

The Annotated Bobblehead

Justice Benjamin R. Curtis

Justice Curtis served on the Supreme Court from 1851 to 1857. Of his four big claims to fame, three are noted below. The fourth, service as defense counsel in the impeachment trial of Andrew Johnson, reflects his approach to his work as clearly as the other three: the law was on the President's side, therefore he should prevail, without regard to the weight of public opinion or protestations from other branches of government about policy or expediency.

In his opinion for the Court in *Cooley v. Board of Wardens of the Port of Philadelphia*, 53 U.S. (12 How.) 299 (1852), he fabricated the forerunner of modern Commerce Clause jurisprudence. Thus his position at the confluence of the Schuylkill and the Delaware.

In his 1862 pamphlet, *Executive Power*, he argued Abraham Lincoln had exceeded the President's power under the Constitution when he suspended the writ of habeas corpus and issued the Emancipation Proclamation.

He dissented devastatingly (at the expense of the majority led by Chief Justice Roger Taney) in *Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857), and then resigned from the Court.

