

## Chapter 5 The Constitution and The Regulation of Business

1

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Introduction

- Legal principles contained in U.S. Constitution
  - Articles
  - Separation of powers
  - Judicial review
  - Commerce
  - Taxing & Spending power
  - Supremacy
  - Federalism
  - Privileges
  - Immunities

2

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Articles of the Constitution

- Seven articles
  - Create the government
  - Define relationship between individuals & government

3

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Articles of the Constitution

- Separation of powers
  - Article 1—Legislative Branch
  - Article 2—Executive Branch
  - Article 3—Judicial Branch

4

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Other Articles

- Article IV—State and Federal Government Relationship
  - Full Faith and Credit Clause
  - Supremacy Clause
  - Privileges and Immunities Clause
- Article V—Method to Amend the Constitution
- Article VI—Ranks the Order of Laws
- Article VII provides for ratification

5

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Marbury v. Madison

### Landmark Case

- Established the doctrine of judicial review
- Held unconstitutional the provision of the Judiciary Act of 1789 that gave original jurisdiction to the United States Supreme Court to issue writs of *mandamus*

6

Source: Bohlman/Dundas, The Legal, Ethical,  
& International Environment of Business

## Commerce Clause

- Federal commerce is regulated through the Commerce Clause
- State commerce is regulated through police powers

7

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Taxing and Spending Power

- The Constitution gives Congress taxing power
- It also gives Congress spending power
- Both of these powers can be vetoed by the President

8

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Supremacy Clause

- Concurrent jurisdiction
- Preemption doctrine
- Federalism

9

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Full Faith and Credit Clause

- Requires a state to recognize the judgments or public acts of another state

10

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Privileges and Immunities Clause

- One state cannot discriminate against the citizens of another state based solely upon residency

11

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## First Amendment

- Freedom of religion
  - Government cannot establish a religion
  - Government cannot prevent the free exercise of religion
- Free speech
  - Fully protected speech
  - Partially protected speech
  - Commercial speech
  - Unprotected speech

12

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Fourth Amendment

- Searches and seizures
- Right of privacy

13

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Fifth Amendment

- Double jeopardy
- Self-incrimination
- Due process
  - Procedural
  - Substantive

14

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Sixth Amendment

- Criminal cases
  - Speedy trial
  - Trial by jury
  - Right to an attorney
  - Right to confront witnesses
  - Right to cross examination

15

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Seventh Amendment

- Civil cases
  - Right to a jury trial

16

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Eighth Amendment

- Provides for bail
- Prohibits cruel and unusual punishment

17

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Tenth Amendment

- Enumerated powers

18

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Fourteenth Amendment

- Applies portions of the Bill of Rights (first 10 Amendments) to the States

19

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## International Considerations

- Comity
- Act of State Doctrine
- Expropriation
- Confiscation
- Sovereign immunity

20

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

## Summary

- Articles of the Constitution
- Other Articles
- Marbury v. Madison
- Commerce Clause
- Taxing and Spending Power
- Supremacy Clause
- Full Faith and Credit Clause
- Privileges and Immunities Clause
- First Amendment
- Fourth Amendment
- Fifth Amendment
- Sixth Amendment
- Seventh Amendment
- Eighth Amendment
- Tenth Amendment
- Fourteenth Amendment
- International Considerations

21

Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business