**Chapter 7 Guarantees and Protection of Rights— Component III of Madisonian Democracy**

**Chapter Objectives**

While studying this chapter, the student will learn to:

1. Examine the rights that are set out in the text of the original Constitution, the Bill of Rights, and the Civil War Amendments.

2. Understand and apply the principle of state action.

3. Comprehend and assess incorporation of the Bill of Rights through the Fourteenth Amendment.

4. Learn how additional rights can be added to the Constitution through the amendment process.

**Constitutional Connector**

The previous chapters emphasized that the Constitution protects individuals from the intru-sion of government by creating and then dispersing power into three branches of government (Chap-ters 2, 3, and 4—component I of Madisonian democracy). For a double layer of protection, power is divided a second time under principles of federalism (Chapter 5—component II of Madisonian democracy). This chapter will cover component III of Madisonian democracy by surveying the guar-antees of rights that are listed in the original text of the Constitution, the Bill of Rights, and other key amendments including the Thirteenth, Fourteenth, and Fifteenth Amendments.

**CHAPTER OUTLINE**

Constitutional Rights

The Principle of State Action

State Action and the Thirteenth Amendment

Rights in Original Text of the Constitution

Bill of Rights

The Civil War Amendments

Amending the Constitution

Supreme Court Opinions

The Civil Rights Cases

Moose Lodge No. 107 v. Irvis

**STUDY TIPS**

1. This chapter sets out the rights in the original Constitution, Bill of Rights, and later amendments that compose component III of Madisonian democracy. Note that the remaining chapters in the text explore in detail how the Supreme Court decides cases. Chapter 8 covers criminal justice; Chapter 9 covers due process; Chapter 10 covers privacy, abortion, and end of life decisions; Chapter 11 covers equal protection; and Chapter 12

Chapter 7

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covers First Amendment rights. Review Exhibits 7-1 and 7-3 to see a listing of rights. As you read this chapter reflect back on the first six chapters, which lay out the structure of the Constitution. Then look ahead to Chapters 8 through 12, which cover rights and how the Supreme Court protects those rights through the process of judicial review.

2. Realize that through the doctrine of selective incorporation most of the rights of the Bill of Rights apply to the federal and state governments. See Exhibit 7-2, which illustrates incorporation. Review Exhibit 7-3, which lists the rights of the Bill of Rights that have and have not been incorporated.

3. The principle of state action is one of the most surprising concepts and one of the keys to understanding the basic core of constitutional law. State action means that for the Constitution to be violated the government must be the violator. Another way to think of it is that, for the most part, only the federal, state, or local government can violate our constitutional rights. This may seem strange, but it is a basic tenet of constitutional law.

4. See the DeShaney case to understand the principle of state action. The boy was harmed by his father—not the county—so there was no state action.

5. Note how difficult it is to amend the Constitution. For a proposal to become an amendment to the Constitution it must pass both houses of Congress by two-thirds vote and then be approved by three-fourths of the states.

**EXERCISES**

Match the right with the amendment.

1. Freedom of speech and religion a. Fifth Amendment

2. No illegal searches and seizures b. Sixth Amendment

3. No cruel and unusual punishment c. First Amendment

4. Right to a lawyer d. Fourth Amendment

5. Right not to incriminate oneself e. Eighth Amendment

**INTERNET EXERCISES**

1. Go to http://www.archives.gov/national\_archives\_experience/constitution.html.

a. Which amendment put term limits on the president?

b. One amendment was not ratified by state legislatures, but by ratifying conventions. Which amendment?

c. Which amendment changed how senators are selected? What was the change?

**QUIZ**

**TRUE OR FALSE**

1. All of the rights of the Bill of Rights apply to the federal and state governments.

2. Generally, only the government can violate the Constitution.

3. The Constitution lists rights in the original text, in the Bill of Rights, and in later amendments.

4. The Constitution is violated when a private college refuses to admit women.

5. There are 25 amendments to the Constitution.

6. The Constitution sets out specific laws to govern individuals.

7. The Supreme Court protects individual rights by the use of judicial review.

8. Amendments Thirteen, Fourteen, and Fifteen are known as the Civil War Amendments.

9. The Civil War Amendments increased the power of the states.

10. A statute is required to outlaw private discrimination in restaurants and hotels.

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**ANSWER KEY**

1. False

2. True

3. True

4. False

5. False

6. False

7. True

8. True

9. False

10. True