

Box 689, Falmouth MA 02541

August 29, 1990

Ms. Sally Shafroth, Chief Clerk
Senate Judiciary Committee
Dirkson Senate Office Building
Washington DC 20510

14 Sept 90

Dear Ms. Shafroth:

The following affidavit is forwarded at the request of Mr. Ted Hoff, for use in the confirmation hearings concerning Judge David Souter:

My first experience with David Souter's acts and policies was in connection with my work as a Registered Professional Engineer in solar energy and the ecology and as a Constitutional Consultant. In early 1977, I was asked to assist 3 people who had been arrested for soliciting signatures for antinuclear, pro safe energy petitions in New Hampshire, on the street outside a state liquor store, while state employees in state business hours in the state liquor store solicited signatures for pro nuclear power petitions to be sent to Washington to support the efforts of a private enterprise, Public Service Company of New Hampshire, (PSCo) now bankrupt, and then Governor Mel-drin Thomson to obtain licenses from the NRC and sell stock in the construction of 2 privately-owned nuclear power plants, Seabrook I and II, on a public road in Seabrook. I recommended that a petition for writ of habeas corpus be presented to a state judge, and if that didn't work, to a federal judge, because the 3 people were being held on unconstitutional charges. I was told that the 3 arrestees were being moved from jail to jail, thwarting any effort to serve the writ, once obtained. A federal civil rights complaint prepared later was successful; the 3 were awarded \$1,300 each for violations of their rights of free speech and petition and the unconstitutional imprisonment. See clipping, enclosed (Ex. A).

My next experience with the leadership of then Attorney General Souter was on April 30-May 2, 1977, when I and approximately 2,000 other peaceful pro solar, antinuclear power

pollution protestors in a walk from Salisbury Mass. to Seabrook, along Route 1. When we arrived outside the Seabrook nuclear site, we were ordered off the road and onto a rough parking area on the site by Col. Paul Doyon, NH State Police. This took about 3 hours, total.

The next day, several hundred state troopers from 5 states and NH National Guardsmen started to occupy the exit from the parking lot. We were informed by bull horn that we would be arrested for trespass if we did not collect our gear and leave the site and disperse. (This was a physical impossibility, even for those of us who had marched 5 miles per hour with full field packs under arms in the infantry in WWII.) Col. Doyon stood alone in the parking area, facing us, for some time, so I went out and talked with him. Col. Doyon stated he had ordered us off the road and onto the site the day before for the purposes of public safety and to speed up traffic on Route 1. We were arrested. The next day, May 2, I was taken in one of the bus loads of protestors, photographed and fingerprinted, and brought before a local (District) judge. None of us had committed any violent acts, or offered any resistance.

We were not informed of any rights, nor were we given counsel of our choice when we asked. I stated I wished to "stand mute" and not make any plea; the judge entered a plea of "not guilty" to "Trespass." I later asked for bail, which had been set at \$100 for all those from out-of-state but was told I would have to get it "later" and was taken to Manchester National Guard Armory. I was without food all day; the conditions were unsanitary. In the evening I finally obtained bail at \$46 for a \$100 bond, and left Manchester.

Since there were serious constitutional questions involved, I prepared a report and gave it to the Hyannis FBI agent, with a copy to the Falmouth Enterprise. A copy of the May 10, 1977 article, from microfilm, is enclosed. (Ex. B.)

At my trial in District Court, I attempted to raise the defenses of competing harms and entrapment, and question the ownership of the land on which the power plant was to be built. I was found guilty, and appealed "de novo." Two years later, the charges were dismissed against the 800 of us not tried in the Superior Court.

I filed suit in the U S District Court in Concord (Denman v. Thomson, et al). The U S

District Judge ordered that the question of ownership of the land on which the reactors were to be built be determined in the New Hampshire courts. I then intervened in PSCoNH's civil case for restraining orders in the Rockingham County Superior Court, since PSCoNH had claimed ownership of the land at issue in that case. I was pro se; an Assistant Attorney General of New Hampshire helped defend the private corporation, PSCoNH. I had the restraining order dissolved in 1980.

In most states, it is not customary to sentence a first-time offender with no previous record to the maximum sentence (30 days), but to suspend the sentence or "file" the case without finding. I am informed that AG Souter, representing the Executive Branch of the New Hampshire government, invaded the Judicial Branch's responsibilities by urging the District Judges sentence the Seabrook protestors to the maximum period. He did not urge the judges to enforce the U S Constitution and laws, or enforce the "competing harms" statute, nor did he prosecute PSCoNH officials for false statements in the selling of stock and "shares" of Seabrook future power about the safety and cheapness of nuclear power.

Although then Attorney General Souter knew, or could have known, of previous atomic power disasters at Idaho Falls, Chalk River, Canada, Lagoona Beach, Michigan, and Windscale, (now named Sellafield) England, as anyone with an honest interest in safe, cheap power could determine, he made no effort to control, limit, or prevent these breaches of Constitutional rights and federal laws in the construction of Seabrook, but instead, by his actions, showed that he was operating the Attorney General's office as lawyers for a private corporation, PSCoNH, and used the State Police, and Rockingham County and local police as private security guards for this private profit endeavor. He made no effort to stop Gov. Thomson's environmental department officials in their dynamiting of hydroelectric dams in order to create more "demand" for Seabrook's nuclear power, a clear violation of the US antitrust laws.

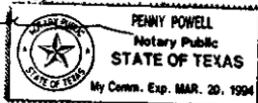
Since David Souter violated the US Constitution and laws to promote a dangerous and expensive private nuclear power project, he should not be confirmed.

Respectfully submitted,

David Souter
 Nathaniel Perman

Subscribed to and sworn before me, this date, Sept. 14, 1990.

My commission expires March 20 1994



Penny Powell
 Notary Public

NATHANIEL DENMAN

Box 689
Falmouth, MA 02541
508-548-3295STATEMENT OF ENGINEER NATHANIEL DENMAN RE FITNESS OF DAVID SOUTER
TO SERVE ON THE SUPREME COURT

The following statement is made under the penalty of perjury, this date, Sept. 7, 1990, in accordance with the laws of Massachusetts concerning affidavits:

In early 1977, in connection with my work as a Registered Professional Engineer and Constitutional Consultant, I was asked to assist three people who had been arrested for soliciting signatures for antinuclear, pro safe energy petitions in New Hampshire on the sidewalk outside a state liquor store. State officials, during state office hours in the state liquor stores were soliciting signatures for pro nuclear power petitions to be sent to Washington in support of a private enterprise, Public Service Company of New Hampshire (PSCo), now bankrupt, and then Governor Meldrim Thomson to obtain licenses from the NRC and sell stock in 2 privately-owned nuclear power plants being built on a public road in Seabrook, all under the supervision of David Souter, then Attorney General of New Hampshire.

I recommended a petition for writ of habeas corpus be presented to a state judge, and, if not honored, to a federal judge, as the 3 people were being held on unconstitutional charges while the state liquor employees illegally solicited signatures. I was told the 3 arrestees were being moved from jail to jail thwarting efforts to serve the writs. A later federal civil rights suit was successful; the 3 were awarded \$1,300 each for violations of free speech and petitioning rights and unconstitutional imprisonment. (See clipping below.)

The next encounter with David Souter's leadership was on April 30-May 2, 1977, when I and 2,000 other peaceful pro solar, antinuclear power pollution protestors walked 3 miles from Salisbury Mass. to Seabrook in about 3 hours along Route 1. When we arrived outside the nuclear site, we were ordered off the road and onto a rough parking area on the site by Col. Paul Doyon of the NH State Police.

The next day, May 1, several hundred state troopers from 5 states and NH National Guardsmen blocked the exit from the parking lot without warning. We were told by bull horn that we would be arrested for trespass if we did not pack our gear and leave the site and disperse in 30 minutes. (A physical impossibility, even for those of us who had marched 5 miles per hour with full field packs under arms in WWII.) Col. Doyon stood alone in the parking area facing us, so I went out and talked to him. He said he ordered us off the road and onto the site for the purpose of public safety and to speed up traffic on Route 1. We offered no resistance; we were arrested. Some of us were seized and dragged over rocks and 18" logs in the parking lot at a dead run. Reporters and TV cameramen were detained or arrested.

Early in the morning of May 2, I was taken in a busload of protestors, photographed and fingerprinted, and brought before a local judge. We were not informed of any rights, nor given counsel of our choice. I asked to "stand mute" without a plea; the judge entered a plea of "not guilty" to "trespass." I later asked for bail, set at \$100 for those from out of state, and was told I would get it "later." I was taken to the Manchester National Guard Armory by Guardsmen with their name tags covered over who refused to give their names. I was without food all day; the conditions were unsanitary. In the evening I finally obtained bail at \$41 for the \$100 bond.

Since there were serious constitutional and antitrust violations, in this state effort to promote atomic power at the expense of other energy sources and the environment, I prepared a report for the Hyannis, Mass. FBI agent, with a copy to the Falmouth Enterprise.

At my trial in the NH court, I attempted unsuccessfully to raise the defenses of "competing

harms" and entrapment and question the ownership of the land involved. I was found guilty without a jury, and appealed "de novo." Two years later, the charges against 800 of us were dismissed, I filed suit in the US District Court in Concord, NH, (Derman v. Thomson, et al) and the US District Judge ordered that the question of ownership of the land be tried in the NH courts. I then intervened in PSCO's petition for restraining orders in the Rockingham County Superior Court, and moved to have the restraining order dissolved. I was pro se; An Assistant AG of New Hampshire helped defend the private Corporation. The restraining order was dissolved.

In most states, it is unusual to sentence a first-time trespassing offender to the maximum sentence, 30 days, but to suspend sentence or "file" the case without findings. I am informed that Souther, representing the Executive Branch of the NH government, invaded the Judicial Branch's responsibilities and authority by urging the NH judges to sentence the Seabrook protestors to the maximum sentence. He did not urge the judges to enforce the US Constitution and laws; he did not protect the people and ecology of NH; he did not prosecute PSCO officials for false statements in the selling of Seabrook and PSCO stock and "shares" in future Seabrook power re safety and cheapness of nuclear power. He made no effort to stop Gov. Thomson's environmental officials in the smashing of hydroelectric dams to create more "demand" for Seabrook's nuclear power, a clear violation of US antitrust laws, and an unusual reaction by a self-proclaimed "environmentalist."

Attorney General Souther knew about previous atomic power disasters at Idaho Falls in Nov. 55 (EBR-1 reactor) and Jan. 61 (SL-1 reactor, 3 men died), Chalk River, Canada (NRI reactor) in Dec 52, the Fermi reactor near Detroit in Oct 66, and Windscale (now called Sellafield), England in Oct 57, but he made no effort to control, limit, or prevent these breaches of Constitutional rights and federal laws in the construction and licensing of Seabrook, but instead, by his actions, showed that he was operating the Attorney General's office as a law firm and private prosecutors and the State Police and National Guard and local police as private security guards for this private profit endeavor. His behavior paralleled the actions of Nazi SS officers when Hitler rose to power in Germany in the 1930's.

Since David Souther violated the US Constitution and laws when sworn to preserve, protect, and defend them as Attorney General of New Hampshire, and failed to protect the people and ecology of New Hampshire and New England, he should not be confirmed.

Dated Sept. 7, 1990 at Falmouth, Mass.


Nathaniel Derman

Nuke protestors win \$1300 each

These Massachusetts residents have won average awards of \$1300 each in their suit against the state of New Hampshire for alleged deprivation of civil rights. The case arose out of an incident Jan. 31, 1977, when John Chase and Anne and Cynthia F. Williams, all of Haverhill, tried to pass out leaflets opposing construction of Seabrook nuclear power plant. Leaflets were seized and the defendants arrested. The case was tried in Concord, N.H. The three had gone to lower state court in Nashua and asked permission to pass out leaflets after New Hampshire's state liquor stores began displaying petitions from that persons were asked to sign. The petitions were to have been sent to Washington to ask that the federal government expedite construction permits for the controversial plant.

The three applicants of the nuclear plant were denied permission to dispense the leaflets and, after consulting with the state's attorney, the state began contempt proceedings. The state public safety commissioner and then Governor John J. Thomson, Nashua police arrested them and held them in jail overnight.

Defendants in the case were the store manager, Frank Millette, who was found guilty by the state supreme judicial court jury, state liquor commissioner Charles Yoniss, who was found guilty of depriving the three of their civil rights and of conspiracy and who was ordered to pay \$1300 to each plaintiff, and safety commissioner Richard M. Flynn, who was also found guilty and was ordered to pay \$250 to each defendant.

Former Gov. Thomson had originally been a defendant, but Judge George Devine presiding in the case, against him. Dec 1979, 67-10-103