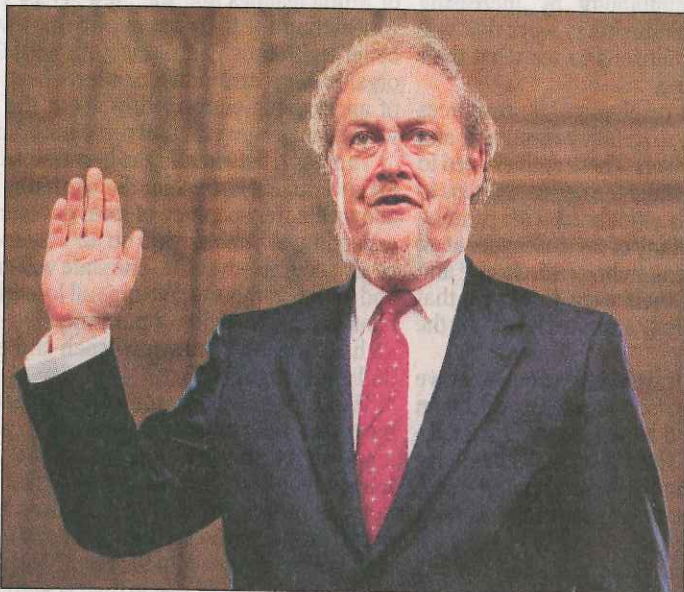


# Robert Bork earned his rejection



JOHN DURICKA / ASSOCIATED PRESS

Robert Bork is sworn before the Senate Judiciary Committee on his nomination to the Supreme Court in 1987.

By FRANK ASKIN

**S**OMEHOW or other, the media has managed to transform the late Robert Bork, the man who presided over the odious Saturday Night Massacre during the Watergate scandal nearly 40 years ago, from a villain into a victim.

By making it appear that "Borking" a U.S. Supreme Court nominee is an act of judicial assassination, they have created the false impression that Bork was a legal scholar who deserved a better fate. Nothing could be further from the truth. Bork was an enemy of democracy and egalitarianism. "Borking" Bork was a triumph for justice and equality.

When President Reagan nominated Bork

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for the Court in August 1987, I was on leave from Rutgers Law School, serving as special counsel to Rep. John Conyers, D-Mich., who was serving that year as chairman of the Congressional Black Caucus.

At the time of his nomination, Bork was the guru of the conservative legal movement. He had been carefully grooming himself for a quarter-century to be the radical right's favorite for a Supreme Court appointment. He had paid his dues most spectacularly in 1973 when he was the only senior Justice Department official willing to do President Nixon's bidding and fire Watergate Special Prosecutor Archibald Cox rather than resign in what came to be identified in history as the "Saturday Night Massacre."

As Conyers said on then House floor of the nomination: To place this man among the ranks of the defenders of our Constitution is like placing one of the foxes among the guardians of the chicken coop.

But worst of all, Bork was an inveterate foe of all civil rights legislation. He seemed

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to consider the right to discriminate against other Americans the most important civil right of all. He had actively opposed just about every civil rights law enacted in the wake of the 1960s civil right movement, including the Voting Rights Act.

In early August, Conyers convened in his office a meeting of his ad hoc civil rights advisory committee, consisting of many of the politically progressive leaders based in D.C., including Ralph Nader and Eleanor Smeal, then head of NOW.

The initial plan was to try to organize a Senate filibuster of the nomination. However, that idea was discarded as premature and to work instead to try to pressure what was still a large contingent of conservative Senate Democrats to come over to our side. Every one of them owed their election to black voters in their states. None of them had ever received more than 40 percent of the white vote in their last election. It was time to call in those chips.

Since there were no black senators at the time, it was decided to anoint Conyers, as chair of the Congressional Black Caucus, the "101st senator" and coordinate strategy with the Senate Democratic leadership.

More important, Conyers embarked on a campaign tour of the South, meeting with black leaders to expose Bork's opposition to civil rights and to mobilize the black community in opposition. The campaign included constant contact through press releases

and voice recordings for black newspapers and radio stations throughout the region.

While the emphasis in the African-American community was on Bork's anti-civil rights record, other campaign materials focused on his consistent support as a judge for corporate interests in disputes with unions, workers and consumers. Although everyone was agreed that it was political pressure from black voters that would be needed to carry the day with the Southerners, the senators would need to justify their anti-Bork votes in terms that would be acceptable to broader constituencies.

When formal hearings before the Senate Judiciary Committee convened in mid-September, Bork turned out to be his own worst enemy. In an effort to defend his narrow and restrictive views about personal privacy and other individual rights under the Constitution, he convinced more and more Americans that he was not the person they wanted on their court of last resort.

In addition, in the nationally televised hearings he came across as arrogant and elitist. Opinion polls began to reflect declining public support. It became easier for wavering senators to vote no. One by one, the Southern Democrats announced their opposition.

By early October, the press was reporting that the nomination was dead. Bork's supporters were urging him to withdraw. The final vote was 58-42 against. Only two Democrats voted in favor, Ernest Hollings of South Carolina and David Boren of Oklahoma.