CHAPTER 2
Constitutional Rights

2-1 Foundations of the U.S. Constitution
2-2 Division and Balance of Governmental Powers
2-3 The Internet and Constitutional Rights
2-1 Foundations of the U.S. Constitution

GOALS

- Identify the documents written in the course of the nation’s founding
- Explain how the U.S. Constitution addresses and protects citizens’ civil rights
THE DOCUMENTS THAT FORMED A NATION

- Declaration of Independence
  - July 4, 1776
  - Asserted the rights the colonists desired.

- Articles of Confederation
  - 13 original colonies united in 1781
  - Declared a need for a stronger central government

- U.S. Constitution
  - Fixed the problems of the Articles of Confederation

- The Bill of Rights
  - First ten amendments
U.S. BILL OF RIGHTS: AMENDMENT I

- Freedom of Religion
- Freedom of Speech
- Freedom of the Press
- Freedom to Assemble Peaceably
- Freedom to Petition the Government
U.S. BILL OF RIGHTS: AMENDMENT II

- Institution of a well regulated Militia
- The right to keep and bear Arms
U.S. BILL OF RIGHTS:
AMENDMENT III

- Citizens do not have to let soldiers stay in their homes during peacetime.
U.S. BILL OF RIGHTS: AMENDMENT IV

- Unless the government has a good reason, citizens, their homes/things cannot be searched or taken away from them.
- Police have to get permission from a judge to arrest someone or to make a search.
U.S. BILL OF RIGHTS: AMENDMENT V

- Right to Due Process
- Cannot incriminate oneself.
- Cannot be tried again (if found innocent) for the same crime in same court
U.S. BILL OF RIGHTS: AMENDMENT VI

- Anyone accused of a crime has the right to a speedy trial
- Trial by jury
- Miranda Rights
U.S. BILL OF RIGHTS: AMENDMENT VII

- If a disagreement between people is about something more than $20, they can have a jury trial.
U.S. BILL OF RIGHTS: AMENDMENT VIII

- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
U.S. BILL OF RIGHTS: AMENDMENT IX

- The rights listed above are not the only ones people have.
- Any not mentioned in the Bill of Rights automatically belong to the people.
U.S. BILL OF RIGHTS: AMENDMENT X

- Any powers that do not belong to the national government belong to the states.
- The US government has only those powers listed in the Constitution.
CIVIL RIGHTS

- Due process of law
  - must be provided adequate notice and a proper hearing.

- The abolition of slavery
  - 13th Amendment

- The right to vote
  - Denial by gender
    - 15th Amendment right to vote (not gender specific – no women)
    - 19th Amendment right to vote regardless of gender
  - Denial by age
    - 26th Amendment right to vote at age 18

- Peripheral rights
  - Privacy Rights: not specified, but understood
    - Read “What’s Your Verdict?” page 28
Chapter 2

2-2 Division and Balance of Governmental Powers

GOALS

- Describe the system of checks and balances in the U.S. government
- Explain how the power to govern is divided between the federal and state governments
A SYSTEM OF CHECKS AND BALANCES

- Branches of government
  - Legislative branch (makes laws)
  - Executive branch (veto power)
  - Judicial branch (matters of the Constitution)

- Changing the Constitution
  - 1st way: by amendment
  - 2nd way: by convention of all of the states

- The U.S. form of government
  - Republic or a representative democracy

Failed amendments
THE POWER TO GOVERN

10th amendment

- Sovereignty of the states
  - Supreme political authority free from external control
  - Business law, criminal, civil, probate, domestic

- Limiting states’ powers
  - States must respect the protection garnered by the US Constitution

- Powers of the federal government
  - Duty to protect every state from invasion
  - Establish post office, mints, tax on imports(exports), income tax
  - Regulate interstate commerce
SELECTED FEDERAL REGULATORY AGENCIES

Refer to page 34 of your textbook:

- Federal Reserve System’s Board of Governors
- Federal Trade Commission (FTC)
- Securities and Exchange Commission (SEC)
- National Labor Relations Board (NLRB)
- Federal Communications Commission (FCC)
- Equal Employment Opportunity Commission (EEOC)
- Occupational Safety and Health Administration (OSHA)

Continued on the next slide
SELECTED FEDERAL REGULATORY AGENCIES

- Consumer Product Safety Commission (CPSC)
- Food and Drug Administration (FDA)
- Environmental Protection Agency (EPA)
- Nuclear Regulatory Commission (NRC)
- Department of Homeland Security (DHS)
- Federal Energy Regulatory Commission (FERC)
The Internet and Constitutional Rights

GOALS

- Understand the foundations of cyberlaw
- Identify the various constitutional issues involved in the use of electronic communication
THE FOUNDATIONS OF CYBERLAW (Laws that govern the use of the Internet)

- The birth of the Internet
  - Initially created for defense projects/shared info

- The World Wide Web
  - In 1990 the Internet was opened to new users of hypertext
  - WWW was created to simplify the Internet – the rest is history

- Evolving legal issues in cyberspace
  - In a constant state of development

- The ongoing issue of jurisdiction (which court?)
  - Jurisdiction within the United States
  - International jurisdiction
The Foundations of Cyberlaw (cont’d)

- The ongoing issue of jurisdiction (which court?)
  - Jurisdiction within the United States
    - Issue: is case to be decided within the state where filed or in state where e-business is located?
      - Laws of state must allow suits against nonresident defendants
      - Is there a violation of due process?
      - What’s Your Verdict? Page 36
  - International jurisdiction
    - Governed by international commercial law
INTERNET-RELATED CONSTITUTIONAL ISSUES

- Freedom of speech (rights are not absolute)
  - Roth v. United States (obscenity)
    - Key question: does questionable material have any redeeming social importance?
  - Miller v. California
    - Questionable materials are to be judged by the standards of the community affected.

Refer to page 40 in textbook:
Landmark Decisions in Cyberlaw
Internet Related Issues (cont’d)

- **Communications Decency Act**
  - 1996: control transmittal of obscene material through Internet

- **Child Online Protection Act**
  - 1998: commercial sites are to up to date methodology to restrict access to their sites containing materials harmful to children.

- **The right of privacy online**
  - At work: no privacy with emails. They belong to workplace.
  - Shared information: e.g.: Facebook, Twitter, Flickr, Match
STATUTES OF IMPORTANCE TO CYBERLAW

- Lanham Act of 1976
- Trademark Dilution Act of 1996
- Computer Fraud and Abuse Act
- Telecommunications Act of 1996
  - The Communications Decency Act of 1996 (CDA)
- Child Online Protection Act of 1998
- Fraudulent Online Identity Sanctions Act of 2004
- Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM)
PREVENT LEGAL DIFFICULTIES

As a citizen . . .

- Carefully read and reread the U.S. Constitution as it has been amended. This will help you to become a properly informed citizen of the United States.

- Pay special attention to the Bill of Rights and the Fourteenth Amendment to better appreciate their value in assuring your liberty and to be alert to possible threats that could erode vital freedoms for you and others.

Continued on the next slide
PREVENT LEGAL DIFFICULTIES

- When eligible, participate in government as a well-informed voter. If you are able and willing, participate in the work of the political party of your choice. If you are one of the dedicated few, become a candidate for public office.

- When you use the Internet be aware of your rights and potential liabilities for what you say and the transactions you conduct.