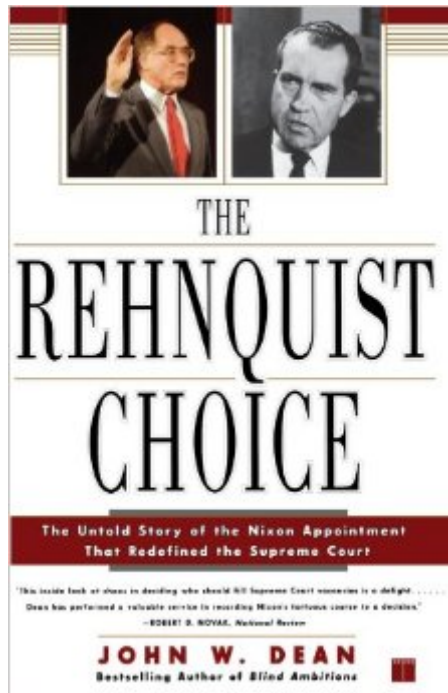


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# The Rehnquist Choice: The Untold Story Of The Nixon Appointment That Redefined The Supreme Court



## Synopsis

In 1971, William Rehnquist seemed the perfect choice to fill a seat on the United States Supreme Court. He was a young, well-polished lawyer who shared many of President Richard Nixon's philosophies and faced no major objections from the Senate. But in truth, the nomination was anything but straightforward. Now, for the first time, former White House counsel John Dean tells the improbable story of Rehnquist's appointment. Dean weaves a gripping account packed with stunning new revelations: of a remarkable power play by Nixon to stack the court in his favor by forcing resignations; of Rehnquist himself, who played a role in the questionable ousting of Justice Abe Fortas; and of Nixon's failed impeachment attempt against William O. Douglas. In his initial confirmation hearings, Rehnquist provided outrageous and unbelievable responses to questions about his controversial activities in the '50s and '60s -- yet he was confirmed with little opposition. It was only later, during his confirmation as Chief Justice, that his testimony would come under fire -- raising serious questions as to whether he had perjured himself. Using newly released tapes, his own papers, and documents unearthed from the National Archives, John Dean offers readers a place in the White House inner circle, providing an unprecedented look at a government process, and a stunning expose of the man who has influenced the United States Supreme Court for the last thirty years.

## Book Information

Paperback: 352 pages

Publisher: Free Press; Reprint edition (October 8, 2002)

Language: English

ISBN-10: 0743233204

ISBN-13: 978-0743233200

Product Dimensions: 5.5 x 1.1 x 8.4 inches

Shipping Weight: 12.6 ounces (View shipping rates and policies)

Average Customer Review: 4.0 out of 5 stars [See all reviews](#) (20 customer reviews)

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## Customer Reviews

John Dean has written an insider's book that chronicles President Richard Nixon's appointment of

William Rehnquist to the United States Supreme Court. It was without doubt a Presidency filled with history, and the appointment of William Rehnquist to the Supreme Court is an often forgotten part of that Presidency. The book is well researched and thoroughly documented with first hand material from the National Archives, including several verbatim passages transcribed from the infamous White House tapes that otherwise doomed the Nixon Presidency. Dean brings us inside the "vetting" process used by the White House staff and Justice Department to select nominees to the Court. Dean floated the name of Rehnquist to several in the administration, including then Attorney General John Mitchell, as a possible conservative candidate for the Court as Dean had worked with Rehnquist in the Justice Department and learned of the Rehnquist's strict constructionist interpretation of the constitution. What was fascinating was that Rehnquist while toiling away at the Justice Department was tasked with "vetting" the other possible Court nominees chosen by the White House. Sounds much like the recent scenario of the selection of Dick Cheney as Vice President. The book details the other nominees Rehnquist beat out for the coveted position. If anyone believes that politics plays no part in the selection of the members of the Court, then this is required reading. At times humorous and at times self-serving, this book is well worth the purchase. If you are not a Court watcher don't worry, you don't have to be to appreciate this book. Dean is a good writer and the text flows easily. Add "The Rehnquist Choice" to your summer reading list - you will gain an appreciation of the importance of Presidential nominations to the Court.

Every time I think about John Dean sitting in the National Archives listening to his own voice on the presidential tapes, I think how surreal that must have been for the other researchers at the adjacent study carrels. How odd for a man to be able to hear his own voice, 29 years later, occasionally exclaiming: "I said that?" This is a wonderful look at Nixon with some of the funniest anecdotes you'll ever come across. John Dean has a real ear for irony and a smooth writing style that will surprise people who know he is a lawyer but didn't come across his talent in the excellent *Blind Ambition*. There are a couple of points worth making. One is that even though President Nixon weighed political considerations for every move he made, he seemed to genuinely relish the opportunity to appoint a qualified person from the top of his class at Stanford. If there is a disconnect in this book, it is that Dean makes Rehnquist out to be a much worse person than he is. The Chief Justice is not a bad man and Dean need not feel so guilty about being the first person to raise his name. Skip the moralizing at the end of the book and concentrate on a true story of how a justice was picked and you will laugh until you cry. Some might say it makes them cry, it shouldn't. It's just politics.

During his first presidential term, Richard Nixon had the unusual opportunity to appoint four justices to the supreme court. This book tells the inside story of how the nominees were selected, focusing almost entirely on the selection of the latter two: Lewis Powell, a prominent Virginia attorney, and William Rehnquist, then the Assistant Attorney General to John Mitchell. Not counting the book's introduction and afterword, its main story covers just 35 days in the fall of 1971. The book begins by telling how Nixon virtually created the first two vacancies. Essentially, Nixon encouraged Senate republicans to filibuster the elevation of Abe Fortas to the Chief Justice position. Once in office, Nixon's men then staged a PR campaign to discredit Fortas, causing him to announce his retirement. Ironically, the legal precedent for investigating Fortas' business dealings was based on a memo written by Rehnquist. If anyone should be entitled to write this story, it is John Dean. At the time, Dean was Council to the President, and it was he that first brought up Rehnquist's name, mostly as a fanciful suggestion. He recounts his experiences vetting candidates and some of his conversations as reconstructed from notes and memory. Primarily, however, the book is based on Nixon's tape recorded conversations in the oval office. Dean has done a good job editing these transcripts so as to maintain sufficient context without dragging them out too long. What emerges in these conversations is a series of bungled operations and imprudent decisions. Before Lewis and Rehnquist were finally selected in the final two days before their names were announced, the administration actually selected four other candidates. Two were rejected by the Senate, and the other two (including a woman) were deemed unqualified by the ABA (although from the sounds of it, the female candidate, Mildred Lillie, was fairly qualified but discriminated against by the all-male panel). John Mitchell and his assistant Rehnquist did an abysmal job vetting candidates, so much so that Dean and another lawyer were sent by John Ehrlichman to independently interview the candidates in more depth. And Nixon himself seemed to base his choices on hearsay and surface biographical snippets, like the candidates' class rank or the school they graduated from. He paid very little attention to the candidates' actual writings or opinions. One of the incidental but nevertheless shocking revelations in the book is the deep extent of Nixon's sexism. Recent tapes have revealed his racism and anti-semitism, but his low opinion of women is repeated time and again in the transcripts. For example he is quoted as saying "I don't even think women should be educated!" and "I don't think a woman should be in any government job whatever." In the book's afterword, Dean makes a compelling case that Rehnquist lied under oath during his confirmation hearings, both when he was initially confirmed in 1971, and then again in 1986 when Reagan nominated him to Chief Justice. At issue were Rehnquist's activities in Arizona during the 1960's

preventing minorities from voting, and a controversial memo he wrote while clerking for Justice Robert Jackson in which he urged Jackson to vote to maintain segregated schools in the historic "Brown vs. Board of Education" case. Dean argues that if Rehnquist had been better vetted and prepared for his initial confirmation hearings, he would have had ready answers to these questions. Instead, he was caught off guard and ended up lying in 1971, and then lying again in 1986 to maintain the original lies. Due to Rehnquist's dishonesty and the profound effect of his rulings on the high court, Dean openly regrets ever having suggested Rehnquist's name to Nixon staffers. Although this fascinating book is about far more than just Nixon's selection of Rehnquist, clearly that selection was the most important from a historical perspective. In a sense, this book is Dean's act of repentance for his role in the Rehnquist choice.

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