

Testimony of

# **The Honorable Orrin Hatch**

February 26, 2002

I am pleased that the Committee is considering the nominations of four exceedingly well-qualified candidates for the federal bench, and I would like to welcome you to the Committee.

Our only circuit nominee on the agenda is D. Brooks Smith, who has been nominated to be a judge on the Third Circuit Court of Appeals. Judge Smith is currently the Chief Judge for the Western District of Pennsylvania. He has compiled an impressive record as a judge since 1988, when, at age 36, he became one of the youngest federal judges in the country. Prior to that, Judge Smith had served as a state court judge, as a prosecutor, and as a private practitioner with a law firm in Altoona, Pennsylvania. He is a 1973 graduate of Franklin and Marshall College and a 1976 graduate of the Dickinson School of Law in Pennsylvania.

Of course, anyone who has been reading the newspapers in the past few weeks knows that it would be impossible to comment on Judge Smith's credentials without mentioning the attack he has come under from the usual liberal lobbyist interest groups in Washington. As President Reagan would say, there they go again. A story in yesterday's Pittsburgh Post-Gazette noted, "Critics of Smith, many aligned with Democratic Party interests, say he has been too quick to dismiss valid lawsuits brought by individuals against corporations, and too eager to travel to conferences paid for by businesses with interests in federal litigation. . . . But outside Washington's world of partisan politics, Smith seems to have no enemies, only admirers. Those who have watched him work say an exemplary 14-year record on the federal bench in Western Pennsylvania is being twisted by political opportunists. His popularity outside the capital extends even to members of the opposing political party, who describe him as fair, hard-working and respectful to all." Well, it is an election year and we know the left of mainstream groups will not miss an opportunity to flex their muscles.

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Those groups who are working to discredit Judge Smith apparently believe that President Bush's circuit court nominees deserve to have their records distorted and their reputations dragged through the mud. I think that no judicial nominee deserves such treatment, and that was something I practiced as Chairman for 6 of President Clinton's 8 years in office. I strongly agree with the Washington Post editorial of February 19, 2002, that "opposing a nominee should not mean destroying him." Referring to our last confirmation hearing, the Post pointed out, "The need on the part of liberal groups and Democratic senators to portray [a nominee] as a Neanderthal - all the while denying they are doing so - in order to justify voting him down is the latest example of the degradation of the confirmation process." While I look forward to hearing from Judge Smith, I hope that my colleagues in the Senate will be sensitive to the dangers to the judiciary and to the reputation of this body that will certainly result from the repeated practice of degrading honorable and accomplished people who are willing to put their talents to work in the

public service. Again, I fully support a thorough and genuine review of a nominee's record and temperament, and in no way do I think we should shy away from our constitutional role of providing advice and consent.

Turning to our three district court nominees, let me start with Ralph Beistline, who has been nominated for the District of Alaska. Judge Beistline began his legal career as the first law clerk for the Superior Court in Fairbanks, after which he maintained a litigation practice for 17 years. Since then, Judge Beistline has presided over a state trial court of general jurisdiction, and has earned a stellar reputation for fairness and hard work among lawyers and judges in his community.

Our next nominee, David Bury, attended the University of Arizona College of Law, and since then has gained experience in almost every area of civil trial practice. He is a Fellow of the American College of Trial Lawyers and an Advocate in the American Board of Trial Advocates. He is also listed in the "Best Lawyers in America." He has served as a lawyer representative to the Ninth Circuit Judicial Conference, on the Commission on Trial Court Appointments for Pima County, and on the disciplinary committee for the State Bar of Arizona.

Last, but certainly not least, is Robert Randall Crane, who has been nominated to the Southern District of Texas. Mr. Crane's trajectory towards a prodigious career could be seen very early because he graduated from high school with honors at age 16 - and then completed an economics degree at the University of Texas at Austin at age 19. Since graduation from the University of Texas School of Law, Mr. Crane has put his considerable talents to work at the law firm of Atlas & Hall, as well as devoting a truly remarkable amount of time volunteering for a number of important charitable and legal organizations.

I am very impressed with the accomplishments and credentials of each of these four nominees. I congratulate the President for selecting you for one of the most noble and honorable public positions, and I welcome you to the Committee. I look forward to this hearing, and to working with my Democratic colleagues to ensure your swift confirmation.

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