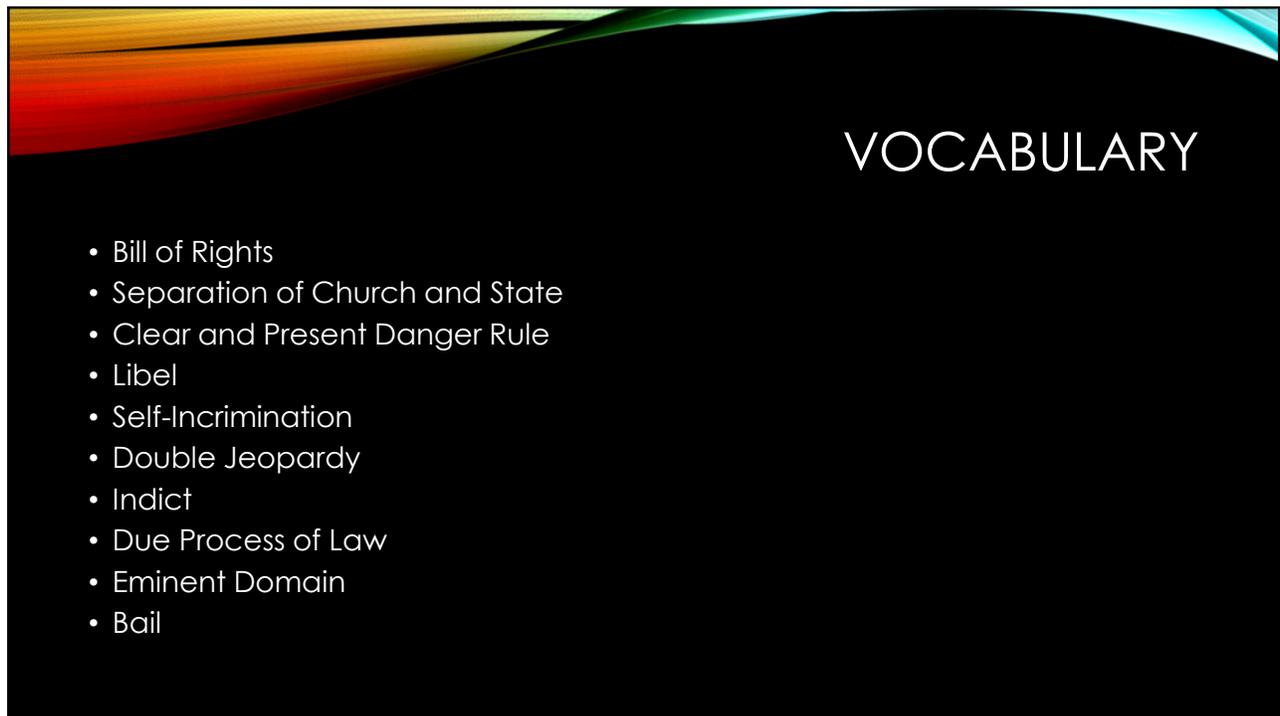




UNIT 4

First Amendment & the Bill of Rights



VOCABULARY

- Bill of Rights
- Separation of Church and State
- Clear and Present Danger Rule
- Libel
- Self-Incrimination
- Double Jeopardy
- Indict
- Due Process of Law
- Eminent Domain
- Bail

ADDING A BILL OF RIGHTS

- When Constitution was being ratified, people were worried about individual rights
- Writers of Constitution had promised to add a Bill of Rights once the Constitution was complete
- Some argued that there was no need for a Bill of Rights
 - Most states had one in their Constitutions
 - The government was not given the power to do the things that a Bill of Rights was to protect
- The amendments were proposed and ten of them became the Bill of Rights in 1791
- They do NOT give rights, they tell the government what rights it cannot take away
- There are limits to each right however that is protected in the Bill of Rights
- Also very important to note that this was a Bill of Rights specific only to national laws. States had their own for state laws.

PERSONAL FREEDOMS PROTECTED

- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
- 5 parts of first amendment
 - Religion
 - Speech
 - Press
 - Assembly
 - Petition
- Each of these have restrictions as well

1ST AMENDMENT

- Religion
- Congress can't establish an official religion
- Congress can't favor one religion over another
- You can practice any, or none at all
- Limits?
- Separation of church and state, a clear line between the two
 - School prayer
 - 10 Commandments in school and city buildings
 - Christmas nativity scenes at court houses

- Speech
- Express ideas and opinions openly, but also listen to others as well
- Allows you to criticize government and government officials
- Limits in freedom of speech
- Slander-say things that are untrue and intend to hurt another
- Yelling "Fire" in a theater
- Clear and Present Danger

- Press
- Right to express ideas and opinions in writing
- Again, a right to criticize the government or officials
- Also now includes electronic and print media
- Books, magazines, online blogs, TV shows, radio
- Limits
- Libel-print things that are untrue and intend to hurt another

- Assembly
- Right to hold meetings, discuss problems, criticize government, or protest
- Limit includes that these must be peaceful and not cause unrest
- Petition
- Right to ask the government to address your concerns
- Contact representatives and ask them to pass laws or change them

OTHER PERSONAL RIGHTS PROTECTED

- Amendment 2
- Protects your right to keep and bear arms
- Understanding of the amendment is very debated
- Also protects the state's power to keep a militia
- "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."
- Amendment 3
- No forced quartering of troops by the government
- Quartering means to house and feed soldiers, which the British government had made colonists do before the Revolution.

RIGHTS OF THE ACCUSED

- Amendments 4-8 protect citizens from abuses in the criminal justice system.
- These are again not rights, but protections for citizens specifying what the government must do in you are accused of a crime
- Amendment Four
- Protects citizens from unreasonable searches and seizures
- 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
- Key issues, there's a lot
- Unreasonable and Probable Cause

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- Time place and manner are key to searches and seizures
- Unreasonable has been debated over the years
- Largely depends also on what is public and what is private
- Schools are also a place where a lesser burden of proof has been held up by the courts
- Reasonable suspicion
- Search warrants are legal documents that describe the place to be searched and items seized
- Must be signed by a judge as well

- Amendment 5:
 - 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.
 - A person is arrested but must be formally accused, indict, by a grand jury
 - They decide if there is enough evidence for trial
 - Protects from self incrimination as well, you can't be forced to testify against yourself (Pleading the 5th)
 - Protects from double jeopardy, being tried for same crime twice (NOT same charges)

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- Establishes due process also
- Rights of the accused to be able to know of charges, know of evidence, call witnesses, provide their side of the story, etc...
- Establishes principle of eminent domain
- Government can't take private property without giving owner fair payment for it
- Fair does not mean market value at all times
- Usually used for building public buildings and roads
- More recently, has been used to clear vacant parts of cities for the public good

- Amendment 6:
- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence
- Says a person should have a speedy (prompt) and public trial
- Rights of a jury trial
- Jury set up: Pool must be in the district where crime was committed and also trial will take place in that district
- Be told of the charges
- Right to hear witnesses and question witnesses. Right to have own witnesses
- Right to an attorney and have one provided if they can't afford one

- Amendment 7:
- Provides for trial by jury in cases dealing with money or property over \$20
- Amendment 8:
- Deals with issue of bail, money or value that ensures people appear for trial
- Bail cannot be excessive (but can be a lot)
- Depends on severity of crime, previous actions, and flight risk
- 8th also forbids cruel and unusual punishment
- The severity of the punishment should fit the crime
- Also debate over the death penalty
- Which method used? Do some crimes deserve it? States differ to both.

RIGHTS OF STATES & CITIZENS

- Framers did not want people or the government to think that citizens only had rights that were protected in Constitution.
- Amendment 9
- States that Americans still have rights that are not listed or mentioned being protected in the Bill of Rights or Constitution.
- They are not defined so not open to interpretation
- Examples have been right to political activity and right to privacy
- Amendment 10
- States that states have all the powers not specifically given to the national government in the Constitution,
- and ones not specifically forbidden to the states in the Constitution.
- States can act independently of the federal government to protect citizens and their rights