



## Word From O'Connor Sets Off Pre-Fourth Fireworks

By Dana Milbank

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As reporters filed into the office of Senate Majority Leader Bill Frist (R-Tenn.) yesterday afternoon for a briefing on the process to replace Supreme Court Justice Sandra Day O'Connor, Frist aide Bob Stevenson called out cheerfully: "This is a great introduction to the Fourth of July weekend. Anybody have to cancel plans?"

Well, yes and no.

O'Connor's announcement caught just about everybody by surprise -- even the White House, which rushed to schedule a Rose Garden appearance for President Bush before his meeting with Kuwait's prime minister. Most people had expected the ailing chief justice, William H. Rehnquist, to be the one making the announcement, and even that seemed doubtful as the days passed. Reporters and staff on the Hill arrived for work in blue jeans, hoping to slip away early for the holiday.

But in a sense, Washington could not have been better prepared for O'Connor's announcement. Liberals and conservatives alike have been drilling for months in preparation for the vacancy, and they responded with an impressive blend of logistical precision and ideological excess. Eighteen minutes after O'Connor's retirement became public, Frist was on the Senate floor reading a 1,600-word statement. Forty-nine minutes later, the first television ads were announced. Eighteen minutes after that, Sen. Tom Coburn (R-Okla.) became the first senator to disparage the Reagan-appointed O'Connor, for "self-indulgent judicial activism."

Sen. Charles E. Schumer (D-N.Y.) caught a flight back to Washington to give a news conference. Within hours, hundreds of organizations and lawmakers had issued statements and news releases -- the liberal People for the American Way issued four -- with the choicest political hyperbole: "Devastating," "historic," "ominous," "critical," "freedoms hang in the balance," "reinventing monarchy," "state of emergency," "save the court."

And Bush hasn't even nominated a successor.

With exceptions such as Coburn, the politicians left most of the hysteria to interest groups and resorted to euphemistic talk. Bush said he would "consult" with the Senate on a nominee. Democrats pretended that they did not have a "litmus test" for prospective justices. Republicans pretended that their only desire for a successor was that the justice would "interpret the law" and wouldn't "make public policy."

But beneath the official posturing was a simple truth: O'Connor is the tiebreaking vote on a range of hot-button social issues, and the battle to replace her will be in many ways a referendum on legal abortion. So it's no surprise that, starting at mid-morning, the O'Connor succession fight became the only game in town.

10:21. The first Associated Press bulletin crosses the wire: "O'Connor, high court's first woman, retires."

10:30. The conservative Becket Fund for Religious Liberty announces that its lawyers are standing by "to discuss the legacy of Justice Sandra Day O'Connor and the impact her leaving the court will have on religious liberties." Three hours later, a PR firm issues a statement from the group saying "thank God she's retiring."

10:31. People for the American Way, in its first release, calls for "a consensus nominee," not an "aggressively activist ideologue."

10:33. The White House -- which evidently knew nothing of O'Connor's intentions when Bush's press secretary briefed reporters at 8:30 a.m. -- announces that Bush will speak at 11:15.

10:34. Sen. Jim DeMint (R-S.C.) rushes out a preemptive attack on the opposition. "While some Democrats will attack anyone the president nominates, I hope others will give the nominee serious and fair consideration," he says.

10:39. Frist, on the Senate floor, makes no mention of abortion but uses the conservative refrain that a justice's role is "to interpret the law and not to make public policy."

10:40. Planned Parenthood issues a press release: "Departure of Justice O'Connor Creates Ominous Vacancy. . . . Reproductive Rights Hanging in the Balance."

11:01. Senate Democratic leader Harry M. Reid, stuck at home in Nevada, issues his statement: "Justice O'Connor has been a voice of reason and moderation. It is vital that she be replaced by someone like her."

11:07. The liberal Alliance for Justice steals Planned Parenthood's 27-minute-old line. "Individual rights and freedoms hang in the balance," the group says. Not to be outdone, the ACLU warns at 11:11 that "we are gravely concerned that President Bush will use this opportunity to nominate someone whose judicial philosophy is hostile to civil liberties."

11:16. Sweat-soaked journalists wait in the sweltering Rose Garden as television correspondents struggle for words to describe the drama to their viewers. Bush emerges, grinning, saying he will "be deliberate and thorough" but also "timely." He praises O'Connor without praising her judicial opinions. And he warns filibuster-minded Senate Democrats that he wants a "fair vote."



Howard Dean (Herminio Rodriguez - AP)

11:21. GOP Chairman Ken Mehlman bemoans "the inevitable protest from far-left special interest groups." Democratic Chairman Howard Dean answers 57 minutes later by saying a cordial process "will be up to President Bush."

12:41. Frist's office serves notice that Supreme Court vacancies over the past 30 years have been filled in 72 days on average. Experts assembled by Frist's staff tell journalists that Bush is under no obligation to consult with Democrats and that it is "inappropriate" for Democrats to ask a nominee about specific issues, such as abortion.

12:49. The conservative Committee for Justice vows guilt by association. "We will be watching Senate Democrats and intend to link moderate and red states senators to their liberal Senate colleagues and outside groups," it announces.

1:42. The liberal Coalition for a Fair and Independent Judiciary weighs in, saying Bush should pursue a "consensus nominee" such as O'Connor, who was confirmed 99 to 0. Twenty minutes later, the conservative Family Research Council holds a news conference to call O'Connor's view on abortion "shocking" and to demand a successor in the mold of Rehnquist or Antonin Scalia. "We have been waiting over a decade," the group's chief, Tony Perkins, says. "We will seize this opportunity."

But he had better pace himself.