THE JOHN ROBERTS-ANTHONY KENNEDY SMACKDOWN

There are several fascinating details in Jan Crawford's confirmation that John Roberts did, indeed, flip his vote on ObamaCare.

Most interesting is Crawford's description of the desperate efforts on the part of Roberts and Anthony Kennedy to persuade the other to flip their vote.

> Roberts then withstood a month-long, desperate campaign to bring him back to his original position, the sources said. Ironically, Justice Anthony Kennedy — believed by many conservatives to be the justice most likely to defect and vote for the law — led the effort to try to bring Roberts back to the fold.
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> "He was relentless," one source said of Kennedy's efforts. "He was very engaged in this."
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> But this time, Roberts held firm. And so the conservatives handed him their own message which, as one justice put it, essentially translated into, "You're on your own."

I'm also fascinated by Crawford's oblique description of why this leaked from the normally tight-lipped Court.

> The justices are notoriously close-lipped, and their law clerks must agree to keep matters completely confidential.
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> But in this closely-watched case, word of Roberts' unusual shift has spread widely within the Court, and is known among law clerks, chambers' aides and secretaries. It also has stirred the ire of the conservative justices, who

> believed Roberts was standing with them.

Note, too, that Crawford uses the same word Ramesh Ponnuru used—"wobbly"—to describe Roberts' position, suggesting he may have had the same sources she did (and the word seems to come from a Justice himself).

> It was around this time [in May] that it also became clear to the conservative justices that Roberts was, as one put it, "wobbly," the sources said.

Finally, there is Crawford's not entirely convincing explanation for the relics in the dissent that seem to suggest Roberts had a hand in crafting the dissent, too.

> The two sources say suggestions that parts of the dissent were originally Roberts' actual majority decision for the Court are inaccurate, and that the dissent was a true joint effort.
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> The fact that the joint dissent doesn't mention Roberts' majority was not a sign of sloppiness, the sources said, but instead was a signal the conservatives no longer wished to engage in debate with him.

If true, those relics, which violate normal protocol for referring to other opinions, reflect a very big affront to Roberts' governing opinion.

There's a lot in Crawford's story that seems to treat the conservative leakers with too much credibility—not about the law, but about the pissing contest that has ensued. In any case, the very fact that it took just a few days to make it into a story add to the intra-party sniping.