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Right Wing Justice: The Conservative Campaign to Take Over the Courts (Excerpt pages 75-76)

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on voting fraud charges. This was part of a campaign by the Justice Department against black civil rights activists that an appeals court later found was targeted at "those counties where blacks since 1980 had come to control some part of the county government." Sessions obtained only one conviction, and even that was later overturned when the appellate court concluded that the prosecution was racially and politically motivated.³⁰

When Sessions was nominated, a detailed NAACP Legal Defense and Education Fund report revealed that Sessions had called the NAACP an "un-American" and "Communist-inspired" organization that was "trying to force civil rights down the throats of the people." He had also called a white lawyer who represented civil rights workers "a disgrace to his race," and has said he thought that the Ku Klux Klan was "OK until I learned they smoked pot."³¹

Sessions's testimony was so filled with inconsistencies and alterations that the very conservative Senator Howell Heflin from Sessions's own state of Alabama concluded that Sessions's "admissions, explanations, partial admissions [and] statements about [racially insensitive] jokes" led him to harbor "reasonable doubts about his ability to be fair and impartial." Heflin voted against Sessions, and the nomination failed in committee 10-8, as two Republicans, Specter and Mathias, joined the eight Democrats in opposition.³²

The Sessions defeat was to haunt the Democrats later. In 1996, Sessions was elected to the Senate. It was payback time. He was appointed to the Judiciary Committee where he used his position to become one of the leaders in the Republican campaign to block Clinton nominees from being voted upon or even getting hearings.

The Reagan administration continued to turn down moderate Republicans. Perhaps the most prominent was Philip Lacovara. A brilliant lawyer, Lacovara was the senior Republican in the

Watergate special prosecutor's office in 1973–74. He had always considered himself a conservative Republican. In 1964 he co-chaired the Columbia University Students for Goldwater. During the Nixon administration, he was one of a handful of registered Republicans living in Washington who supported Ronald Reagan in 1980 and 1984. He even passed the administration's litmus test on abortion. In 1981 Reagan appointed him as his representative on a panel that screens candidates for the president to name to District of Columbia local courts.

Despite this background, the Justice Department viewed Lacovara as "too liberal" and "not politically reliable" because of his membership in the Washington Lawyers Committee for Civil Rights Under Law and the ABA Section on Individual Rights and Responsibilities, two nonpartisan, solidly establishment groups. At least equally sinful in conservative eyes, he had made it clear that he did not agree with the administration's policy that made ideology the primary qualification. "Unique to our nation's history," he had written, "the current Justice Department has been processing judicial candidates through a series of officials whose primary duty is to assess the candidate's ideological purity." Such heresy was clearly unacceptable.³³

David Doty's sin involved his wife. Although both were lifelong Republicans, Mrs. Doty had worked for John Anderson in 1980 and was the Republican chairman of the Gender Gap Coalition, a bipartisan group formed to evaluate the impact of Reagan administration budget cuts affecting women. To Marlene Reid, vice chairman of the Minnesota Republican Party, Mrs. Doty's activities were "unforgivable" and showed that Mr. Doty was not fit to be a judge. Although Doty said that he did in fact have political differences with his wife, the nomination languished and ultimately died.

The bitterest fight before Robert Bork was over Clarence Manion, a nominee to the Seventh Circuit Court of Appeals.