
Dow Jones Newswires**Next President May Reshape Business-Friendly High Court**

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WASHINGTON -(Dow Jones)- When Americans go to the polls this fall, they'll be doing more than dispatching a new president to the White House. Voters may find that they've shaped the future course of the nation's highest court.

That's because the next president could be called on to name two or more new jurists to the nine-member Supreme Court. The implications could be huge for some of the country's most prickly and closely fought legal debates, including abortion, affirmative action and the role of religion in public life.

And perhaps as important, changes in the court's makeup could have an impact on the way America does business.

"We have a relatively business-friendly court," says Stephen A. Bokor, who heads the legal arm of the U.S. Chamber of Commerce. "But there are certainly some justices who have been swing votes for business who are getting older."

One of those is Sandra Day O'Connor, a 70-year-old cancer survivor named to the court in 1981 by President Reagan. Another is Chief Justice William H. Rehnquist, who at 75 has been on the bench for 28 years, longer than any of his current colleagues.

Both justices generally get high marks from business interests. A third justice often cited in retirement rumors, 80-year-old John Paul Stevens, is the court's oldest and perhaps most liberal member.

Of course none of the jurists have said publicly that they're ready to step aside. And all appear healthy, including Ruth Bader Ginsburg, 67, who is recovering from a recent fight with colon cancer.

Still, court watchers say it's unlikely that four years will pass without at least a couple of retirements. They note the current justices have been on the bench together for more than six terms, one of the Supreme Court's longest periods of stability in decades.

5-4 Decisions On Key Issues

One or two new justices could reshape the direction of the court for years to come. During the term that ended in June, 21 of the 73 signed opinions issued by the high court were decided by a single vote.

That's the highest number of 5-4 decisions in nearly a decade, according to statistics compiled by Tom Goldstein, a Washington attorney who argued a pair of appeals before the high court during the 1999-2000 term.

Several of the split decisions came in hot-button social issues, like the court's rejection this spring of a state ban on so-called partial-birth abortions. And a few impacted industry, such as the 5-4 ruling that stripped the Food and Drug Administration of authority to regulate the \$45 billion tobacco industry.

So what does business want in a nominee? And which candidate - Texas Gov. George W. Bush or Vice President Al Gore - would deliver? The questions aren't as obvious as they might seem.

"The business community doesn't tend to be the dominant consideration when they're selecting a Supreme Court justice," says John G. Roberts Jr., a Washington attorney who has argued more than 30 cases before the high court. "You don't really know which way that's going to cut."

Besides, history is chock full of justices whose views shifted after joining the court. Richard Nixon appointed Harry Blackmun, who would go on to ink the landmark abortion-rights decision Roe vs. Wade. President Kennedy tapped Byron White, who drifted to the right.

And a famous shift to the left by a pair Eisenhower appointees, Earl Warren and William Brennan, prompted Ike to quip that he made two mistakes as president and "both are on the Supreme Court."

Conservative, But Not Too Conservative

Bokat, of the U.S. Chamber of Commerce, says businesses would be better off with conservative-leaning jurists who might be more willing to reduce government regulation or make it tougher to sue corporations.

"We don't have a great sense of who either one of them would appoint," Bokat says. But he notes that Gore's pro-environment stance, if reflected in a Supreme Court appointee, could have a negative impact on industry.

Roberts agrees, saying Gore might look to a nominee with a "broad, expansive view of the government's power to regulate the economy."

Still, business could find itself worse off with an appointee who is too conservative, notes Washington appellate attorney Carter G. Phillips. Bush has cited Justices Antonin Scalia and Clarence Thomas as favorites, suggesting his Supreme Court nominees would mirror the two ideological conservatives.

But their views don't always favor corporate America. For instance, both are wary of curbing state-court punitive damage awards, which cost companies billions of dollars each year. And while they would be likely to limit the power of federal regulators, such as the Environmental Protection Agency, they would also be quick to hand over more authority to the states.

Indeed, enhancing states' rights has been a major, and divisive, theme of the Rehnquist court. And it's one that's not necessarily good for multistate corporations that want to conduct business under uniform, national rules.

Only two of the court's sitting justices were appointed by a Democrat. Justices Ginsburg and Stephen Breyer, 62, were tapped by President Clinton. They tend toward more liberal positions along with Stevens, a Ford appointee and David H. Souter, the 60-year-old Bush appointee.

Scalia and Thomas are often joined in votes by Chief Justice Rehnquist, leaving O'Connor and Anthony M. Kennedy, a Reagan appointee, as swing votes.

Supreme Court Web site:

<http://www.supremecourtus.gov>.

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