

Supreme Court's hectic summer

Whirlwind of decision-making swept through bulk of major issues

By JEFF HIDAY

After a particularly vigorous end to the Supreme Court's nine-month term this summer, Justice Paul Stevens rejected suggestions that the court meet year-round. "We do more in that period than most other government officials do in a year," he said. The judicial flurry in question included a decision to hold firm on abortion and another vote that removed from Congress the "legislative veto." The latter is a plus for the White House, but the abortion ruling marked another setback for the Reagan administration at the hands of the justices. The most volatile of issues decided this term by the court was its 6-3 decision in solid support of a woman's right to choose. It effectively overturned about two dozen state laws that had put a variety of restrictions on women seeking abortions. Now, for example, states may no longer require that all second-trimester abortions take place in hospitals or impose a 24-hour waiting period before an abortion may be performed. Also

struck down were rigid rules requiring that minors obtain the consent of their parents and required counseling designed to discourage abortions.

Despite this affirmation of the 10-year-old *Roe v. Wade* decision legalizing abortions, the justices' resolve in the matter appeared to be weakening.

In his majority opinion, Justice Lewis Powell noted that "arguments continued to be made... that we erred in interpreting the Constitution."

The two justices who originally opposed *Roe v. Wade*, Byron White and William Rehnquist, were joined by Sandra Day O'Connor, who authored the strongly worded dissent. In her view, "sound constitutional theory" could not rest on "analytical framework that varies according to the stages of pregnancy." She suggested that, with the continuing advances in medical technology, it is only a question of time until fetuses after the first three months will be considered "viable." Could states then forbid such early abortions? "The *Roe* framework," O'Connor wrote, "is clearly on a collision course with itself."

But as Powell made clear, adjustments are one thing, reversal another. He emphasized that the ruling was solidly based on the foundation set a decade ago. "We respect it today and reaffirm *Roe v. Wade*."

Exemptions denied

Earlier in the summer, the Supreme Court reprimanded President Reagan for backing

Bob Jones University in its lawsuit against the Internal Revenue Service. The court's 8-1 decision affirmed the IRS's right to deny tax exemptions to two fundamentalist schools — Bob Jones University in Greenville, S.C., and Goldsboro Christian Schools — that cite the Bible in justifying racial segregation.

The timing couldn't have been worse for Reagan, who was already under fire for his purge of the U.S. Civil Rights Commission.

In his forceful majority opinion, Chief Justice Warren Burger suggested that Reagan had stepped outside the broad social consensus on civil rights when he pledged support to Bob Jones University.

Legislative veto vetoed

The justices issued another important decision, significantly reshaping the powers of Congress and the president by declaring the legislative veto unconstitutional.

The legislative veto, first used in 1932, is a slick parliamentary maneuver used by Congress to block any executive branch actions with which it disagrees. It has permitted Congressmen and senators to reach easy consensus and pass broad-brush laws that offend nobody. With the veto, Congress could, if displeased, bounce the blank check given to the various agencies. And that, Burger said in the majority opinion, amounts each time to a new piece of legislation.

The legislative veto gives a president

greater leeway, and thus greater power. In response, critics contend, Congress will seek even more power than it wielded before, passing hundreds or thousands of narrow, specific laws.

"There has been an enormous ceding of power to people who are not elected," FTC General Counsel John Carley said. "People like us pass what amount to laws."

Doesn't pay to sue

The justices also responded to repeated complaints about the high court's overcrowded docket. Citing a three-year-old rule for the first time, five members of the court ordered a former University of Nebraska student to pay \$500 for bringing a "frivolous" appeal against the school.

Elmo C. Tatum, a middle-aged student, had been suing the school since 1981, alleging various discrimination charges. Before Tatum appealed to the Supreme Court, federal trial and appeals judges had already dismissed his suits.

The penalty assessed Tatum for his frivolity will benefit Nebraska. The award will not only pay the school's attorney's fees (\$64.50) but also Tatum's outstanding tuition and residence hall bills.

In other action, the justices tackled a touchy search-and-seizure issue, and decided to increase the ammunition of U.S. Customs officials in their war against drug smuggling. Law enforcement officials now have the ability, despite Fourth Amendment

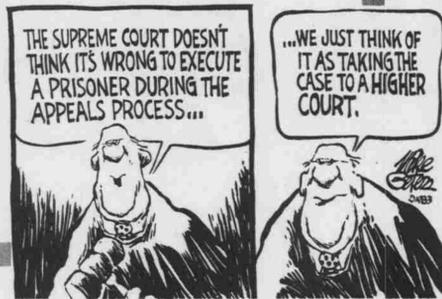
restrictions, to randomly search boats that have access to the open seas.

The fall calendar

Even with the hustle-bustle decision-making and repeated attempts to reduce the caseload, a Supreme Court's work is never done. The justices face numerous tough issues when court convenes again this fall. Among the big ones:

- Can newly hired minorities be kept over senior whites during layoffs?
 - Is home videotaping legal or does it violate copyright laws?
 - May evidence seized illegally but in "good faith" be used in court?
 - May federal agents sweep through factories to arrest illegal aliens?
- Though the docket looms like Mount Everest, relief appears in sight. The number of appeals filed in the recent term was down 5 percent after years of steady increases.

Jeff Hiday, a junior journalism and political science major from Charlotte, is associate editor of The Daily Tar Heel.



A symbol of justice

By KELLY SIMMONS

Throughout it all, Kivett maintained he'd done nothing wrong.

But the commission disagreed. In August, they ruled that the judge had put his office in a disreputable position and must step down.

According to testimony at the hearing, recorded during the week of June 21-25, Kivett and Wilkes County bail bondsman, G.T. "Good Times" Johnson, first began what the courts called an "unethical relationship" in 1972. They had met outside the Wilkes County courthouse and "hit it off" right away, Johnson said. They began chasing women and partying together, often at Johnson's cottage at Lake Hickory. A place, both Johnson and Kivett testified, that other judges were known to frequent.

During the weeklong trial in the state court of appeals, the commission heard testimony from 65 witnesses in total.

Johnson's testimony included a description of how the two men once drove to a Hickory massage parlor in a purple and lavender cadillac and paid two women \$40 each for sex.

In other testimony, Kivett was charged with approaching a prosecutor handling a case against Johnson. He was accused of changing court judgments at the whims of the bail bondsman. Johnson added that he's become known in several counties as the man to see about traffic violations.

Johnson's testimony included a description of how the two men once drove to a

Hickory massage parlor in a purple and lavender cadillac and paid two women \$40 each for sex.

Charles of sexual misconduct against Kivett are: that he accepted a guilty plea from a woman he had sex with; that he made sexual advances toward a Rowan County probation officer; that he forced a secretary to have oral sex with him; that he had sex in his chambers with a woman

after court; and that he had sex with a defendant's mother.

Aside from his "unethical" friendship and his sexual misconduct, Kivett also was charged with attempting to stop a grand jury hearing in which he expected to be indicted in December 1982. Kivett admitted to asking Judge Douglas Albright to stall the investigation. Albright refused, calling the move an obstruction of justice.

Throughout the investigation — and the myriad of charges — other judges reported that Kivett's professional ability was beyond reproach. But one judge, Hamilton H. Hobgood of Louisville, called Kivett a "womanizer."

Kivett's attorneys reportedly joked that that was normal.

And in the end, despite the

commission's ruling, Kivett maintained that he had never violated his oath of office, or the code of judicial conduct. He's said he'll appeal the commission's decision to the state Supreme Court which can either accept it, reject it or change it to a censure — a public slap on the wrist.

Whatever the court's decision, it cannot displace the advances made by the state commission by carefully policing the judicial system and exposing the possible corruption. A superior court judge is the highest symbol of justice; nothing less than legal and ethical behavior should be accepted on his part. If he is found guilty, he should step down.

Kelly Simmons, a junior journalism major from Reidsville, is an editorial writer for The Daily Tar Heel.

Wake up to a cup of coffee and The Daily Tar Heel



105 No. Columbia
Corner of Columbia & Franklin



FALL COUPON SHEET

Phone: 933-2679

OPEN

Monday-Thursday 8-9
Friday 8-6; Saturday 9-5; Sunday 12-5

COPYTRON 105 No. Columbia
Self-Service Lobby Opens 7:30 am
Plenty of Copiers
No Coins Needed
3 1/2¢ With This Coupon
Offer expires 9-30-83

COPYTRON 105 No. Columbia
4¢ With This Coupon
• Xerox 9500 and 8200 Duplicators
• 8 1/2 x 11 20 lb. white paper
• Hand feeding charges apply
• Does not apply to Course-pak orders
• Offer expires 10-31-83

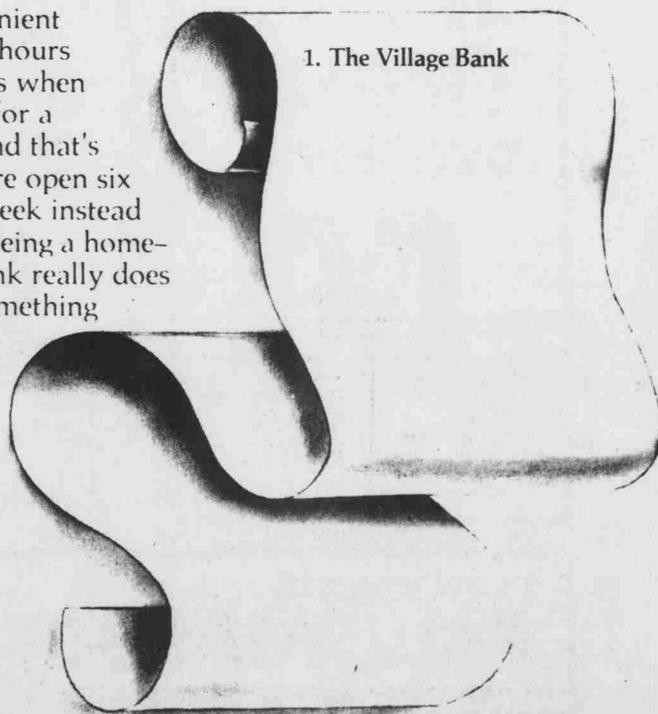
COPYTRON 105 No. Columbia
ANY SOFT BINDING
of your choice
20% OFF With This Coupon

COPYTRON 105 No. Columbia
SAVE **\$100** On Any Set of PASSPORT PHOTOS
• Color or Black and White
• No Appointment Needed
• Offer Expires 12-31-83

A list of all Chapel Hill banks open on Saturday.

Convenient banking hours are a plus when looking for a bank. And that's why we're open six days a week instead of five. Being a hometown bank really does mean something special.

1. The Village Bank



Open Saturdays nine until noon.

The Village Bank

East Franklin in Kroger Plaza 929-0252 Member FDIC