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NATIONAL news

ROBERTS NOMINATED TO SUPREME COURT

Why queers should be concerned

by Bob Roehr

President Bush nominated Judge John G. Roberts Jr. to the U.S. Supreme Court in a primetime television address to the nation July 19.

"The decisions of the Supreme Court affect the life of every American. And so a nominee to that court must be a person of superb credentials and the highest integrity, a person who will faithfully apply the Constitution and keep our founding promise of equal justice under law," Bush said.

Roberts, 50, attended Harvard for both undergraduate and law school, then served as a law clerk for Justice William Rehnquist, as an associate counsel to President Ronald Reagan and as principle deputy solicitor general in the Department of Justice.

Much of his legal work in the private sector was in appellate work. Between government and private practice, he argued 39 cases before the Supreme Court, a substantial number for any litigator. The court heard only 80 cases during the session that just ended.

"It is both an honor and very humbling to be nominated to serve on the Supreme Court," Roberts said. "Before I became a judge, my law practice consisted largely of arguing cases before the court. That experience left me with a profound appreciation for the role of the court in our constitutional democracy and a deep regard for the court as an institution."

Roberts has been on the short list of conservatives considered for the bench. And while acceptable to social conservatives, he has not been one of their favorites. He is more of a traditional or establishment conservative than one with close ties to groups around James Dobson and Focus on the Family.

"In nominating Judge Roberts to replace Justice O'Connor on the Supreme Court, President Bush has just about guaranteed that divisiveness will continue to reign in the judicial nomination process," asserted Kevin Cathcart, executive director of Lambda Legal.

However, he offered no charges against the nominee; his qualms are those of uncertainty. Cathcart said, "We need to know if he will stand up for the rights of all Americans, not whether some people think he's a nice guy." The group is reviewing his record.

"With the Roberts nomination, the right to privacy and the future of a fair-minded court are in grave danger," said Joe Solmonese, president of the Human Rights Campaign, in a statement released by the organization. He cited Roberts' role as a federal attorney in 1991 arguing that the cornerstone of abortion rights, Roe vs. Wade, be overturned.

"Reversing Roe could undermine fundamental rights to privacy and liberty that are the legal underpinning for the freedom of gay, lesbian, bisexual and transgender Americans," he said. Solmonese previously led an organization that focused on electing pro-choice Democratic women to federal office.

In a conference call with reporters the next morning, HRC senior legal counsel Lara Schwartz said, "There is not a paper trail regarding Judge Roberts' specific views regarding the rights and liberties, the constitutional and legal protections for the GLBT community." It appeared that her chief objection to Roberts is

that "he is basically a lifelong worker for Republican administrations."

Legislative director Christopher Labonte said HRC would work "to ensure that we have a firm understanding of what Judge Roberts' judicial philosophy is in terms of those issues that are important to the GLBT community." One of those issues is how he would have voted on Lawrence vs. Texas, which struck down the remaining state sodomy laws.



Judge John G. Roberts Jr. appears to be something of a clean slate.

Labonte acknowledged that HRC did not take a position on Roberts' nomination to the D.C. Circuit and that it has not yet taken a position on this nomination. He said, "The Supreme Court is a completely different question from any other lower court."

Matt Foreman, executive director of the National Gay and Lesbian Task Force, hedged his bets. He said the nomination "gives us great pause, particularly in light of Roberts' role in the counsel's office of President Reagan and the solicitor general's office of President George H.W. Bush."

He urged the Senate "to thoroughly review and evaluate Roberts' commitment to individual rights and equal justice under the law, including his record and thinking about civil rights, the right to privacy and the reach of congressional power under the Constitution."

National Stonewall Democrats took a wait-and-see approach. "Both the nominee, and the nation, deserves a confirmation process that is fair and free from partisan politics," said deputy director Jo Wyrick. "Senate hearings into a nominee's record will help prevent the American public from unfairly prejudging a nominee based on personality alone."

The nation's leading newspapers greeted the nomination favorably but stopped short of a formal endorsement.

"Judge Roberts is a conservative, but he has never been an ideological crusader; he has admirers among liberals," wrote *The Washington Post* in an editorial. His "law practice was not ideologically driven, and he has not used his brief time on the bench—as some judges and justices do—as a platform to promote either his politics or a grandiose theory of judging."

The Los Angeles Times wrote, "Perhaps his most important characteristic is a near-ideal mixture of familiarity and inscrutability...Roberts may be more of a chamber of commerce-type than a social conservative with a burning desire to become a judicial activist intent on saving America from itself." □

BOB ROEHR is a free-lance reporter based in Washington, D.C.