

EQUAL JUSTICE SOCIETY

Equal Justice Society Opposes Nomination of John Roberts as Chief Justice of U.S. Supreme Court

*Statement by Eva Paterson, President
September 6, 2005*

The Equal Justice Society opposes the nomination of Judge John Roberts as Chief Justice of the United States Supreme Court and encourages the Senate to withhold its consent of his nomination, as is their right according to the Constitution.

Our organization was in formed in part to advance a progressive view of the law and the Constitution consistent with the efforts of the attorneys who fought to eliminate *de jure* segregation. One of EJS's goals is to shape a Supreme Court that is fair and independent in order to reverse the destructive legal legacy of those that seek to restrict our most basic civil and human rights.

For the past quarter-century, another group of advocates, including the Federalist Society and attorneys in the Reagan and Bush Justice Departments, has attempted to devolve jurisprudence to the era before *Brown* and the civil rights movement. The nomination of Judge Roberts marks another signpost along the Rightward path blazed by the Federalist Society. The Equal Justice Society stands squarely in favor of a progressive vision of justice and rejects the judicial ideology represented by his nomination.

First, his record – that we know of – reveals a hostility to the values held by the majority of Americans. Of even greater concern, neither the Senate nor the public has been told the full story of Judge Roberts' record. What we do know of him leads us to believe that his presence on the court will further roll back the federal government's ability to protect the rights of Americans.

As early as 1981 -- when the robust implementation of *Brown* was less than a decade old and the Civil Rights Act of 1964 was still in its infancy -- Roberts expressed contempt for affirmative action and other progressive efforts to undo the present effects of past state-sponsored discrimination.

It is unclear what status Judge Roberts thinks that people of color should enjoy in the United States, yet he apparently views as illegitimate any forthright or effective attempt to remedy the history that has generated the present state of profound inequity.

In the mid-1980s -- when the disparity between the pay earned by men and by women for the same work was even greater than it is today -- Roberts levied enthusiastic criticism at the implementation of the Equal Pay Act, criticizing members of his own party, including then-Congresswoman Olympia Snowe, for their public support of Washington state employees who were seeking equal pay. He compared their efforts to Communism, surely the most derogatory comparison in his vocabulary, given his apparent value structure.

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Judge Roberts lent his enthusiastic efforts to the Reagan administration's unrelenting efforts to overturn *Roe v. Wade* and leave poor women once again to the brutal ministrations of back-alley abortionists. The ability of women to have safe and affordable control over their reproductive lives, free from punitive state interference, is one of the most important civil rights issues of our generation. Although observers have noted that Roberts was acting in his capacity as a lawyer and representative of the administration in those cases, we believe that Roberts made a choice in aligning himself with an administration that was bent upon rolling back reproductive rights, and he contributed his efforts to that cause over the course of years. He is responsible for the positions that he promoted, whether or not they represent his personal views.

While the nominee's record provides ample cause for concern, the larger story here is that we do not have full access to his record. We have been provided only with portions of his writings that have been screened and selected by the Administration. As is well known, this President – who won only a bare majority in one of his two elections – has governed as an unrepentant and unrelenting extremist. Having consistently used his office to mislead and misinform the American people whenever it has suited his purposes to do so, this President has not earned any trust on the matter of this nomination.

There is much at stake. For the past 13 years, the Supreme Court has engaged in a silent revolution by rolling back the power of the federal government to provide for the needs of the American people and to enforce its laws against the States. Relying upon 19th century precedents that lent their implicit sanction to practices like Jim Crow and systematic lynchings, this Court has seriously curtailed many of the progressive victories secured in the halls of Congress over the last 50 years. There is every indication that Judge Roberts will join this trend and continue imposing unwarranted constraints on the power of Congress to provide for the welfare of the nation and its people.

There are still a majority of Americans who believe that people of color are entitled to fair opportunities, that women are entitled to equal pay for equal work, and that the States should be just as accountable as private corporations to their employees and their citizens when they violate federal law.

The person who will become the next Chief Justice of the Supreme Court should be a person whose willingness to abide by the precedents that have given voice to these values is clear and unambiguous.

The Chief Justice is also the leader of the Court. Chief Justice Earl Warren helped persuade all nine Justices to strike down 'separate but equal.' The person who holds this position must be someone who respects the rights of all.

Judge Roberts is not that man.