

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

Before we turn to our nominee for the 6th Circuit, Henry Saad, I think we will be able to move a few important but non-controversial bills.

But first I want to take this opportunity to mention that yesterday the House passed the bi-partisan antitrust standards bills that so many on this Committee worked to perfect.

I also want to remind everyone of the fact that we have some important oversight hearings next week. We will hear from Attorney General Ashcroft on Tuesday and Secretary Ridge on Wednesday.

As the information that was released on Tuesday concerning Jose Padilla reminded us all, terrorists are planning to cause our country great harm. It is important that this Committee review and scrutinize the efforts that are being undertaken by the Departments of Justice and Homeland Security to protect U.S. citizens from acts of terrorism.

As well, both of these Departments are charged with implementing many other important programs under our Committee's jurisdiction.

At our mark-up next week, I plan to act on the Flag Amendment. I want to commend Senators Cornyn and Feingold and the rest of the members of the Constitution Subcommittee for completing their work on this measure yesterday.

It is also my hope that next week we will be able to report the Satellite Home Viewer Extension Act. Our staffs' have been working on a bi-partisan basis with staff from the Commerce Committee and the Leadership offices to arrive at a process that will ensure prompt and fair consideration of this important measure.

I also hope that we can work out the last details of the Biden-Hatch Steroid Precursor legislation and adopt this important public health measure.

Last, but by no means not least, on the agenda is S.1700, the DNA legislation. This important bi-partisan bill has already passed the House and it is my hope that we can act on this measure in an expeditious fashion. I know that not everyone supports all of the provisions of this compromise bill but, at the end of the day, S. 1700 goes a long way to help bring justice to thousands of

victims of crimes, including rape victims, while at the same time providing meaningful assistance to those wrongfully charged with or wrongfully convicted of crimes to exonerate themselves.

After we dispose of the non-controversial items on today's agenda, we will turn to the nomination of Judge Henry Saad for the 6th Circuit.

Let me just say that while in many respects I was supportive of the accommodation that was reached on the 25 judges that were guaranteed floor votes, I continue to believe that all judicial nominees that reach the floor deserve the same up or down vote that these 25 nominees will receive.

I will work to see that all of the other judicial nominees already on the Executive calendar, or reported by the Committee in the next few months, all receive the same up or down votes that the Constitution requires.

So while I commend my friend from Vermont for helping bring about the compromise on these 25 nominees and recognize him for his work on the 100 judges approved while he was Chairman, the Committee's work is not done for this Congress. I would challenge Senator Leahy and my colleagues across the aisle to work together to exceed 100 confirmations in this Congress.

It is no secret that I am in favor of reaching a compromise on the 6th Circuit. I have had many discussions with my friends Senators Levin and Stabenow on this situation over the last year.

It is also no secret that I have spoken to the White House about this situation as well as with many Senators on our Committee and not on the Committee. I have spoken to many individuals interested in the nominations process about the 6th Circuit.

Not everyone views the overall 6th Circuit situation the same way. Not everyone views Judge Saad's qualifications that same way. I know that Senator Levin has a negative opinion of Judge Saad that I simply do not share.

I have deep respect for the Michigan Senators and have consulted closely with them for a long time. I work with them on many issues. For example, I am pleased that Senator Levin is here with us on the day that I hope the Committee will adopt an important amendment to the Drug Addiction Treatment Act, a bill that Senator Biden and I co-authored with Senator Levin and our deceased friend, former Senator Daniel Patrick Moynihan.

This bill is making a dent in the tough problem of treating heroin addiction and I commend Senator Levin for his leadership in this largely unheralded area that has such far reaching consequences for social stability and crime in America.

I have no doubt that Senator Levin and I can work together to resolve this matter of the 6th Circuit as we have worked together to resolve so many issues over the years. Frankly, several months ago we arrived at an understanding in principle that I hope can form the basis of a broader consensus.

My goal in moving this nominee through the Committee today is to see if we can help set the stage for a compromise on the 6th Circuit seats. To further this end, I plan to hold hearings for the other 6th Circuit nominees and work to move them through the Committee and onto the Floor.

For your information, let me say that it is my plan to hold a hearing on the other 6th Circuit nominees the week after next, most likely on June 16th.

The week after that I plan to hold a nominations hearing on Tom Griffith who has been nominated for the D.C. Circuit. Many of us have known and worked with Tom while he was Senate Legal Counsel and I know that we will give him the respect due to one of the Senate family. I understand that his ABA rating is anticipated that week.

While I am attending to housekeeping matters, let me just repeat my views on the submission of questions to judicial nominees. The record is open for one week after the nominations hearing and any member can submit questions.

In several recent cases, additional follow-on questions have been submitted. While it may very well be prudent for the nominee to answer these questions - which in least one recent case have been submitted months after the Committee has held its hearing and weeks after the Committee has reported the nominee -- I do not believe that the Committee review process requires the nominee to answer these additional questions. If a member is dissatisfied with the answers, he or she is free to vote accordingly in the Committee and on the Floor.

Having said that, let me now return to the 6th Circuit. I know that some will say that the compromise I hope to facilitate on the 6th Circuit goes too far. Others will say that it does not go far enough. I will do the best I can to bring members together on this issue.

I do not know if I will succeed but I can tell you one thing for sure: I will not be deterred or distracted in my efforts to forge an acceptable compromise on the 6th Circuit by anyone who says that the 25 judges in the recent compromise are the only judges that will be voted on for the remainder of the year. Nor will I be dissuaded in my attempts to resolve this by any premature invocation of the so-called Strom Thurmond Rule.

As far as I am concerned, there is much work to be done in this Committee and on the Floor of the Senate with respect to judicial confirmations in this Congress.