

# Annapolis: Anatomy of a miscalculation

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Even before former lobbyist Judith A. Wolfer told her story to a Senate committee Feb. 8, legislative leaders and the governor's staff knew they had a problem.

She had faxed to the governor's office a statement she would read a few hours later to the Executive Nominations Committee, a statement in which she alleged that former Del. John S. Arnick had used vile sexist epithets during a dinner meeting a year ago.

This was stunning, the legislators concluded. But however serious her charges, the lawmakers could not

## *Lawmakers thought the Arnick storm would blow over, but they were surprised*

imagine that a year-old dinner conversation would present an insurmountable obstacle as Mr. Arnick went before the committee for confirmation to a Baltimore County District Court judgeship.

"How," asked Montgomery County Sen. Howard Denis, "could so many intelligent people have miscalculated so fundamentally?"

In the days after Ms. Wolfer's testimony, Mr. Arnick and his legislative supporters came to believe that the issue, like most controversial issues in Annapolis, could be man-

aged. They'd hold another hearing if they had to to show the confidence Mr. Arnick's colleagues had in him. Then the Senate would vote to confirm. They would, as usual, control the situation.

The leaders of the legislature did not understand that the old Annapolis rules could not prevail here. After the Anita Hill-Clarence Thomas sexual harassment hearings, after the allegations of sexual misconduct by Oregon Sen. Robert Packwood, after the Clinton-Bush-Perot election, the public was going to have a say.

Marylanders were going to shout on radio call-in shows and jam legislative phone lines until their senators listened. And Mr. Arnick, 10 days later, would have to withdraw, saying he'd been blindsided "at the 11th hour and 59th minute."

But Mr. Arnick wasn't the only one in Annapolis who was blindsided. Lawmakers were suddenly hearing loud questions: Were legislators wrapped too snugly in a State House cocoon? Are women treated unfairly? Why couldn't politicians see the situation as clearly as their constituents?

When it was over, the public was satisfied that it had made itself

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# Outrage over Arnick was underestimated

ANATOMY, from 1A

heard, but Maryland's lawmakers were angry. Many believed a deserving colleague had been unfairly victimized by the media. Others resented the public charge that Annapolis is an insulated old boy's club out of touch with the real world.

Whatever their feelings, lawmakers were left with a sense that the Arnick episode would have a profound effect on the way the legislature does business.

Del. Brian McHaie of Baltimore looked out at the House of Delegates on Wednesday, the day Mr. Arnick withdrew his nomination, and shook his head. "It's like a wake," he said. "Things will never be the same around here."

## The shock

Gossip about the Arnick dinner had circulated in the State House for a year. But Ms. Wolfer and Nancy J. Nowak, the other lobbyist present that night, never would discuss it publicly. Neither wanted to anger Mr. Arnick, who chaired the Judiciary Committee, which then was considering the domestic violence bill they wanted passed. But secrets are hard to keep in Annapolis.

Mr. Arnick declined to be interviewed for this article. This account is based on interviews with more than three dozen people involved in the process that led to his withdrawal.

On the last day of the session the

bill passed. Ms. Wolfer moved on to a new law practice in Takoma Park. Ms. Nowak stayed on Mr. Schaefer's staff until last month, when he named her head of parole and probation for the state.

Then Ms. Wolfer heard of Mr. Arnick's appointment to the bench and decided last month she would tell her story because she believed he could not fairly handle women's cases.

She notified the committee she wanted to testify, but it was not until hours before the panel was to meet Feb. 8 that the governor or any of the key players in Annapolis realized what she was going to say.

When a fax of her testimony came to the governor's office, Mr. Schaefer was surprised and concerned. "He took it pretty seriously," said press secretary Page W. Boines. The governor's aides tried to weigh how much Ms. Nowak and the administration would be drawn into the matter.

About 3:30 that afternoon, Mr. Arnick was called to the office of Robert A. Pascal, the governor's appointments secretary, who showed him a copy of Ms. Wolfer's statement.

"He read it and said, 'I honestly can't remember,'" Mr. Pascal said. "He read it a couple more times, and said he vaguely remembered, but that he couldn't put it together. He said, 'I don't talk like this.'"

Mr. Pascal showed the statement to several senators, and soon word that the nomination was in trouble tore through the State House complex. The committee's hearing was packed.

House Speaker R. Clayton Mitchell Jr., a Kent County Democrat and friend of Mr. Arnick's for more than two decades, alerted several delegates that the nomination was in jeopardy. But he apparently knew neither the substance nor the severity of the charges.

They all sat and listened as Ms. Wolfer, in clear, level tones, read her 10-page account of Mr. Arnick's behavior. She quoted him as calling women "lying bitches," "bimbos" and far more ugly names. She spoke of his anger. He said that women who claim they'd been beaten were just trying to gain an advantage in divorce cases, she testified. She said he told racist and ethnic jokes.

Mr. Arnick, a man of constant motion on the House floor, now stood still and listened, his arms crossed before him, watching his past collide with his future.

By the time she finished, many in the room were shaken. Mr. Arnick said he could not possibly reply that night. The committee — a panel unaccustomed to controversy — decided to postpone a vote.

Even as they acknowledged the shock, many Senate veterans — particularly those of older generations — still thought they could wait the issue out a few days and move on to confirmation.

But that night, a few in the Senate hierarchy recognized that a bombshell had landed in their midst and by the time it exploded, everyone would be hit.

The barrage of phone calls to radio talk shows began the next morning. A few supporters defended him fiercely, but almost everyone else wanted an investigation or called for Mr. Arnick to resign. They depicted the former Dundalk delegate as arrogant, dismissive, vulgar. His style — silk suits, a Jaguar, a reputation as a shrewd manipulator of bills — had not endeared him to the public.

But the public reaction didn't seem overwhelming. One lobbyist who said he spoke with Mr. Arnick by telephone that day said the 59-year-old lawyer thought the complaints against him were serious but "resolvable."

## The women respond

For women in Annapolis, the Arnick issue presented a special problem. Female legislators remain a minority in a club whose rules were written by men. To be effective in Annapolis, both men and women have to play by those rules. Agitators are isolated. Their bills find scant support.

Last year, the women's legislative caucus had endorsed Mr. Arnick. Now, he stood accused of a vulgar attack on women. Women's groups were beginning to ask why the caucus hadn't taken a stand. But women legislators found themselves torn

between loyalty to their colleagues and loyalty to women outside the legislature.

Two days after Ms. Wolfer's testimony, about 30 of the 45 female members of the General Assembly convened their weekly caucus and argued over whether they should respond to the Arnick nomination. The atmosphere was tense.

Some feared the caucus was being used by the rest of the legislature as a cover. If the women were still behind Mr. Arnick, why shouldn't the men be?

Ultimately, the women did nothing, issuing a terse written statement that said the matter never came up for a vote. But to the dismay of some members, Del. Sheila E. Hixson, D-Montgomery, the caucus chairwoman, characterized the inaction as a unanimous reaffirmation of the group's earlier endorsement.

The next day, seven women legislators put out their own statement that said, in effect, they were keeping an open mind. It was the first public hint of defection.

But there would be more. According to the Associated Press, Loretta Jacoby, an aide to Delegate Hixson, quit her job in protest of the caucus' continuing endorsement of Mr. Arnick.

Baltimore Sen. Barbara A. Hoffman, who earlier in the week had been uncertain about Mr. Arnick, was listening to the growing uproar from outside Annapolis and saw she would have to vote "no."

She said she approached Senate President Thomas V. Mike Miller Jr. and told him, "You've got to stop worrying about John Arnick and start worrying about the Senate. The public is angry. If you don't stop worrying about John Arnick because he's a friend, the public is going to take that anger out on us."

## Preparing the defense

While the public was shouting about the Arnick nomination, State House leaders began to help their old friend choreograph a defense.

Speaker Mitchell and Del. Gary Alexander, the speaker pro tem, began working with Mr. Arnick on a draft response. They met for several hours Feb. 10 with Mr. Pascal, Mr. Arnick and several delegates in a room at the Marriott, a waterfront hotel not far from the State House. They brainstormed about who should appear at Friday's hearing on the judge's behalf, and how he should respond to Ms. Wolfer's allegations.

The next morning, Mr. Schaefer added his support and Mr. Pascal, his appointments secretary, began working individual senators, talking to them the way a lobbyist works a bill. But instead of lining up votes, Mr. Pascal's chore was to keep the votes from fleeing.

"I'm just trying to tell them to keep an open mind, not to let the talk shows and phone calls sway



BARBARA HADDOCK/STAFF PHOTO

John Arnick tells the Senate that a media frenzy has made a fair hearing on his nomination impossible.



BARBARA HADDOCK/STAFF PHOTO

Senate President Thomas V. Mike Miller Jr. went from supporting the Senate committee's handling of the process to stating that the nomination would not be "railroaded."

them," he said.

All the while, Mr. Arnick was not discussing the issue publicly. During the day he was hearing cases in his Baltimore County courtroom. People who talked with him said the media interest had become so intense he was loath to go out in public. But apparently he spent much of his day and evenings on the phone with legislators, lawyers, friends, judges — anyone who might help.

That included lobbyists. Bruce C. Bereano, the highest paid of the lobbyists, said he was working the Senate on Mr. Arnick's behalf. Other lobbyists approached reporters to say Mr. Arnick was getting a raw deal.

Thursday, Feb. 11, another meeting was held at the Marriott to prepare Mr. Arnick for his Friday testimony. His allies read portions of Ms. Wolfer's statement aloud so he could practice responding. They discussed what his demeanor at the hearing should be, how he should carry himself, what questions he should expect.

As character witnesses, the defense would array blacks to say Mr. Arnick was not a racist and Jews to say he was not an anti-Semite. But most importantly, they needed women who would testify that he never appeared to be a sexist in his long career in government, in his legal practice, or in his private life.

## Mr. Arnick speaks

Michael J. Wagner, the pliant-speaking chairman of the Executive Nominations Committee, realized he'd have to move Friday's hearing to the largest hearing room in Annapolis when TV camera crews began arriving three hours before the event.

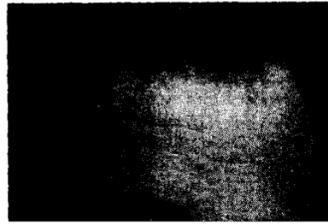
Fifty witnesses testified, 40 of them in Mr. Arnick's defense. When Mr. Arnick took his turn, he said he truly could not remember verbatim what he and the lobbyists had discussed at the dinner meeting more than a year ago.

For some senators, that was not good enough. Senator Hoffman



BARBARA HADDOCK/STAFF PHOTO

House Speaker R. Clayton Mitchell Jr., a staunch Arnick supporter throughout the process, worked with his friend to draft a response to Judith Wolfer's allegations.



BARBARA HADDOCK/1988 STAFF PHOTO

Robert A. Pascal, the governor's appointments secretary, was the first one to tell Mr. Arnick about Ms. Wolfer's expected testimony. He also lobbied senators to support Mr. Arnick.

found Mr. Arnick's defense ineffective. "The orchestration of witnesses — it made it look like John Arnick the saint. It didn't work. They weren't speaking to the issue. It was all this insider stuff. It didn't satisfy the public."

When Senator Hoffman's vote against Mr. Arnick's nomination, she set a standard for the other women in the Senate.

Ms. Nowak, who sent a statement confirming Ms. Wolfer's account, did not appear. Her absence was questioned by Senator Denis, who suggested she might have had more to tell if she hadn't been pressured not to testify.

But not all the senators were so skeptical. At least four who arrived at the hearing prepared to vote against the nomination were so impressed with the judge's supporters they switched sides. The committee voted 14-4 to recommend that the full Senate confirm him.

With their jobs done late Friday, Maryland's lawmakers went home. Mr. Arnick's nomination seemed back on track, with a full Senate vote set for Tuesday.

## 'I'm mad as hell'

But things would start to unravel over the weekend.

Two Montgomery County legislators were questioning not only Mr. Arnick's testimony but also why Ms. Nowak failed to testify. The Sun learned she had been prepared to make further allegations against Mr. Arnick.

Telephones at legislators' homes began to ring. People on the street were watching what was going on, and telling them they didn't like it.

"It was almost like the movie," Senator Hoffman said. "I'm mad as hell and I'm not going to take it anymore."

When Baltimore Sen. George W. Della Jr. went to pick up his cleaning in South Baltimore, the dry cleaner relayed a series of messages from neighbors. They wanted him to vote no on Arnick.

"It was that type of feedback that I

Miller was still insisting the Senate would set its own agenda. "This isn't government by radio talk show," he said.

But by midafternoon, the retreat was palpable. And on the 5 o'clock news, Mr. Miller was stammering that no one was going to "railroad" the nomination.

"You could feel it," said one Senate aide. "It was like the feeling of a ball slipping away from your fingers and starting to roll down the hill."

Mr. Pascal continued to plug away, working the senators. But some said later he should have been able to read the tea leaves: It was over.

He and Mr. Mitchell and others conferred with Mr. Arnick. The judge, still convinced he was being treated unfairly and that with time it would blow over, sent a 6 p.m. letter to Senator Miller seeking another delay in the confirmation vote and a third hearing. He said he had nothing to fear from further investigation.

But an hour later, some influential senators met privately with Ms. Nowak. She confirmed that she would tell the committee of a pattern of sexist behavior by Mr. Arnick.

By that night, most of the Senate just wanted to be rid of the problem, to be spared the pain of voting, to have someone get them off the spot. Privately, they confessed they hoped the governor would pull the plug, or that Mr. Arnick would remove himself from contention.

Suddenly, the women's group were joined by new Arnick opponents — gun advocates and victims' rights groups that had had trouble before Mr. Arnick's Judiciary Committee. It prompted Mr. Wagner, the nominations committee chairman, to complain of "piling on."

Everything was going wrong. Mr.

Wagner found himself in the embarrassing position of telling the Senate that a transcript of Friday's hearing could not even be provided because all the testimony from Mr. Arnick's opponents had inadvertently been taped over. The mistake was so surreal that senators jokingly asked if it was a Watergate-style "18-minute gap."

That night, Mr. Arnick, Mr. Mitchell and Delegate Alexander met in Mr. Pascal's office. Mr. Arnick still insisted that in a couple of days the furor might blow over. Mr. Wagner told them, no, the support was not there. "I didn't see any hope for it."

Tuesday morning, Mr. Wagner and Senate President Miller began publicly discouraging Mr. Arnick from continuing his pursuit. The situation was so out of hand that a few weeks was so out of hand that a few more days would not help. Besides, the Senate was told two other women wanted to testify against the nomination, one of them a former state worker. Although the senators did not know what the women were expected to say, they decided they did not want to hear it.

Mr. Arnick again came to Annapolis for another evening meeting with Speaker Mitchell, House Majority Leader D. Bruce Poole, D-Washington, and others. Mr. Arnick told them the fight was over.

"Look, I'm not going to put up with this anymore," one at the meeting quoted him as saying.

The next afternoon, Mr. Arnick sat in the spotlight one more time, in the same hearing room in which he testified last Friday. While colleagues and aides looked on, some crying, Mr. Arnick said he was ending his fight. Bitter and angry, he talked about his devotion to the legislature and said that he was not the only person who had been harmed. "Future nominees are watching this process carefully," he warned, "and will be reluctant to take the same risks that I have taken."

Mr. Mitchell stayed with Mr. Arnick to the end. The speaker felt that such an injustice had been done to a distinguished legislator that he refused to discuss it publicly. Other lawmakers close to Mr. Arnick waived away questions, as if the issue was too upsetting to discuss anymore.

And then the legislature, caught in 10-day whirlwind, turned with relief to other business.

Staff writers Michael Ollive and C. Fraser Smith contributed to this article.

**AWARD WINNING SPORTS EVERY DAY IN THE SUN.**