

## 5.3

# **Constitutional Issues Related to the Civil War, Federal Power, and Individual Civil Rights**

## **Standard 5.3: Constitutional Issues Related to the Civil War, Federal Power, and Individual Civil Rights**

*Analyze the Constitutional issues that caused the Civil War and led to the eventual expansion of the power of the federal government and individual civil rights. (Massachusetts Curriculum Framework for History and Social Studies) [8.T5.3]*



Storming Fort Wagner. Print published in 1890

[Storming Fort Wagner](#). Public Domain

## **FOCUS QUESTION: What is the Legacy of the Slavery and the Civil War Today?**

Five generations have passed and the “Civil War is still with us,” declared historian James M. McPherson in 1988 (p. viii), and it remains with us today.

The Civil War happened in a country where the Constitution promised to “secure the blessings of liberty to ourselves and our posterity,” but these **freedoms were available to only some of the population.**

The Civil War happened in the world’s largest slaveholding country at the time when **3.9 million of the nation’s 4.4 million black people were enslaved** (Gates, 2014).

"The hard truth," wrote historian Andrew Delbanco (2018, pp.1, 2), "is that the United States was founded in an act of accommodation between two fundamentally different societies" - an industrializing North where slavery was fading or gone and an agricultural South where slavery was central to its and the nation's economy. Slavery, and the flights for freedom of fugitive slaves, "exposed the idea of the 'united' states as a lie."

Slavery was the fundamental cause of the Civil War. Northern Abolitionists sought to abolish slavery as an inhumane system at odds with the ideals of the Declaration of Independence and the Constitution. Other people in the North did not want new territories joining the union as slave states. People in the South sought to preserve slavery, both as an economic system and a way of life based on white supremacy and human bondage.

The Civil War **cost the lives of more Americans** than all the nation's other wars combined and was followed by more than a century and a half of **ongoing struggles** by Black Americans to achieve civil rights and constitutional freedoms in American society.

The 2018 Massachusetts History and Social Science Curriculum Framework lists the following critical policies and events leading to the Civil War:

- The Missouri Compromise (1831-1832)
- South Carolina Nullification Crisis (1832-1833)
- Wilmot Proviso (1846)
- The Mexican-American War (1846-1848)
- Compromise of 1850
- Publication of Harriet Beecher Stowe's *Uncle Tom's Cabin* (1851-1852)
- Kansas-Nebraska Act (1854)
- The Supreme Court decision in *Dred Scott v. Sandford* (1857)
- Lincoln-Douglas debates (1858)

- John Brown's raid on Harper's Ferry (1859)
- Election of Abraham Lincoln (1860)

Teaching and learning materials for these topics are online at the *resourcesforhistoryteachers* [Events Leading to the Civil War](#) wiki page.

Today, the United States still struggles to secure freedom, liberty, and justice for all. In this standard we explore key events and constitutional issues that led to the coming of the Civil War to help understand why that war was fought and its unfinished legacy in American society today.

### **Modules for this Standard Include:**

1. [INVESTIGATE: The Missouri Compromise, the Dred Scott Case, the 54th Volunteer Regiment During the Civil War, and Juneteenth National Independence Day](#)
2. [UNCOVER: Harriet Tubman, William Still, and the Underground Railroad](#)
  - [MEDIA LITERACY CONNECTIONS: Civil War News Stories and Recruitment Advertisements](#)
3. [ENGAGE: Whose Faces Should Appear on U.S. Currency?](#)
  - [MEDIA LITERACY CONNECTIONS: Representations of Gender and Race on Currency](#)

# 1. INVESTIGATE: The Missouri Compromise, the Dred Scott Case, the 54th Volunteer Regiment during the Civil War, and Juneteenth National Independence Day

## The Missouri Compromise

In 1819-1820, Missouri's request to enter the union as a new state created a crisis which foreshadowed the nation's emerging disputes over slavery. Many in the North opposed the admission of another slave state, particularly since it would upset the then equal balance of free states (NH, VT, MA, RI, CT, NY, NJ, PA, OH, IN, IL) and slave states (DE, MD, VA, KY, TN, NC, SC, GA, AL, MS, LA, AR).

A group of senators, Henry Clay of Kentucky, Daniel Webster of Massachusetts, and John C. Calhoun of South Carolina, authored the Missouri Compromise. The **compromise balanced Missouri's admission to the Union as a slave state** with the admission of much of **Massachusetts' northern territory as a free state**—what is now the state of Maine.

The southern border of Missouri (the [parallel 36°30' north, 36.5 degrees north latitude](#)) became a demarcation line for the status of slavery in new states—states admitted to the south would be slave states while states to the north would be free states. No new territory north of the line (except the proposed borders of Missouri itself) would permit slavery.



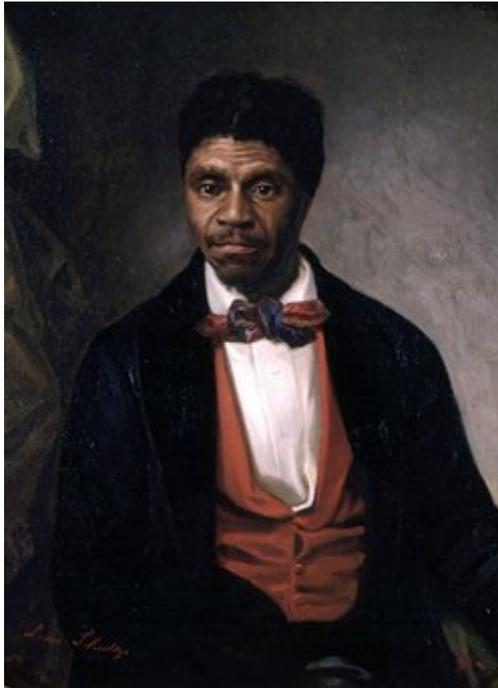
[Portrait of Henry Clay \(1818\)](#) Public Domain

Known as the “Great Compromiser,” **Henry Clay** served in Congress for nearly 40 years, in both the House and the Senate, and was Secretary of State under President John Quincy Adams. He was a contender for the Presidency five times, running three times in 1824, 1832, and 1844. Learn more about Henry Clay by viewing a restoration of a famous painting entitled [Henry Clay in the United States Senate](#).

### ***Dred Scott v Sanford Supreme Court Case***

In 1847, having lived in the free state of Illinois and the free territory of Wisconsin, **Dred Scott**, a Black man, sued in court for the freedom of his wife and daughters who still resided in Missouri, a slave state.

The case went to the Supreme Court where in 1857 Chief Justice Roger B. Taney, a supporter of slavery, wrote in the majority opinion that Negroes “had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic, whenever profit could be made by it” (quoted in [The Dred Scott Decision](#), Digital History, 2019, para. 7).

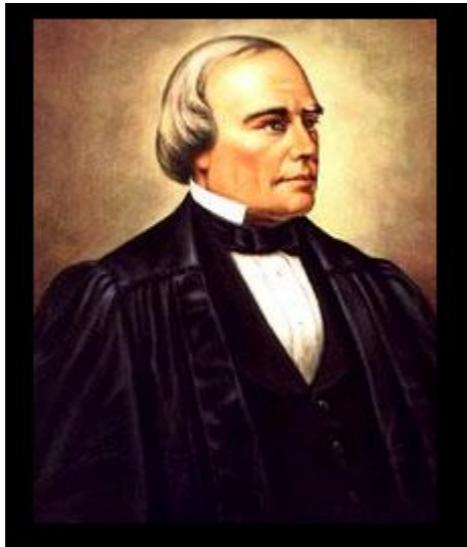


[Posthumous Portrait of Dred Scott, 1857](#), Public Domain

In summary Taney opined, the phrase “all men are created equal” clearly did not, and could not, apply to the people held in slavery. They could not become citizens. The Court further said the Missouri Compromise was unconstitutional on the grounds that the federal

government had no power to regulate slavery.

Supreme Court Justice [Benjamin Robbins Curtis](#) who began his law career in Northfield, Massachusetts, wrote a famous dissent in the Dred Scott Case, stating it was "not true, in point of fact, that the Constitution was made exclusively by the white race." Blacks were "in every sense part of the people of the United States [as] they were among those for whom and whose posterity the Constitution was ordained and established" (quoted in "Franklin County's U.S. Supreme Court Justice," *The Recorder*, May 3, 2013, p. 6). There is more on Curtis' decision at the website [Famous Dissents](#).



[Portrait of Benjamin Robbins Curtis](#), Public Domain

Curtis later served as Chief Defense Counsel during the impeachment of President Andrew Johnson.

## The 54th Volunteer Regiment During the Civil War

In 1863, some 80 years after abolishing slavery, Massachusetts was the first state to recruit black soldiers to fight for the Union in the Civil War with the formation of the [Massachusetts Volunteer 54th Regiment](#).



[The Robert Gould Shaw and Massachusetts 54th Regiment Memorial, Boston, MA](#) by [Daderot](#), Public Domain

The story of Black soldiers is an important milestone in the struggle for civil rights.

Nearly 180,000 free black men and escaped slaves served in the Union Army during the Civil War. But at first they were denied the right to fight by a prejudiced public and a reluctant government. Even after they eventually entered the Union ranks, black soldiers continued to struggle for equal treatment.

Placed in racially segregated infantry, artillery, and cavalry regiments, these troops were almost always led by white officers. ([Constitutional Rights Foundation, 2020, para. 1](#))

Black troops fought in 449 battles, **one-third of all black soldiers died**, and a dozen were awarded **Congressional Medals of Honor**. In addition to heroism in battle (the 54th Massachusetts suffered 40% casualties in the Battle of Fort Wagner in Charleston Harbor), this unit refused pay as a protest against federal government policies that paid White soldiers more than Black soldiers.

## Suggested Learning Activities

- **Analyze Stories Across State Lines**

- [Events](#):

- The Missouri Compromise
- The Mexican-American War
- The Compromise of 1850
- Kansas-Nebraska Act
- The Supreme Court decision in Dred Scott v. Sanford
- John Brown's raid on Harpers Ferry
- The election of Abraham Lincoln

- Choose a pre Civil War event or piece of legislation from the list below. Find two original news publications about the event, one published in Northern territory and one published in Southern territory. Highlight and annotate the differences in the reporting of the event.

- **Analyze the Evidence**

- Use maps, census data, and other historical evidence to answer the questions in the following learning plan: [Missouri Compromise - Free vs. Slave States](#), from Statistics in the Schools, U.S. Census

- **Do A Video Analysis**

- Watch a [video clip from the movie Glory about the 54th Massachusetts regiment attacking Fort Wagner](#)
- How did the experiences of black Soldiers in the Civil War (and subsequent wars) impact the efforts of black people to gain full freedoms in American society?
  - Visit [54th Regiment](#) from the Massachusetts Historical Society
  - [Fire and Thunder: Massachusetts Blacks in the Civil War](#), an interactive exhibit from the Commonwealth Museum
- **Curate a Collection**
  - Create a multimodal collection of the history of black soldiers in American wars (using [Wakelet](#), Google Slides/Docs, Microsoft Word/Powerpoint, or [Adobe Spark Page](#)).
    - Resources:
      - First Rhode Island Regiment: [Loyalists, African Americans, Native Americans, and Women During the Revolutionary War](#)
      - [Buffalo Soldiers and the Spanish American War](#)
      - [Harlem Hellfighters](#)
      - [The Tuskegee Airmen](#)
      - Black Soldiers in Vietnam: [Causes and Consequences of the Vietnam War](#)
- **Analyze Recruiting Advertisements**
  - Review the advertisements intended to recruit soldiers for the Civil War. Compare and contrast the language used to recruit White soldiers and Black soldiers.
    - [Advertisement 1](#)
    - [Advertisement 2](#)
    - [Advertisement 3](#)
    - [Ad Collection - White Soldiers](#)

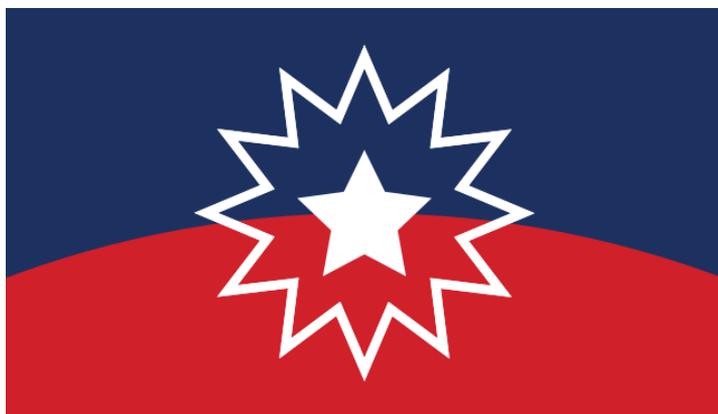
## Online Resources for The Missouri Compromise, the Dred Scott Case, and the 54th Volunteer Regiment During the Civil War

- [Missouri Compromise: Primary Documents in American History](#)
- [The Missouri Crisis](#), Digital History
- [Interactive Map of the Missouri Compromise](#)
- [Dred Scott Chronology](#)
- [Dred Scott's fight for freedom](#)
- ["What Was the Dred Scott Decision?"](#) from PBS LearningMedia
- [We Are Here to Honor Liberty and to Denounce Slavery](#) is free, interactive middle and high school curriculum developed by the David Ruggles Center for History & Education in Florence, Massachusetts.
  - It consists of 11 primary source packets with guiding questions focusing on one utopian community and its involvement in the abolitionist movement and the struggle to end slavery in the years before the Civil War
- **Advanced Placement Standard: United States History: [Key Concept 5.2](#)** Debates Over Slavery and the Coming of the Civil War

## Juneteenth: A Holiday for Freedom

Juneteenth is an annual holiday that happens on June 19. Also known as Freedom Day, Jubilee Day, Liberation Day, and African American Emancipation Day, it is the "oldest known celebration commemorating the end of the slavery in the United States" ([National Archives](#), June 19, 2020, para. 2). It was recognized in 47 states and the District of Columbia before it became a national federal holiday with the passage of the Juneteenth National Independence Day Act on June 17, 2021.

You can view [President Biden signing the bill into law here](#).



[Juneteenth Flag](#) | Public Domain

June 19th was the day in 1865 when Black people in Galveston, Texas learned from Union General Gordon Granger's [General Order Number 3](#) that slavery had ended, ironically as historian Annette Gordon-Reed (2021) noted "two years after the Emancipation Proclamation had been signed, and just two months after Confederate General Robert E. Lee surrendered to Ulysses G. Grant at Appomattox" (p. 11). General Order Number 3 did not abolish slavery throughout the nation nor had the Emancipation Proclamation. It took the addition of the 13th Amendment to the Constitution to do that and the 13th Amendment did not end the segregation and oppression of Black Americans; discriminations that continue today.

For more about the day, you can go to the [Juneteenth website](#) from the Texas State Library and Archives Commission. The date was first celebrated in the Texas capitol in 1867 under the direction of the Freedman's Bureau and became part of the public calendar of events in 1872.

Juneteenth matters because it is essential to honor occasions when people achieved freedom from oppression and slavery - in this country and around the world. By celebrating Juneteenth, in the words of

Henry Louis Gates Jr., Black Americans, and Whites too, create a “usable” past that honors the contributions of those who came before while reaffirming the present-day work and struggle to achieve more fair and just futures for all ([What is Juneteenth?](#) from 100 Amazing Facts about the Negro, para. 17).

Celebrating holidays for freedom is important in other ways as well, for as historian James W. Loewen has noted in his book *Lies Across America* (2019), the use of markers, monuments, and preserved historic sites to commemorate the past has been dominated by racism toward people of color. In state after state, Loewen argues, historic sites make heroes out of people who opposed civil rights while neglecting those who fought to make real the promises of freedom and justice for all.

What other days deserve to be known as holidays for freedom? [Henry Gates Jr.](#) cites April 16, 1862 (the day slavery was abolished in the nation’s capitol), January 1, 1863 (the day the Emancipation Proclamation took effect), and May 28, 1865 (the first Memorial Day when African Americans honored dead Union soldiers in Charleston, South Carolina) as notable occasions. What other days and dates would you add to the list for Black Americans? What days and dates could be set forth for Native Americans, Latinx Americans, women, and other marginalized and oppressed groups in U.S. history and society?

### **Suggested Learning Activity:**

- As a class, brainstorm potential holidays for freedom.
- Vote on one holiday.
- Collaboratively write a proposal to a local or state legislator or create a social media campaign to get this day recognized as a public holiday (see [High School Play Honors Students Who Fought For MLK Holiday](#) for inspiration).

### **Learning Resources**

- [The Historical Legacy of Juneteenth](#), National Museum of African American History & Culture
- [Teaching Juneteenth](#), *Learning for Justice* Magazine (June 2019).
- [10 Books to Celebrate Juneteenth No Matter Your Age](#), *Black & Bookish* (June 2018)
- [Best Juneteenth Lessons and Activities](#), *Tech&Learning* (2021)

## 2. UNCOVER: Harriet Tubman, William Still, and the Underground Railroad

"The Underground Railroad was a system of safe houses and hiding places that helped fugitive slaves escape to freedom in Canada, Mexico, and elsewhere outside of the United States" ([Ohio History Central, para. 1](#)).

Its path to freedom was long and dangerous. It is estimated that 100,000 slaves gained freedom, however, that was only a small percentage of the more than 4 million enslaved black people in the South. Henry Louis Gates puts the number lower, at between 25,000 and 40,000.

In [Who Really Ran the Underground Railroad?](#) Gates also addresses a series of myths that have emerged about the railroad, concluding that "it did succeed in aiding thousands of brave slaves, each of whom we should remember as heroes of African-American history, but not nearly as many as we commonly imagine, and most certainly not enough."



[The Underground Railroad. Charles Webber. 1893.](#) Public Domain

**Harriet Tubman** was an escaped slave who became a “conductor” on the Underground Railroad, risking her life many times to help slaves gain freedom. Of her efforts, she said, “I can say what most conductors can’t say. I never ran my train off the track and I never lost a passenger” (quoted in Library of Congress, nd).



[Harriet Tubman, c. 1868-1869](#). Public Domain

You can learn more about Harriet Tubman on the *resourcesforhistory teachers* wiki page [Women of the Abolitionist Movement](#).

**William Still**'s role in the Underground Railroad is less well-known, but also compellingly important. A Free-Black businessman and abolitionist living in Philadelphia was responsible for helping Blacks who escaped to the city in the 1840s ([William Still's National Significance](#)).

William Still directed a network of people and places that enabled hundreds of Blacks to get to freedom in Canada. His book, *The Underground Railroad* (1872) was the only first-person account written and self-published by an African American.

# Media Literacy Connections: Civil War News Stories and Recruitment Advertisements

In an interview with Ken Burns, the historian Stephen B. Oates called the Civil War the "[great central experience](#)" of United States history (1989, para 14). The Declaration of Independence and the United States Constitution promised liberty and justice for all, but Black slavery in southern states contradicted and undermined those values and questioned the survival of democracy as a form government.



[A sheet of US 32-cent postage stamps commemorating the American Civil War/War Between the States](#) | Public Domain

In many ways, the Civil War is still with us as a nation today. Black Americans still seek equality under the law. Racism toward Black people still permeates through all aspects of society. Conservative

white politicians in red states seek to limit the political participation and voting of people of color. In 1968, the [Kerner Commission](#) declared "Our nation is moving toward two societies, one black, one white - separate and unequal" (para. 2). That reality remains true in the third decade of the 21st century.

To understand the present, it is important to understand the past, and these activities explore different dimensions of the Civil War and its impacts on civil rights through the lens of newspapers and advertisements:

- [\*\*Activity 1: Read Stories Across State Lines\*\*](#)
- [\*\*Activity 2: Examine Recruitment Advertisements\*\*](#)

## Suggested Learning Activities

- **Design a Timeline or Tell a Visual Story**
  - [Journey to Freedom: Underground Railroad](#), an online "Choose Your Own Learning Adventure Interactive" from *National Geographic*
  - [Underground Railroad: Primary Source Set](#)
  - [Harriet Tubman's role in the Civil War](#)
    - Make **an interactive timeline** (using [Timeline JS](#), [Tiki Toki](#), or [Sutori](#)) or **interactive visual story** (using Google Forms or [Twine](#)) that highlights key events in Harriet Tubman's life and her impact on the Civil War and civil rights for African Americans
- **View and Fact-Check**
  - View the [Trailer for the 2019 movie \*Harriet\*](#)
  - [Harriet Fact-Check: How Accurate is the New Movie about Harriet Tubman](#), *USA Today*, October 30, 2019
  - [In Earnest, Contrived BioPic 'Harriet,' Tubman Is an Action Hero](#), NPR, October 31, 2019

## Online Resources for Harriet Tubman and the Underground Railroad

- [Overview of the Underground Railroad](#) from National Underground Railroad Freedom Center
- [History of the Underground Railroad](#) from National Underground Railroad Freedom Center
- [Underground Railroad: A Path to Freedom](#), Eastern Illinois University
- [The Secret History of the Underground Railroad](#), *The Atlantic* (March 2015)
- [Interesting Facts about the Underground Railroad](#), Harriet

Tubman Historical Society

- For more on the Underground Railroad, see [Gateway to Freedom: The Hidden History of the Underground Railroad](#). Eric Foner, W.W. Norton, 2015

### 3. Engage: Whose Faces Should Be on U.S. Currency?

In 2016, the [Treasury Department announced plans to redesign the \\$5, \\$10, and \\$20 dollar bills](#) to honor historical figures involved in women's suffrage and movement for civil rights. Five Presidents and two founding fathers are currently displayed on paper bills.



Image from [Pixabay](#)

The Treasury Department's plans for new images for the \$10 focused on women's suffrage advocates Lucretia Mott, Sojourner Truth, Susan

B. Anthony, and Alice Paul.

The focus for the \$5 was to be on individuals who were part of seminal events that occurred at the Lincoln Memorial including singer Marian Anderson and Dr. Martin Luther King, Jr.

Harriet Tubman was to be the first new image appearing on the \$20 dollar bill, but that plan has been delayed to 2028 by the Secretary of the Treasury in 2019. The Treasury Secretary does have the authority to decide whose face can appear on every U.S. bill.

Beginning in 2022 and continuing through 2025, the U.S. Mint will implement the [American Women Quarters Program](#) honoring the accomplishments of women in US history. Maya Angelou and [Sally Ride](#) will be the first to appear on coins.

## **Media Literacy Connections: Representations of Gender and Race on Currency**

The proposal to include Harriet Tubman on the \$20 bill and Maya Angelou and Sally Ride on quarters opens an important topic for critical media analysis.

Given their constant use, the images on banknotes and coins become part of everyone's accepted stock of knowledge. We take for granted that George Washington looked like just he appears on the \$1 bill, Alexander Hamilton like he does on the \$10 bill, and so on. At the same time, [the vast majority of images on U.S. money have been of White men](#), conveying a message that women and people of color are less deserving of the honor of currency recognition.

The history of women and people of color on currency are largely untold stories. Since World War I, women have appeared only on coins, namely Susan B. Anthony, Sacagawea, and Helen Keller. Martha Washington appeared on \$1 silver certificates in 1886 and

Pocahontas on the \$20 bill in the 1860s. Booker T. Washington was the first African American on a coin in 1946; Jackie Robinson, Duke Ellington, Rosa Parks, Martin Luther King, Jr. and Coretta Scott King, and the Tuskegee Airmen, among others have appeared since then. A Native American figure appeared on the Indian Head penny, but the model [was a liberty lady wearing an Native American head-dress](#); only a few million Buffalo nickels were minted in the early 20th century.

In these activities, you will analyze how women and people of color have been displayed on currency before proposing new images that suggest their importance and impact on American society and culture:

- [\*\*Activity 1: Examine the Images of Women and People of Color on Currency\*\*](#)
- [\*\*Activity 2: Campaign for Changes in the Images on Currency\*\*](#)
- [\*\*Activity 3: Design Images for Digital Currency\*\*](#)



Watch on YouTube <https://edtechbooks.org/-wVyZ>

## Suggested Learning Activity

- **Engage in Civic Action**

- Write to members of Congress to express an opinion on the [Harriet Tubman Tribute Act of 2019](#), a bill intended to put Harriet Tubman’s image on the \$20 bill.

- **Propose a New Design for U.S. Currency**

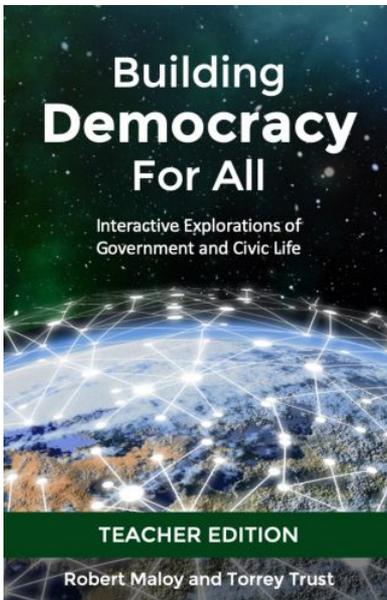
- Review the following article: "[Who, What, Why: How do you get your face on the dollar?](#)"
- What new images honoring individuals who fought for civil rights would you propose for U. S. paper currency?
  - Note: Current law prohibits any living person from appearing on U.S. currency
- Give the name of the person, the rationale for the selection, and a proposed design for the currency (including the front and back of the currency). Use the list below (current image is in brackets).
  - \$ 1 dollar bill (George Washington)
  - \$ 2 dollar bill (Thomas Jefferson)
  - \$ 5 dollar bill (Abraham Lincoln)
  - \$ 10 dollar bill (Alexander Hamilton)
  - \$ 20 dollar bill (Andrew Jackson)
  - \$ 50 dollar bill (Ulysses S. Grant)
  - \$ 100 dollar bill (Benjamin Franklin)

[Link to the table.](#)

## Standard 5.3 Conclusion

The Civil War is at the center of the constitutional history of the United States. Before the war, the institution of slavery was a glaring

contradiction in American government and society. How could there be slavery in the country founded on the principle that all men are free? After the war, black Americans have struggled for equal rights for more than 150 years and continue to do so today. **INVESTIGATE** looked at three topics that shaped the Civil War era. **UNCOVER** told the story of Harriet Tubman and the Underground Railroad. **ENGAGE** asked that given the Civil War and African American struggles for freedom, whose faces should appear on United States currency.



Maloy, R. W. & Trust, T. (2020). *Building Democracy for All*. EdTech Books. <https://edtechbooks.org/democracy>