



### Enduring Understanding

Citizens faced with challenges brought about by government actions use the petition process in order to both draw attention to policies they either favor or wish to see changed without fear of retribution. Embedded in the First Amendment of the United States Constitution, the right to petition is seen as part of the foundation of any democratic system of government.

### Essential Questions

- What were the various opinions in the 19th century surrounding the death penalty in Wisconsin?
- What are the various opinions still used today both in favor of and against the death penalty?
- How have the arguments for these opinions changed or remained the same?

### Language Note

Primary source materials such as petitions, letters, and diaries capture history as it happened, and many customs, terms, social mores, and attitudes that are considered offensive now were commonplace at the time. Please read through the primary source material before assigning it to your class.

### What is a Petition?

A formal written request presented to a civic authority or organized body (such as a territorial legislature or a municipal court), signed by petitioner(s) to show support for a cause or a concern.

### Content Objectives

- Students will understand the early arguments for and against the death penalty.
- Students will be able to effectively debate a perspective on the issue through an assigned lens.

### Wisconsin Common Core Standards Addressed

- SS.Inq2.b.h Analyze and weigh relevance of a source through a disciplinary lens to determine how the author, context, audience, and purpose affect the reliability, limitations, and usefulness of a source.
- SS.Inq3.a.h Develop a defensible claim to provide focus for an inquiry that is based upon the analysis of sources.
- SS.Inq3.b.h Support a claim with evidence using sources from multiple perspectives and media (electronic, digital, print, and other mass media).

### Vocabulary Building:

Explicit vocabulary building will be conducted through instruction and a vocabulary list which will be distributed to each student.

### Context Building

Students will analyze both primary and secondary sources related to the death penalty in Wisconsin.

They will read an article providing background information on the topic and then they will analyze multiple 19th century petitions, both for and against the death penalty in Wisconsin.

### Comprehensible Input

By analyzing both primary and secondary documents, students will get both a contemporary analysis and a retrospective synthesis of the issues. Working in groups will allow students to support each other in the learning process and come to collaborative conclusions. There are both audio (lecture, discussion) and visual (petitions) elements to this lesson. The debate will serve as a communicative element to the lesson, allowing students to articulate their understanding of the issue.

### Materials

- Indicated petitions
- Petition transcriptions
- Handout: Vocabulary
- Handout: The Death Penalty in Wisconsin
- Handout: Debate: Wisconsin Death Penalty
- Writing utensils
- Class set of research technology (iPad, Chromebooks, etc.)

### Lesson Summary

Students will read an article related to the history of the death penalty in Wisconsin and then they will supplement the reading with the analysis of three 19th century petitions arguing for and against the death penalty in Wisconsin. Students will then be divided into groups and they will debate the death penalty in Wisconsin.

- This lesson is best worked over class periods, allowing students one day to research, one to develop arguments, and one day to hold the debate and teacher-led wrap up.

## Procedure

- Introduce the topic. Distribute the article titled “The Death Penalty in Wisconsin”.
- Students will read the article. As a class, discuss the information of the article.  
Some possible questions to ask: *Do you think John McCaffary should have received the death penalty? Were you surprised that his execution was a spectator event? Do you agree that the death penalty would deter juries from convicting? Why do you think that efforts to reinstate the death penalty have always failed in Wisconsin?*
- Distribute the petitions and their associated transcriptions. Read through them as a class and discuss the arguments for and against the death penalty in Wisconsin.
- Divide the students into two teams. Randomly assign each team a lens. One of the teams will be in favor of the death penalty and one will be against it. ○ Note: Some students will be on a team that contradicts their opinion on the matter. This is okay because the point of the exercise is to be able to construct a strong debate even if it is through an unfamiliar lens.
- Distribute the worksheet titled “Debate: Wisconsin Death Penalty”
- Each team will need to research contemporary arguments to support their assigned lens. They will need to find 3 strong arguments with evidence, citations and examples. Additionally, they will need to predict three arguments the opposing team might use and draft rebuttals for those arguments.
- When the preparation time limit is up, the class will come back together to debate the issue.
- The debate will be approximately 15-20 minutes long and will be mediated by the teacher. At the end of the debate, the teacher will decide which team provided the strongest arguments and evidence.
- End with a synthesis discussion question: How did the arguments for and against the death penalty in the 19th century differ from the arguments used today?

## Petition Transcriptions

### **Petition of D.R. Spooner and 38 others, Electors in Johnstown, Rock Co. in Wisconsin for repeal of the act of the last legislature abolishing the death penalty (Box 24, Folder 11)**

The undersigned electors of the town of Johnstown in the county of Rock, believing that the passage of the act of July 12, 1853 abolishing the death penalty for murder, **contravenes** the “Higher Law” of God, tends to excite a **morbid sympathy** for the criminal, thereby inducing a recklessness and fearful disregard for life, increasing, frightfully, the commission of murders - do therefore respectfully ask for your honorable body to repeal said act and review the several acts thereby repealed. Johnston Electors, 1854.

Link to petition: <https://content.wisconsinhistory.org/digital/collection/petitions/id/6881/rec/2>

### **Memorial of Citizens of Walworth Co. in favor of the restoration of the death penalty for murder (Box 43, Folder 2)**

We the undersigned, legal voters of the county of Walworth, would like to respectfully pray your Honorable Body to so amend the laws for the punishment of crime as to make the crime of willful and **premeditated** murder punishable with death.

Link to petition: <https://content.wisconsinhistory.org/digital/collection/petitions/id/8072/rec/45>

### **Petition of Alexander Hutchinson and 44 other citizens of Dodge County praying for a law to abolish Capital Punishment (Box 15, Folder 9)**

The undersigned citizens of Dodge County believing that men, in no capacity whatever, either as men or as society, have any right, natural or social, to take human life that the taking of it, under any circumstances, except directly in **self-defense**, is a horrid crime - that the taking of it in the cold-blooded way in which society does take it, in the execution of the death penalty, has the effect to familiarize the mind to thoughts of murder - and because the punishment is shocking and **barbarous**, when inflicted upon even the guilty, and irretrievable when it falls on the innocent - would respectfully petition upon honorable body to abolish the death penalty and substitute some other mode of punishment not abhorrent to our Christianity and civilization as in duty bound will ever pray.

Link to petition: <https://content.wisconsinhistory.org/digital/collection/petitions/id/5792/rec/3>

## **The Death Penalty in Wisconsin**

The death penalty in Wisconsin was repealed in 1853. It has had no death penalty for over 150 years, longer than any other state in the country. There have been attempts to re-establish the death penalty. However, most of these efforts failed to gather enough support to make it out of the legislative committee.

### **Wisconsin's Only State Execution Spurs Efforts to Abolish Capital Punishment**

In 1851, John McCaffary was the first and last person to be executed under Wisconsin state law.

McCaffary had received the death penalty for drowning his wife in a large backyard cask. McCaffary's arms and legs were bound by cotton and leather restraints before he was hanged for his crime. McCaffary's execution played a crucial role in initiating a movement against capital punishment in Wisconsin. More than 2,000 people gathered to witness his execution in Kenosha. Among the witnesses was Christopher Latham Sholes.

Sholes was a member of the state Senate and editor of the Kenosha Telegraph. He used his newspaper to editorialize against the death penalty. At the time, Wisconsin law stated that a death sentence was the only punishment a judge could impose on a convicted murderer. Opponents of the law argued that this harsh requirement caused juries to refuse to convict guilty murderers.

In 1853, Shoals, then a member of the state House, spoke against capital punishment for an hour and a half before his legislative peers. Marvin Bovee of Waukesha led the movement against the death penalty in the state Senate. Construction of the state's first prison at Waupun was nearing completion in 1852. This made life imprisonment a feasible alternative to state execution. This gave momentum to the efforts of opponents of the death penalty. Sholes and Bovee's efforts culminated in the Death Penalty Repeal Act. The act was signed into law by Governor Leonard Farwell on July 10, 1853, ending the death penalty in the state.

### **Sporadic Public Support Fails to Persuade Wisconsin Lawmakers to Reinstate Death Penalty**

The elimination of the death penalty has not always been popular. Several events in Wisconsin history persuaded people to voice their support for bringing it back.

Three separate killings of murder defendants by mobs between 1854 and 1855 encouraged many people to favor reinstatement.

Legislators have also introduced various bills to reinstate the death penalty.

In 1866, supporters of the execution of Civil War Confederate President Jefferson Davis tried to rally support for their cause by calling for the re-establishment of the death penalty in Wisconsin.

In 1937, a bill to make kidnapping a capital offense was proposed following the much publicized kidnapping of aviator Charles Lindbergh's son in New Jersey.

None of these movements moved lawmakers to reinstate the death penalty.

Most recently, a November 7, 2006, advisory referendum asked Wisconsin voters to weigh in on the debate: "Should the death penalty be enacted in the State of Wisconsin for cases involving a person who is convicted of multiple first-degree intentional homicides, if the homicides are vicious and the convictions are supported by DNA evidence?" Fifty-five percent of voters said they would favor the Legislature's restoration of the death penalty. Despite this slight majority vote, Wisconsin legislators were not bound by the results of this referendum and did not choose to reinstate the death penalty.

Taken from: <https://www.wisconsinhistory.org/Records/Article/CS2816>

## Vocabulary

1. **Barbarous:** savagely cruel or harsh.
  - a. The way that enslaved persons were treated was **barbarous**.
2. **Contravenes:** to violate, infringe, or transgress.
  - a. Forcing young children to work in the mines directly **contravenes** child labor laws.
3. **Morbid sympathy:** An understanding and care for someone else's suffering.
  - a. The nurse was filled with **morbid sympathy** for her patients.
4. **Premeditated:** done deliberately; planned in advance.
  - a. That the guest list did not include his mother was not **premeditated**; instead it was a simple mistake.
5. **Self-defense:** The use of force to protect yourself or family members from physical harm caused by another person. The person who is defending themselves must have reason to believe they are in danger.
  - a. The judge ruled that the defendant had acted in **self-defense** and was therefore not guilty of a crime.

## **DEBATE: WISCONSIN DEATH PENALTY**

**Opening Statement:**

**Argument #1**

**State your argument:**

**Evidence:**

Source:

**Example:**

**Argument #2**

**State your argument:**

**Evidence:**

Source:

**Example:**



**Argument #3****State your argument:****Evidence:**

Source:

**Example:****Rebuttal****Their Argument:****Our Rebuttal:****Their Argument:****Our Rebuttal:****Their Argument:****Our Rebuttal:****Closing Statement:**

Petition of  
 D. R. Spooner  
 & 38 others  
 Electors in Johnston -  
 Rock Co Wisconsin  
 For repeal of the  
 act of last Legislature  
 abolishing the death  
 Penalty -  
 Hamey  
 Ref'd com. on  
 Jan. 10, 1854  
 No recommendation

2/  
 To Hon. Legislature of Wisconsin  
 The undersigned electors of the  
 town of Johnston in the County of  
 Rock, believing that the passage  
 of the act of July 12, 1853 abolishing  
 the death penalty for murder, con-  
 travenes the "Mosaic Law" of God,  
 tends to excite a morbid sympathy  
 for the criminal, thereby inducing  
 a recklessness and fearful disregard  
 of life, increasing, frightfully, the  
 commission of murders - do  
 therefore respectfully ask your hon-  
 orable body to repeal said act  
 and revive the several acts thereby  
 repealed.  
 Johnston January 1854.  
 D. R. Spooner  
 John A. Fletcher  
 George W. Squire

Dather Clark  
 John Clark  
 B. B. Lay  
 W. H. Birney  
 A. B. Carter  
 W. J. Cook  
 W. L. S. P.  
 Charles D. S.  
 W. B. Sweeney  
 H. B. Johnson  
 John Wright  
 Patterson Wright  
 J. H. Allen  
 J. C. Sigman  
 Hiram Cook  
 Noah Howell  
 W. P. Colburn  
 J. B. Foster  
 H. C. Currier  
 John McNamee  
 Henry Cheney  
 C. Field

PETITION 1

To the Honorable Legislature of the State of Wisconsin :

We the undersigned, legal voters of the county of Walworth, would respectfully pray your Honorable Body to so amend the laws for the punishment of crime as to make the crime of wilful and premeditated murder punishable with death.

- |                      |                |
|----------------------|----------------|
| Chas S Leepke        | Geo W Story    |
| William Vanwormer    | J W Rowdy      |
| Samuel Wright        | H B Weatherwax |
| Porter P. Cook       | W W House      |
| A H Stone            | O P Gardiner   |
| D H Popping          | Carroll Keel   |
| Edger Tappan         | M B Stone      |
| M. Jones             | H G Haber      |
| J P Mayo             | S W Stevens    |
| John Tappan          | Leonard Damsky |
| Samuel M. Fitzgerald | D F Harris     |
| Edison Williams      | John J. Crosby |
| William Hayes        | M Sandberg     |
| S. C. Cook           | Walter Tappan  |
| Abijah Jones         | Edgar Tappan   |
| Miriam Estlin        | W. Vanhook     |
| Gerot Moreson        | W. Wolf        |
| C. Foxworth          | James Bailey   |

PETITION 2

Petition of  
 Abraham Robinson  
 Clerk of the Court  
 of the County of  
 York & Albany  
 in and for the State  
 of New York  
 vs  
 The People of the  
 County of York & Albany  
 in and for the State  
 of New York

That the said Abraham Robinson, Clerk of the Court  
 of the County of York & Albany, in and for the State  
 of New York, doth hereby certify that the following  
 names of the persons who have signed the petition  
 in and for the County of York & Albany, in and for  
 the State of New York, are the names of the  
 persons who have signed the petition in and for  
 the County of York & Albany, in and for the State  
 of New York, and that the names of the persons  
 who have signed the petition in and for the County  
 of York & Albany, in and for the State of New  
 York, are the names of the persons who have  
 signed the petition in and for the County of York  
 & Albany, in and for the State of New York, and  
 that the names of the persons who have signed the  
 petition in and for the County of York & Albany,  
 in and for the State of New York, are the names  
 of the persons who have signed the petition in  
 and for the County of York & Albany, in and for  
 the State of New York, and that the names of the  
 persons who have signed the petition in and for  
 the County of York & Albany, in and for the State  
 of New York, are the names of the persons who  
 have signed the petition in and for the County of  
 York & Albany, in and for the State of New York,

J. A. Chase W. Rice Wm. Hutchinson J. Hutchinson George Fox D. D. Doughty J. Fox of Colden William A. W. W. W. Oliver Clark J. B. W. W. J. H. W. W.	J. A. Fox James H. Percous George H. Gould Henry Hanz George Hanz William Mercer Walter S. Cole John Hanz Howard S. Hanz Nelson Chase J. H. W. W. Wm. Hanz Wm. Hanz
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