I. The course in general

This course is a summary coverage of United States Constitutional law. Because of the nature of that document, it is not possible to cover it in its entirety in a one-semester undergraduate course.

The United States Constitution as adopted in 1787 contained seven articles, and, as such, it is striking in its brevity. In more than two and one-quarter centuries, it has been amended only 27 times, and the first ten were adopted in a single year (the Bill of Rights, 1791). Its breadth derives from courts’ interpretations of its provisions, in particular, the United States Supreme Court.

The Constitution is federal law, and together with the acts of Congress and treaties entered into with other nations, it is the ‘supreme law of the land.” We have 50 states, each with its own state legislature and its own court system applying solely to that state. The Constitution and federal laws apply to all 50 states and constitute the “supreme law of the land.” [This is expressed in the Constitution itself: Article VI section 2.]

II. Course content

Beginning with a quick survey of the 27 articles of the document as a whole, some basic background of the founders and drafters will be addressed as instructional. Thereafter, the focus will be on selected sections, relying heavily on case law. When reading cases, remember that they are real disputes, litigated by real persons. More often than not, they are contentious, and they are not fictitious. This is what makes case reading interesting. You are reading facts, not theory (although legal theory is applied to determine the outcome of each case).

Some of you may not yet have taken a course in the law. The approach to case-reading involves looking for four elements, in this order: (1) facts; (2) issue (i.e., the question of law); (3) decision (i.e., the answer to the question posed in (3); and (4) the court’s reasoning. A fifth factor is the procedure, that is, the route by which the case arrived at the Supreme Court (or appellate court) level. I will provide a summary procedural chart that shows the federal court system and jurisdictional requirements. [Jurisdiction is defined as the authority of a court to hear and decide a case.]

Although not set in proverbial stone, the sequence of topics will most probably be as follows:

(1) A “walk” through the United States Constitution (i.e., briefly perusing each of the original seven articles and 27 amendments);

(2) Articles I, II, and III: These first three articles establish the three branches of American government, the legislature (I), the executive (II); and the judiciary (III); read “Nutshell,” chapters 4 (Congress and the executive power) and Chapter 1 (judicial review)

(3) Some summary coverage of Article I, sec. 8 clause 3 (the Commerce Clause): most lawyers will confirm that the bulk of a law school constitutional law course addresses this single provision, one that many of you will find the least interesting of our topics. Nonetheless, some cursory coverage is necessary because of relative amount of litigation arising from the Commerce Clause. Read “Nutshell,” Chapter 2, pp. 85-111

Amendment I: the “four freedoms” section and the first of the 1791 Bill of Rights. Each of these four sub-clauses provides a sufficient amount of material for a full semester (even a year), so we will focus only upon some of the more interesting cases addressing on freedom of speech and freedom of religion (coupled with the Establishment of Religion clause).
(4) Amendment VIII: the prohibition of “cruel and unusual punishment.” Lest you think this section might have the same effect as Sominex, this is the source of the usual objection to the constitutionality of the death penalty. Cases provide provocative reading.

(5) The post-Civil War amendments (Amendments XIII, XIV, and XV): Adopted in 1865, 1868, and 1870, respectively, these additions/changes to our Constitution prohibited slavery; bestowed the right of citizenship on anyone born in the United States (purpose was to give citizenship to former slaves); and grant former slaves the right to vote, in that sequence. Cases decided on the XIV Amendment are particularly intriguing. Read “Nutshell”, Chapter 6 (equal protection)

This course is designed for undergraduate, rather than law, students. Thus, the direction will be to generalize--i.e., to focus on broad aspects of U.S. Constitutional law, especially cases decided by the Supreme Court of the United States (SCOTUS).

II. Readings:

The text is Jerome A. Barron and C. Thomas Dienes, CONSTITUTIONAL LAW IN A NUTSHELL (9th ed., West Publishing Company, 2017), ISBN 978-1-63459-623-7. The “Nutshell” series books are wonderful sources of law. Although content of cases is not included, the text provides general rules of law with citations to cases. I will make available cases of particular importance. In addition, occasional law review (journal) articles might be assigned. You will be responsible for all assigned readings, included text, case, subject matter outlines, and any other material assigned.

Generally, I draft concise outlines of each subject matter explaining general principles and rules of law, and these documents will also be available during the course. Since you are responsible for the content and substance of these outlines, please, please, please contact me if anything is unclear. A list of cases will be an addendum to the syllabus.

Read these cases with gusto, people! Do not forget that court decisions are not fabricated stories, but are rather real facts and real issues involving real people who are not happy campers. There is so such thing as a pair of friendly litigants, so reading cases is much like reading a short story based on hate and acrimony. Much fun for twisted minds, I suppose… 😊

III. Grades and tests:

There will be two written assignments, and each will count 20% of the course grade. Either (i) a final exam or (ii) a research paper on a topic that you may select from a list I will provide will count 60%. In true democratic fashion, you may choose one of these alternatives. I will give detailed guidelines for the paper and a general idea of the format of the written assignments and the final examination.

The two written assignments will be outside work that you submit to me on the to-be-determined dates. The final examination, should you so choose, will be administered in class on Tuesday, April 30, at 8 am.

An advance warning: Students have referred to me as the Grammar Nazi because I am a stickler for correct grammar, spelling, punctuation, and sentence structure. Also provided will be a list of the most common errors I have perceived through my years of teaching. With regard to the research paper, it is very important that you check your paper throughout to ensure that you have complied with rules to avoid such errors. Failure to use correct grammar and sentence structure will result in deduction of points. Being able to write and speak lucidly and succinctly (and correctly is critical to achieving success in your chosen field, and I hope that this practice will be one you will apply to all courses.

The structure of this course does not lend itself to a grade determination derived from scores on tests with necessarily detailed questions on which you must "burp out" answers that you will likely immediately forget. Rather, written assignments and the final examination will include questions to which you must recognize the applicable legal principle and apply that (or those) principle(s) in a logical manner. Always, always, in a law course you must give (legal) reasons.
The written assignments will be take-home-use-any-and-all-source(s), including court decisions, legislation, and newspaper and other relevant articles. Class materials and distributions should provide you with all you need in order to respond fully and accurately, but you may use external sources in addition. In the event you do so, you must identify the source (i.e., style and citation of cases; citation of statutes or regulations, author [if given], source page number and date for periodicals), and attach copies of these sources. Be very cautious about using the Internet as a source, since usually, it is a secondary, rather than primary resource. The exceptions are official web pages of agencies such as the United Nations, European Union, International Labour Organization, etc. The Internet is an excellent tool to locate primary sources, but in general this information will not be a primary source of law itself.

The final examination, should you choose that option, will be administered in class. No outside sources are permitted on the final examination.

Questions will be general, but succinct enough so that you will know exactly what I want. We lawyers lend great credence to the 14th Amendment and due process. Moreover, you may not work together on any assignments. I trust each of you to present a product that is your own. Your signature affirms your compliance with the College of Charleston Honor Code. I expressly ask that you check and re-check for grammatical, spelling, and sentence structure errors. All work—written assignments and/or research paper--must be double-spaced. Failure to follow instructions will adversely affect your grade.

Finally, a due date for a completed assignment is literal, folks. I retain the discretion to grant an extension, but I warn you that your reason must be compelling and your supportive evidence, demonstrable. For example, for an illness, you must present a specific physician’s signed statement; and if the reported cause of the lateness is your having been hit by a Mack Truck en route to deliver the paper in a timely fashion, I may insist upon seeing the tire tread marks on your back.

Should you elect the research paper option, please see me no later than Tuesday, January 29, 2019, with a suggested topic. I am quite flexible on your choice, but it must be relevant to U.S. Constitutional law. Guidelines for the paper are imposed. It must be at least 10 (preferably 13-15) double-spaced pages, excluding footnotes. Footnotes (or endnotes, as you choose) are always necessary for a legal research paper.

IV. Attendance:

This course is heavily reliant on class lectures and discussion. I expect you to be prepared with respect to assigned readings. I realize that some people simply are averse to speaking in a forum, so I do not factor class participation negatively into a student’s final grade. Please take ample notes! You must check OAKS regularly for assignments and other documents, and you will be responsible for in-class handouts and materials sent via e-mail attachments on OAKS. On occasion, I will bring handouts to class for distribution. Note that if you will be absent, you should ask a fellow student to retain for you a copy of any in-class handouts. I will not bring such items to an additional class.

I will take roll. A student who misses more than two classes without an approved excuse will have his/her final grade lowered by at least one letter. Should you arrive late and/or leave a class early without permission, this will count as a missed class.

V. Miscellaneous:

A. Disabilities: The law mandates compliance with federal law with regard to making "reasonable accommodation" for "persons with disabilities." It is your responsibility to provide documentation that clearly informs your instructor(s) of the requested accommodation. Please provide me with the appropriate notification in order to receive such accommodation.
B. College of Charleston Honor Code: Please commit to memory your obligations under the Honor Code. All work turned in to me is to be your own (with the exception of outside sources, which you should identify correctly cite in your work). Your signature incorporates by reference your adherence to this code. I suggest that you refresh yourself by reading pages 13-18 of the College of Charleston Student Handbook, which are incorporated into the syllabus by reference document. Be forewarned that, although I am usually a pretty "mild-mannered reporter" (a la Clark Kent), I become a demon when it comes to dishonesty.

C. Rude behavior, including activated cell phones: In addition to (i) dishonesty, two more characteristics make me apoplectic: (ii) laziness, and (iii) rudeness. One of the most omnipresent forms of rudeness is talking on cell phones or texting in a public setting and/or having on your person an activated cell phone in such a setting such that its ringing constitutes an interruption. Should this occur in this class, I will issue one verbal warning. Should it occur a second (or subsequent) such time, I will direct the student to leave for the remainder of the class. This is irrespective of whether the second student is the same as the first who provoked the verbal warning. A third infraction constitutes a code violation and will be dealt with accordingly. I am as serious as a federal judge on this one, folks. Absolutely no texting is permitted in class.

D. Use of laptops in class: Please contact me for permission if you want to use a laptop during class. In the event you are permitted to do so, such use is for taking notes only. No student may use his/her computer to play games, send e-mails, and/or look up extraneous information on the Internet. Violation of this rule may adversely affect your grade.

D. Relevant dates: The deadline for written notification to the instructor of the need for (an) excused absence(s) for religious observances, beliefs, and/or practices is Tuesday, January 22. The last date to add or drop a class is Monday, January 14, and the last day to withdraw (with a grade of W) is Monday, March 25.

The university will be closed on Monday, January 21, for Martin Luther King, Jr. Day. Spring break begins Sunday, March 17 (happy St. Patrick’s Day!) and continues through Saturday, March 23. The final date that this class will meet is Tuesday, April 23, also the date the final assignment is due (beginning of class). Should you choose the in-class test, that test will be given that day. The final examination will be given at 8 am, Tuesday, April 30.

E. Office hours and contact information: This section is brief, since, as an adjunct, I have no office hours. I am sharing an office with Prof. Jos, room 204, Political Science Building at 114 Wentworth. Please contact me via e-mail (rasniccd@cofc.edu) if you need to meet, preferably before 10:30 am on Tuesdays and Wednesdays. I will be teaching Tuesdays and Thursdays at Charleston School of Law, so I will not be on this campus on those days.)

Please do feel free to speak up and ask questions during this class! I want each of you to glean as much from these readings and our discussions as possible. This is why I am not relying on the traditional method of testing. Remember that there is no such thing as a "stupid question", provided it is relevant to the subject matter. I welcome your questions and your comments.

The course is listed in the Department of Political Science, and I am most grateful to Professor Claire Curtis for her support and assistance. I am very excited about this subject matter, and I hope that it will be an informative and interesting learning experience for each of you.