

**STATEMENT OF DEBORAH COOPER**

Ms. COOPER. Mr. Chairman, Senator Thurmond, members of the committee, my name is Deborah Cooper. I am a lawyer in private practice in Lebanon, a small town in New Hampshire. In my former life, I was a member of the New Hampshire attorney general's office.

I met David Souter in 1976, when I was a third-year law student. It was the day that then retiring Attorney General Warren Rudman was having his testimonial. It was David Souter's first day as attorney general.

Judge Souter was interviewing me for a job in the office of the attorney general. Earlier in the year, I had had a previous interview with a member of his staff. Prior to the first interview, I had noted that the office letterhead listed only men. Curious as to whether there were any women attorneys in the office, I asked that question during my first interview. The staff attorney responded that we had one, but she died. As you can imagine, I faced my second interview with a fair amount of trepidation and substantial reservations about whether this was the office in which I wanted to start my legal career.

Within the first 5 minutes of my interview with Judge Souter, my reservations disappeared. It was clear that Judge Souter was a man of unquestionable intellect, integrity, and warmth, and with a true devotion to public service. For David Souter, the office of attorney general was governmental, not political. He did not espouse a political philosophy, nor did he ask mine.

The role of an assistant attorney general was to enforce the laws of the State of New Hampshire and to act as the State's lawyer. It was not to establish and implement a political agenda.

While the interview itself was a grueling experience, I left the office with a strong conviction that Judge Souter was a man for whom I would like to work. I was one of two women hired by Judge Souter that year, putting an end to the all-male bastion. I do not know whether David Souter had his own affirmative action plan. I do not know Judge Souter's position on affirmative action. I do know that David Souter treated the women in his office with professional respect and that he gave me and other women equal opportunities.

David Souter inspired those who worked for him and challenged them to excel. His leadership and counsel enabled us to develop our legal skills in a way that might not have occurred elsewhere. But equally important, David Souter's warmth, wit, and daily involvement with his staff made the office of attorney general a great place to be. There was a sense of mutual respect, loyalty, and camaraderie among those who have worked there that is seldom found anywhere else.

After Judge Souter left the attorney general's office, I had the privilege of being named deputy attorney general, a position second only to that of attorney general. I am confident that that opportunity arose largely because of the opportunities and training that I was given during David Souter's term as attorney general.

At the time I was named deputy attorney general, the media gave great coverage to the fact that I was the first woman in New

Hampshire to hold that post. Until our society reaches a level of total equality, such a qualification will always make headlines. Judge Souter made me believe that my gender was not the reason for my appointment. I know that, to him, my sex was not a factor.

I am here today because I respect and admire David Souter. Judge Souter commands the respect and admiration of countless others throughout the State of New Hampshire, regardless of their political philosophies. I have unshakable confidence that Judge Souter, if confirmed, will approach the issues before the U.S. Supreme Court as he did the issues before him as attorney general, not with a preestablished political agenda or ideology, but with superior legal skills, intellect, and unparalleled integrity.

Judge Souter is the best this country has to offer.

Thank you very much.

The CHAIRMAN. Those are four eloquent statements on behalf of a man with whom all four of you or three of the four of you have worked.

Mr. Broderick, have you appeared before Judge Souter?

Mr. BRODERICK. Yes, Mr. Chairman, I have tried cases in front of him when he was on the trial court, and I have argued in front of him in the New Hampshire Supreme Court.

The CHAIRMAN. Ms. Cooper, one of the things that he was questioned on at length by a number of us were cases relating to the Equal Protection Clause and gender discrimination. I assume New Hampshire has no such constitutional provision relating to gender. Were there any cases argued in—

Ms. COOPER. I believe there is a State constitutional provision prohibiting discrimination on the basis of sex.

The CHAIRMAN. Judge Souter indicated, and it seems to me very unclear, that the test, the principle that should be applied in determining whether or not a State, a governmental entity can impact upon what a woman can or cannot do, the level of scrutiny required to impact upon her constitutional right to equal protection under the 14th amendment is somewhere between strict scrutiny and a rational basis test.

As you know, governmental agencies can almost always meet a rational basis test and find it very difficult to pass a strict scrutiny test. He indicated that he thought the test should be somewhere in between, and he indicated, though, that he was not particularly happy with the middle-tier scrutiny. He said it was—I forget his phraseology—fuzzy, not very firm, or whatever.

After having worked with him, do you have any thoughts as to where he is likely to come down on those issues?

Ms. COOPER. I cannot predict how Judge Souter would come down on those issues, Senator. I know that he would approach them with the fundamental sense of fairness and I believe that, based on my personal experience and working with him, that he has great respect for women and for women in the profession.

The CHAIRMAN. As a woman, do you have any, not doubts about his integrity or his capability, but do you wonder where he will come down on issues relating to sex discrimination and on reproductive rights? Does it concern you at all?

Ms. COOPER. Yes, it certainly does. I do wonder. I have concerns and I have questions, but I have ultimate faith in David Souter's