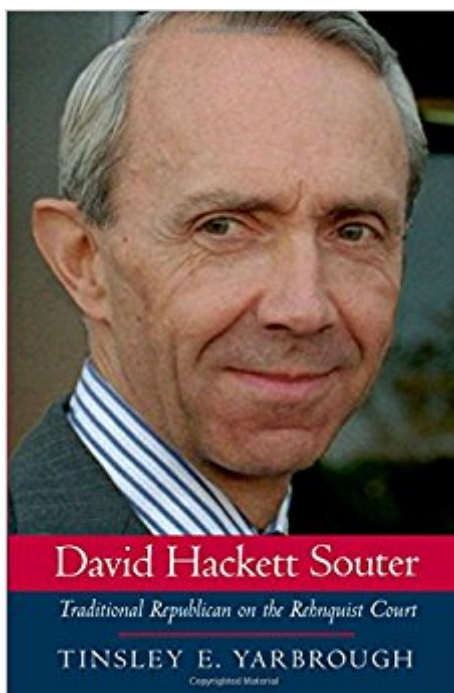


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# David Hackett Souter: Traditional Republican On The Rehnquist Court



## Synopsis

When the first President Bush chose David Hackett Souter for the Supreme Court in 1990, the slender New Englander with the shy demeanor and ambiguous past was quickly dubbed a "stealth candidate". Since his appointment, Souter has embraced a flexible, evolving, and highly pragmatic judicial style that embraces a high regard for precedent--even liberal decisions of the Warren and Burger Courts with which he may have personally disagreed. Ultimately, Yarbrough contends, Souter has become the principal Rehnquist Court opponent of the originalist, text-bound jurisprudence that many of the more conservative Justices profess to champion. Sifting through Souter's opinions, papers of the Justice's contemporaries and other relevant records and interviews, esteemed Supreme Court biographer Tinsley Yarbrough here gives us the real David Souter, crafting a fascinating account of one of the heretofore most elusive Justices in the history of the Court.

## Book Information

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## Customer Reviews

Little was known about either the personal life or the judicial philosophy of Souter when he was appointed to the High Court in 1990, and that remains true today. As this incisive, judicious biography points out, that's probably how the justice wants it. But Yarbrough, a professor at East Carolina University (The Rehnquist Court and the Constitution), gets to the core of Souter;and of today's political climate. From his childhood, Souter had many traditional New Englander traits;for instance, hardworking and thrifty;that he continues to this day, eschewing some of the perks

afforded high court justices. Yarbrough points out that Souter developed a judicial philosophy emphasizing tradition and precedent. This made him an alluring nominee to the top bench in the wake of the Robert Bork debacle. But as Yarbrough also shows by delineating Souter's decisions, in refusing to overturn court precedent on such hot-button issues as abortion and affirmative action; and in opposing the Court's decision to end all recounts in the 2000 election; Souter's approach has made him a disappointment to conservative hard-liners. At a time when the Supreme Court is once again being remade, this biography opens up the world of one of the court's most intriguing members. (Oct. 1) Copyright © Reed Business Information, a division of Reed Elsevier Inc. All rights reserved.

"A detailed and sympathetic portrait of the justice, and its account of Souter's confirmation is particularly salient at the moment."--Emily Bazelon, *Washington Post Bookworld*"... helps readers understand how it [the Supreme Court] addresses hot-button social issues. His book is illuminating for anyone wishing to follow current Supreme Court confirmation issues."--*Library Journal*"Incisive, judicious... gets to the core of Souter--and of today's political climate.... At a time when the Supreme Court is once again being remade, this biography opens up the world of one of the court's most intriguing members."--*Publishers Weekly*"Tinsley Yarbrough provides a marvelous portrait of David Souter both as a jurist and as a man, and explains why his traditional New England conservatism has made him a key member of the centrist coalition that has dominated the Supreme Court for over a decade. And, sadly, he also makes clear why the ultra-conservative wing of the Republican Party will never, if it can help it, allow another such open-minded person on the nation's highest court."--Melvin I. Urofsky, Professor of History and Public Policy, Virginia Commonwealth University"[Yarbrough] skillfully blends Souter's personal and professional life in an amalgam that is both enlightening and entertaining.... Highly recommended."--*CHOICE*"Yarbrough has written a masterful, very human, portrait of America's 105th Justice of the U.S. Supreme Court, David Hackett Souter. As with Yarbrough's other biographies of American jurists, he, seemingly effortlessly, captures the essential qualities of Souter's personality, jurisprudence, and his work on the Court and presents these insights in beautifully written yet thoroughly scholarly prose. After reading this book, one "knows" Justice Souter, "Hackett," the way one "knows" a very close friend."--Howard Ball, author of *Murder in Mississippi*"Tinsley Yarbrough, the most prolific living biographer of Supreme Court justices, has done it again. This time he has given us a readable, carefully researched, and persuasively argued book about David H. Souter, a traditional Republican who has forthrightly supported liberal positions on civil liberties and abortion. Today, Yarbrough

cogently explains, Souter would never be appointed by George W. Bush, the son of the president that did appoint him. Yarbrough mixes personal history with a careful understanding of the case law, the other justices, and the larger political climate to produce a compelling study in both judicial style and courage."--Kermit L. Hall, President and Professor of History, State University of New York at Albany"Conservatives view the first President Bush's appointment of David H. Souter as a huge miscalculation, and the results seem to bear them out. Souter has voted with the liberals on abortion, separation of church and state, federal legislative power, and Bush v. Gore. In this penetrating analysis, Tinsley E. Yarbrough attributes Justice Souter's decisions to an unwillingness to uproot precedent and a respect for "our settled law." Yarbrough persuasively depicts Souter as an exemplar of the common-law tradition and places him squarely in the mold of Yarbrough's previous subject, the second Justice Harlan."--John Jeffries, Dean, University of Virginia School of Law

Provided excellent insight for a paper I was writing.

The book mostly details his legal career which is a little dry, it came most alive when describing his early life and personal habits. The section concerning his time as the NH's attorney general was very thought provoking b/c you can trace from what conservative beginnings sprang his judicial leanings. But 3/4s through the book I started turning to the end of the book...even though I knew the way it ended, its a biography.

I loved to read about the Suprem Court because they are The Supremes and better than their musical counterparts to listen to.

Writing judicial biography can be a challenging undertaking. How much of the judge's family history should be included?; what elements of the judge's pre-court career merit careful examination?; how extensive should the discussion be of how and why the judge was selected for the position?; and finally, how many of the judge's decisions should be reviewed to round out the picture? It is a pleasure to report that Professor Yarbrough has mastered the craft well, having written prior biographies of both Justices Harlan, Judge Frank Johnson, and District Court Judge Waring. This an enormously valuable resource for understanding Justice Souter. It gives just enough attention to his family background and his pre-Court career. Many judicial biographies rush over the process whereby the subject is selected; not so here. This chapter is particularly of pertinent interest given the current Roberts' hearings. It is surprising to see Souter, labeled by many as the "stealth

nominee," being far more candid with the Judiciary Committee than Judge Roberts in his testimony. It is a particularly difficult task to discuss the judicial philosophy of a subject who is still on the court. In fact, Justice Souter will finish out 15 years in October, 2005. Once again, Yarbrough is up to the task. Much attention is devoted, and rightly so, to Souter's "common law" adherence to precedent. Over the 15 years so far, the Justice has developed a position of moderate liberalism (with the exception of criminal justice) on such issues as establishment, maintaining Congressional authority, limiting "state sovereignty," restricting the reach of the "taking clause, Bush v. Gore, and protecting the right to privacy. The book is especially valuable in discussing Souter's interactions with other members of the Court, particularly as regards the critical Planned Parenthood v. Casey decision. Yarbrough here relies heavily on Justice Blackmun's now public court files to trace the maneuverings that occurred in this case. As I explained in my review of Linda Greenhouse's Blackmun biography, I am still a bit uncomfortable with the private memos of sitting justices being studied, even though they add enormously to the value of Yarbrough's discussion. His chapter on Bush v. Gore is also very strong in terms on explaining exactly what motivated various of the Justices in that case. I would have liked Yarbrough to have included a bibliography, to compliment his extensive notes. He also apparently has made little use of the professional literature (such as law review articles) on Souter, although I was surprised to discover that there is not that much attention that has been devoted to the Justice. All the more reason to be appreciative of this fine judicial biography that admirably fills the gap.

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