

Watching high court

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Justice Harry A. Blackmun.

At stake in filling the next vacancy is women's right to make their own reproductive decisions, as expressed in the 1973 case of Roe v. Wade.

If a moderate jurist, such as Justice Sandra Day O'Connor, retires and is replaced with an anti-choice nominee, the high court will lose a fragile majority that has restricted abortion but kept it as a legal option when a mother's life or health is at risk, or when fetus cannot live on its own. Those decisions could be revisited again as early as the term beginning in fall 2005.

Also at issue are rights to privacy in intimate decisions, including the use of contraception, as well as equal opportunity laws, civil liberties, same-sex relationships and religious encroachment on the public sector.

On May 23, 14 senators released a last-minute compromise on the handling of judicial nominations. The nine-paragraph agreement by seven Republicans and seven Democrats was designed to stop Republicans who were on the brink of filibustering the use of the filibuster, a traditional technique to block controversial measures that do not have the support of at least 40 senators.

Shutting off a filibuster requires the vote of 60 senators. With the Republicans controlling 55 seats, the GOP leadership was considering the extreme measure—hyperbolically dubbed the nuclear option—of ending the filibuster altogether.

Most Supreme Court justices have been approved by more than 70 senators, according to research by Senator Chafee, one of the compromise signers. An exception was the conservative Justice Clarence Thomas, who drew only 52 votes in 1991, said Chafee spokesper-

son Hourahan.

By preserving the filibuster, the 14 senators may have helped to prevent an especially rigid or narrow-thinking justice from taking a seat.

"If there is a bad nominee for the Supreme Court, we certainly want senators who oppose it to use all of the power at their disposal and they will be able to filibuster," said Judy Appelbaum, vice president of the National Women's Law Center.

But senators who signed and crafted the compromise,

the so-called Gang of 14, agreed that the filibuster will be used only under "extraordinary circumstances."

With those two key words open to interpretation, if any one of the Gang of 14 decides that "extraordinary circumstances" warrant the use of the filibuster but other signers disagree, the compromise commitment can be dissolved. The nuclear option permitting approval of a justice by 51 senators (or 50 senators and the vice president as tie-breaker) can rise again.

"For I will restore health unto thee, and I will heal thy wounds, saith the Lord." - Jeremiah 30: 17

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