Instructor: 
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Course Description: 
This course will introduce the student to fundamental principles and concepts on American Constitutional Law with specific emphasis on civil rights, liberties and responsibilities. 
Prerequisite: LAW 101

Course Outcomes: 
1. Introduction to the fundamental principles of American Constitutional Law. 
2. Exploration of the three branches on the federal government and the interpretation of the articles that created them and control their functioning. 
3. Examination of the individual’s rights in society, the changes that impact individual rights, and the Supreme Court decisions interpreting individual rights.

Course Objectives and Practical Skills: 
Upon completion of this course, the student will be able to:

1. identify and understand the interaction of the three branches on the federal government; 
2. identify and discuss the power and authority held and exercised by the three branches of the U.S. democratic form of government; 
3. comprehend the historical development of the interpretation of the U.S. Constitution, including the role of the U.S. Supreme Court; 
4. comprehend the process and problems associated with judicial interpretation; 
5. discuss and describe the constitutional basis for economic regulation, including the Commerce Clause, taxing and spending powers and sovereign immunity; 
6. analyze and discuss past and current interpretations relating to the First Amendment, including Freedom of Religion issues, Freedom of the Press and Free Speech issues and concerns such as obscenity, libel, and symbolic speech; 
7. describe the evolution of the U.S. Supreme Court’s decisions on equal protection, due process, and race, gender, economic and age discrimination; 
8. understand some of the major decisions on the U.S. Supreme Court regarding privacy issues; and 
9. develop critical thinking skills by: 
   a. logically formulating and evaluating solutions to problems and arguments in support of specific positions; 
   b. identifying interrelationships among Supreme Court cases;
c. identifying legal and factual omission and inconsistencies in Supreme Court cases;
d. applying legal authority to specific factual situations;
e. distinguishing between facts, arguments, and law;
f. understanding the use of precedence and the role it plays in judicial decision making;
g. recognizing the potential legal and political ramifications of Supreme Court decisions;
h. finding the most recent decisions on the Supreme Court;
i. performing legal analysis on Supreme Court decisions;
j. comparing the Supreme Court’s majority, concurring and dissenting opinions; and
k. developing further one’s own political philosophy and developing an awareness on those with differing political philosophies.

**Method of Instruction:**
Lecture, class discussion, and debate.

**Student Evaluation:**
Student performance will be evaluated on the following criteria:
1. Two examinations worth 100 points each 200 points
2. Two written assignments worth 50 points each 100 points
3. Class participation 100 points

**Other Course Policies:**
Late work or missed tests:
Please speak with me regarding reasons therefore.

Attendance:
Attendance is an important part of overall performance.

**Americans with Disabilities Act (ADA) Statement:**
Any student with a disability requiring special accommodations for this class should see me after class or call for an appointment. All information will remain confidential.

**Section 504-Rehabilitation Act of 1973:**
If you have a documented disability that may require assistance, you will need to contact the Disability Resource Center located in the Student Services Center on each campus. Cheyenne phone number is 651-4045, Henderson phone number is 651-3086, and West Charleston phone number is 651-5089

**Classroom Safety:**
Approved classroom safety procedures are posted in each classroom and are to be followed.
COURSE OUTLINE

I. THE ORIGINS OF JUDICIAL REVIEW
   A. What Is The Constitution?
   B. Interpreting The Constitution
   C. The Judiciary’s Role
      1. The Concept of Judicial Review
      2. Marbury v. Madison
         a. The setting of the case
         b. The opinion of the Court

II. FEDERAL JURISDICTION
    A. Introduction To The Present Jurisdictional Framework Of The Supreme Court
    B. Original Jurisdiction
    C. Appellate And Certiorari Jurisdiction
    D. The Power Of Congress The Limit The Jurisdiction On Federal Courts
       1. Due Process Limitations on Congress’ Jurisdictional Powers
       2. Survey of Major Statutory Restrictions on Jurisdiction
    E. Case Or Controversy And Related Doctrines
       1. Advisory Opinions
       2. Mootness and Collusiveness
       3. Ripeness, Prematurity, and Abstractness
       4. Standing
          a. Taxpayer and citizenship standing
          b. Personal standing
          c. Third party standing
          d. Standing by state governments
          e. Standing and Equal Protection
    F. Adequate State Grounds And Federal Questions
    G. The Abstention Doctrine
    H. Political Questions
       1. Foreign Affairs and the War Making Powers
       2. Amendments to the Constitution
       3. The Guaranty Clause
       4. Impeachment
       5. Political Gerrymandering
       6. Test for Political Questions

III. SOURCES OF NATIONAL AUTHORITY
    A. The Basis For Federal Power
       1. McCulloch v. Maryland
       2. Sources of Federal Power
    B. Separation Of Powers Principle
C. Executive Branch Privilege
D. Congress-Executive Branch Conflicts
   1. Foreign Affairs
   2. War Powers Resolution

IV. FEDERAL COMMERCE POWER
A. The History Of The Commerce Clause
B. The Power To Regulate Commerce With Foreign Nations And Indian Tribes
C. The Commerce Clause Today
   1. Development of New Standards
   2. Refinement of the Standards
      a. Civil rights legislation
      b. Federal criminal laws
      c. Regulation of state and local government entities

V. INTERSTATE COMMERCE
A. State Regulation Affecting Interstate Commerce
   1. History of the Law Impacting Interstate Commerce
      a. Gibbons v. Ogden
      b. Cooley v. Board on Wardens
   2. Selective Exclusiveness
   3. Federal Incorporation by Reference of State Law
B. State Powers Over Transportation
C. Incoming Commerce
D. Outgoing Commerce
E. Personal Mobility
F. State And Local Taxation
   1. Goods Shipped in Interstate and Foreign Commerce
   2. Death Taxes
   3. Income Taxes
   4. State Taxes and Intergovernment Immunity

VI. FEDERAL FISCAL POWERS
A. Taxing Power
   1. Direct vs. Indirect Taxes
      a. Historical background
      b. Current status
   2. Federal Taxes as a Regulatory Measure
   3. Federal Taxing Power and Due Process
B. Spending Power
C. Power To Borrow
D. Power To Control The Currency

VII. FEDERAL REGULATION AND STATE AUTHORITY
A. Federal Preemption
   1. Traditional Preemption Tests
2. Modern Preemption Developments

B. Interstate Compacts
   1. Definition
   2. Consent to Congress
   3. Supreme Court Interpretation of Interstate Compacts

C. Interstate Comity

VII. INDIVIDUAL LIBERTIES

A. Guarantees In The Body Of The Constitution
B. Bill Of Rights And Their Incorporation Via The 14th Amendment
C. The Privileges And Immunity Clause
D. Constitutional Constraints On Individual Actions
E. Procedural Due Process
   1. Deprivations of “Life, Liberty or Property”
      a. Life
      b. Liberty
         i. physical liberty
         ii. fundamental constitutional rights
      c. Property
         i. debt action
         ii. government benefits
         iii. government employment
         iv. reputation as property right
   2. Irrebuttable Presumptions
   3. The Procedures Required by the Due Process Clause
      a. General principles
      b. Major decisional areas
         i. loss of physical liberty
         ii. enforcement of debt or credit relationships
         iii. deprivations of government benefits
   4. The Right to Access the Courts

F. Substantive Due Process
   1. The History of Substantive Due Process
   2. Incorporation of the Bill of Rights
   3. Some Fundamental Rights
      a. The Contract Clause
      b. The taking of property interests
         i. eminent domain
         ii. what is “taking?”
            a. property use regulations
            b. emergency actions
            c. impairment of use
            d. the public use limitation
            e. just compensation

G. The Equal Protection Clause
   1. Standards of Review Under Equal Protection
2. Classifications Based on Race or National Origin
   a. History of racial discrimination
   b. Modern position on racial restrictions
   c. Desegregation decisions
      i. desegregation of schools
         a. the concept of “all deliberate speed”
         b. institutional subject to desegregation
         c. desegregation and private schools
         d. state school programs relating to
            1. grade-a-year plans
            2. freedom-of-choice plans
            3. closing public schools
            4. creation of new school district
         d. Desegregation of other institutions
   3. Benign Racial Classifications
      a. Affirmative Action programs
      b. Voluntary vs. involuntary programs
   4. General Status of Aliens
      a. Citizenship
      b. Immigration
      c. Deportation
      d. Naturalization
      e. Expatriation
   5. Classifications Based on Alienage
   6. Illegitimacy Classifications
      a. Wrongful death actions
      b. Government benefits, inheritance and support rights
      c. Adoption problems
      d. Immigration
   7. Gender Classifications
   8. Classifications Based on Wealth

IX. THE RIGHT TO PRIVACY
A. Introduction
B. Marriage And Family As Part Of The Right To Privacy
C. Sterilization And Contraception
D. Abortion
   1. Introduction
   2. The Major Cases
      a. Roe v. Wade and Webster v. Reproductive Health Services
      b. Regulation of abortion procedures
      c. Spouse or parent requirements
      d. Public funding of abortions
E. Emerging Issues Regarding The Rights Of Privacy
   1. Right to Engage in Sexual Acts
   2. Accumulation and Distribution of Data Concerning Individual Citizens
3. Right to Die

X. THE RIGHT TO VOTE
A. A fundamental Right
B. Restrictions:
   1. Interested Voters
   2. Voting Tests
   3. Literacy Tests
   4. Physical Access to Polling Places
   5. Residency Requirements
   6. Restrictions Based on Party Affiliation
   7. Racial Restrictions
      a. Reapportionment cases
      b. One person, one vote principle
         i. mathematical formulas
         ii. the census clause and reapportionment
         iii. political gerrymandering

XI. FREEDOM OF SPEECH
A. Historical Background
   1. English Background
   2. Colonial Background
B. Enactment Of The First Amendment
   1. The Value of Speech and the Function of the First Amendment
   2. The Emergence of Law in Times of Crisis
   3. Absolutism—is This an Absolute Right?
   4. The Overbreadth Doctrine
   5. The Void-for-Vagueness Doctrine
   6. The Least Restrictive Means Test
C. Government Prescribes Speech
D. Advocacy Of Violence Or Other Illegal Actions
   1. The History of the Clear and Present Danger Test
   2. The Current Status of the Clear and Present Danger Test
E. Obscenity And Pornography
   1. Private Possessions
   2. Protecting Minors
   3. Non-Pictorial Obscenity
   4. National vs. Local Standards
   5. Feminism and Pornography
F. Libel
   1. Group Libel
   2. Libel of an Individual
      a. Public figures
      b. Private figures
      c. Rights of privacy and publicity
G. Symbolic Speech
1. Test for Symbolic Speech
2. The Role of the Legislature and Administrative Agencies

H. Reasonable Time, Place And Manner Restrictions On Speech
1. Restrictions without Regard to Content
2. Regulation of Sound and Noise
3. Public Forums
4. Zoning Regulations
5. Regulation to Prevent Fraud

XII. FREEDOM OF THE PRESS
A. Prior Restraints vs. Subsequent Punishment
B. Government Control Of Press Content
C. The Media And Special Rights
1. Right of Access by the Press
2. Commercial Speech
   a. What is commercial speech?
   b. Modern commercial speech doctrine
3. Reporter’s Privilege
D. Fair Trial vs. Free Press
E. Protective Orders And The Press

XIII. FREEDOM OF RELIGION
A. The Establishment Clause
1. Aid to Religious Institutions
   a. Aid to schools that discriminate on the basis of race
   b. State constitutional issues
2. Aid to Primary and Secondary Schools
3. Aid to Colleges and Universities
4. Financial Aid to Religiously Affiliated Institutions Other than Schools
B. Excessive Entanglement Between Government And Religious Institutions
C. Issues Regarding Public Schools
1. Religion and Public Schools
2. Released or Shared Time Program
3. Prayer or Bible Reading in Public Schools
4. Equal Access to Public Schools Facilities
D. The Free Exercise Clause
1. The Supreme Court’s Early Decisions
2. Recurrent Free Exercise Problems
   a. Exemptions from military service
   b. Health and medical regulations
      i. vaccinations
      ii. treatment of children
      iii. blood transfusions
      iv. the right to die
   c. Sunday closing laws
   d. State involvement in religious disputes
e. Regulation of religious organizations

XIV. CRIMINAL PROCEDURE
   A. Right To Counsel
   B. Protection Against Self-Incrimination
   C. Search And Seizure
      1. Warrant Requirements
         a. The Exclusionary Rule
         b. The Fruit of the Poisonous Tree Doctrine
      2. Exceptions to the Warrant Requirement