

## Robert Bork's Supreme Court Nomination

**Lewis F. Powell Jr.** (1907–1998), **Ronald Reagan** (1911–2004), **Robert Bork** (1927–2012)

Between 1789 and 1986, the Senate confirmed 109 presidential appointments to the Supreme Court, rejecting eleven nominees. (Fifteen nominations were either withdrawn or not acted upon.) But the tenor of the process changed forever when the Senate rejected President Ronald Reagan's nomination of Robert Bork.

In August 1981, President Reagan nominated Sandra Day O'Connor, who became the first female justice to serve on the Supreme Court—a historic appointment that helped diversify the Court. Five years later, the Senate unanimously confirmed Bork to the U.S. Court of Appeals. But when Justice Lewis F. Powell Jr., a moderate, announced his retirement in June 1987, President Reagan faced what the *New York Times* called “a historic opportunity to shape the future of the court.” The future he envisioned included Bork, former U.S. solicitor general, a Yale Law School professor, and an acknowledged conservative intellectual.

“Many qualified observers of judicial personnel considered Bork to be the most meritorious nominee to the high bench since FDR's selection of Felix Frankfurter in 1939,” writes Supreme Court scholar Henry J. Abraham, but intellect wasn't the paramount consideration. Instead, the process devolved into partisan politics less than an hour after starting. Bork's record both offended and frightened liberal interest groups; they in turn undertook a smear campaign the likes of which had never before been seen.

Writing in 1992, U.S. Court of Appeals Judge Roger J. Miner described Bork as perhaps “the last of the straight shooters. He answered honestly, directly, without guile and with some intellect, all the questions put to him.” As a result, his nomination failed by a vote of 58–42. As Judge Miner noted, Bork “accurately predicted that direct answers would never again be the norm.” No one wanted to be “borked,” a neologism meaning to defame or vilify, particularly in the media, to prevent an appointment to public office. Bork's *New York Times* obituary described that repudiation as “a historic political battle whose impact is still being felt.”

**SEE ALSO** The Judiciary Act of 1789; The Power of Judicial Review (1803); Confirming Clarence Thomas (1991).

*Robert Bork speaks to the press in the White House briefing room during his fight for Senate confirmation.*

