

Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover Through George W. Bush by *Christine L. Nemacheck*, University of Virginia Press, 2007. 187 pp. \$35.00.

By the time Potter Stewart announced his retirement from the U.S. Supreme Court in June of 1981, the Reagan administration had compiled a list of about twenty possible replacements. On the list were prominent legal academics, lawyers, politicians, and sitting judges, and it included several women---notably North Carolina Supreme Court Chief Justice Susie Marshall Sharp, the California state court judge Joan Dempsey Klein, and of course Sandra Day O'Connor (p. 152)

With such (female) luminaries from which to choose, why did O'Connor get the nod? O'Connor credited her selection to chance. "Stated simply," she once claimed, "you must be lucky. That certainly is how I view my nomination" (p. 107).

Many leading accounts of judicial selection, as Nemacheck points out, would not take much issue with O'Connor's explanation. They contend that the selection process is largely idiosyncratic, varying with the particular style and priorities of the appointing president.

Not so, says Nemacheck. If we assume that presidents desire to appoint ideological soul mates to the Court and we know whether they are constrained (i.e., the opposing party controls the Senate), then their choices are quite explicable. Unconstrained presidents, on Nemacheck's original account, will pursue a "pure informational strategy" (p. 111). That is, they will select the candidate they believe most likely to act as they would were they on the Court. Constrained presidents too would pursue this strategy but they are, well, constrained. Consequently, they follow a more politically minded path, placing greater emphasis on nominees recommended by senators or those lacking (tell-tale) political experience.

Matching the innovation of Nemacheck's account are the methods she uses to assess it. Rather than rely exclusively on anecdotal evidence---rampant in this line of inquiry---she turns to the appointing president's papers. From the presidential libraries of Hoover through Bush (41), she was able to piece together each administration's short list of nominees. It is these lists (thoughtfully housed in an appendix), and other information mined from the papers, that form the centerpiece of Nemacheck's empirical analyses.

This is a great book. It's accessible, yet sophisticated. Appropriately quantitative, though full of interesting stories. Nuanced in its conclusions but clear in its takeaway: Never again can commentators dismiss the nomination process as "idiosyncratic"; it is not. Nor, for that matter, should Sandra Day O'Connor---or any other modern-day nominee---attribute her selection to dumb "luck"; it was anything but.

Almost needless to write, *Strategic Selection* has my strongest recommendation. Anyone with an interest in American politics will find something to like about it. And those who think they have little more to learn about the selection process will find themselves disproved (this reviewer included).

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