

Chief justice has powers beyond just a single vote Job carries added influence, burdens

- Bob Egelko, Chronicle Staff Writer
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The chief justice has only one of nine votes on the U.S. Supreme Court. But the numbers don't express the power or importance of the position.

In nearly two decades as the court's leader, the late Chief Justice William Rehnquist appointed the secret court that approved national security wiretaps and searches; named the committees that wrote the rules for federal court procedures; and, under a now-repealed law, selected the panel to pick the special prosecutor who brought impeachment charges against President Bill Clinton. Rehnquist then presided over Clinton's trial in the Senate.

The chief justice also lobbied Congress for more federal judgeships and higher pay, spoke out against attempts by fellow conservatives in Congress to curb judicial authority, chaired the policymaking arm of the federal courts, and was chief executive of an institution with 350 employees and a \$70 million budget.

"He's the head of the whole judicial branch of government, the chief administrator, directing a lot of the activities of the courts across a wide spectrum," said Santa Clara University law Professor Gerald Uelmen.

President Bush has nominated John Roberts, 50, an appellate court judge who argued 39 cases before the court as a government and private lawyer, to succeed Rehnquist as chief justice. The administrative duties are in addition to the core of the court's work, reviewing 7,000 appeals a year and hearing about 80 of them, in sessions that Rehnquist presided over with an iron fist, sometimes cutting off lawyers in midsentence when their allotted time had expired.

Besides the appointment power, which includes the secretive Foreign Intelligence Surveillance Court and the federal rule-making committees, the chief justice serves as the public face of the judiciary, explaining its role to the public and defending its independence from lawmakers.

That's a critical role at a time when, as Justice Sandra Day O'Connor recently observed, relations between the courts and Congress may be at an all-time low. After federal courts rebuffed congressional attempts to prolong the life of a brain-damaged and unconscious Florida woman, Terri Schiavo, some Republicans in Congress discussed impeachment and suggested that court orders could simply be disregarded.

Roberts' leadership, should he be confirmed as chief justice by the Senate, could well be defined by the question, "Is Roberts ready to stand up to Tom DeLay?" said Carl Tobias, a University of Richmond law professor. DeLay, the Republican House majority leader, has been prominent in denunciations of judges.

Within the court, the chief justice is just the first among equals -- nine strong-willed, independent jurists -- but the office has powers that can be used to expand its influence.

Most important is the ability to decide who will write the majority opinion after a case is argued and the justices vote. That authority exists when the chief justice is in the majority, and otherwise passes to the senior justice in the majority; some insider accounts of the court have included accusations that Rehnquist's predecessor, Chief Justice Warren Burger, often switched his vote so he could join the majority, commandeer the opinion and narrow its scope.

"The outcome of a case is often less important, going forward, than the rationale used by the court," which often depends on which justice gets the assignment, said Vikram Amar, a constitutional law professor at UC Hastings College of the Law in San Francisco and a former Supreme Court clerk to the late Justice Harry Blackmun. "A lot of important majorities get written by the chief because he keeps them for himself."

The chief justice also presides over the closed-door conferences where justices vote on cases. Rehnquist, by numerous accounts, streamlined the conference proceedings, made the court more efficient and got along with all his colleagues despite their differing legal points of view.

"He would never let philosophical differences affect the management of the court's resources," Amar said. "He was scrupulously evenhanded."

Other duties of the chief justice

A sampling of the 53 responsibilities of being chief justice spelled out in federal law:

- Approve appointments and salaries of some court employees.
- Direct the publication of Supreme Court opinions.
- Approve rules for the Supreme Court library.
- Call and preside at an annual meeting of the Judicial Conference of the United States and report to Congress the conference's recommendations for legislation.
- Approve regulations prescribed by the marshal of the Supreme Court for protection of the Supreme Court building and grounds.
- Appoint two members of the judiciary to the Commission on Executive, Legislative and Judicial Salaries.
- Authorized to report to the president that the chief judge of the court of claims, the customs court or the court of customs and patent appeals has become unable to discharge his duties.
- Designated a member of the Smithsonian Institution.
- Named to the Board of Trustees of the National Gallery of Art.
- Named to the Board of Trustees of the Joseph H. Hirshhorn Museum and Sculpture Garden.

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E-mail Bob Egelko at begelko@sfgate.com.

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