

Testimony of

# **The Honorable Orrin Hatch**

November 14, 2002

I would like to thank the Chairman, Senator Leahy, for placing Dennis Shedd and Michael McConnell on today's agenda. This is a very appropriate decision by the Chairman - an excellent gesture at the end of what has been, at times, a rather contentious Session. It is also appropriate because Judge Shedd and Professor McConnell deserve our vote-both here and on the Senate floor. Let me take a moment to review their impressive backgrounds and qualifications.

Judge Dennis Shedd graduated summa cum laude from Wofford College and received his Juris Doctorate from the University of South Carolina, where he was an editor of the Law Review. Upon graduation, he went to work for my dear friend Senator Thurmond. Judge Shedd held a variety of important positions in Senator Thurmond's office, eventually serving as Chief Counsel and Staff Director of the Judiciary Committee. I agree with Senator Biden who said Judge Shedd's service on the Committee-his work habits, integrity, honesty, and temperament-was "beyond reproach."

After leaving Washington, Judge Shedd served the people of South Carolina in private practice, representing a variety of clients in the areas of estate planning, bankruptcy, legislative counseling, tort cases, and business and commercial law. During this period, Judge Shedd also served as Adjunct Professor of Law at the University of South Carolina.

In 1991, Judge Shedd was nominated and confirmed as a United States District Judge for the District of South Carolina, where he has served diligently for the past 12 years. Judge Shedd has strong, bipartisan home state support from Senators Thurmond and Hollings. He has my support, and I urge my colleagues on the Committee to support him as well. He will make an excellent addition to the Fourth Circuit.

Mr. Chairman, I am especially proud to support Michael McConnell, who has been nominated to the Tenth Circuit Court of Appeals. Besides being a Utahn-and that's a mark of distinction in and of itself-Professor McConnell is a scholar of the highest order, a leading appellate litigator, a respected writer and teacher, and a true gentleman. His nomination is supported by 300 of our nation's leading law professors, both liberal and conservative, and he has earned the ABA's highest rating of Unanimous Well Qualified.

No ideologue, Professor McConnell opposed the impeachment of President Clinton, and he supported several of President Clinton's judicial nominees. He has demonstrated time and time again his ability to work with and listen to people having a variety of viewpoints. Not only did he clerk for leading liberal jurists J. Skelly Wright of the D.C. Circuit and Justice William Brennan of the Supreme Court, he has donated his time representing both People for the American Way and Americans United for the Separation of Church and State. Following his judicial clerkships, Professor McConnell became Assistant General Counsel of the

Office of Management and Budget and then served as Assistant to the Solicitor General. He then joined the faculty of the University of Chicago Law School, where he was awarded tenure and later the William B. Graham Professorship. He currently serves as the Presidential Professor of Law at the University of Utah.

Professor McConnell is an able and experienced appellate lawyer. He has argued eleven cases before the United States Supreme Court - and won nine of them. One of his presentations to the Supreme Court was named by the Los Angeles Daily Journal the "best oral argument" of the year.

He is a leading constitutional scholar, a recognized expert in church and state law. His writings on religious liberty have been among the most influential during the last 20 years, and he has been a consistent advocate for government neutrality-rather than hostility or favoritism-toward religion.

Mr. Chairman, I thank you again for your decision to hold votes on these two fine jurists today. You did not have to do this, and I know there are some who have asked you not to, and so I appreciate it.

I look forward to working with you and the leadership to see that these nominees receive timely votes on the floor.

# # #

Statement of Senator Orrin G. Hatch  
Ranking Republican Member  
Before the United States Senate Committee on the Judiciary  
Executive Business Meeting

On S. 1655 the "Captive Exotic Animal Protection Act of 2001"

While I in no way support "canned hunts" in which trophy hunters pay a fee to shoot exotic animals in circumstances in which the element of fair chase does not exist, I cannot support this legislation. I believe that indigenous, as well as exotic, animals should be protected from unfair hunts. But I question whether we here in Congress can effectively do so by imposing a one-sized-fits-all standard across all regions and all non-indigenous species.

In Utah, the hunting of exotic animals is illegal. Indeed, it is illegal to import exotic animals into the State except for educational and other similar purposes. However, in Utah, it is lawful to hunt domestic animals (such as Rocky Mountain Elk) in licensed fenced-in parks that are at least 300 acres in size. I understand from Utah authorities who regulate these hunting parks that the parks are not licensed, regardless of their size, unless they contain adequate trees, rocks, hills and natural habitat to provide adequate cover for the animals.

S. 1655 imposes an across-the-board 1,000 acre standard that applies to all non-indigenous species regardless of the topography - which we all know can vary dramatically from region to region. It is conceivable that in some areas a 1,000 acre limitation may be necessary to ensure a fair chase, but in others a smaller area may do so - based on the terrain and the types of animals

that are confined in the fenced-in area. As I have noted, Utah authorities have determined that a 300 acre fenced in park is adequate to hunt domestic animals such as Rocky Mountain Elk, but only where the park contains adequate cover.

I believe the determination of what constitutes a fair chase is more appropriately made on a case-by-case basis, by authorities who are familiar with the topography, mammals, and circumstances within each region.

By opposing this legislation I do not mean to suggest that I favor "canned hunts" that do not involve a fair chase. I strongly oppose such practices. And I support efforts to encourage all States to enact legislation that will adequately protect exotic and other mammals alike from unfair hunts.

# # #

Statement of Senator Orrin G. Hatch  
Ranking Republican Member  
Before the United States Senate Committee on the Judiciary  
Executive Business Meeting

On S. 2541 the "Identity Theft Penalty Enhancement Act"

I want to commend Senators Feinstein, Kyl, Sessions and Grassley for introducing this important legislation which has the Administration's strong support. By creating a class of aggravated identity theft offenses that include the most serious forms of identity theft and subjecting violators to stiff mandatory penalties, this bill will strengthen law enforcement's ability to combat identity theft.

Over the course of this year, we have become all too aware that identity theft is one of the fastest growing and most sinister crimes in this nation. Senators Feinstein and Kyl have held a number of subcommittee hearings on this topic. But to date, the Committee has focused its attention on legislative proposals that will assist victims in clearing their good names and reduce the prevalence of social security numbers and other sensitive personal information. To effectively stem the steady growth of identity theft, however, I believe we need to attack the problem on all fronts. Strengthening the tools of our criminal justice system is an essential part of this process.

I sincerely hope that we can pass this bill out of Committee today. I am committed to working with members of the full Senate, on a bi-partisan basis, to enact this worthy legislation.

# # #

Statement of Senator Orrin G. Hatch  
Ranking Republican Member  
Before the United States Senate Committee on the Judiciary  
Executive Business Meeting

On S. 2480 the "Law Enforcement Officers Safety Act"

I want to take just a few moments to express - once again - my support for this bill, S. 2480, which is now on the mark up for the fourth time. I sincerely hope that we can move this legislation through the Committee this week.

Similar bills have been pending in the Senate for the past several Congresses. Indeed, in this Congress, Senator Campbell, a leader in this area, introduced a similar bill, S. 442, the "Law Enforcement Protection Act of 2001", which I also support. On the House side, Representative Duke Cunningham, also a leader in this area, introduced an identical bill, H.R. 218. Like S. 2480, which has 34 cosponsors in the Senate, including 11 members of this Committee, H.R. 218 enjoys the widespread bipartisan of 270 cosponsors in the House.

As I have mentioned before, this legislation has been endorsed by more than 100 federal, state and local police organizations. In July of this year, we held a hearing at which witnesses from the Fraternal Order of Police and the Federal Law Enforcement Officers Association expressed their strong support for the bill.

Over the course of the last several months, the Fraternal Order of Police, the bill's primary supporter, has worked hard take into account the concerns of those who initially opposed the bill. The FOP supported an amendment offered by Senator Durbin that clarified the bill in several respects and increased the length of time - from 5 to 15 years - that a retired officer must have been employed as an officer before he or she may is qualified to carry a concealed weapon.

The FOP also has agreed to an additional change to the bill that makes clear that the term firearm does not include machine guns, silencers, or other destructive devices.

We on this Committee should recognize these good faith efforts by the Fraternal Order of Police and now act expeditiously to make this bill law. By enabling qualified active duty and retired law enforcement officers to carry firearms while off-duty or retired, in or outside their own jurisdictions, we will provide active and retired law enforcement officers with a legal means to protect themselves, their families, and the American public - no matter where they are.

The valiant men and women who dedicate their lives to protecting the public expose themselves and their families to the risk of retaliation and acts of vengeance at any time. There are too many tragic examples of unarmed off-duty and retired officers being killed or seriously injured by vindictive criminals who recognized them as officers. There are also numerous examples of off-duty and retired officers coming to the assistance of innocent civilians in danger. I believe that trained qualified officers - both active and retired - who meet the onerous qualification requirements imposed by this bill and the officers' home States should not be limited in their ability to defend themselves and protect the American public.

Again, I urge my colleagues to vote in favor of this bill. Not only will this sensible legislation go a long way in providing off duty and retired officers with the protection they and their families need and deserve, it will put more trained law enforcement officers on our streets to enforce the law and to respond to crises.

# # #

Statement of Senator Orrin G. Hatch  
Ranking Republican Member  
Before the United States Senate Committee on the Judiciary  
Executive Business Meeting

on S. 2520, The PROTECT Act

Mr. Chairman, thank you for now turning to the PROTECT Act. As you know, we jointly introduced this bill on May 15, 2002, after a few intense weeks of discussions and drafting sessions following the Supreme Court's April decision in *Ashcroft v. Free Speech Coalition*. Since then, we have disagreed as to the proper wording of certain key provisions of this bill. The good news is that there is much we can agree upon. But there remain critical and fundamental differences on important sections of the bill. As such, each of us will be offering amendments to the text of the agreed-upon substitute to the PROTECT Act that we jointly introduce today.

While it appears too late in the day for this critically important bill to reach the President's desk by the end of this Congress, I appreciate your scheduling this matter so that we can at least air some of these issues out before the full committee. I remain committed to working with you and the other members of the Committee in finally resolving these issues so that we can protect our children from the horrors of child pornographers and pedophiles.

# # #