

Statement of

# The Honorable Patrick Leahy

United States Senator  
Vermont  
July 14, 2005

Opening Statement of Senator Patrick Leahy  
Ranking Member, Judiciary Committee  
Executive Business Meeting  
July 14, 2005

I first note that our prayers and good wishes are with the Chief Justice who is reportedly being treated for a fever. He is an extraordinary public servant.

Earlier this week I joined the Chairman, the majority leader and the Democratic leader for a meeting with the President prompted by Justice O'Connor's announcement that she intends to retire from the Supreme Court upon the confirmation and appointment of her successor. Justice O'Connor is widely respected as a jurist with common sense and practical values who brought no agenda from the far right or the far left. She did not prejudge cases. For 24 years on the Supreme Court, she has tried to decide them fairly. I thank her for her service to the country and her gracious gesture of agreeing to serve until her successor is considered and confirmed by the Senate and appointed by the President.

As we said after the meeting at the White House, it was a first step. The President has not made a nomination since July 1 when Justice O'Connor announced her intention to resign. I hope that when the President has made more progress in his thinking about a possible nominee, he will engage with us and share his thoughts so that meaningful consultation can result.

Meaningful bipartisan consultation on a Supreme Court nominee is not a new concept. It is a tradition that has been followed by many of our nation's chief executives. They understood the value of consultation with the Senate in laying the groundwork for successful nominations.

I believe that there are a number of candidates who could well serve as unifying nominees from among those this President, his father and President Reagan appointed to lower courts. A number are outstanding Hispanic and African-American judges who could add to the diversity of the Supreme Court and help make it more reflective of America. Chairman Specter and I have also spoken publicly about considering someone from outside the "judicial monastery."

The process begins with the President. He is the only participant in the process who can nominate candidates to fill Supreme Court vacancies. Now that there is a vacancy, the decisions made in the White House will determine whether the nominee he chooses will unite or divide the nation. If consensus is a goal in finding a highly qualified nominee, bipartisan consultation can help achieve it. I believe that is what the American people want and deserve.

Over the last several years I have urged the President to remember his campaign pledge and to be a uniter and not a divider with regard to judicial appointments. That is particularly important with respect to the Supreme Court. Accordingly, for the last several weeks I have urged that the President engage in meaningful consultation with Senators of both parties as a means to identifying a nominee who will unite the country. The meeting on Tuesday was an initial step in what I hope will be a process that succeeds in helping the President to do just that.

The Chairman noted after the meeting on Tuesday that the Constitution is always a good place to start. The Members of this Committee have traditionally taken our role in the advice and consent function of the Senate seriously and studiously. I have every confidence that we will do so in connection with this important nomination, as well.

Though the landscape ahead is sown with the potential for controversy, confrontation is unnecessary and consensus should be our goal. It would serve the country better to choose a qualified, consensus candidate who will be broadly supported by the public to succeed Justice O'Connor and who will receive strong bipartisan Senate support as she did.

The Supreme Court should not be a wing of the Republican Party or one of its factions, nor should it be an arm of the Democratic Party. With all of the recent violence and verbal attacks on the judiciary, it is even more important that the President select a consensus choice. The independence of the federal judiciary is critical to our American concept of justice for all.

This is a difficult time for our country and we face many challenges. I am confident that a smooth nomination and confirmation process can be developed on a bipartisan basis if we work together. The American people we represent and serve are entitled to no less. The Supreme Court provides a fundamental check in our system of government to protect the rights and liberties of all Americans.