



Written by [Dave Bohon](#) on December 20, 2012

## Conservative Judge, Failed Supreme Court Nominee Robert Bork Dead at 85

Judge Robert Bork (shown alone and with Ronald Reagan), a conservative federal judge whose commitment to a strict interpretation of the Constitution made him a hero of conservatives but cost him a likely seat on the U.S. Supreme Court, died December 19 at his home in Virginia. He was 85.

Bork, who most recently had served as a legal advisor to Republican presidential candidate Mitt Romney, was most well known as President Ronald Reagan's 1987 Supreme Court nominee, a selection who was successfully opposed by Senate Democrats coached by leftist groups who feared Bork's conservative views and "originalist" interpretation of the Constitution. Reading from those ultra-liberal talking points, U.S. Senator Edward Kennedy warned at the time that "Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids, and schoolchildren could not be taught about evolution." Were Judge Bork to take a seat on the High Court, Kennedy warned, "the doors of the federal courts would be shut on the fingers of millions of citizens."

Born in Pittsburgh in 1927, Bork graduated from the University of Chicago School of Law, served in the Marine Corps, had a private law practice, and taught at Yale Law School before joining the Nixon administration's Justice Department in 1973 during the heat of Watergate. It was as a solicitor general that Bork "first gained notoriety for carrying out the president's order to fire the special prosecutor investigating the Watergate scandal," reported CNN in its obituary of Bork. "When Attorney General Elliot Richardson and his deputy William Ruckelshaus abruptly resigned rather than carry out orders to dismiss special prosecutor Archibald Cox," continued CNN, "Bork stepped in and carried out Nixon's demands. He was criticized for bowing to political pressure but remained on the job. Nixon resigned a year later."

In 1981, President Reagan named Bork to the U.S. Court of Appeals for the District of Columbia, where





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he served with future Supreme Court Justices Antonin Scalia and Ruth Bader Ginsburg. While Reagan seriously considered Bork for a High Court vacancy in 1986, that appointment went instead to Scalia, a good friend who continues to serve as the Court's senior associate justice.

Bork had his opportunity a year later when "centrist" Supreme Court Justice Lewis Powell announced his retirement and Reagan forwarded Bork as his nominee, hoping to add another conservative vote to the court. But there was a major obstacle, reported CNN. "Unlike the Scalia confirmation a year earlier, Democrats now controlled the Senate and were prepared for a fight. Bork's confirmation was the most bitter Washington had seen in years, and he was ultimately rejected by the Senate 58-42, the largest margin of defeat ever for a court nominee."

At the center of the opposition to Bork was his insistence on interpreting the Constitution as written, reported CNN, "that judges should rule based only on the text of the Constitution as it was originally enacted, and should not be seen as righting all social ills."

In a 2005 interview on *Larry King Live*, Bork explained that what qualified someone to serve as a Supreme Court justice was a "willingness to apply the Constitution according to the principles that are actually in it rather than what they call the 'evolving' or the 'living' Constitution, which simply means the judges begin to make it up."

Following Bork's defeat, President Reagan commented, "The highest court in our land will not enjoy the services of one of the finest men ever put forward for a place on its bench. Judge Bork will be vindicated in history."

Following Bork's death Edwin Meese III, attorney general under Reagan, told [Politico.com](#) that had Bork served in the Supreme Court "we would have had a jurisprudence over the past 25 years that would have been much closer to the founders' intent." Meese added that his comment was not meant "to disparage anybody, but the force of his intellect and his scholarship would have had a tremendous impact on the court."

The *Los Angeles Times* noted that following Bork's defeat, Reagan nominated Anthony Kennedy, who was unanimously confirmed. "The switch proved to have lasting consequences," reported the *Times*. "Kennedy cast decisive votes to uphold *Roe vs. Wade* and to preserve the ban on school-sponsored prayers."

In later years Bork's constitutionalist philosophy made him a highly sought lecturer and speaker in conservative circles. He also became a best-selling author with such books as *Slouching Toward Gomorrah: Modern Liberalism and American Decline*. But in popular culture, his name was destined to become a pejorative for a partisan attack on an individual. "My name became a verb," he said of the term to "bork" someone, "and I regard that as one form of immortality."

Among those offering words of tribute on the passing of Judge Bork was Justice Scalia, who said that his longtime friend was "one of the most influential legal scholars of the past 50 years. His impact on legal thinking in the fields of Antitrust and Constitutional Law was profound and lasting. More important for the final accounting, he was a good man and a loyal citizen. May he rest in peace."

Pro-life leaders considered his a voice of constitutional reason for the unborn, and Charmaine Yoest, president of [Americans United for Life](#), mourned his passing. "Rarely does one meet a towering intellect — someone who presents the hardest issues in a way which reveals their true substance," Yoest wrote in a prepared statement. "Judge Bork was such a man: a thoughtful intellectual whose contribution to American jurisprudence leaves a significant and lasting legacy."



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Alan Sears of [Alliance Defending Freedom](#), a conservative legal advocacy group, said in a statement that Judge Bork “stands as a constitutional giant of our generation, indeed, one of the greatest legal minds and tireless defenders of religious freedom in American history.”

Sears said that Bork “had a dramatic impact on our nation, on its legal culture, and on the minds and hearts of many of its finest judges, law professors, students, and attorneys. Perhaps his greatest mark was the restoration of scholarship on Originalism, which has helped preserve the ingenious framework for freedom forged by our nation’s founders that many others in the legal profession had hoped to toss into the dustbin of history.”

In his tribute, Tony Perkins of the [Family Research Council](#) explained that Bork was “a strong voice for the role of judges as constitutional interpreters rather than legislators. If other judges reflected his understanding of the modest, limited role of judging, I have no doubt that the American people would be freer.”

Perkins added that the conservative judge’s “brilliant legal mind also saw the truth of Christianity, and in his later years Judge Bork grew closer in his relationship with Jesus. His deep faith and trust in God is an example for all of us.”



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