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O'Connor Retirement Creates “High Drama,” Says Illinois Wesleyan Political Scientist

BLOOMINGTON, Ill. -Justice Sandra Day O'Connor's decision to step down from the Supreme Court sets up “one of the nastiest political battles we will ever see,” according to Tari Renner, professor of political science at Illinois Wesleyan University.

The announcement by O'Connor, 75, was not a total surprise, Renner added, noting that retirement rumors have swirled around at least four justices.

“Unlike any of the other three who were rumored, this one is high drama because she has been the swing vote on a vast majority of cases over the past five years,” Renner said.

“If Bush nominates a hardline conservative ideologue, rather than a more moderate conservative like O'Connor, both sides will 'go nuclear,' and the filibuster agreement will be like a UN resolution that no one follows,” Renner added, referring to a recent agreement brokered by a group of Democrats and Republicans in which the vow was given not to filibuster a nominee except in extraordinary circumstances.

The stakes, Renner said, are as high as they possibly could be in American politics, “the very meaning of the Constitution itself and how it binds us as a society.”

Moreover, added Renner, the nomination and confirmation will happen in a political environment that is still raw from a series of policy tensions over the “culture wars” during the last few months.

“From the Terry Shiavo case to filibustering over other federal judges to issues of posting the Ten Commandments, there have been bitter divides, and this leads to a recipe for one of the most bitter internal political splits in our nation's history over the upcoming nomination.”

Renner cited the 1990 nomination of Justice David Souter by President George Bush Sr. as an instance when the decision was made to nominate a mainstream Republican who would receive little Democratic opposition rather than waste political capital on a controversial choice. Souter was confirmed by a 92-8 vote.

But, Renner added, the current Bush administration is unlikely to take that path.

“The administration is not going to punt,” he said. “They haven't punted on anything yet.”

Still, as the debate begins, Renner said, both parties will need to be careful not to alienate moderate “swing” voters.

“Bush's popularity is at one of its lowest points ever - at least in part because of voters' perceptions that he is too ideologically rigid,” said Renner. “The Democrats, however, have yet to present a clear, meaningful alternative vision to voters.”

“One possible 'ace in the hole' for Democrats is that they now have Illinois U.S. Senator Barack Obama to help lead the opposition. As an effective orator and former constitutional law professor, he may provide the party with the clear and responsible voice they need at this critical time.”

According to Renner, O'Connor is an example of how potentially unpredictable a judicial appointment can be. Nominated by President Ronald Reagan, O'Connor was seen as “a pretty safe conservative bet,” said Renner. “Yet, she evolved into the role of the swing justice.”