorious liberty document,” with no place for slavery.

So who was right? That’s hard to say. The argument has been going on a long time. In fact, this argument about the Constitution began even as it was being written, and it has continued ever since.

At the heart of the debate about the Constitution are three key clauses in it (see Document 1 for this lesson). These were the famous “three-fifths clause”; a clause prohibiting Congress from passing any laws against the Atlantic slave trade for 20 years; and a clause requiring all states to aid in returning runaway slaves to their owners.

In addition, the federal government was given the power to suppress domestic rebellions. This could include slave rebellions.

Probably the most important and most argued about of these clauses was the three-fifths clause. In calculating a state’s population, it counted three-fifths of a state’s slaves for two purposes: to set levels of direct taxation for each state, and to determine each state’s number of representatives in the House of Representatives. The idea of describing a slave as three-fifths of a free person deeply offends many, yet given the purposes for doing this, it was the slaveowners who benefited from counting the slaves at all. It would have been worse for the slaves had they been counted as whole persons. That’s because counting three-fifths of the slaves gave the South, with its huge slave population, extra representation in the House and in the Electoral College that chooses the president.

These provisions in the Constitution are what lead many to see it as a proslavery document. However, those who disagree point to several other aspects of the issue—including the wording of the Constitution, the debates over it by delegates within the Constitutional Convention itself in 1787, and the intense arguments for and against it as states decided whether or not to ratify the Constitution. As to the Constitution's language, many point out that the word "slave" never appears in it. Instead, the Constitution speaks of "persons held to service or labor," a much less clear expression. Frederick Douglass made much of this fact. In his view (and that of many others), this shows that the Framers realized the word "slave" would taint the Constitution and perhaps make it a bulwark protecting slavery, so they left the word out.

In the spring and summer of 1787, 55 delegates met in Philadelphia to draft the Constitution. Twentyfive of them owned slaves. However, even some of those delegates opposed slavery. Many Northern delegates detested it. The debates, held in secret while the delegates met, show that slavery was a major concern, yet no one sought to end slavery outright. What had brought them all together was a growing fear that the nation could not remain united under the weak Articles of Confederation. They knew there were deep divisions between states with large numbers of slaves (mainly in the South) and states with few or no slaves, in the North. They knew that intense feelings for and against slavery existed and could disrupt the convention. They knew that if this happened, it might destroy all hope of ever creating a unified nation and national government.

The central place of slavery in the convention's debates was noted by one of the Constitution's strongest advocates, James Madison. In his notes during the convention he wrote that "the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted...principally from the effects of their having or not having slaves."

Those who defend the Constitution claim the delegates would never have agreed to it without the various compromises over slavery. They say that without the Constitution, the South would have gone its own way and refused to join the Union. Slavery would then have spread unchecked and might never have been ended.

After the convention was done, the issue of slavery continued to provoke heated debate as the states

argued over whether to ratify the Constitution. Not all antislavery people opposed the Constitution, and not all proslavery people approved of it. In the South, many remained skeptical about the dangers it might one day pose to their “peculiar institution,” slavery. In the North, some anti-Federalists did speak out against the Constitution’s protections for slavery. However, other people claimed the Constitution would help to doom slavery in the long run. They pointed, for example, to its provision to allow for laws against the slave trade after 1808. In fact, many in both the South and the North did believe that slavery would soon fade and die. That did not happen, as we know. Instead, it spread throughout the South as the nation itself expanded dramatically. However, defenders of the Constitution say no one at the time could have known that. That fact is important to remember. It is also true that many of the founders knew their compromises were with a horrible and inhuman form of bondage. Whether those compromises were worth it in the long run is a question historians still debate today.

Others opposed to slavery believed the Constitution did all it could to limit slavery and end it someday.

"They probably went as far as policy would warrant, or practicability allow. The friends to liberty and humanity, may look forward with satisfaction to the period, when slavery shall not exist in the United States; while the enlightened patriot will approve of the system, which renders its abolition gradual."

"Mark Anthony," in the Boston *Independent Chronicle*,
January 10, 1788

Some sources suggest that those opposed to slavery saw the Constitution as a proslavery document.

"We allow that freedom and equity are the natural rights of every man born into the world; but if we vote this [the Constitution], we vote to take away those rights, and to sport ourselves with the liberties of mankind... Whether we go ourselves to Africa to procure slaves, or employ others to do it for us, or purchase them at any rate of others, it matters not a whit. It is an old saying and a true one, 'The partaker is as bad as the thief.'"

"Adelos," in the *Northampton Hampshire Gazette*,
February 6, 1788

1 **Article I, Section 2. Representatives and direct Taxes shall be apportioned**
2 **among the several States which may be included within this Union,**
3 **according to their respective Numbers, which shall be determined**
4 **by adding to the whole Number of free Persons, including those bound**
5 **to Service for a Term of Years, and excluding Indians not taxed,**
6 **three fifths of all other Persons. . .**

apportioned - divided

7 Besides how states would be represented in Congress, another
8 critical stumbling block at the Constitutional Convention was whether
9 slaves would be counted in a state's population, both for representation
10 and taxation purposes. The framers faced a dilemma: if slaves were
11 property, they should not be counted at all for representation purposes;
12 if they were persons, they should be counted fully – even as women,
13 children, indentured servants, and others who could not vote also counted.
14 However, including slaves as persons would only increase the political
15 power of the slaveholding South. After extended debate between
16 delegates supporting and opposing slavery, the framers agreed to
17 the Three-Fifths Compromise, which included a fraction of a state's
18 slaves in its population total. This formula was changed by the
19 Fourteenth Amendment, after slavery was abolished.
20

The Slaveholding Republic

Three provisions in the 1787 Constitution specifically address slavery, although the word *slave* is never mentioned. Article I, Section 2 includes three-fifths of all slaves in a state's population for representation and taxation. Section 9 of Article I forbids Congress to prohibit the slave trade prior to 1808. And Article IV, Section 2 requires states to return fugitive slaves to their owners. During the Constitutional Convention, the framers disagreed over how to deal with slavery. But most delegates recognized that, without some protection of

slavery, southern states would not join the Union. Many of the framers regarded slavery as a matter of state law that the Constitution could not prohibit. Because of its slavery provisions, abolitionist William Lloyd Garrison referred to the Constitution as "a covenant with death, and an agreement with hell." However, historian Don Fehrenbacher disagrees. In his book *The Slaveholding Republic*, Fehrenbacher states: "The Constitution as it came from the hands of the framers dealt only minimally and peripherally with slavery and was essentially

open-ended on the subject." Abraham Lincoln and his Republican party also believed that the Constitution did not require slavery to be protected, but the Supreme Court ruled otherwise. In 1857, the Court held in *Dred Scott v. Sandford* that, under the Constitution, the United States could not forbid slavery in new territories. The debate over whether the Constitution guaranteed slavery culminated in the Civil War, and was finally resolved in 1865 with the ratification of the Thirteenth Amendment.

1 **Article I, Section 9. The Migration or Importation of such Persons as any of** migration - movement
 2 **the States now existing shall think proper to admit, shall not be**
 3 **prohibited by the congress prior to the Year one thousand eight**
 4 **hundred and eight, but a Tax or duty may be imposed on such**
 5 **Importation, not exceeding ten dollars for each Person.** Importation – bring from
 6 another country
 7 Section 9 lists the limitations on the power of Congress. It forbids Congress
 8 to ban the importation of slaves before 1808. Many of the framers of the
 9 Constitution opposed the Atlantic slave trade as brutal, even though they
 10 owned slaves themselves. Congress did ban the importation of slaves in
 11 1808, but it did not restrict the domestic slave trade. domestic – one’s own
 12 country
 13 About a half million of the approximately eleven million African slaves
 14 who arrived in the New World came to British North America and the
 15 United States. Most African slaves went to the sugar plantations of Brazil
 16 and the West Indies, where they died quickly.
 17

Filled with Horrors of Every Kind *Olaudah Equiano*

Kidnapped from his home in West Africa at the age of eleven, and sold as a slave to neighboring tribes, Olaudah Equiano describes the terrors aboard a slave ship headed for the New World.

I now saw myself deprived of all chance of returning to my native country, or even the least

glimpse of hope of gaining the shore, which I now considered as friendly, and I even wished for my former slavery in preference to my present situation, which was filled with horrors of every kind, still heightened by my ignorance of what I was to undergo. I was not long suffered to indulge my grief; I was soon put down

under the decks, and there I received such a salutation in my nostrils as I had never experienced in my life: so that, with the loathsomeness of the stench and crying together, I became so sick and low that I was not able to eat, nor had I the least desire to taste anything. I now wished for the last friend, death, to relieve me....

1 **Article IV, Section 2. No person held to Service or Labour in one**
 2 **State, under the Laws thereof, escaping into another, shall, in**
 3 **Consequence of any Law or Regulation therein, be discharged**
 4 **from such Service or Labour, but shall be delivered up on Claim**
 5 **of the Party to whom such Service or Labour may be due.**
 6 This provision in Article IV, known as the
 7 Fugitive Slave Clause, was overturned
 8 by the Thirteenth Amendment's ban on slavery.
 9 A source of much friction between northern and southern states,
 10 the Fugitive Slave Clause allowed slaveholders or their agents
 11 to go into free states to capture escaped slaves. Congress enacted
 12 a Fugitive Slave Act in 1793 that allowed federal magistrates in free
 13 states to certify alleged runaways for removal to slave
 14 states – although normally extradition would be a matter of state law.
 15 To protect its free black citizens from kidnapping by slave catchers,
 16 Pennsylvania passed a personal liberty statute, but the Supreme Court
 17 declared the law unconstitutional in 1842.

discharged - released

provision – legal clause

Fugitive – a runaway from the law

federal magistrates – officers

extradition – send back to slave states

The Funeral of Liberty *Charles E. Stevens*

At times the Fugitive Slave Act had to be enforced by federal troops. Bostonian Charles E. Stevens describes the scene in 1854 when three platoons of Marines with loaded cannon—arrayed against fifty thousand onlookers—transported Anthony Burns to the ship that would take him to Virginia and slavery.

It was the first time that the armed power of the United States had ever been arrayed against the people of Massachusetts. Men who witnessed the sight, and reflected upon its cause, were made painfully to recognize the

fact, before unfelt, that they were subjects of two governments....

The route from the courthouse to the wharf had by this time become thronged with a countless multitude.... At different points along the route were displayed symbols significant of the prevailing sentiment.... From a window opposite the Old State House was suspended a coffin, upon which was the legend, "The Funeral of Liberty."... Along this Via Dolorosa, with its cloud of witnesses, the column now began to move.... In its progress, it went past the Old



Anthony Burns escaped from slavery only to be returned by federal troops.

State House.... Just below, it passed over the ground where, in the massacre of 1770, fell Attucks, the first Negro martyr in the cause of American liberty.



Primary Source Document Analysis

Directions: After you have read the primary source, discuss and answer the following questions. Make sure you give reasons and specific evidence for your answers.

1. Who created this primary source? Who do you think he or she is?
2. What was the purpose of this primary source?
3. What are three to five powerful words expressed in this document? What are their meanings?
4. What feelings and thoughts is this document supposed to trigger in the reader?

5. What was this primary source's audience?

6. What biases do you see?

Class Debate : SAC on Slavery and the Constitution

Teacher Name: **Mrs. Drum**

Student Name: _____

CATEGORY	4	3	2	1
Information	All information presented in the SAC was clear, accurate and thorough.	Most information presented in the SAC was clear, accurate and thorough.	Most information presented in the SAC was clear and accurate, but was not usually thorough.	Information had several inaccuracies OR was usually not clear.
Use of Facts/Statistics	Every major point was well supported with several relevant facts, statistics and/or examples.	Every major point was adequately supported with relevant facts, statistics and/or examples.	Every major point was supported with facts, statistics and/or examples, but the relevance of some was questionable.	Every point was not supported.
Describes the Problem	Information is highly accurate and describes the problem.	Information is accurate and describes the problem.	The information is incomplete and barely describes the problem.	The information is deficient in describing the problem.
Voice Projection	The voice of the speaker is easily heard in the group.		The voice of the speaker is difficult to hear.	
Statements/Notes	Statements and notes are well-thought out and easily understood.	Statements and notes are fairly clear.	Statements and notes are difficult to understand.	Statements and notes do not make sense.

Q: Did the Constitution include protections for slavery and slaveholders?

Step 1: Read, annotate, and find arguments. Be able to discuss and determine the most important facts and textual evidence and write them down.

Pair 1: No

Pair 2: Yes

Step 2: Stating Arguments - 1) Take turns stating your arguments (one pair at a time), 2) While one pair is stating arguments, the other pair listens, takes notes, and asks clarifying questions, 3) Take notes below, 4) Each pair takes turns summarizing their opponent's argument to make sure all arguments are clearly understood.

No:

Yes:

Step 3: Step out of your roles – consensus building

- Step out of your assigned position and discuss the issue according to what you believe based on the evidence.
- Try to find points of agreement and disagreement among the group members.
- Teams try to reach a consensus on the issue, or some part of the issue.

Things we agreed upon:

Things we could not agree upon:

Did the Constitution include protections for slavery and slaveholders?

Write a proper thesis statement that addresses every aspect of the question.

Student Reflection:

4. Which number best describes your understanding of the focus issue? (circle one)

1 2 3 4 5



No deeper understanding

Much deeper understanding

5. What new insights did you gain?

6. What did you do well in the deliberation? What do you need to work on to improve your personal deliberation skills?

Was the Constitution a Pro-Slavery Document?

Stacy Drum

The intent of the U.S. Constitution has long been debated on the subject of slavery. African American Abolitionist Frederick Douglass described the Constitution as a, “Glorious liberty document” (Hall and Huebner 195). Fellow abolitionist William Lloyd Garrison said the U.S. Constitution was, “. . . a covenant with death and an agreement with Hell” (Monk, 30). Opposing views are not new with this subject. Is the Constitution a pro-slavery document, or did our Framers not take a stand on this issue?

We the People. . . The first three words of the Preamble of our Constitution seem to be all-inclusive. We, as in all people, would be what one would surmise. The first African American on the Supreme Court, Thurgood Marshall, described those three words this way,

“. . . we need look no further than the first three words of the document’s preamble: ‘We the People.’ When the founding fathers used this phrase in 1787, they did not have in mind the majority of America’s citizens. . .

The men who gathered in Philadelphia in 1787 could not . . . have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a woman and the descendant of an African slave” (qtd. in Monk 12). Marshall was saying that the first three words of our Constitution were not all-inclusive, but rather exclusive to the white men (and others similar to them) who drafted it. Why are there differing views of the

same document? The answer is interpretation. As with any important document, in the interpretation, lie the details.

When the Framers debated and wrote the Constitution, there were many issues at hand. One of them that spanned several Articles and had its hand in several decisions, was slavery. In his book, Richard Beeman said, “The men who wrote the American Constitution lived in a world where slavery was commonplace” (308). This commonplaceness affected the writing of the Constitution and led to either not addressing the issue of slavery in the document, or addressing it in a way that would hinder the freedom of African Americans for decades to come.

There are three main clauses in the Constitution that address slavery without naming it directly. The first of the three is the “Three-Fifths Clause”. This is Article I, Section 2 which states that three-fifths of all slaves in a state’s population may be included in the total population for a state’s representation and taxation. In Helen J. Knowles’ article, she quotes Nathaniel Rogers, an 1830’s abolitionist, as saying that the Constitution recognizes slavery and that the Framers, “. . . do allude to it in regulating taxation and representation. They speak of it as an existence, but do not provide it or enact it” (313). Rogers was speaking of the Three-Fifths Clause and saying that the Framers were recognizing slavery as an institution when writing this Article, but were not directly condoning it. Beeman says that three-fifths was not proposed because the Framers were saying that African slaves were three-fifths of a person, but that an African slave contributed roughly 60% to the economy of his or her state (154).

From the above information, one can see that there is evidence that the Framers were aware of slavery and acknowledged it with this Clause. Did they condone the act of slave-holding? By the above evidence, one guesses that they were making more of a political decision, than one based on human beings. David Waldstreicher says of this Clause, "It is not about race any more than it is about the inherent wrongs of slavery" (78). He was saying that slaves were not necessarily being considered as people. Beeman says, "The three-fifths compromise was, fundamentally, about states' individual interests, not the morality of slavery" (214).

The second Clause to look at regarding slavery is in Article I, Section 9; the Slave Trade Clause. Section 9 forbids Congress from banning the importation of slaves before 1808. This would assure the slave trade could continue until 1808. Again, this was a compromise to make sure that the southern states would support the new Constitution. They would not lose the ability to import slaves. Waldstreicher quotes writer and abolitionist Samuel Bryan as saying that Article I, Section 9, ". . . is especially scandalous and inconsistent in a people, who have asserted their own liberty by the sword, and which dangerously enfeebles the districts, wherein the laborers are bondsmen" (118). Bryan goes on to say, as quoted in Waldsteicher, that the participation of five southern states had been, ". . . purchased too dearly" (118). This clause is another example of the Framers compromising on the subject of slavery so that the Constitution would go forward.

The third clause to examine is Article IV, Section 2, the Fugitive Slave Clause. This section of Article IV says that slaveholders or their agents can go into free states to capture escaped slaves. This took away a portion of the individual state's decision to

extradite. This made extradition of escaped slaves a federal law. This clause was approved with little discussion – compared to other questions regarding slavery – and little protest. One conversation about the clause was related to the expense of complying with this provision, not about the inhumanity. Beeman includes a quote by Roger Sherman, part of the Committee of Detail, as asking why there was “. . . more propriety in the public seizing and surrendering a slave or servant, than a horse” (329). It is very obvious that this is yet another part of the Constitution where decisions were made thinking of commerce and the balance of North and South, and not people. Waldstreicher says, “In a political sense, slavery remained difficult to speak about, but it had become good to trade with” (84).

The question, was the Constitution a pro-slavery document, is a difficult one to answer as seen by the above evidence. The Constitution did not make slavery illegal, nor did it directly acknowledge it by its name. Knowles, in her article, distinguishes between permitting and sanctioning slavery in the Constitution. Most scholars agree, according to Knowles, that the Framers permitted slavery, but did not sanction it. She goes on to say that this permission was “. . . borne out of compromise at the constitutional convention, they are concessions to the slave-holder” (312). Compromise seems to be the answer to this question. If the slavery questions had not been addressed they had, would the South have agreed to the present Constitution? Maybe not. John Dickinson, as quoted in Beeman’s book, gave us the general feeling of what one can believe was the general feeling of the delegates, especially in the North, “What will be said of this new principle of founding a Right to govern Freemen on a power

derived from slaves. . . The omitting of the *Word* will be regarded as an Endeavour to conceal a principle of which we are ashamed.”

Beeman, Richard. *Plain, Honest Men: The Making of The American Constitution*. New York: Random House, 2009. Print.

Hall, Kermit L., and Huebner, Timothy S., eds. *Major Problems in American Constitutional History*. Boston: Wadsworth, 2010. Print.

Knowles, Helen J. "The Constitution and Slavery: A Special Relationship." *Slavery and Abolition* 28.3 (2007): 309-328. Print.

Monk, Linda R. *The Words We Live By: Your Annotated Guide to The Constitution*. New York: Hyperion, 2003. Print.

Waldstreicher, David. *Slavery's Constitution: From Revolution to Ratification*. New York: Hill and Wang, 2009. Print.