

High court's new bias shows up in one case

The U.S. Supreme Court now has a slight conservative majority, but an examination of the court's recent decisions in several cases indicates that the nine justices remain unpredictable.

The members of the court also remain, with one important exception, able to render a fair verdict on important constitutional matters. So far, it's hard to detect a "Rehnquist agenda" in the court's rulings. Some examples:

- The court recently affirmed the right to privacy in upholding a Milwaukee city ordinance that prohibited protest demonstrations at individual homes.

The matter started when pro-life activists in Milwaukee began picketing the home of Benjamin M. Victoria, a well-known doctor who performed abortions. The court ruled that the protesters' freedom of speech would not be compromised by the city ordinance, as it left open the option of picketing the abortion clinics where Victoria worked.

Justice Sandra Day O'Connor, writing the opinion of the 6-3 majority, found the picketing "offensive and disturbing" because it invaded the privacy and sanctuary we expect in our homes.

- Another step forward for women was taken when the court upheld a New York state law prohibiting gender and racial discrimination in private clubs with more than 400 members.

The stuffy men's clubs in that state were more than just saunas and pools for wrinkled-up execs; they were meeting places for the old-boy network to work out financial deals and trades. Because of the clubs' limited membership, women and minorities were constantly cut out of business opportunities.

The New York law exists, in similar fashions, in other cities and states. The court left open the possibility for small all-male clubs, or ones where "shop talk" is prohibited.

- In perhaps the most politically significant ruling of this or any other year, the Supreme Court overwhelmingly upheld the federal law providing for independent counsel and rebuffed President Reagan, who appointed four of the nine justices on the bench.

The ruling, written by Chief Justice William Rehnquist himself, did no favors for the embattled Reagan administration. The ruling put an ending to the president's vision of an executive branch with broad powers, and allowed investigation of Attorney General Edwin Meese and prosecution of Iran-Contra figures Oliver North and John Poindexter to continue.

The 7-1 decision indicated that the court is more interested in securing for posterity the protection of the separation of powers in government than repaying any immediate political favors.

It is certainly encouraging to see the court continue to make strides for privacy laws, women and minorities, while being high-minded enough to leave partisan matters for the pundits. But we are still wary of this new, mysterious court, and we are shocked by one of its more surprising rulings.

In an outrageous 5-4 decision, the court ruled that defense industry contractors may not be sued for dangerous or defective products made to government specifications.

The court ruled against the lawsuit brought by the family of a Marine who drowned to death when his helicopter crashed into the Atlantic. Lt. David Boyle was seated next to an escape window, but couldn't get out because the hatch was stupidly designed to push outward — Boyle couldn't open it against the pressure of the sea.

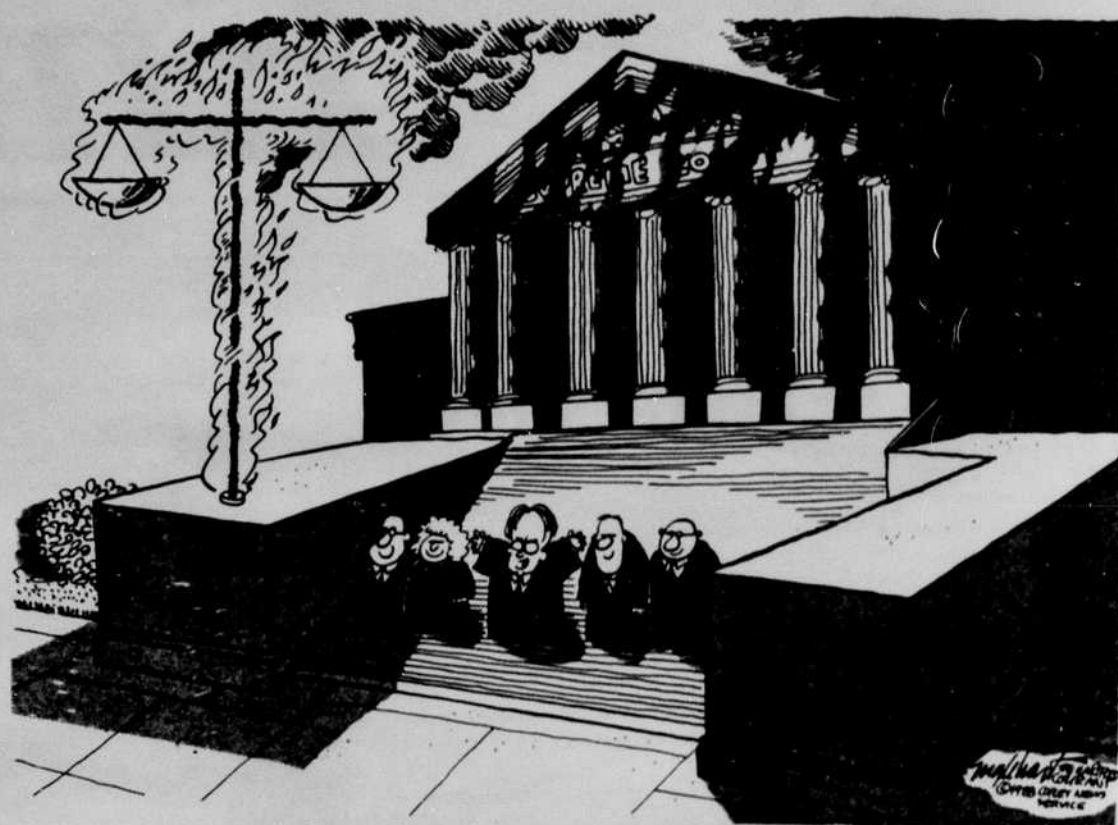
This ruling also appears to affect Vietnam veterans' collective suit against Dow Chemical Co., the manufacturers of Agent Orange, and the families of the Challenger astronauts.

Why the court decided that manufacturers of shoddy products shouldn't have to answer for them is unfathomable. Justice Antonin Scalia, in writing the court's opinion, said that defense contractors would simply pass on the cost of lawsuits to the government.

When did justice become simply a matter of budgetary concern?

Recent allegations from the Pentagon probe indicate that defense companies need less insulation from public examination and recourse, not more. If the network of corruption, sleaze and greed in that byzantine institution can be dismantled in favor of a free market, we assume the government will buy the best products it can, at the best prices. And protection from product liability is an important measure of quality.

Louis Franecke, the lawyer representing Boyle's family, said of the verdict: "This is the Reagan court setting up a national tort law to protect the private sector." If that is indeed the truth, then we are angry that this one item on that mythical "Rehnquist agenda" is being pursued.



Commentary

Innovative ideas needed to solve America's health-care problems

Determining the best way to provide and finance long-term care is a challenge facing us today and into the future. This is a major health policy issue due to our growing elderly population, and our current lack of protection against catastrophic long-term health care costs — costs which often lead to impoverishment when a person enters a nursing home; and it is an issue which must be addressed at the national level.

Commentary by
Sen. John Glenn

What we need is a network of services, ranging from homemaker/chore services to skilled medical care, that can be provided in the most appropriate setting — whether it is a person's home, a congregate setting or an institution; and we need to help people pay for these services.

In recent years, long-term care and the needs of family caregivers have "hit home" for Annie and me. This is a very sad time for our family because of the death in May of Annie's 92-year old mother, Mrs. Castor. During the past several years, we have helped Mrs. Castor as it became necessary for her to give up her own home and move to our apartment in Columbus, Ohio.

As she needed assistance at home, we encountered problems in trying to arrange the most appropriate care. After Mrs. Castor was hospitalized due to a broken hip, we faced the task of finding high-quality nursing home care for her. Fortunately, we were able to afford nursing home care, which costs \$1,500 a month, but what about those who cannot? These costs are truly catastrophic for most Americans.

Since 80 to 90 percent of the care given to older persons comes from family members, mostly women, an important component of long-term care legislation must be respite services which will help enable families to continue caring for their elderly members who live with them. And we must work to assist those with elderly relatives who are geographically distant. By doing so, we can prevent caregiver "burnout" which often leads to the otherwise unnecessary institutionalization of the elderly.

Major legislation to address the costs of long-term care is being discussed in Congress. The biggest question we are attempting to answer is how to pay for this care. For we cannot kid ourselves, the costs are high.

On the other hand, there is growing support for a national

social insurance program that protects against the catastrophic costs of long-term care. This is a high priority for the American people, and polls have shown overwhelmingly that we are willing to finance it.

Social security, our greatest anti-poverty program to date, was enacted during a Democratic administration; as were Medicare and Medicaid, which provide health care for the elderly, disabled and low-income Americans. Building on our past accomplishments, I am confident that in 1989, a Democratic administration and the 101st Congress will work together to meet the long-term care challenge that is upon us.

John Glenn is a U.S. Senator from Ohio. Glenn is mentioned in many political circles as being Democratic presidential-contender Michael Dukakis' likely choice as a running mate.

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