

Supreme Court

.....continued from page one

It has already accepted 91 cases to review finds of lower judicial tribunals and sustain them, overrule them, or return them for further study. Others will be added early in the term.

In the past few years, a moderate-to-conservative panel has often split 5 to 4, especially on key social and criminal-justice questions. Many believe that another conservative justice would tip the scales in an opposite direction than Powell did — especially on abortion, affirmative action and school prayer. Others are not so sure.

University of California law dean Jesse Choper, a First Amendment specialist, pointed out that there were "wide predictions of the sharp turn to the right" with the appointment of Associate Justice Antonin Scalia a year ago.

"Scalia was more consistently conservative than [former Chief Justice Warren] Burger, but there were no major changes in rulings," Choper said.

"Bork's importance is much overblown," he said. "Without Powell, there will be some more significant changes, but not wholesale ones."

A major concern of liberals and Bork opponents has been that the potential new justice would vote to strike down important rulings in the "privacy" area — particularly those that uphold a woman's right to have an abortion.

Sen. Orrin Hatch (R) of

Utah, a member of the Senate Judiciary Committee and staunch Bork supporter, insisted that the nominee is a "disciple of *stare decisis*" (a legal principle that leans heavily on precedent or past decision in formulating new rulings).

"If you think he will automatically overrule *Roe v. Wade*, you don't know Bork very well," said Hatch. *Roe v. Wade* is the landmark 1973 abortion decision that allows free choice in the first trimester of pregnancy but also permits state regulations governing abortion after that.

Choper said that "three are still not the five votes on the court needed to overrule *Roe*." He added, however, that there now may be the majority necessary to uphold the constitutionality of certain state restrictions on abortion.

The justices, in early November, will have an opportunity in an Illinois case to test the legality of state laws that require a "waiting period" to inform parents before a legal abortion may be performed on a teen-age girl.

This week, the court will hear a case from New Jersey on another highly volatile issue, school prayer. The justices will weigh the validity of a 1982 state law requiring that public schools permit student to observe one minut "for private contemplation and introspection."

Civil liberties groups and

those favoring separation of church and state groups insist that the "moment of silence" provision is merely a "back door" attempt to get prayer into the classroom. They stress that such an exercise is prohibited by a First Amendment ban on religious intrusion into the public sector.

Supporters of the New Jersey law, however point out that, unlike an Alabama statute the justices turned down as "religious in nature," this provision makes no mention of church or the nonsecular.

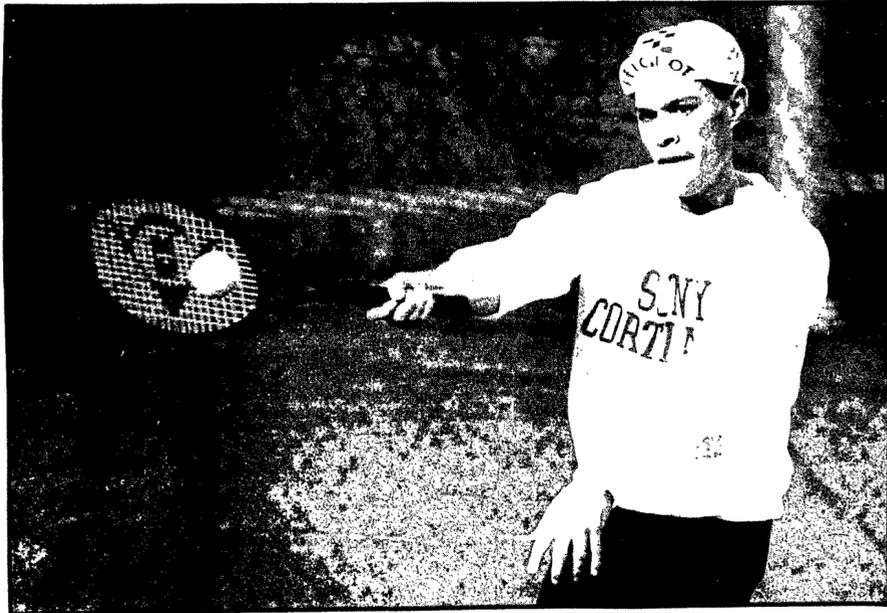
Some believe that the decisive vote could be cast by Associate Justice Sandra Day O'Connor, who has in the past rejected religious exercises in the school but has not ruled out the moment-of-silence concept.

Another important case involves the so-called teenage death penalty.

The court has held over the years that capital punishment is not in violation of the Eighth Amendment's ban on that which is "cruel and unusual." It has, however, also invalidated individual death sentences that were af-

ected by racial or judicial bias. Some opinion polls show that even proponents of capital punishment are uneasy about executing those who are underage or committed murders when they were under 18.

University of Michigan law professor Yale Kamisar, a criminal-justice specialist, said the teen-age execution issue is "not central to keeping the death penalty." He said he believes that even a law-and-order-bent court would declare execution of those under 18 unconstitutional.



Peter Morenus/The Press

Jeff Stein, a freshman health major, braves unseasonably cold weather to play tennis with a friend yesterday.

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