THE EARLY DAYS: The Court Defines Itself

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Writ of Certiorari

- Justices vote in conference as to what cases they want to hear
- Court decides 80-90 cases a year
- Cert Pool
- Rule 10
How the Court Decides a Case

- Both sides write briefs arguing their case
- Oral argument
- Vote at conference
- Majority opinion
- Dissents and concurrences
Justiciability

- Advisory opinions
- Collusive suits
- Mootness
- Ripeness
- Standing to sue
- Political questions
Overview of Today’s Lecture

- Brief History of the Supreme Court
- The pre-Marshall Court and its Failings
- THE Chief Justice

The Taney Court and the Civil War
A Brief History of the Supreme Court

Period One: 1803-1865

– The Court defines its role
– Federal state relations

J. Marshall

R. Taney
A Brief History of the Supreme Court

Period Two: 1865-1937

– The court first wrestles with civil rights
– The court and economic rights
– Liberty to contract
– The Constitutional Revolution of 1937

S. Fields  J. Harlan  O. Holmes
A Brief History of the Supreme Court

Period Three: 1937-1995
- The civil liberties and civil rights
- *US v. Carolene Products* (1938—footnote 4)
- The Warren Court era
- The due process revolution
A Brief History of the Supreme Court

Period Four: 1995-present

– The Rehnquist revolution
– New federalism
– Rolling back the Warren Court Era decisions
The Pre-Marshall Court

John Jay was the first Chief Justice

First session February 1st 1790

*Chrisholm v. Georgia* (1793)
The Marshall Court

February 4th 1801, John Marshall becomes chief justice

– Served for 34 years, 5 months, 2 days

John Adams and the midnight appointees
The Marshall Court

McCulloch v. Maryland (1819)

- Maryland passes law to tax Second Bank of the United States
- Decided the constitutionality of the Second Bank of the United States
- Broadened the federal government’s power under the Necessary and Proper Clause
The Marshall Court

Marshall vastly expanded the Federal Government role in American politics

– Created Supreme Court as true co-equal branch of government
– Helped define many of the most important powers listed in the Constitution
The Taney Court

Andrew Jackson and John Marshall battle over states rights

- *Worcester v. Georgia* (1832)
- Jackson appoints Roger Taney as Chief Justice, 1836

Jackson appoints Roger Taney as Chief Justice, 1836
The Taney Court

Court becomes much more fragmented

Begins to roll back many of Marshall court decisions on states' rights
The Taney Court

*Scott v. Sanford* (1857)

- One of three most controversial SCOTUS decisions in history
- Dred Scott had no right to sue in federal court because he was a slave
- Found the Missouri Compromise of 1820 unconstitutional
- All but guaranteed that the Civil War would occur
Lincoln and the Constitution

Lincoln pushed many of the limits of executive power under the Constitution

- Created a much more powerful President moving in the future
- For the most part, Supreme Court upheld his actions