

WHY MARSHALL MATTERS TODAY

I. WHY ARE WE HERE?

Why are a judge, a high school teacher and two attorneys with the John Marshall Foundation presenting a CLE program to you today?

Because we want to show you how the U.S. Supreme Court led by Chief Justice John Marshall produced decisions which continue to be vital today and how his model of judicial decision-making, as Marshall scholar Charles F. Hobson puts it, essentially “invented American Constitutional law.” As important as the landmark cases like *Marbury v. Madison*, *McCulloch v. Maryland*, *Gibbons v. Ogden* and other cases are, Marshall’s masterful opinions established the proper role of the courts as a co-equal branch of government and the supremacy of the Constitution itself in our system of government. They laid the foundation for courts to interpret the Constitution to say “what the law is.” The United States and the Rule of Law as understood in this country would be very different if not for the Marshall Court’s decisions on judicial review, implied powers, federal power over interstate commercial activity and the Contract Clause. **It is important not only for lawyers to appreciate Marshall’s legacy in their practices, but for students, the citizens of tomorrow, to understand the far-reaching impact it has on their lives.**

The John Marshall Foundation is a non-partisan, non-profit group of lawyers and others founded in 1987 which exists to educate the public about the rule of law under the Constitution through Marshall’s contributions to our country. We are offering this CLE program to Virginia lawyers and judges to enhance your appreciation of the Marshall Court’s decisions and how they apply in cases today. Also, it will encourage lawyers and judges to participate in classrooms in the Metropolitan Richmond area to show students how Marshall’s decisions remain relevant today.

II. THE VIRGINIA RULES OF PROFESSIONAL CONDUCT

If you decide to participate, you will help fulfill your responsibility to serve the public through legal education. This year, an important goal of JMF’s collaboration with our primary grantor for the last two years, the Virginia Law Foundation, the philanthropic arm of the Virginia State Bar, is to develop a program to encourage lawyers and judges to visit civics, history and government classes. Students will benefit from the knowledge and experience of active and retired lawyers and judges; the members of the legal profession will gain an opportunity to provide public service in their communities, thus meeting the standards of professionalism set by the Virginia State Bar.

The Virginia Rules of Professional Conduct impose foundational duties upon attorneys. There are also aspirational ideals that are not necessarily the subject of a specific rule. The Preamble to the Guidelines and Rules discusses the high ideals our profession embraces, which include these responsibilities, among others:

- “As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education.”
- “A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials.”
- “A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession’s ideals of public service.”
- “Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system.”

Available Online at http://www.vsb.org/proguidelines/index.php/main/print_view

III. MARSHALL COURT DECISIONS AND THE PRINCIPLE OF JUDICIAL REVIEW MATTER TODAY

This CLE provides a review of why Marshall’s decisions continue to matter today in case after contemporary case. In addition, we will give you access to the engaging standards- and performance-based materials we have created for attorneys, judges, teachers and students to illustrate these principles. Perhaps you have visited a classroom before but lacked materials that are relevant to what students are studying. Lawyers and judges who have the materials from this CLE can be sure that they are providing law-related education on pertinent subjects in school visits. At the same time, they can relate the materials to their own experiences that will help teachers underscore the importance of the Rule of Law and introduce students to the Constitution, judicial branch and legal profession. We also expect participating attorneys and judges will be able to engage students in meaningful discussions of contemporary cases, situations and their relationship to Marshall-era decisions.

The final reason to express your interest in taking “real-life law” into the classroom is because it is fun! The lessons use cases that interest students and techniques that involve students in active learning. It gives attorneys and judges an opportunity to discuss cases and situations as up-to-the minute as they wish and to model a civil dialogue in class about how our founding principles apply today.

WHAT IS YOUR “WHY”?

We told you why our team is presenting this Justice in the Classroom curriculum about how Chief Justice John Marshall and his decisions matter today. Now, what is your reason to participate in the John Marshall Inn’s program by visiting classrooms to teach students about our constitutional form of government, the judicial system and Marshall’s role in it?

Personal: It might be simply to get a CLE credit at the end of the year, OR

To learn or refresh your knowledge about the landmark cases of the Marshall Court and their continuing significance.

To hone presentation skills to non-lawyers, an opportunity to practice engaging students and teachers about these important principles. We learn best by doing and by teaching others.

Public service: Justice in the Classroom is an outlet for lawyers and judges to provide a service.

Support the Inn--Because the Bar’s and Inn of Court’s principles encourage you to participate.

It is a *conflict-free* form of service because it is not providing legal advice and it is non-partisan.

Serve your local schools-- The JIC curriculum is needed by teachers and their students because it is tailored to the concepts and skills their standards require to be taught.

Serve your country—Our nation is a democracy founded upon the principle that its citizens are informed and participate in its government by voting, serving on juries and as its leaders. This requires an understanding of its foundational principles.

Social: Because it is fun and enriching.

Opportunity to work with other lawyers and judges—Working on a common endeavor on this project, or in a pair (one lawyer, one judge) going to a class to present a one-hour program, depending on your schedules. For judges, this program is designed to be respectful of your role. We recommend that you wear your robe to the class and have an attorney with you devote a portion of the class presentation to the respect for the judiciary by explaining the significance of the robe and the opening of court. At the same time JIC provides an opportunity to work with lawyers outside of your courtrooms

Opportunity to be with students and teachers—in a different environment. A “field trip” out of your office with young people who are curious and excited about what you do.

Do something creative—By deciding how you chose to inspire these students, and bring these ideas back to the Inn and the John Marshall Foundation to improve its Justice in the Classroom program.

If you would not be interested in this program, why not? We might be able to give you more information, or perhaps we can use this feedback to improve its design.