



**FAULT LINES**  
IN THE  
**CONSTITUTION**

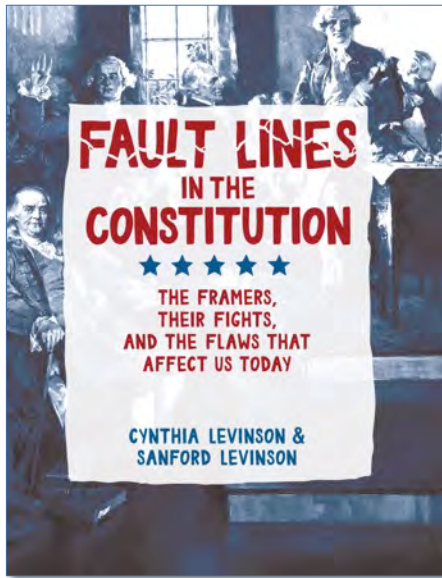


**THE FRAMERS,  
THEIR FIGHTS,  
AND THE FLAWS THAT  
AFFECT US TODAY**

**CYNTHIA LEVINSON &  
SANFORD LEVINSON**

**DISCUSSION GUIDE**

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## ABOUT THE BOOK

Did you know that many of the political issues we struggle with today have their roots in the US Constitution?

Husband-and-wife team Cynthia and Sanford Levinson take readers back to the creation of our governing document and discuss how contemporary problems were first introduced. Each chapter begins with a true story that connects directly back to a section of the Constitution. The authors then offer possible solutions on subjects like the Electoral College, gerrymandering, voting rights, and even the Senate.

Many of us take the features of our system for granted, but they actually came about through passionate haggling in an overheated room way back in 1787. And here we are, hundreds of years later, still experiencing the ramifications of both their virtues and their flaws.

## ABOUT THE AUTHORS

A former teacher and educational policy consultant and researcher, **Cynthia Levinson** holds degrees from Wellesley College and Harvard University. She is the author of several award-winning nonfiction books for young readers, including *We've Got a Job: The 1963 Birmingham Children's March*; *Watch Out for Flying Kids: How Two Circuses, Two Countries, and Nine Kids Confront Conflict and Build Community*; *Hillary Rodham Clinton: Do All the Good You Can*; and *The Youngest Marcher: The Story of Audrey Faye Hendricks, a Young Civil Rights Activist*.

**Sanford Levinson** is a Professor of Law at the University of Texas Law School and a Professor in the Department of Government at the University of Texas at Austin. In addition, he is frequently a Visiting Professor at the Harvard Law School. He holds degrees from Duke, Stanford, and Harvard universities and is the author of many adult works of nonfiction, including *Our Undemocratic Constitution* and *Framed: America's 51 Constitutions and the Crisis of Governance*.



## HOW TO USE THIS GUIDE

This guide is meant to be a tool for everyone—educators, librarians, booksellers, parents, readers of all ages...even two people who want to have an informed debate about the Constitution. That's why we call it a *Discussion Guide*.

Yes, it has plenty of resources that are ideal for teachers or librarians to use in the classroom, but these days, our classrooms aren't just inside school buildings. Young people are listening to the news, reading about politics and current events on the Internet, and debating with their peers in bookstores, coffee shops, and other community centers around the country.

In here, you'll find ideas for events and activities, and resources for more research if you're intrigued by what you've read and want to keep learning. The guide is divided into a few sections: discussion questions, suggested activity and event recommendations, suggestions for further reading and web resources, and printables. Use them all together, or pick and choose what's most useful and interesting to you.

## DISCUSSION QUESTIONS

### INTRODUCTION

- What were the weaknesses of the Articles of Confederation and Perpetual Union?
- Why did states with large populations like Virginia argue that the organization of Congress under the Articles was unfair?
- Which states allowed slavery in 1787? Which states had large populations and which ones small? What role did slavery and population size play in the development of the Constitution?
- What characteristics did all fifty-five members of the Constitutional Convention share?
- Why did people feel more allegiance to their states than to their national government? Relatively few people today would identify themselves as citizens of their states first and United States citizens second. Can you point to a time in history when a majority of citizens identified with a national allegiance? How would you identify yourself? Would it be ominous if a majority of people identified themselves primarily as citizens of a state? What about as members of an ethnic, racial, or religious group?
- Why did the Framers keep the proceedings of the Constitutional Convention secret?
- Given the Framers' relative success in Philadelphia, to what extent do you think that secrecy makes it easier to achieve compromise? What is the downside of secrecy in government?

### PREAMBLE

- Compare and contrast the original Preamble in the Articles of Confederation and the one revised by Gouverneur Morris in the Constitution. How is Morris's revision a marked departure from the Articles of Confederation?
- Why did the revisions cause a furor?
- Why do you think it is left unclear in the Constitution who "we the people" are? What does "we the people" mean to you?
- The Preamble presents six purposes of the Constitution:
  - form a more perfect Union
  - establish Justice
  - insure domestic Tranquility
  - provide for the common defense
  - promote the general Welfare
  - secure the Blessings of Liberty to ourselves and our PosterityWhat are historical examples of how these goals have succeeded and failed? What are contemporary examples?
- The Preamble mentions justice and liberty but not equality. To what extent do you think justice and liberty can exist without equality?
- The authors note that liberty, as referred to in the Constitution, is meant as "freedom from rules imposed by a leader who wasn't chosen by the people, someone who could impose his will without consequence." It does not mean "free rein to do whatever you want, with no limits." (20). What

are some historical and current examples of how this meaning of liberty has been challenged?

- What do you think of when you hear the term “blessings of liberty”?
- Why did the Framers choose not to identify specific individual rights in the Constitution?

## **PART 1: HOW BILLS BECOME (OR, MORE OFTEN, DON'T BECOME) LAW**

### **CHAPTER 1: BICAMERALISM**

- The bicameral legislative structure established by the Constitution was modeled on Britain’s Parliament. What are the differences between that body and Congress?
- In what way did the Framers conceive of the Senate as a protection against democracy? Was this elitism contradictory to the values expressed in the Preamble?
- How does the bicameral system of Congress often lead to gridlock in passing legislation?
- The authors cite the inability of Congress to pass anti-lynching legislation as an example of the flawed bicameral system. What is another legislative failure that results from that flaw? What is an example of a law that you consider undesirable that was passed by one house and blocked by the other?
- How do the numbers on the 1937 opinion poll graphic (24) contrast with the eventual defeat of Representative Leonidas Dyer’s anti-lynching legislation?
- Is your state different from or similar to the national government? (You can ask this question throughout discussions of the other chapters, too!)

### **CHAPTER 2: THE SENATE**

- What was the Great Compromise of the Constitutional Convention? How has that compromise resulted in what the authors call “considerable injustice” (38)? How does the graphic on the Senate and the US population in 2016 (38) illustrate this injustice?
- What did the Supreme Court rule in the case *Reynolds v. Sims*? Why did the ruling not apply to the US Senate?
- The authors note that countries like Australia and Switzerland have uneven representation in one of the chambers of their bicameral legislatures, but the United States is exceptional for the extent to which the number of members of the Senate is unrelated to the number of people they represent. Does it make sense for the Senate to continue to have equal rather than proportional voting power?
- The authors pose the question, “Were the Framers wise to specify two senators per state in the Constitution?” (42). What advantages might there be in an expanded Senate?
- Do you think the numbers on the chart (38) illustrate the challenges of equal representation of the states? How?
- Proportional representation is a key concept in the book and underlies many fault lines, including the Senate and the Electoral College. Revise the graphic (38) to compare the proportion of your state’s population your senators represent with that of another state.

### CHAPTER 3: PRESIDENTIAL VETO

- How does presidential veto power breach the separation between the executive and legislative branches of government? John Adams went so far as to suggest that presidential veto power changes Congress from a bicameral to tricameral legislature. Do you agree or disagree?
- Most governors can veto specific sections of a bill without vetoing all of it. Should the president also have a right to a line-item veto? Are there differences between governors and the president in terms of their veto powers?
- The authors propose two ways to make it easier for Congress to pass laws, both of which would require amending the Constitution:
  - eliminate the president's right to veto, or
  - lower the percentage of votes necessary to override a veto to a simple majority.Do you support either of these proposals or are you satisfied with the decisions the Framers made?
- The authors discuss President Bill Clinton's 1997 veto of legislation regarding late-term abortions (49). Create a graphic illustrating how Congress failed to override his veto.

### CHAPTER 4: SUPERMAJORITY RULES

- What happens to a bill when groups of senators disagree with each other?
- The filibuster increasingly brings Senate business to a halt. Discuss the pros and cons of possible remedies for this problem.
- To what extent are other super-majority rules in the Constitution defensible?

## PART II: HELLO, CAN YOU HEAR ME?

### CHAPTER 5: GERRYMANDERING

- How does the graphic on the 2012 House Election (72) illustrate the national ramifications of gerrymandering?
- Are there satisfactory solutions to this problem without moving away from single-member districts?
- Using your zip code, look up your Congressional district:  
<https://www.house.gov/representatives/find/>. Could gerrymandering have an impact on how your district is drawn? How?

### CHAPTER 6: TAXATION WITHOUT REPRESENTATION

- Which of the options for addressing the lack of representation for residents in the District of Columbia make the most sense to you?
- Like the District of Columbia, the citizens of Puerto Rico, the US Virgin Islands, and three territories in the Pacific have only nonvoting members Congress. Do you think it's fair for these citizens to pay taxes but not have equitable representation?

## CHAPTER 7: DIRECT DEMOCRACY

- The Constitution makes no allowances for direct democracy, but most states do. If that is a good idea for California, say, should it be adopted at the national level as well?
- Should citizens be able to bypass Congress and pass or eliminate laws on their own? If so, what kinds of laws should citizens vote upon directly?

## PART III: IF AMERICA THREW A PARTY, WOULD YOU BE LET IN?

## CHAPTER 8: VOTING RIGHTS

- Procedures and requirements regarding residence, registration, identification, and polling hours vary among states, and are often designed to disenfranchise certain populations from voting. What are the arrangements in your state?
- Should Congress use its constitutional authority to mandate national election system standards and procedures?
- Draft a timeline of the different voting laws and restrictions that went into place from 1787-1971.

## CHAPTER 9: RESTRICTIONS ON RUNNING FOR CONGRESS

- Are the constitutional age and residency requirements to run as representative and senator reasonable?
- Should there be any minimum requirements for citizens to run for those offices?

## CHAPTER 10: RESTRICTIONS ON RUNNING FOR PRESIDENT

- What are reasonable requirements for running for president?
- Make a visual illustrating the different restrictions we have for running for President.

## PART IV: "HURRAH! I'M 18. FINALLY I CAN VOTE FOR THE PRESIDENT." "NOT SO FAST."

## CHAPTER 11: PRESIDENTIAL TERM LIMITS

The Twenty-second Amendment limits the number of presidential terms to two. The authors propose that Congress should have the ability to suspend the two-term rule—or the four-year-term rule—under exceptional circumstances, such as wars or natural catastrophes. What are the pros and cons of having such an exception?

## CHAPTER 12: THE ELECTORAL COLLEGE

- What was the Framers' rationale for creating the Electoral College?
- In addition to determining who wins and who loses, how does the Electoral College affect presidential campaigns and elections? What roles do swing states and states with small populations play in this process?

- Two of the last four presidents gained office without coming in first in the election or even winning a majority of the vote. Opinion polls taken since 1944 reveal that sizable majorities of Americans want to replace the Electoral College with direct voting. Do you agree or disagree that it should be replaced with direct voting?
- Amending the Constitution is the most straightforward way of eliminating the Electoral College. The authors cite two alternate proposals to amending the Constitution: eliminate winner-take-all or adopt the National Popular Vote plan. Discuss the pros and cons of each proposal.
- Compare and contrast the graphics in Chapter 12. In your opinion, which one best and most clearly illustrates the challenges of the Electoral College? Why?
- Is your state a winner or a loser in the Electoral College? Why?

## **PART V: WHO'S RUNNING AMERICA?**

### **CHAPTER 13: CONTINUITY IN GOVERNMENT**

- The authors say, “The Constitution’s mechanisms for replacing politicians on a wholesale basis, in case of a widespread emergency, are unwieldy, inefficient, and dysfunctional.” (140). How does the constitutional requirement for a quorum of congresspeople to meet before members can take action complicate matters?
- Discuss the pros and cons of various possible remedies to address the problem.

### **CHAPTER 14: PRESIDENTIAL SUCCESSION**

- Some people argue the Presidential Succession Act “is an accident waiting to happen” (153). What is the basis of that claim? How serious is this problem? What would be a better alternative?
- Review the Presidential line of succession (151). Would you make any modifications? If so, what would you change?

### **CHAPTER 15: INAUGURATION DAY**

- Why is inaugurating a president more than two months after Election Day a problem?
- How does the Electoral College complicate the issue?

## **PART VI: EMERGENCY! EMERGENCY!**

### **CHAPTER 16: EMERGENCY POWERS**

- In this chapter, the authors discuss historical examples in which presidents, usually acting under the authority of Congress, have invoked “emergency powers,” which are vaguely defined in the Constitution, to suppress the civil liberties of citizens. Do you consider any of the examples cited appropriate actions?
- Is it ever appropriate for citizens to be denied their constitutional rights in a time of emergency?

If so, under what circumstances?

- Since President George W. Bush declared a “war on terror,” many people have criticized legislation like the USA PATRIOT Act and various presidential directives as infringements on civil liberties. Do you agree? Can you identify any current laws or directives that appear to infringe upon citizens’ constitutional rights?

## **CHAPTER 17: HABEAS CORPUS**

The authors propose: “The Constitution would serve the country better if it were amended to spell out more clearly and in more detail the actions particular federal officials could take in times of crisis.” (182). They add that the definition of crisis needs to include more than the two circumstances cited in the Constitution—invasion and rebellion. What details would you add to clarify this part of the Constitution?

## **CHAPTER 18: AMENDING THE CONSTITUTION**

- The battle over the Equal Rights Amendment shows how difficult it is to amend the Constitution. After reading about the numerous fault lines in the Constitution in this book, do you agree with James Madison that it should not be easy to change? Or, do you believe that the amendment process should be simplified, as it is in other countries and in many states?
- Create a timeline outlining the Nineteenth Amendment’s path to ratification. What inferences can you make about the challenges it faced along the way?

## **CHAPTER 19: GRADING THE CONSTITUTION**

- What does each aspect of the Preamble mean to you today? How is it different from what the Framers intended?
- The authors give the lowest grade, a C-, to “Promote the general Welfare.” What are the authors’ reasons? Do you agree or disagree that this principle deserves the lowest grade? If you disagree, which aspect of the Preamble do you think deserves the lowest grade?

Peachtree Teacher’s Guide for  
**FAULT LINES IN THE CONSTITUTION**  
prepared by Ed Sullivan

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## SUGGESTED ACTIVITIES AND EVENT RECOMMENDATIONS

### CLASSROOM / SCHOOL LIBRARY EVENT AND ACTIVITY SUGGESTIONS

- **FIND THE FAULT LINES:** The authors note numerous fault lines in the Constitution. Ask students which they consider the most urgent to address; have them formulate an argument for the fault line they choose and use it to persuade others that their choice is the most urgent. Suggest that they look for other fault lines the authors missed!
- **BLOG-A-FAULT-LINE:** Share the book's blog [www.faultlinesintheconstitution.com](http://www.faultlinesintheconstitution.com) with students. Then have them scan the news on a credible news site or daily newspaper, identify a current event that relates to the Constitution, and write a blog post about it.
- **CONSTITUTION QUIZ SHOW:** Conduct a competition using the Jeopardy game show format. Categories could include the Preamble; executive, judicial, and legislative powers; the Framers, and fault lines discussed in the book.
- **COMMUNITY IN THE CLASSROOM:** Invite local civics teachers, politicians, lawyers, judges, etc. for a classroom discussion on the Constitution and/or other civics lessons. Invite your students/learners to prepare questions to ask the experts ahead of time.
- **CREATE YOUR OWN COUNTRY:** Have students break up into small groups and create their own new countries. Write a mini-constitution that establishes the structure of their country's government. Have the students explain why they chose that arrangement, then compare and contrast their plans.
- **ELECTION DAY CELEBRATION:** Hold a mock school-wide election on a topic (a new school constitution?) of students' choice. Have students decide who can vote, register voters, and campaign for and against the issue. Celebrate if, say, 95 percent of voters register and 90 percent vote.
- **SILLY LAW SYMPOSIUM:** The book often refers to different state constitutions as guidelines for a better way to structure the US Constitution, but states also have silly laws. For example, did you know it's illegal for a bingo game in North Carolina to last more than five hours for most organizations? Look up some of the silliest laws in your state and share them with the group. Then, in true democratic fashion, take a vote to see which one is the silliest! To take this activity further, discuss why these laws are still in effect and why some old-fashioned laws are finally being removed from state constitutions.
- **UNSCRAMBLE THE PREAMBLE:** Write the phrases of the Preamble on separate pieces of paper, mix them up, and have the students put them back in the correct order. Have them discuss whether a different order would be better.
- **MOCK CONSTITUTIONAL CONVENTION:** Organize a mock Constitutional Convention with students in which the delegates address the fault lines revealed in the book and propose remedies.
- **GRADE THE CONSTITUTION:** Take the authors' lead and invite your students to grade the Constitution. From the book: "The Preamble sets out the Framers' goals for the budding United States. To what extent does the Constitution meet their goals? Looking at the document's track record—its successes and problems—in each area allows us to give it a grade. You can do the same." (195). Use the printable as a guideline.

## SUGGESTED ACTIVITIES AND EVENT RECOMMENDATIONS

### BOOKSTORE / PUBLIC LIBRARY EVENT AND ACTIVITY SUGGESTIONS

- **CONSTITUTION READ-IN:** On Constitution Day (September 17) and/or Bill of Rights Day (December 15), organize a community read aloud of the US Constitution and its amendments. To take it a step further and increase the fun, make it a marathon!
- **COMMUNITY CONVERSATIONS:** Hold community discussions about current events related to the Constitution (immigration, voting rights, amendments, Supreme Court rulings, etc.). Invite area judges, constitutional law experts (professors, attorneys), or journalists to be panelists. To make this a larger initiative, establish an ongoing speaker series.
- **CONSTITUTION BOOK CLUB:** Establish a regular book club that reads and discusses books on matters of our government and Constitution. Invite a community leader or expert to moderate.
- **CONGRATULATIONS! YOU'RE A CITIZEN!:** Host a party honoring recent naturalized citizens and their families in your community. Provide them with civic resources they need as legal residents of the US.
- **LET'S WRITE A LETTER:** Host a letter-writing event for members of your community to pen letters to their government representatives. Invite experts to teach which techniques and content work most effectively for change.
- **I'VE REGISTERED TO VOTE. WHAT NEXT?:** Hold an event for new eighteen-year-olds or others in the community who have recently registered to vote. Invite a speaker to walk them through voter laws and the election process—where to vote, how to vote, and how to educate themselves properly on issues.

## **SUGGESTIONS FOR FURTHER READING**

- Bailyn, Bernard, ed. *Debate on the Constitution: Federalist and Anti-Federalist Speeches, Articles, and Letters During the Struggle Over Ratification*. 2 vols. Library of America, 1993.
- Beeman, Richard. *Plain, Honest Men: The Making of the American Constitution*. New York: Random House, 2009.
- Fradin, Dennis Brindell. *The Founders: The 39 Stories Behind the U.S. Constitution*. New York: Walker, 2005.
- Freedman, Russell. *In Defense of Liberty: The Story of America's Bill of Rights*. New York: Holiday House, 2003.
- Hamilton, Alexander, John Jay and James Madison. *The Federalist Papers*. Congress.Gov Resources. <https://www.congress.gov/resources/display/content/The+Federalist+Papers>.
- Jaffe, Steven H. *Who Were the Founding Fathers? Two Hundred Years of Reinventing American History*. New York: Henry Holt, 1996.
- Kiernan, Denise and Joseph D'Agnese. *Signing Their Rights Away: The Fame and Misfortune of the Men Who Signed the United States Constitution*. Philadelphia: Quirk, 2011.
- Krull, Kathleen. *A Kids' Guide to America's Bill of Rights: Curfews, Censorship, and the 100-Pound Giant*. New York: Avon Books, 1999.
- Levinson, Sanford. *Our Undemocratic Constitution: Where the Constitution Goes Wrong (and How We the People Can Correct It)*. New York: Oxford University Press, 2006.
- Maier, Pauline. *Ratification: The People Debate the Constitution, 1787-1788*. New York: Simon & Schuster, 2010.
- McKissack, Patricia C and Arlene Zarembka. *To Establish Justice: Citizenship and the Constitution*. New York: Knopf Books for Young Readers, 2004.
- Raphael, Ray. *Constitutional Myths: What We Get Wrong and How to Get It Right*. New York: New Press, 2013.
- Simon, James. F. *What Kind of Nation: Thomas Jefferson, John Marshall, and the Struggle to Create a United States*. New York: Simon & Schuster, 2002.
- Stevens, John Paul. *Six Amendments: How and Why We Should Change the Constitution*. New York: Little, Brown, 2014.

## **WEB RESOURCES**

Center for Civic Education  
[www.civiced.org](http://www.civiced.org)

Civics Renewal Network:  
[www.civicsrenewalnetwork.org](http://www.civicsrenewalnetwork.org)

Constitution Day  
[www.constitutionday.com](http://www.constitutionday.com)

Constitutional Rights Foundation  
[www.crf-usa.org](http://www.crf-usa.org)

iCivics  
[www.icivics.org](http://www.icivics.org)

National Constitution Center  
[www.constitutioncenter.org](http://www.constitutioncenter.org)

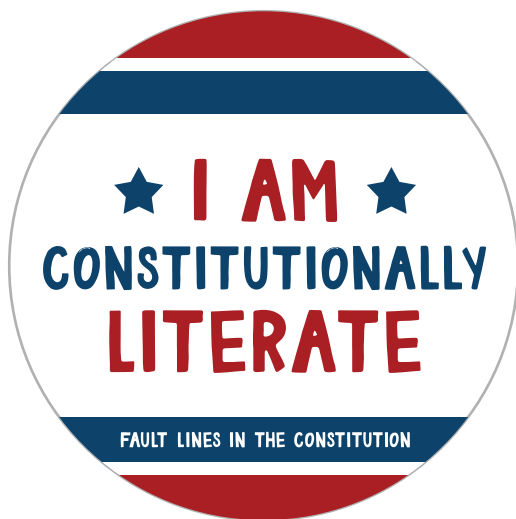
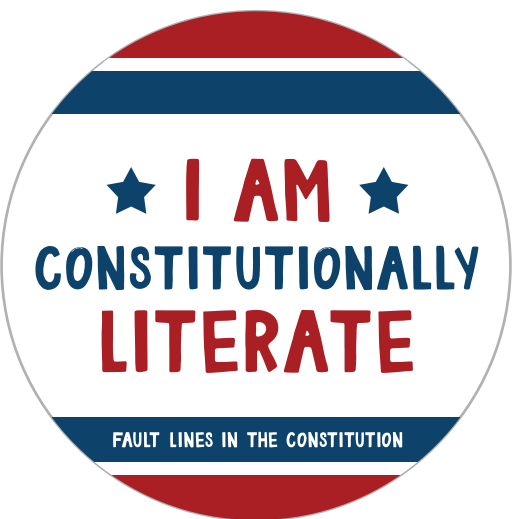
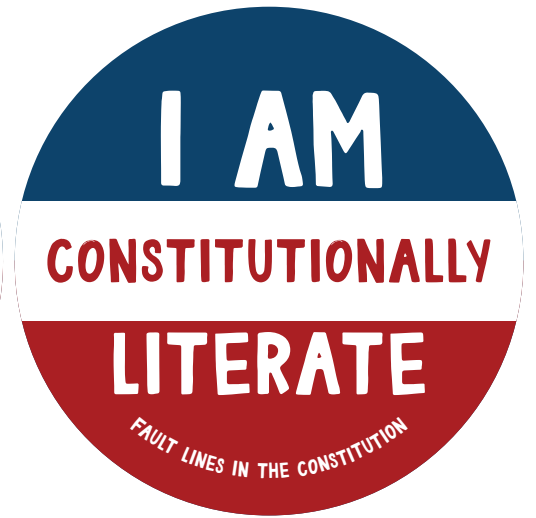
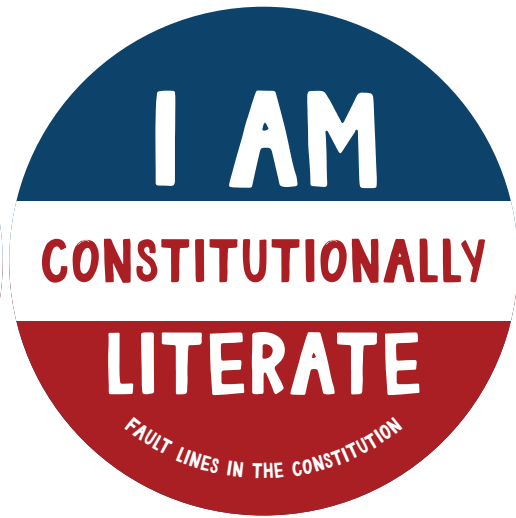
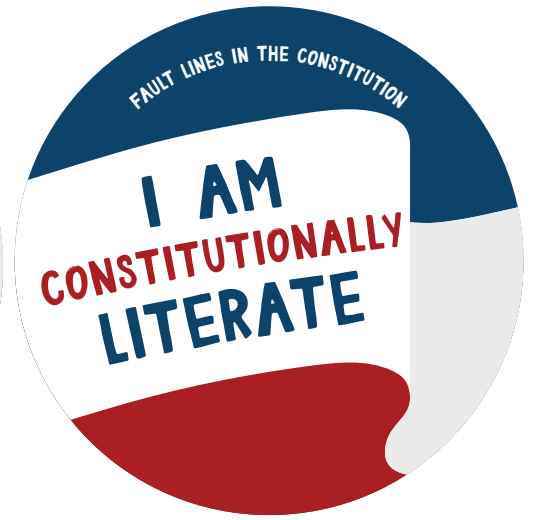
The ReDistricting Game  
[www.redistrictinggame.org](http://www.redistrictinggame.org)

# Grade the CONSTITUTION Activity

Name: \_\_\_\_\_

## THE CONSTITUTION'S REPORT CARD

<b>SUBJECT</b>	<b>GRADE</b>
<b>FORM A MORE PERFECT UNION</b>	
<b>ESTABLISH JUSTICE</b>	
<b>INSURE DOMESTIC TRANQUILITY</b>	
<b>PROVIDE FOR THE COMMON DEFENSE</b>	
<b>PROMOTE THE GENERAL WELFARE</b>	
<b>SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY</b>	
<b>AVERAGE</b>	



# FAULT LINES IN THE CONSTITUTION

Written by Cynthia Levinson and Sanford Levinson

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Join the conversation at: [www.FaultLinesintheConstitution.com](http://www.FaultLinesintheConstitution.com)

## ★ ★ 4 STARRED REVIEWS! ★ ★

★ “Lately there’s been dismay that civics, government, and history have taken a backseat in classrooms. This smartly conceived book goes a long way toward reintroducing students to those subjects....the Levinsons link both history and current events as they offer an illustrative group of examples that show where the Constitution got it right—and wrong.... Although the font, charts, and well-written text make this appealing, it’s not always an easy read. It is, however, an important one.”

—*Booklist*

★ “A fascinating, thoughtful, and provocative look at what in the Constitution keeps the United States from being “a more perfect union.”

—*Kirkus Reviews*

★ “Interest-piquing anecdotes open each chapter, the effects of the Constitution’s provisions are dramatically summarized in poster-like illustrations, and the ensuing discussions... are both cogent and highly readable...thought-provoking and exceptionally topical”

—*Publishers Weekly*

★ “Insightful... Much food for thought on the application and relevance of many of the Constitution’s stipulations. Essential for class discussions, debate teams, and reports.”

—*School Library Journal*

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