



# EX ANTE

## THE ANNOTATED BOBBLEHEADS

If we continue to create new Supreme Court bobbleheads at the rate we have been since 2003 (on average, a fraction more than one per year), it will take an unsatisfyingly long time to produce a complete set of all 112 or so Justices to serve so far, plus the ones who will join the Court while we are at work. (It sounds like a word problem: If there are 112 former and current Justices, and the *Green Bag* has produced bobbleheads of nine of them, and it produces a bobblehead of another Justice every 0.78 years, while a new Justice appears on the Court every 1.97 years, how long will it take for the *Green Bag* to produce a bobblehead of every Justice?) But enough of that. Rather than do the math,<sup>1</sup> we will, once in a while and with characteristic *Green Bag* irregularity, hurry up.

This year, for example, we are arbitrarily and capriciously giving away certificates which “the bearer[s] might be able to exchange . . . for one or maybe more of the following bobbleheads”: Chief Justice John Jay of New York (see the inside front cover of this issue), and Justices John Rutledge of South Carolina, William Cushing of Massachusetts, and James Wilson of Pennsylvania. They were the four senior members of the first Supreme Court. (When was the last time four appointees to the Court had no middle name?)

We hope to produce bobbleheads of the next four — John Blair of Virginia, James Iredell of North Carolina, Thomas Johnson of Maryland, and William Paterson of New Jersey — sometime soon. In 2011, however, will return to the present and continue our seniority-order series of sitting Justices.

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<sup>1</sup> For the answer, please see page 123.

# Justice John Rutledge

## The Annotated Bobblehead

Rutledge is not holding a volume of the *U.S. Reports* because as an Associate Justice he participated in the adjudication of zero cases decided by the Court. After missing the Court's first three sittings in 1790 and 1791, he resigned in February 1791. (He returned to the Court briefly as Chief Justice in 1795.)

He was the first member of the Supreme Court appointed from South Carolina.

Rutledge is, to the best of our knowledge, the only member of the Court ever to resign in order to accept a position as chief justice of a state court. In his case it was the South Carolina Court of Common Pleas and General Sessions.

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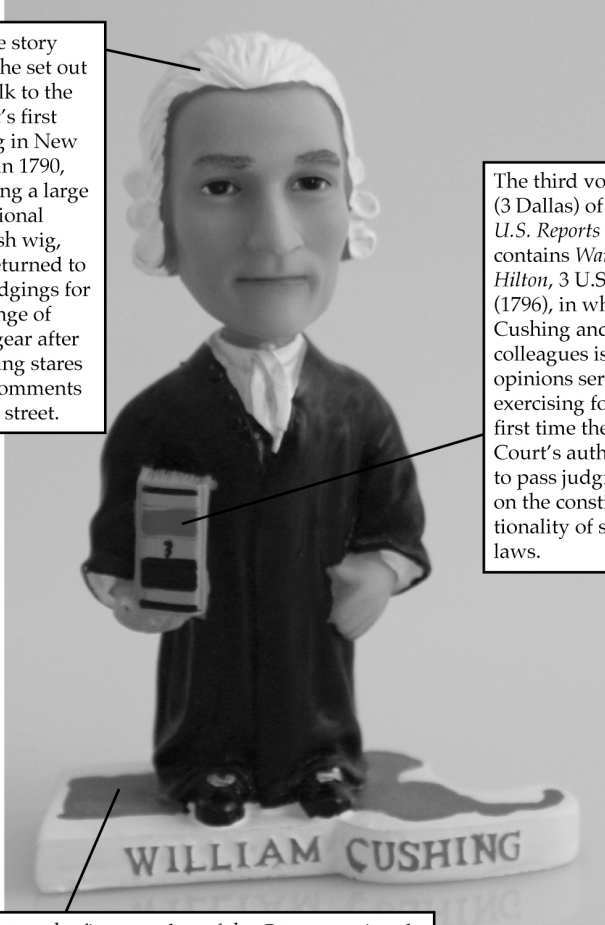
# Justice William Cushing

## The Annotated Bobblehead

As the story goes, he set out to walk to the Court's first sitting in New York in 1790, wearing a large traditional English wig, but returned to his lodgings for a change of headgear after drawing stares and comments in the street.

The third volume (3 Dallas) of the *U.S. Reports* contains *Ware v. Hilton*, 3 U.S. 199 (1796), in which Cushing and his colleagues issued opinions seriatim exercising for the first time the Court's authority to pass judgment on the constitutionality of state laws.

He was the first member of the Court appointed from Massachusetts. Between his long tenure on the Supreme Court and similar previous service on courts of last resort in his home state, Cushing spent 38 years as a supreme court judge.



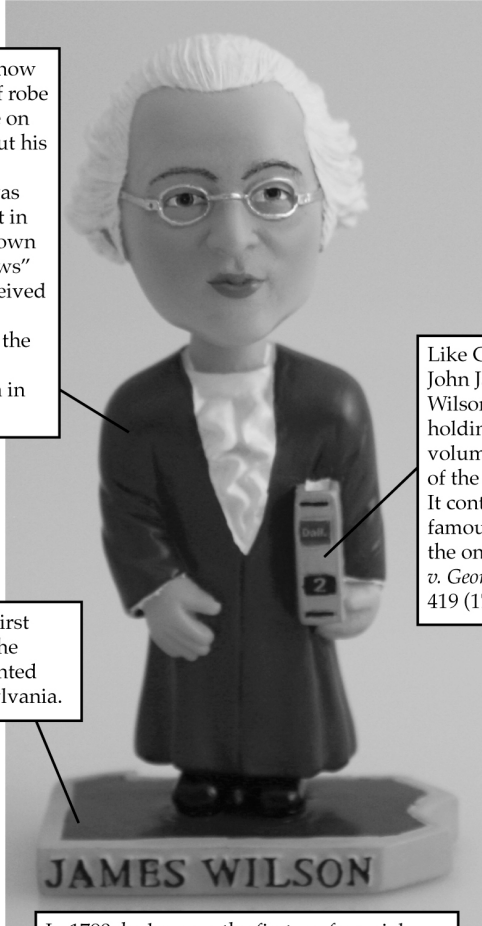
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# Justice James Wilson

## The Annotated Bobblehead

We do not know what kind of robe Wilson wore on the bench, but his biographer reports he was “resplendent in the scarlet gown of St. Andrews” when he received an honorary degree from the College of Philadelphia in 1766.

He was the first member of the Court appointed from Pennsylvania.



Like Chief Justice John Jay, Justice Wilson is portrayed holding the second volume (2 Dallas) of the *U.S. Reports*. It contains his most famous opinion, the one in *Chisholm v. Georgia*, 2 U.S. 419 (1793).

In 1790, he became the first professorial Justice, delivering a lecture on law in the College of Philadelphia’s “Old Academy” building (pictured on the bobblehead’s box).

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