

UNIT 3: CIVIL LIBERTIES & CIVIL RIGHTS

1

- **Civil Liberties:** Rights that need protection *from* the government
 - *As in the Bill of Rights*
- **Civil Rights:** Rights that need protection *by* the government
 - *Enforced by laws*

2

The Bill of Rights

- Tell me again what that is...
- Written by...?
- So, you say there are ten amendments that protect individuals... what did the Madison & co. put first?
 - "the five freedoms"



3

The Bill of Rights

- If the freedoms in the BOR are in the Constitution, then they are open to interpretation by...?



4

Bill of Rights

- Freedom of Speech
 - social order vs. individual freedom
 - Time, place, and manner regulations
 - Limitations on some obscene and offensive communication.
 - Protections against defamation
 - libel (written communication)
 - slander (oral communication).
 - speech that create a "clear and present danger"

5

Bill of Rights

- Freedom of Religion
 - Beliefs vs. Practices
 - Johnson Amendment (1954 tax code)
 - Establishment Clause
 - Engle v. Vitale...
 - Free Exercise Clause
 - Wisconsin v. Yoder
 - Employment Div. v. Smith (1990)



6

Bill of Rights

- Freedom of Press
 - Traditionally avoid prior restraint



7

Bill of Rights

- Selective Incorporation:
 - The process by which the Bill of Rights is applied to the states*
- Not really a big deal until after the Civil War...
 - 14th Amendment: *"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States..."*
- This would take a minute...
 - 1st, 2nd, 4th, 5th, 6th, & 8th so far

8

Bill of Rights

- Selective Incorporation
 - Reynolds v. United States (1879)
 - Beliefs or Practices...?
 - McDonald v. Chicago
 - Remind me again what that one is...

9

Bill of Rights

- 2nd Amendment
 - Remind me again what that one is...
- Wedge Issue
- Let's look at this further...

10

Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

11

Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

12

Fourteenth Amendment

• Section 1

• All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

13

Fourteenth Amendment

• Section 2

• Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

14

Fourteenth Amendment

• Section 3

• No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

15

Fourteenth Amendment

•Section 4

•The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

16

Fourteenth Amendment

•Section 5

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

17