

# Roberts outmaneuvered middling Democrats

By George Curry  
Special to Sentinel-Voice

John G. Roberts will be seated as chief justice of the U.S. Supreme Court next week after depicting himself as an open-minded jurist, dismissing past controversial positions by saying that he was merely carrying out the orders of his superiors and politely refusing to answer questions that would have provided insight into his judicial philosophy.

Roberts was so effective shadowboxing with Democratic members of the Senate Judiciary Committee that, in the end, three of them voted for him: Patrick J. Leahy of Vermont and both Wisconsin senators, Russell D. Feingold and Herb Kohl. Even more Democrats are expected to support Roberts when the full Senate votes on the nomination this week.

While Roberts' artful testimony before the Judiciary Committee may have left the impression that he is not a rigid conservative, his words and record provide a different portrait. For example, Kenneth L. Manning, a political science professor at the University of Massachusetts-Dartmouth, presented a paper on Roberts earlier this month to the American Political Science Association. Titled, "How Right Is He: A Quantitative Analysis of the Ideology of Judge John G. Roberts," the paper examined 190 decisions made during Roberts' short tenure as a fed-

eral appeals judge and compared those averages to other federal appeals judges across the country.

In looking at Roberts' record, it is important to remember that Republican-appointed judges dominate the federal judiciary at all levels. Therefore, his record was measured against a group that tilts to the Right.

"I find that Roberts is very conservative in his decision making in criminal justice disputes, and the data suggest that he is exceptionally conservative in civil liberties and rights cases (though the limited number of cases in this area restrict the ability to draw any firm conclusions)," Professor Manning wrote. "In labor and economic disputes, however, Judge Roberts has been more liberal than the appellate court average."

A closer look at the research shows that Roberts cast a conservative vote in 67.1 percent of the cases that came before him, compared to a 58.9 percent group average for court of appeals judges. He cast liberal votes in 32.2 percent of the cases, almost 9 percent less than the 41.1 percent average for appellate judges.

In addition to his voting record, we also have Roberts' written words. And contrary



GEORGE CURRY

to his assertion that he was merely carrying out the wishes of his conservative supervisors in the Reagan Justice Department, Roberts' writings reveal that he often advocated positions that were to the right of the department's most ardent ideologists.

On Dec. 9, 1981, Roberts wrote a 27-page memorandum asserting that it was legal

to remove the Supreme Court's ability to consider cases that involve school desegregation, abortion and school prayer under the so-called "exception clause" to Article III, section 2 of the Constitution, the section governing Supreme Court jurisdiction. Another lawyer, Ted Olson, who would later become solicitor general, wrote that Roberts' view "misperceives the proper role of constitutional interpretation" and offered a "greatly oversimplified and misleading view of the Constitution."

In a memorandum on employment suits filed against Clayton and Gwinnett counties in Georgia, Roberts objected to a proposed settlement agreement that offered jobs and back pay not only to actual victims of discrimination, but to those that could show that they were deterred from applying because of discrimination. Roberts called that proposal

"staggering." He took the preposterous position that even if an employee had a "blanket policy of rejecting all Blacks simply because they were Black" they would not be violating Title VII of the Civil Rights Act unless it could be proven that the rejected Blacks "were more qualified than White applicants who were hired." Of course, federal employment laws do not require that African-Americans be "more qualified" than Whites in order to be hired.

Despite Supreme Court rulings to the contrary, Roberts argued in a Feb. 15, 1984 memo that federal courts could be stripped of their power in school desegregation cases to reassign students to other schools or to order bussing as a remedy to correct unconstitutional segregation. That, too, was an argument to the right of Ted Olson and other department conservatives.

Olson had written in one memo that opposition to court-stripping proposals would be viewed as a "courageous" act. Roberts wrote in the margin of the memo: "real courage would be to read the Constitution as it should be read and not kowtow" to progressives. Now, 23 years later, it is not an issue of conservatives kowtowing to liberals. Rather, it is progressives lacking the backbone to stand up to conservatives.

George E. Curry is editor-in-chief of the NNPA News Service.

## Right wingers infected with ill will, closed minds

By Bill Fletcher Jr.  
Special to Sentinel-Voice

I have to let you in on a little secret: The political right has not appreciated what I have had to say about the Katrina disaster. My guess is that they have not appreciated what you have been writing or saying either.

I felt, for example, that it was essential to defend rapper Kanye West's comments at the NBC Fundraiser for Katrina where he lashed out at the slow pace of aid to the survivors and questioned Bush's concern about the poor and the African-American. As far as I was and still am concerned, West not only had every right to speak his mind, but his comments were completely appropriate in the middle of an unmitigated disaster that could have and should have been addressed in an urgent fashion by all levels of government. In a separate column I addressed the structural issues in U.S. capitalism that have trapped the poor and the African-American in the Gulf Coast in what is the equivalent of the steerage compartments of the sinking Titanic.

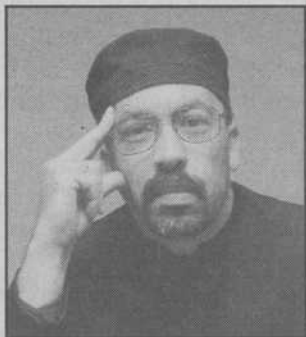
The political right did not appreciate this. In addition to being called everything but a child of God, they struck back heaping most of the blame for the Katrina disaster on the mayor of New Orleans and the governor of Louisiana (the people of Mississippi seemed to have been forgotten in all this). As far as

the political right was concerned, Bush was blameless.

Now, leaving aside that President Bush rhetorically takes responsibility for the foul-ups following the disaster, it is worth understanding what is going on in the minds of the political right and what they see as the future for the Gulf Coast.

First, they blame the people themselves. The e-mails I received often put the blame for the sorrow and tragedy on the people of the region, and particularly those unable or unwilling to leave New Orleans. Conservative columnist Linda Chavez announced that the poor of New Orleans were so used to waiting for people to do things for them that they were sitting around waiting again. In other words, the poor of New Orleans had some sort of death wish. The political right has decided to ignore the fact that provisions were not made — though they were anticipated — for the evacuation of those who would be unable to leave on their own. There is absolutely blame here for the state and municipal authorities, but not blame for the people themselves.

Second, the political right says that President Bush needed to be asked to get involved. There are a few problems with this, among



BILL FLETCHER, JR.

others. Following the 9/11 terrorist attack, we were informed that there would be closer coordination between federal, state and municipal authorities in addressing a disaster. That did not happen. It was also the case that everyone had at least two days notice of the disaster approaching, so what were the federal authorities doing? Apparently enjoying their vacations, as best as anyone can tell in looking at the scheduling books for Bush and his cabinet. The bottom line is that this was not a priority. I must also add, and this may seem like a silly point, but we do not live in a confederacy, i.e., there is a role for the federal government in addressing disasters that goes beyond addressing crises in time of war.

Third, the political right seems to ignore what happened to people immediately after the storm. Why, I asked my right-wing critics, did the federal government not carry out air drops or helicopter drops of supplies to survivors on bridges, overpasses and other areas? Why did police, quite literally, not allow survivors out of New Orleans and into neighboring communities? (And why, specifically, did the federal government not intervene in this?) I received no answers, just

double-talk.

The political right is intent on keeping the heat off of President Bush. With his ratings at the lowest point in his two terms; with the Iraq war/occupation growing in unpopularity; with the complete lack of leadership displayed at the time of the Katrina disaster, the political right does not want to let on that the light is on but no one is at home.

Instead, the political right, after attempting to shift the blame for the disaster response to everyone but the federal government, is now dreaming up the future of the Gulf Coast. This should get us all to hold onto our wallets. They are quite brazen in their vision of a New Orleans minus Black people. They are quite brazen in advancing the notion that the reconstruction of the Gulf Coast will be done with no or certainly limited input from the survivors themselves.

Instead, right-wing think-tanks are working overtime — quite literally — to draft plans for the reconstruction of the region such that it fits the schemes of Bush & Company for a Gulf Coast-as-theme park and yacht club for the rich, rather than as a home for the millions who have been injured, suffered damage or been displaced.

To my critics on the political right, I can only say that not only are they on the wrong side of the facts, but they are equally on the

(See Fletcher, Page 12)

## LaGrande

(Continued from Page 10)

White, who have fled inner cities for the suburbs over the past few decades. In New Orleans alone, more than 100,000 people have fled the city over the past 20 years for outlying communities.

This eroded New Orleans' tax base that sustained the city.

In the final analysis, Black people really, really, really need to wake up. In the midst

of the rhetoric, the name calling, finger pointing, lying, and refusal to accept responsibility, we have an ongoing saga. We have the ignorance of "Black neo-colonial puppets" who take money under the table to say everything is fair.

We have the rich Blacks who are so detached from reality that they so eloquently remind us in a myriad of ways that they have theirs and you better get yours. We have the

federal government that still treats African-Americans like three-fifths of a man instead of a whole man. And now, the world has seen the government fail to come to the aid of tens of thousands of Blacks and the poor for five days.

We have Black communities all over the United States with blinders on. They have Black officials in leadership roles who are failing to deal with poverty at all levels, and

some of them are afraid to tackle any Black issues at all. How can we hold someone else accountable when we aren't accountable ourselves?

Equality is a gift and is self-made and maintained by singleness of purpose. We need to purpose in our hearts that we are going to have one mind, one goal, one mission, when it comes to working together to lift our people up from the bondage of poverty.