



Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court

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Drawing on unprecedented access to the Supreme Court justices themselves and their inner circles, acclaimed *ABC News* legal correspondent Jan Crawford Greenburg offers an explosive newsbreaking account of one of the most momentous political watersheds in American history. From the series of Republican nominations that proved deeply frustrating to conservatives to the decades of bruising battles that led to the rise of Justices Roberts and Alito, this is the authoritative story of the conservative effort to shift the direction of the high court—a revelatory look at one of the central fronts of America's culture wars by one of the most widely respected experts on the subject.

Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court Details

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From Reader Review Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court for online ebook

Howard Olsen says

I have been carrying a torch for Jan Crawford Greenberg ever since she started appearing on MacNeil-Lehrer to do Supreme Court commentary. She's now hit the big time, both as an ABC legal correspondent and the author of this book, but my dedication remains undimmed. This is an illuminating story about how justices are nominated and confirmed to the Court in the modern era, where a once perfunctory "advice & consent" by the Senate has turned into an unedifying spectacle. JCG also follows justices on to the Court to show the reader how the addition of a single Justice can alter the jurisprudence and voting patterns of the moderates who hold the real decision making power on the Court. The book is remarkable for the amount of on-the-record access that JCG had to all nine of the justices, which makes this a definitive account of how the Supreme Court operates. JCG also had incredible access to the behind-the-scenes operators in the conservative legal establishment, who tried (and tried) to place some judicially modest justices on the Court.

This is not a book for legal specialists, however. JCG doesn't spend a lot of time getting bogged down with case law or anything like that, so it's accessible to the layman. She uses cases to illustrate the conflicts between the justices, rather than tracing the development of jurisprudence. Her tone is even-tempered and objective throughout, a rarity in writers who deal with the Supreme Court. She manages to discuss *Roe v Wade*, Robert Bork, Anita Hill, the 2000 election, Hurricane Katrina, and other hot button topics without frothing at the mouth. She also has fun demonstrating all of the ways that Linda Greenhouse, the New York Times' long-standing (as in decades) Supreme Court correspondent, has consistently made wrongheaded analyses of the relations between the Justices.

The meat of the book deals with the relationships between the justices, but there's quite a lot of information about the process that successive Republican White Houses went through in picking nominees. The story behind Souter's nomination is especially revealing. On the one hand, everyone wanted to make sure they picked a conservative. On the other, they had to make sure John Sununu was happy! I'm sure he is eternally grateful. The worst here are the arrogant "Best and Brightest" types who were vetting nominees, and who thought that Souter was a superior pick to Ken Starr, the other prospect. Today, of course, Starr is a conservative icon/martyr, while Souter is the exact opposite. They also rejected Orrin Hatch as a nominee. Sheesh! Were those guys trying to create a conservative court, or were they just trying to show off? If this book accomplishes one thing, it should help spread the blame for Souter. Right now, people simply say it's Bush 41's fault. The truth is: his advisors let him down.

JCG also has a chapter about the Harriet Miers nomination "battle" (really, it was a circular firing squad). It's up there in the pantheon of classic portrayals of "how Washington works," and how things can go off the rails despite the best intentions of all involved. (WARNING: Sexist content imminent). The problem started with Bush himself, who insisted on nominating a woman or a minority. Sadly, it turned out that almost all of the women they looked at were impressive on paper, but turned out to be lacking something (either intellectually, personally, or judicially) when it came time to actually consider nominating them. At least with Miers, Bush knew her and her abilities. But it turned out that many of her claimed accomplishments, as a lawyer weren't all that impressive, either. She just happened to have been the first woman to do them in Texas.

I realize that the Old Boys Network allowed a lot of mediocre deadwood to gain an untoward advantage, but it doesn't look like our Brave New World of the meritocracy has improved matters all that much. Mediocre people still seem to be holding their own in terms of career-making opportunities. A man with the personality or mind of a Harriet Miers, Nancy Pelosi or Hillary Clinton would always be a backbencher. Say what you will about someone like Chuck Schumer; but there isn't a doubt in my mind that he has reached his current place in life through his own doggedness and intellect. No special pleading is required for him, and he must know that no one's going to make excuses for him either.

Luckily, in the case of the Miers nomination, Bush's people stopped goofing around, returned to First Principles, and nominated Justice Alito, the most qualified and personable of all of the potential nominees (plenty of white male prospects were rejected too. However, their rejections were mostly based on personality – Bush didn't want to nominate any pompous jerks. There's some discrimination I can get behind!)

Having said all of that, I should add that JCG is a supreme example of how the meritocracy is supposed to work. There are plenty of reporters who are assigned to cover the Supreme Court, but she was the only one that all of the Justices were willing to sit down with for on-the-record interviews. They didn't choose to do so because she's a woman. They did so because she is even tempered, objective, and respectful of the Court and its decision-making. The aforementioned Linda Greenhouse, by contrast, can't seem to file a story without insulting Clarence Thomas and treating the most innocuous case as a template for advocating for a Living Constitution.

My only criticism of the book is with its temporal oddities. It's mostly chronological, interspersed with flashbacks and fast-forwards. These are handled well. However, there's a major gap, in that JCG barely touches on the 11 years between the nomination of Justice Breyer and the resignation of Justice O'Connor. It's clear that she and her editors consciously decided this so she could better focus on the "Struggle for Control" that the subtitle promises to depict. By JCG's telling, the first part of the Struggle ended when Justice Thomas joined the Court, and O'Connor went squishy. The Struggle was not rejoined until O'Connor resigned and Bush nominated Justice Roberts. But leaving out the intervening 11 years also means the book's chronology wouldn't naturally cover Bush v Gore, which most readers would expect to learn about. JCG solves this problem by inserting three extended Bush v Gore discussions at odd moments in the book. There's nothing wrong with her discussions, but they tend to interrupt the flow of the overall narrative. If you're like me, and like to read a book in as few sittings as possible, this can be annoying. Please forgive me, Jan!

lostinabookbrb says

There is a lot of great information in this book about how certain things played out. The only thing I wished happened was events in order. Some of the information jumped around.

Jeff says

Of the recent spate of "Inside the Supreme Court" books this is head-and-shoulders above the rest. You can

read about this books other virtues elsewhere, but I'd like to highlight one thing that really distinguishes it from the pack. Namely, Greenburg actually seems to understand "conservative" legal ideas (i.e. Textualism, Originalism, etc.), which is more than can be said for other writers about the Supreme Court (see: Jeffrey Toobin), and as such is able to give a balanced account of recent happening on the Court.

Doug Mitchell says

Reads Great, But Less Filling

“Supreme Conflict”

by Jan Crawford Greenburg

The Penguin Press, 2007

I subscribe to an on-line service called Capitol Reader that sends out weekly summaries of recent books about politics in America. They rotate between books with a liberal perspective and books with a conservative perspective and work with the author to provide an eight page summary. I had never before purchased a book from one of the summaries, but was quite intrigued when I read the summary of “Supreme Conflict – The Inside Story of the Struggle for Control of the United States Supreme Court.”

I'm \$24 poorer, but none the wiser than any avid newspaper reader of the past two decades would be about the promised “inside story” about the struggle for the control of the United States Supreme Court.

And I had such high hopes for this book. A top flight journalist interviews 9 current and former Supreme Court Ju

stices and about the best we can do in terms of “inside” knowledge is that John Paul Stevens does not let the court aides help him put his robe on in the robbing room. Stop the presses.

In all fairness, the book's author, Jan Crawford Greenburg, likely had a broader audience in mind than the peculiar people like me who spend more time than is normal reading and thinking about politics.

I felt in reading “Supreme Conflict” that I had read all of it before in newspapers and magazines. Now, don't get me wrong, I found the book to be an easy and enjoyable read. It's just that the title is misleading. This is not “THE (emphasis added) Inside Story...” it is “An overview” or “A review.” In that context, “Supreme Conflict” is a good read, but one with both an overestimated opinion of itself and, in my view, a flawed premise.

Greenburg's book provides a good overview of the Supreme Court appointments made since the Reag

an administration's appointment in 1981 of Sandra Day O'Connor to become the first female Justice in U.S history. It provides historical context to each nomination battle that is both accurate and interesting. Unfortunately, not much of it is new.

She spends a great deal of time on the premise that the appointments of O'Connor and Kennedy were disappointments to the conservative right because the two “moved to the left” during their time on the Supreme Court. In so doing, Greenburg argues, the Rehnquist “revolution” came to an end with the ill-advised appointment by President George H.W. Bush of Justice David Souter.

While conservatives may very well be disappointed by some of the decisions made by the Court over the past 20 years, Greenburg's argument that, therefore, these Justices must have "moved to the left" is simplistic at best. As I write this review, I am sitting in the Butte High gym watching an early summer basketball to

urnament. I didn't like many of the calls I saw, but it would be both wrong and simplistic to think the referees had somehow turned against our team.

I know first hand that policy makers new to a public office see things from a new perspective. That which seems so clear from the outside looking in becomes more complicated from the inside looking out. If this is true for school board members and county commissioners, imagine the change in perspective that might come when one is appointed to the United States Supreme Court.

Think for a moment about pulling up your chair to discuss the legal issues of the day with Thurgood Marshall or William Brennan. Consider then that the decision you make is the law of the land, and can never be appealed. My guess is you, and I would listen pretty carefully indeed. And, we might learn something. Does learning something from a deliberation of that type mean we "moved to the left?" I don't think so.

D

Depending on your perspective, "Supreme Conflict" ends either too soon or not soon enough. Greenburg's account ends as the Roberts Court begins. The author provides her view that the appointment of John Roberts as Chief Justice and Samuel Alito as Associate Justice will give "conservatives" the Court they have been waiting on for over two decades.

Time will tell. And in the telling, I'm hoping for something more than "Supreme Conflict II."

Becky says

I'm giving this three stars, because honestly I'm not sure I was smart enough to read this. I felt like a lot of it was over my head, but there were some really interesting parts. The big take-away from this book for me was looking at this group of people who should be among the brightest, most educated, decisive and accomplished people in the world and realizing that they, for the most part, are still pretty heavily influenced by the Media and public opinion. It's a sobering thought for anyone who thinks that they aren't dumb enough to care what other people think. The other new word I learned, and now love, is *milquetoast*. It's such a fun word.

Heidi says

I know a book is good when I can't wait to tell Butch every detail of what I just read. It didn't make for amorous pillow talk, but even my "how could anyone be a lawyer?" husband was interested in the behind-the-scenes details of recent Supreme Court nominations & controversial decisions.

The book is fair-handed and well-written; yet, it's still not for everyone. If you've never been a lawyer,

couldn't care less about constitutional law, or prefer talking about something romantic before going to sleep (like, maybe, the sexual tension between an angst-ridden teenage girl and her big-haired vampire...) don't bother.

Matt says

Graduate School: "Thank you for all of your money, Matt!"

Matt: "Hey, no problem, graduate school- as we all know, an education is the most important thing in life even if I needed to sell my family into indentured slavery to pay for the classes and insurance and parking!"

GS: "And books! Don't forget the books!"

Matt: "Ahh yes, books! The very fabric of our civilization! I sure hope these aren't those cheap, easy to find books that I can buy on Amazon.com."

GS: "OF COURSE NOT! Your one absolutely 100% required text for your class was written by a blind Tibetan llama..."

Matt: "You mean, lama, right? Like, Dalai...?"

GS: "NO! AN ACTUAL LLAMA! So it's less a book per se and more a series of artistic hoof prints. It's only available on papyrus leaves. Have you been to the Himalayas before?"

Matt: "no...why?"

GS: "You have to go there, answer the llama's five multiple choice questions about llama civil rights history (you should probably read up on that) and then purchase the book/papyrus leaves from said llama."

Matt: "eek, I better start packing...will I need a pickaxe? How much does this book cost?"

GS: "Well, since there are only seven copies in existence, you'll first have to fight your classmates. Most likely to the death. After that, you can easily purchase the book for 34 rupees, 4 Susan B. Anthony dollars, and a molar."

Matt: "A molar? Like, a tooth?"

GS: "Yes. From your face. Have it read by Wednesdays class. Oh yeah, and the other 'optional' text is *Supreme Conflict: The Inside Story of the Struggle for Control of the US Supreme Court*. You can get that on Amazon for 10 bucks or whatever."

So yeah, Grad School books are tough to find and darned expensive. This one, thankfully, was readily available. I went into this text knowing nothing about the Supreme Court. Well, next to nothing. I knew that it existed. And I knew that people are elected somehow...probably through the president. I certainly didn't know how many there were (nine) who was in charge (Chief Justice) who was the Chief Justice when I was a wee bubby (Reinquist) and who is Chief Justice now (Roberts). Yeah, I know. I am quite ignorant when it comes to the judicial system. BUT NO LONGER! I can totally Plessy vs. Ferguson your face off if prompted (which upheld 'separate but equal' race laws) or maybe I'll just give you a quick one-two Brown v. Board of Ed rabbit punch to the judges chambers (back of the skull, for the sake of this metaphor).

But the most interesting part of this book was the Jersey Shore-esque interaction between the judges. Sandra Day O'Connor, Reagan nominee, showed her truuuuuee colorrssss throughout her tenure, siding with abortion rights despite the fact that she represented the GOP. Anthony Kennedy was clearly a swinger (wink) and Scalia and Thomas are HARDCORE dyed in the wool states' rights all the way conservatives. But yet, they all manage to get along for the most part. It's like, even though Sammy was being soo immature at the club, and Ronnie almost punched the Situation for insulting his delts, they all end up grilling on the roof by the time the credits roll.

An excellent book for the layman who knows nothing about the supreme court. I would assume most people who have their GED wouldn't need this text, but it helped fill a glaring hole in my knowledge base.

Frank Stein says

This book provides an unparalleled inside look at conservatives' 30 year effort to reshape the Supreme Court, and their surprising failure at the enterprise.

Greenburg obviously got access to all the major attorneys in the Reagan and Bush I and II White Houses who had a piece in picking and vetting Supreme Court nominees, and shows how time and again they failed in attempts to push staunch conservatives onto the court and push the court to the right. Reagan's promise to nominate a woman led him to an obscure Arizona State Court of Appeals judge named Sandra Day O'Connor. She had made almost no constitutional decisions in her time on the bench, and thus she gave Edwin Meese and William French Smith and others in the administration little on which to predict her performance on the court. Still, when O'Connor was later asked why she was picked she noted her friendship with Rehnquist back at Stanford Law School, but finally said "Probably because there were not that many women judges, much less many Republican women judges. Face it. Where are you going to find them?" This was the reason after all, and this was why she almost immediately disappointed her nominators by befriending moderate Lewis Powell and attacking publicly displayed religious symbols in establishment clause cases.

While the conservative Scalia slipped in almost unopposed during the uproar about pushing Rehnquist to the Chief Justiceship, by the time Reagan got around to nominating Bork in 1987, he had lost the Senate and had decimated his popularity in the Iran-Contra scandals. Thus Bork and then Douglas Ginsburg were easily felled by Democratic attacks, while Scalia might have squeaked through, and Reagan was forced to "settle for" Tony Kennedy, whom many of his aides had warned him against.

Likewise in Bush 41, internal office politics against Solicitor General Kenneth Starr, and concern about the youth of Judge Edith Jones lead Bush to settle on Senator Rudman's of New Hampshire old friend David Souter, who also had made few constitutional decisions, and thus he disappointed the administration almost from the moment he went before the Senate Judiciary Committee, singing the praises of William Brennan (who he would later befriend on the court) and Roe v. Wade. And while Clarence Thomas got through the disastrous confirmation hearing, he was so staunch in his opinions that he often caused O'Connor and Souter to jump to the liberal side.

If the book has a weak point it is actually in the detailed descriptions of the nominations of John Roberts and Samuel Alito. By this point, Bush 43 had been defined by his father's Souter failure, and the conservative legal movement had blossomed into a series of full-time advocacy organizations, so the process was pretty straightforward and almost mechanical. The temporary detour into the failed Harriet Miers nomination (pushed by Bush's sincere desire to nominate a woman to the court) was over almost before it began, and the nomination machine than roared quickly into full speed again to get Alito through. It looked like the process had been standardized, and this makes it a little less interesting than earlier efforts.

If there are any takeaways here, they are first that the Senate really matters. Souter and Kennedy and Miers were all picked at least partially because the President thought they could easily get through the Senate. In this same vein, the book shows that outside groups often failed to hold the President's feet to the fire so he

didn't sacrifice judicial philosophy to the temporary ease of confirmation. Another reason Souter was picked was because Bush didn't want to spend the political capital he thought he needed to uphold his veto of the 1991 Civil Rights Act, which in retrospect looks infinitely less important than the judicial nomination. Finally, the book shows that the spur of public opinion is important in all phases of the judicial process. After Kennedy sided with the conservatives in a relatively unimportant case over paring back a portion of an 1866 civil rights bill (the 1989 Patterson case), he was shocked by the vituperation against him in the press, and soon began to write openly to his colleagues about how the press could influence judges and to tilt more to the left. On the other side, Thomas's lambasting in the press first during the confirmation process and second during an obscure 8th Amendment case about a potentially abusive prison guard caused him to be even more withdrawn and individualistic. Finally, Bush v. Gore and the country's reaction to it helped define everyone's conception of the court's role in society and made lines on the court even more stark (one revelation here is that both Souter and Breyer thought they could get Kennedy to switch his vote in the case if they just had a little more time. "One more day," Breyer later said).

There's lots of great original insights here. The book truly shows how important the simple act of picking one person for one job can be.

Kathy says

This is a very well researched and balanced account of the inner workings of the current Supreme Court. Anyone who is interested in the dynamics of the justices and how each interpret constitutional law will be intrigued by this book. The author does a particularly good job of showing how each U.S. President who has had the opportunity to appoint a justice is not always successful in placing justices who share the President's vision or philosophy on the issues.

Deb Duhaime says

Heavy reading but helpful to understand the Supreme Court

David says

When John Roberts went to the Vice President's residence to be interviewed for the Supreme Court, he arrived 45 minutes early, so he sat and waited in his car. When it was time, Roberts was ushered into a study outside a conference room. While waiting for the VP, he read through every title on the bookshelves in the small room and noticed that most of the books were about trout fishing.

It's the kind of anecdote that's sprinkled throughout Crawford's book and makes it so fun to read. We learn that when the White House reached out to Sam Alito for his nomination, Chief of Staff Andy Card accidentally called Alito's home phone rather than his office, and got Alito's teenager daughter Laura instead. "This is Andy Card calling from the White House," he said. "Can I speak to Sam Alito?" "He's not here," said Laura, a senior in high school. "He's at work." After the call Laura instantly instant messaged her older brother and told him what happened. "Andy Card?" responded Philip Alito. "Oh my gosh."

Crawford apparently managed to get this kind of fly-on-the-wall information through scores of interviews

including with “nine Supreme Court justices.” Her book has almost no footnotes or source notes, and it’s impossible to know how accurate her reporting is. Still, the combination of these breezier passages mixed with more substantive discussions on the competing judicial philosophies at war within the Supreme Court—while Oliver Wendell Holmes described as “nine scorpions in a bottle”—makes this an interesting read. Having read this book six years after it was published also provides some perspective. Since its publication, Barack Obama was elected into office, Justices Souter and Stevens stepped down, and Justices Sonia Sotomayor and Elena Kagan have been appointed. The Court remains bitterly divided and failed to make the strong rightward lurch Crawford predicted--and probably secretly wished for.

Liz says

"Supremely" interesting to anyone who has ever taken an Constitutional Law class, or is just nerdily interested in the Supreme Court. Probably not all that interesting to a reader who has never read many Supreme Court opinions. The author glosses over the justices opinions and dissents rather quickly and the context of having read the opinions discussed helped immensely.

Andrew Georgiadis says

3.5 STARS

Greenburg has a bestseller here, and it connects the dots from every Supreme Court appointment (and most nominations) in their dithering detail all stretching from Reagan's meticulous appointments of O'Connor, Scalia, and Kennedy (and the tapping of Rehnquist to Chief Justiceship) all the way to our latter day Bush and his know-nothing insistence on Harriet Miers. There is much to love and enthrall here, but there are many notable slants, perhaps revealing the author's political ideas, which, if you have your own, are glaring.

Namely, there are innumerable references to the liberal Warren court. Not just in public perception, but the focus in JCG's analysis focuses on Republican nominees, and is far more invested in their drama. John Roberts is the focus of nearly 2.5 chapters (one entitled "The Natural"), whereas Ginsburg and Breyer share not quite one. Kennedy is consigned to the chapter "Settling for Tony." Other examples of suspected conservatism:

~Anthony Kennedy made a last-minute switcheroo of opinion in the 1992 case *Planned Parenthood vs. Casey*, in which he, O'Connor, and Souter wrote the majority opinion. Greenburg recounts their draft as follows (p. 156, hardcover): "They then went out of their way to reaffirm *Roe v. Wade* repeatedly, and at great length. They loaded the opinion with high praise for the doctrine of *stare decisis* and ponderous philosophical musings on the liberty interests of women and on pregnancy itself," which is followed by quotes relating O'Connor and Kennedy's thoughts on the pain, anxiety, and physical constraints on a mother during childbirth and pregnancy. Anyone who might refer to such blaring and evident truths about childbearing as "ponderous philosophical musings" cannot possibly have their personal feelings disengaged from the material. Perhaps I presume too much, but such is the appearance of slant, maybe inadvertent, that she has presented.

~Similarly, the landmark *Bush v. Gore* decision is treated quickly and she is careful not to belabor what

many believe was a major precipitant of the decline in public respect for the court's rulings. Also glaringly absent is any analysis of the crazy decline in caseload from mere decades ago, when The Nine were doing upwards of 140 cases per annum. Today it hovers around 75.

~And not least of all, the author seems not merely expository but actually a proponent of this now ubiquitous idea of "judicial activism" or "judicial recidivism", which of course represents the Republican's biggest fears regarding judicial nominees. Considering the inescapable conclusion that the court has been moving right for at least 30 years, the author continually insists that the tepid, moderate, and occasional votes of O'Connor with the "liberals" is evidence of a recently left-leaning court, despite the fact that she voted with Rehnquist 77% of the time during their overlapping tenures. That, I'm sorry, is a nonsense position.

Still, there is a sharp eye at work, and this is a grad of UChicago law school and by all accounts a brilliant lawyer and journalist. A non-lawyer like myself is naturally presumptuous to critique her analysis. Watching her on TV during the Roberts and Alito hearings in '05 was rather engaging, too. The written record herein, however, focuses too much on the minute drama of the conservatives, and is far too sympathetic to their "fears."

Greg says

The contrast between the title and what actually happens is what strikes me. Inside the court, the people are a group of people who work together. They have personnel issues to deal with, have to find a place to live. Normal stuff. And the traditions and structures of the court require way more collaboration and compromise than we all seem to expect. It seems like the court itself is a powerful force -- most presidents who have nominated a justice for their independence and doctrine have been supremely disappointed to find that once inside they find a different way to fit into the group.

This book also gives a good sense of how capricious of a process it is to get nominated. So much depends on timing, who came before, what's going on in the presidency....things having nothing to do with the candidate.

I hope Greenburg writes another edition on the confirmation processes and changes since Alito was confirmed.

Brian Willis says

As I write this review, Justice Scalia has unexpectedly passed away and a stubborn Senate is refusing to listen to any nominee, even though Merrick Garland was previously referred to as a superb judge by conservatives and liberals alike.

This book documents the battles between 1985-2005 over the balance of the Supreme Court's ideological leanings, with a number of conservative presidents hoping to tip the Court finally onto the conservative side. It begins with the appointments of Rehnquist and Scalia, and ends with the resignation of Sandra Day O'Connor and Rehnquist's death. Along this time, other than the former two, appointments have been viewed as "leaning left", whether appointed by a conservative or progressive President. Greenburg argues that

George W. Bush finally tips the balance towards conservatism with the successful appointments of Roberts and Alito.

This is a highly readable and addictive read for followers of Supreme Court jockeying, legislative decision making, and the politics behind appointing justices. It is incisive and revealing, and it benefits from the cooperation of the justices themselves (rarely a sure thing). It's thesis is sound and truly proven - as of 2005. Intriguingly, since its publication, Roberts ruled in favor of President Obama and Kennedy wrote the majority opinion in favor of gay marriage. So the Court seems not to be as decisively conservative as she predicts (only the controversial Citizens United decision seems to prove her right). Now, with Scalia's death, the balance of power is again in doubt. Nonetheless, this book is one of the best books on the Court out there, and essential for those wanting to study the years from Reagan to George W. Bush and the politics of the Supreme Court.

Lukasz Pruski says

"[The Court] was jurisprudentially unmoored. During Rehnquist's reign, the justices were in a constant struggle over which of their competing legal theories was most relevant. They had their own philosophies about the law, so the Court could legitimately be characterized as liberal one day and conservative the next."

Another good book on the workings of the Supreme Court of US - likely my most favorite non-fiction topic. Jan Crawford Greenburg's *Supreme Conflict* (2007) is one of the best works in this particular niche that I have read. I like it as much as the great *The Nine* and more than my most recent "Supreme read" *David Hackett Souter* , but maybe only because I am a complete ignoramus in the area of constitutional law. (After the rating I list the links to my reviews of five other Supreme Court studies that I have read recently.)

Ms. Greenburg's book starts - with a literary flair and suspense - on the last day of the 2004-2005 court Supreme Court term, when everybody is expecting the gravely ill Chief Justice W.H. Rehnquist to announce that he is stepping down. This does not happen and it is Justice Sandra O'Connor who soon announces her retirement. The reader will learn the reasons for this unexpected turn of events.

The subtitle of the book, *The Inside Story of the Struggle for Control of the United States Supreme Court*, aptly describes the content. The author states that her work has been based on more than one hundred interviews, which included nine justices, many federal courts judges, and other high-ranking officials. Almost all of these interviews have been conducted "on background", meaning that the interlocutors might have been more willing to say things that have not been well known publicly.

Any history of Supreme Court between 1980s and 2000s will necessarily emphasize the influence of three justices: Rehnquist, "the boss", Sandra O'Connor, and Anthony Kennedy. Ms. Greenburg particularly focuses on Justice O'Connor, and in my view based on six other books about the highest court during that period, rightly so. I do not think any other justice had more impact on the eventual court rulings than Justice O'Connor. The author shows the mechanisms of her tremendous influence, based on her being a pragmatist rather than an ideologue. With seven out of nine justices nominated by Republican presidents, the Court was neither conservative nor liberal. Ms. Greenburg writes:

"The Court was ideologically adrift, and its course usually depended on which way O'Connor - and to some extent, Kennedy - chose to go."

Later in the book the author quotes a clever metaphor of "hedgehogs and foxes." Hedgehogs "who know one big thing" and foxes, "who know lots of small things."

"[They] bring different skills and perspectives to the Court. The foxes understand compromise and consensus. [...] The hedgehogs [...] think there are right answers in the law. Scalia is a classic hedgehog who is guided by an overarching theory [...]"

Ms. Greenburg uses Justice Breyer as an example of a "fox", but Justice O'Connor would be a more fitting example. My personal view is that the foxes are right: There are no right answers, not in the law and not anywhere else. Compromise and consensus are the only ways of achieving **something**.

There is a lot of interesting background information on the failed nomination of judge Bork and on the intense disagreements between justices O'Connor and Thomas (the author tries to defend Justice Thomas, but I do not find it very convincing: for me a pragmatist is always right and a dogmatist always wrong). The successful nomination of Justice Roberts (later the Chief Justice) is well portrayed and the best fragments of the book are about the frenzied search for a female candidate when W.H. Rehnquist dies. The convoluted, nasty, and eventually failed process of nominating Harriet Miers shows one of the uglier aspects of politics. A really interesting, very informative, and well-written book!

Four and a quarter stars.

John W. Dean *The Rehnquist Choice*

Jeffrey Rosen, *The Supreme Court; The Personalities and Rivalries that Redefined America*

John Anthony Maltese, *The Selling of Supreme Court Nominees*

Martin Garbus, *The Next 25 Years: The New Supreme Court and What It Means for Americans*

John Paul Stevens, *Five Chiefs: A Supreme Court Memoir*

Hillary says

It was a supreme challenge to rate and review this book But ultimately I settled on 4 stars because I learned so much about constitutional law, the supreme court and the politics surrounding it. Another tell tale sign that a book is of superior quality for me is how much I find myself thinking about it throughout the day, how much time I spend talking to Spencer about it and if it has the rare ability to change the way think about a certain subject. I found myself constantly wondering if it is the duty of the court to 1. Apply the constitution as it is written verbatim, or 2. to try to convey what (Justice Scalia calls) "the framers" intended it to mean or 3. to see it as a living document that changes with the times and apply it as best as they can today and take into account the precedence their ruling will set for future cases.

I also found myself asking how I would rule in all the cases they mentioned, particularly if I would be on the conservative side or the liberal side of the court.

I found it hard not to condemn Justice O'Connor and Justice Kennedy for being "swing votes", and witness attorneys pandering just to them when they made it to the Supreme Court. But, in fact I too would consider myself a swing vote, allowing each case to have individual merits regardless of politics.

As Justice Hillary, I would vote Justice Scalia-most entertaining

Justice Thomas - as having the most conviction, Justice O'Connor -most powerful and finicky and Justice Rehnquist - the most earnest.

My favorite quotes from the Justices Justice Rehnquist - "Justices spend the first five years wondering how they got to the Supreme Court. They spend the rest of their Court tenure wondering how their colleagues got

there.” And From Justice Thomas - “Shouldn’t there at least be equal time for our Bill of Obligations”

Michael says

I hesitated to give this book 4 stars because it is not particularly eloquent, nor is it a showcase of creativity and new ideas. But in the end, I think it deserves 4 because it is groundbreaking in one important respect: it is a stunningly evenhanded study of a subject that rarely, if ever, receives such treatment. This is all the more shocking given the author's mainstream media credentials. She is a correspondent for ABC News.

This book is what a Bob Woodard book should be, but never is: full of the kind of juicy, previously untold details that delight Beltway insiders, but absent an interpretive style that tells you more about the author than the characters in the book.

Conservatives will be especially hearkened to hear that this book does the unthinkable: it presents a fair explanation of the concept of judicial restraint, rather than the typical caricature proffered by the modern media. I am sure the ABC News break room was a lonely place for the author after this book's publication.

Conservatives will nonetheless find more to wince at in "Supreme Conflict" than to take pleasure in -- namely, the account of how Republican presidents appointed a series of increasingly unconservative Justices, from the philosophically unmoored O'Connor and Kennedy, to the downright liberal David Souter (whose nomination by George H.W. Bush was perhaps the most incompetent act by a modern Republican president - and that's saying something.)

From 1968-1992, a Republican was president for 20 of those 24 years. Yet the Supreme Court remained in liberal hands. The result: a reaffirmed Roe v. Wade and other acts of judicial activism that further distanced political power from the political and elected branches of government. Were it not for the failure of the Reagan Administration to properly prepare Robert Bork for the treachery of Senate Democrats (most despicably Ted Kennedy), Robert Bork would be a Justice rather than Anthony Kennedy. Were it not for the utter ineptitude and unseriousness of the first Bush Administration, Ken Starr or Laurence Silberman would be a Justice instead of David Souter. The magnitude of these mistakes is nearly impossible to express in words.

Also of interest is the account of Clarence Thomas. The idiotic coverage of the NY Times notwithstanding, it turns out that Thomas is indeed not only NOT Scalia's poodle, but in fact from his earliest days on the Court, his forcefulness in chambers and the fecundity of his writing has more often led Scalia to change his mind rather than the other way around. The liberal caricature of Thomas as an Uncle Tom in a black robe being led around by his intellectual superior, Antonin Scalia, is not only bigoted but utterly inaccurate.

That forcefulness also drove O'Connor into the arms of the liberals. She, like Kennedy, had no overarching philosophy of constitutional interpretation, so hers was a jurisprudence oriented towards achieving what she believed to be fair, middle of the road results. The former state legislator remained a politician on the bench. Kennedy likewise sought the approval of the law school and media glitterati more than jurisprudential consistency. The nation is much worse for it.

I worked on Capitol Hill in the first term of George W. Bush, and I watched with disgust as Senate Democrats filibustered any and all conservative nominees that also happened to be minority and/or female. The more impressive a minority's credentials, the more determined Democrats were to prevent them from

gaining the kind of appellate court experience that would make them a future Supreme Court possibility. This nakedly partisan outrageousness had the ironic result of making white-male Samuel Alito into the "last man standing" for Bush to choose from after the Harriet Miers debacle. By refusing to permit a conservative minority or woman to rise through the judicial system, Senate Democrats not only sold their soul but also ensured that only a white male could be nominated for the Court when the day came -- thus thwarting their own sacrosanct goal of diversity on the Court.

The American people and their elected representatives are one Justice away from retaking control of important social issues back from unelected judges. Whatever his other failings, George W. Bush will always be able to claim unprecedented success in naming 2 of the most qualified justices, and the most devoted to the principle of judicial restraint, in memory.

J. Bishop says

This book was a guilty pleasure. Greenburg does an excellent job in reviewing the recent history of Republican nominations to the Supreme Court. In a quick and easy read, she explains how the botched nomination of Robert Bork and the subsequent disappointments that were Anthony Kennedy and David Souter led the conservative base to demand more of George W. Bush when it came time to replace William Rehnquist and Sandra Day O'Connor.

Her backroom access is quite impressive and shines through in the writing. She apparently interviewed all of the Justices, but one, in writing the book. She won't say who wouldn't agree to an interview, but based on the inside information she displays, it seems pretty clear to me that Souter was the one who wouldn't talk. She has insights from all of the rest and is the hardest on Souter, both professionally and personally. Given that it is easier to criticize those you haven't met and Souter's reclusive nature, that's more than enough checkmarks in the ledger for me to categorize Souter as the silent Justice for the purposes of Greenburg's book.

Terry Feix says

Readable , detailed look at the Supreme Court during the Rehnquist years.
