

A HISTORY OF THE UNITED STATES SUPREME COURT: World's Shortest Version

The Nationalist Court, 1789-1865.

Typical Case: dispute between national government and state government about their respective powers.

Favored Party: national government.

Favored constitutional approaches: broad interpretation of national powers (commerce, taxation, necessary and proper), de-emphasis of Tenth Amendment.

Archetypal cases: *McCulloch v. Maryland* (1819); *Gibbons v. Ogden* (1824)

End of the era: Civil War settles that national government is dominant.

The Laissez-faire Court, 1865-1937.

Typical case: dispute between government and business about the powers of government to regulate business.

Favored Party: business.

Favored constitutional approaches: narrow interpretation of national powers (commerce, taxation, necessary and proper) to regulate business; broad interpretation of 14th Amendment liberty as a bar to state regulation of business.

Archetypal cases: *Lochner v. New York* (1905); *Hammer v. Dagenhart* (1918)

End of the era: Response to the Great Depression settles that governments may regulate business.

The Civil Rights Court, 1937-present.

Typical case: dispute between government and individual about the powers of government to regulate individual behavior.

Favored Party: individual

Favored constitutional approaches: broad reading of protections accorded the individual by the Bill of Rights as against the federal government and by the 14th Amendment as against the states.

Archetypal cases: *Brown v. Board of Education* (1954); *Baker v. Carr* (1962); *Miranda v. Arizona* (1966); *Roe v. Wade* (1973)

End of the era: Hasn't ended; civil rights are still the issues that consume most of the court's energy. But recent cases on affirmative action, criminal rights, and abortion demonstrate a retreat from the stronger individual rights stand it took in the late 1960s and early 1970s.

Note: Division of the court's history into these three periods follows from Robert McCloskey, *The American Supreme Court* (Chicago: University of Chicago Press, 1960).