

Statement of

The Honorable Orrin Hatch.

United States Senator
Utah
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Statement of Chairman Orrin G. Hatch

before the

United States Senate Committee on the Judiciary

Executive Business Meeting

Good Morning. Before we start on the agenda items today, I want to make a few comments and observations.

First, I want to recognize that once again Spring has arrived and the baseball season is upon us again. Senators Kennedy and Leahy hope that this is finally the year for the Red Sox. I suspect that Senator Durbin dreams that this will be the year of the Cubs.

I must warn Senator Schumer to beware of the Yankees -- currently on the road in Tokyo -- being asked to open next season in Italy. No doubt EU Anti-Trust Czar, Mario Monti, would try to break up the Yankees if he ever got jurisdiction over the pinstriped boys from The Bronx. Maybe he would abolish the designated hitter rule while he was at it.

Actually, Senator Cornyn believes that the Astros' signing of Roger Clemens and Andy Pettitte is a market-based solution to the problem.

Next, I want to commend our colleague, Senator DeWine for his work on the Unborn Victims of Violence Act that President Bush will sign into law this afternoon.

In addition to the nominees on the agenda today is the bi-partisan, The Gang Prevention and Effective Deterrence Act of 2003, S. 1735. I hope we can complete action on this important measure at our next meeting.

Over the next few weeks, the Committee will take up many important matters. These include a number of bi-partisan intellectual property measures including the CREATE Act, the ART Act, and the Enforce Act. I plan to place these non-controversial bi-partisan bills on the next agenda, hopefully along with H.R. 1561, the legislation that ends the diversion of patent fees out of PTO. I will ask staffs' to work together to finalize work on these three bills so we can adopt them unanimously. I met with one of the motion picture studio heads yesterday and I can tell you that piracy is a big problem as was detailed in our hearing that Senator Specter chaired last week.

Senator Biden and I hope to bring our steroid bill through the Committee in the next few weeks.

Senator Chambliss would like us to consider his bill on L visas. I understand that work on S. 1635 is proceeding apace.

I would like the Committee to report the Flag Amendment in the next few weeks.

The Committee will remain active on legislation and oversight related to preventing and responding to acts of terrorism.

Senator Sessions' bill on preventing mass transportation-related terrorism deserves our close attention in the aftermath of the Spanish train bombing.

Senator Biden has a longstanding interest in port security. We are scheduling a hearing on mass transportation terrorism issues.

In addition to this issue, Senator Leahy and I are planning several other terrorism-related hearings.

On April 14th, the Committee will hold a field hearing in Salt Lake City at which the Deputy Attorney General, James Comey, and our U.S. Attorney for Utah, Paul Warner, will testify on anti-terrorism laws, including the Patriot Act. I urge all my colleagues and other interested parties to attend this hearing and spend some time -- and money -- in Utah.

On April 20th, we will hold a hearing in Washington on the topic of the material support provisions of the Patriot Act, which have been at the center of litigation in California.

Before he took ill, we had originally hoped that the Attorney General would have been able to testify before us this week on terrorism and other matters. I am pleased to tell you that I have spoken to General Ashcroft several times and he was back in the office for the first time yesterday and is on the road to recovery.

We will have General Ashcroft here as soon as his health and schedule permit.

At a separate hearing -- hopefully sometime in May, we will try to have Secretary Ridge and Director Mueller before the Committee.

We will also plan a hearing on the detainee issue.

So the Committee will continue its important bi-partisan examination of terrorism-related issues.

I hope that asbestos, bankruptcy and class-action are brought to the floor.

And speaking of the floor, I am greatly distressed about the deteriorating situation on the floor with respect to all nominees, including judicial nominees. I do take strong exception, as I expressed last week, with the Minority Leader over the matter of recess appointments. I believe it is the unjustified, unprecedented, and simply unfair filibusters of certain Judicial nominees that is the root cause of this issue. The President is merely responding in a constitutional fashion to a problem that is being created by denying nominees the up-or-down, majority vote that the Constitution requires.

I don't want to unduly sidetrack this markup and will be prepared to address this issue more fully at a later time. But let me just add that if you haven't seen the 60 Minutes piece of Judge Pickering, you ought to see it. I think that the statements made by Charles Evers are particularly illuminating.

Let me just say that I hope that a reasonable accommodation will be reached on the nominations issue. I pledge to continue to work in good faith with the Administration and my friends across the aisle to help see that appointments made to positions traditionally, or by law, held by minority party nominees goes smoothly.

For example, I have already indicated to the White House that I support and they should seriously consider appointing certain individuals to the Democratic seats on the Sentencing Commission. Overall, both sides will do better if we work together.

Moving along, on crime issues, Senator Leahy and I believe that we should take up and act favorably on our bill, S. 1700, the DNA and Innocence Protection legislation. I want everyone on the Committee and in the Administration and other affected parties to understand that I believe that we have an excellent opportunity to follow the House's example and move this important bi-partisan legislation to the President's desk.

With that look at our future activities, let me now turn to the Committee's agenda for today.

Our agenda today includes Bill Myers, who has been nominated to fill a vacancy on the Ninth Circuit. Mr. Myers was nominated by President Bush in May 2003, over 10 months ago. It has been eight weeks since his hearing, during which time he has responded to written questions and been available for personal visits with members. He is long overdue for a Committee vote and deserves an up or down vote on the Senate Floor.

Mr. Myers has an exemplary record that includes service as a successful, committed advocate and public servant. As Solicitor for the Department of the Interior--a position to which he was confirmed in 2001 without opposition--Mr. Myers supervised over 300 attorneys and 100 support staff in 19 separate offices throughout the United States, and managed a \$47 million annual budget. He has served as counsel here in the Senate, to our former colleague Senator Al Simpson, and in both the Department of Justice and Department of Energy. His confirmation is supported by Republicans and Democrats alike--including former Wyoming governor Mike Sullivan and former Idaho governor Cecil Andrus, who also served President Carter as Secretary of the Interior, plus the Democratic Attorneys General in both Colorado and Oklahoma. Five Western governors, including the governors of Hawaii, Montana and Nevada, have written to the committee expressing their support and emphasizing "the need for quality judges who will provide a balanced perspective to the Ninth Circuit's extraordinary caseload."

Mr. Myers' record as the Interior Department's Solicitor, where he was doing his duty to represent the policy positions of the United States, has been attacked because certain groups don't like those policies. He has been unfairly criticized for daring to represent farmers, ranchers, and miners while in private practice--as if ranchers and those who make economic uses of Western lands are less entitled to representation than the liberal environmental groups that attempt to dictate Western land policy.

Because of the attack which is being waged against Mr. Myers, I wanted to remind my colleagues of some things about Bill Myers that his opponents and the media have willfully ignored. He is a highly respected attorney; in fact he is a nationally recognized expert in natural resources and public lands law with extensive experience in these areas. Furthermore he is an avid outdoorsman and a committed conservationist. Mr. Myers has had a distinguished career as a public servant and practicing attorney. His nomination enjoys widespread support from across the ideological and political spectrum. So I hope my colleagues will join me in voting to support his nomination and send it to the Senate floor.

Now, once we have concluded action on Mr. Myers, we can turn to the other nominees on the agenda. We will continue to hold over Judge Saad's nomination. Also on the agenda today is a nominee for the 2nd Circuit Court of Appeals, Peter Hall. He presently serves as the U.S. Attorney for the District of Vermont. There are five District Court nominees as well. They are Roger T. Benitez, for the Southern District of California; Jane J. Boyle, for the Northern District of Texas; Marcia G. Cooke, for the Southern District of Florida; Paul S. Diamond, for the Eastern District of Pennsylvania, and Walter D. Kelley, Jr., for the Eastern District of Virginia. Finally, we have on the agenda Mr. Matthew G. Whitaker to be United States Attorney for the Southern District of Iowa. I hope there is no desire to hold over any of these remaining nominees. If the committee is willing to report all of them out today, that might allow us to forgo a markup during next week. If there is objection to moving them today, we will hold Mr. Hall and the District nominees over for a week. I hope there is no objection on either side.

We also have one legislative item on the agenda today, S. 1735, the Gang Prevention and Effective Deterrence Act of 2003, which has bipartisan cosponsorship. [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer] We shall address this bill after we have disposed of the nominations.

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