LDST 378
PLSC 310

Statesmanship:
*Chief Justice John Marshall*
Fall 2017

3:00 – 4:15 Tuesday and Thursday
Jepson Hall 108

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Jepson Hall 242
Telephone 6085
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(office hours by appointment)

This course will analyze the ways in which institutional arrangements can encourage, direct, or thwart leadership. The focus will be on the chief justiceship of the United States and how the constitutional arrangements governing that office affect the way those who fill it might use its powers. The course will consider in detail the life of Chief Justice John Marshall.

Attendance and participation are expected and will be reflected as part of the final grade (30%). Participation will be calculated on quality, not simply quantity. It is expected that all the readings for a given date will be done in advance of that class meeting and everyone will be prepared to discuss the assigned materials. The grade for participation will also include brief paper assignments to guide the discussion.

The primary assessments in this course will be a major research paper (40% of the final grade) and a final examination (30% of the final grade). Rather than simply require the submission of the paper at the end of the semester, we will work together on it over the course of the term, allowing opportunities for discussion and criticism that might not otherwise be possible. The final grade for the paper will consist of several components: a formal proposal; a preliminary but substantial bibliography; a review of the literature; ; and a final draft of the paper (18-20pp.). All assignments should be typed (13 point font), double-spaced, paginated, with 1" margins. You should feel free to contact me by appointment or by email (gmcdowel@richmond.edu) to discuss these matters as we move along. The schedule of due dates for these various components is outlined below.
Research Paper Schedule

I. Proposed Research Project Statement (10%): Due September 19th

The formal proposal should be a 2-3 pp. statement of what the main thesis of the research paper will be. Attention should be given to making the case for the importance of the topic, explaining how it will be carried out, and demonstrating how this will contribute to a better understanding of John Marshall, his time, his constitutional leadership, and the nature and extent of judicial power.

II. Preliminary Bibliography (15%): Due October 12th

This should be the preliminary, not necessarily the final bibliography. You should assemble those sources most likely to benefit your researches as outlined in the project statement discussed above. This bibliography should include scholarly articles and books, as well as government documents and any court cases that may be appropriate. This will be assessed on the thoughtfulness of the listings, not simply the number included. This should reflect careful consideration on your part as to what sources would appear to be most helpful to your making the case for your thesis.

III. Review of the Literature (25%): Due October 24th

This should be a 5-7 pp. essay on the materials you have selected for use in your project. It should display a keen familiarity with the works discussed, an appreciation for how they help define the existing scholarly understanding of your area of interest, and an awareness of the areas in which they might be deficient. In short, it should be a critical assessment of both the scholarly research to which you are turning to complete your project and how your thesis fits within that existing body of literature.

IV. Research Paper (50%): Due November 28th

Your paper should conform to all scholarly conventions of style, be supported by a proper system of footnote citations, and be accompanied by a comprehensive bibliography. The paper should be 18 – 20 pp. in length, including footnotes or endnotes but not including the final bibliography.
Class Assignments

Required Texts

Charles Hobson, *Marshall: Writings*
Charles Hobson, *The Great Chief Justice*
R. Kent Newmyer, *John Marshall and the Heroic Age of the Supreme Court*

Part One:
The Making of a Public Life:
An Overview

A. Introduction (August 29, 31; September 5)

Newmyer, *Heroic Age*, chapter one, pp. 1-68
Hobson, *Great Chief Justice*, chapter one, pp. 1-25
“An Extended Autobiographical Sketch,” *Writings*, pp. 676 – 692
“To a Freeholder,” *Writings*, pp. 147 – 150
“Preface to the Life of Washington,” *Writings*, pp. 255 – 262

B. The Ratifier (September 7, 12)

“Speech . . . on Adopting the Constitution,” *Writings*, pp. 20 – 33
“Speech . . . on the Judiciary,” *Writings*, pp. 37 – 47
“Virginia Judicial System,” *Writings*, pp. 49 – 51

C. The Diplomat September 14)

“Resolutions in Support of the Neutrality Proclamation,” *Writings*, pp. 51 – 52
“Address in Support of the Neutrality Proclamation,” *Writings*, pp. 53 – 54
“Aristides, nos. 1 and 2,” *Writings*, pp. 54 – 70
‘First XYZ Dispatch, *Writings*, pp. 102 – 115
“Second XYZ Dispatch, *Writings*, pp. 119 – 137

D. The Congressman (September 19)
“Speech in Congress... on Thomas Nash,” *Writings*, pp. 155 – 163

E. The Secretary of State (September 21)

“American Complaints against Britain,” *Writings*, pp. 191 – 206

*Part Two*

*Federalists and Republicans:*

*The Context of Marshall’s Statesmanship*

(September 26, 28)

“The Election of 1800,” *Writings*, p. 211
“Jefferson and Burr,” *Writings*, pp. 213 – 214
“Anticipating Jefferson’s Administration,” *Writings*, pp. 217 – 218
“The New Order of Things Begins, Writings, p. 219
“Circuit Court opinion in *US v. Burr*, Writings, pp. 286 – 338
Newmyer, *Heroic Age*, chapters two and three, pp. 69 – 209
Hobson, *Great Chief Justice*, chapters two and three, pp. 26 – 71

*Part Three*

*Marshall’s Extended Commercial Republic*

A. Background of Marshall’s Constitutional Jurisprudence (October 3)

The Declaration of Independence
The Articles of Confederation
Constitution of the United States
McDowell, “The Language of Law and the Foundations of American Constitutionalism”
*The Federalist Papers*, Nos. 1, 6, 9, 10, 37 – 39, 47 – 49, 51, 63, 78

B. The Court and the Rule of Law (October 5)

*Marbury v. Madison*, *Writings*, pp. 229 – 252
Newmyer, *Heroic Age*, chapters four and five, pp. 210 – 321
Hobson, *Great Chief Justice*, chapters four and five, pp. [xxxxx]

C. Cases and Controversies

1. *Contracts* (October 10, 12)
Fletcher v. Peck, Writings, pp. 342 – 364
Dartmouth College v. Woodward, Writings, pp. 391 – 411

2. **National Supremacy** (October 19, 24)

Mc Culloch v. Maryland, Writings, pp. 412 – 436
Cobens v. Virginia, Writings, pp. 528 – 564

3. **Commerce** (October 26, 31)

Gibbons v. Ogden, Writings, pp. 607 – 632
Ogden v. Saunders, Writings, pp. 647 – 670

4. **Limits of Judicial Power** (November 2, 7)

Cherokee Nation v. Georgia, Writings, pp. 731 – 736
Worcester v. Georgia, Writings, pp. 753 – 778
Barron v. Baltimore, Writings, pp. 830 – 833

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**Part Four**

*The “Political Metaphysics” of States’ Rights*

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A. **Defending the Union** (November 9, 14)

**McCulloch v. Maryland** (reprise)

“Our Heretical Reasoning,” Writings, pp. 436 – 437
“A Friend to the Union,” Nos. 1 and 2, Writings, pp. 437– 461
“Friend of the Constitution,” Nos. 1– 9, Writings, pp. 468 – 526
“Answering Hampden,” Writings, p. 467

B. **“Our Constitution Cannot Last”** (November 16)

“Jefferson and the Federalists,” Writings, pp. 726 – 728
“Our Constitution Cannot Last,” Writings, pp. 823– 824
“Speech in the Virginia Convention,” Writings, pp. 711 – 719

C. **Story and Marshall** (November 21)

“The Heresies of your Commentaries,” Writings, pp. 814 – 815
“Story’s Commentaries,” Writings, pp. 839 – 841
Newmyer, *Heroic Age*, chapter six, pp. 322 – 385
Newmyer, *Heroic Age*, chapter seven, pp. 386 – 458
Hobson, *Great Chief Justice*, chapter six, pp. 150 – 180

**Part Five**

**Measuring Marshall**

(November 28, 30; December 5, 7)

Joseph Story, “Character and Services of Chief Justice Marshall: A Discourse”
Hobson, *Great Chief Justice*, chapter seven, pp. 190 – 214