

By Definition

MARK TUSHNET ON THE verb “to bork”:

Borking happens when nominees give opponents some ammunition that they use in ways the nominee’s supporters think unfair. Confined to attacks on qualifications and to asserting that the nominee’s views are out of the mainstream, the opponents have to characterize reasonable views about what the Constitution means as outside the mainstream. Perhaps, though, Republicans are less concerned about borking than they say. Forcing their adversaries to bork nominees may, they may think, lead voters in the middle to think less well of liberals, enhancing the distaste for Washington politics that has helped conservatives gain political power. In any event, seeing one of their own being borked may itself energize the conservative base, even beyond what a conservative nomination would do.

Borking has another advantage for Republicans. It can fail or it can succeed. If it fails, the Democrats are faced with a life-tenured judge likely to be embittered by the confirmation experience. If it succeeds, the replacement nominee is likely to be more moderate. But moderate Republican judges serve Republican partisan interests nearly as well as – maybe even better than – really conservative Republican judges. Borking can mobilize the Democrats’ base *during the nomination battle*. Moderate Republican judges then demobilize the Democrats’ base *at election time* – by denying the Democrats the opportunity to run against Republicans for nominating judges who undermine the Democratic base’s commitment to abortion and privacy rights. Yet those very same moderate Republican judges help mobilize the Republican base at election time – by perpetuating the possibility of running against “activist” judges who enforce abortion and privacy rights. All in all, borking works better for Republicans than for the Democrats who have practiced it.

The politics of judicial nominations in the post-Rehnquist years is likely to be quite unattractive if Republican presidents calculate that their party will benefit from strongly conservative nominations or if there is a Democratic president. Modern interest group politics makes borking an appealing political strategy, although it degrades our civic life.

Mark Tushnet, A COURT DIVIDED: THE REHNQUIST COURT AND THE FUTURE OF AMERICAN LAW 340-41 (Norton 2005).

Bobble Cataloging

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KEYWORD

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Title **Sandra Day O'Connor [model]**

Imprint [S.l.] : Green Bag Inc., 2004

| LOCATION | CALL NO. | STATUS |
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| LAW DISPLAY CASE | KF8745 .O25 | CHECK SHELVES |

Descript 1 doll : ceramic, col. ; 20 X 8 X 8 cm

Series [Bobbleheads](#)

Note Free to subscribers of The Green Bag

Summary Doll is dressed in Supreme Court robe and holds a copy of United States reports, v. 530, October term 1999, in her left hand—a reference to the grandparent visitation case of Troxel v. Granville. She is standing on a map of the Texas congressional districts 18 and 29, whose "bizarre" shapes she found to be the product of unconstitutional racial gerrymandering in Bush v. Vera. Her shoes look like those she wore on Sep. 25, 1981 when she was sworn in as the first female justice of the Supreme Court. Beside the figure's feet there is a sitting cow, which refers to her spending her earliest days on the Lazy B Ranch. On the back of the platform on which she stands, a tire valve refers to Asahi Metal Industry Co. v. Superior Court, an indemnity dispute between a Japanese valve stem producer and a Taiwanese motor cycle tire tube maker. Justice O'Connor, writing for the Court, held that where the only contacts with California were some valves that had been sold to a Taiwanese Company in Taiwan but had somehow ended up in California, it would be unreasonable and unfair for the California courts to exercise jurisdiction.

Note Doll is no. 0969 of 1386

Subject [O'Connor, Sandra Day, 1930-](#)
[United States. Supreme Court](#)
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Alt title Sandra Day O'Connor bobblehead doll

Unif title Green bag

JOHN SCHAFER, reference librarian at the University of San Francisco, has added a Justice Sandra Day O'Connor bobblehead doll to his library's catalog. Now, "any patron searching our electronic catalog for Justice O'Connor, the *Green Bag* or even the word 'bobblehead' will find this record." No word about its availability for inter-library loan.

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