

CONTENTS

HEARING DATES

	Page
Thursday, September 13, 1990.....	1
Friday, September 14, 1990.....	137
Monday, September 17, 1990.....	223
Tuesday, September 18, 1990.....	361
Wednesday, September 19, 1990.....	747

CHRONOLOGICAL LIST OF WITNESSES, QUESTIONING, AND MATERIALS SUBMITTED

Thursday, September 13, 1990

Presenters

Humphrey, Hon. Gordon J., U.S. Senator from the State of New Hampshire....	43
Rudman, Hon. Warren B., U.S. Senator from the State of New Hampshire.....	46

Opening Statements of Committee Members

Biden, Hon. Joseph R., Jr.....	1
Thurmond, Hon. Strom.....	12
Kennedy, Hon. Edward M.....	15
Hatch, Hon. Orrin G.....	17
Metzenbaum, Hon. Howard M.....	20
Simpson, Hon. Alan K.....	25
DeConcini, Hon. Dennis.....	28
Grassley, Hon. Charles E.....	30
Leahy, Hon. Patrick J.....	33
Specter, Hon. Arlen.....	35
Heflin, Hon. Howell.....	37
Simon, Hon. Paul.....	39
Kohl, Hon. Herbert.....	40
Humphrey, Hon. Gordon J.....	43

Nominee

Souter, David H., U.S. Circuit Court Judge for the First Circuit, to be Associate Justice of the Supreme Court of the United States:	
Opening statement.....	49
Questioning by:	
Chairman Biden.....	53
Senator Thurmond.....	61
Senator Kennedy.....	68
Senator Hatch.....	106
Senator Metzenbaum.....	114
Senator Simpson.....	121
Senator DeConcini.....	127

Prepared Statement

Biden, Chairman Joseph R., Jr.....	5
------------------------------------	---

IV

Materials Submitted for the Record

	Page
Letter from Judge Souter to Ms. Sheri Sweitzer, staff member of Senator Howard M. Metzenbaum, September 5, 1990	23
Brief of David H. Souter, Attorney General, in <i>Helgemoe v. Meloan</i> , January 1978	77

Friday, September 14, 1990

Nominee

Souter, David H., U.S. Circuit Court Judge for the First Circuit, to be Associate Justice of the Supreme Court of the United States:

Questioning by:

Senator Grassley	137
Senator Leahy	145
Senator Specter	153
Senator Heflin	162
Senator Humphrey	170
Senator Simon	179
Senator Kohl	185
Chairman Biden	192
Senator Thurmond	203
Senator Kennedy	211

Monday, September 17, 1990

Nominee

Souter, David H., U.S. Circuit Court Judge for the First Circuit, to be Associate Justice of the Supreme Court of the United States:

Questioning by:

Senator Hatch	223, 270, 311
Senator Metzenbaum	230
Senator Grassley	240
Senator DeConcini	245
Senator Specter	254, 323, 336
Senator Leahy	261, 314
Senator Humphrey	272
Senator Heflin	279, 319
Senator Simpson	286
Senator Simon	292
Senator Kohl	296
Chairman Biden	300, 337
Senator Kennedy	308
Senator Thurmond	332

Witnesses

Panel:

Lancaster, Ralph I., Jr., chairperson, Standing Committee on the Federal Judiciary, American Bar Association	340
Richmond, Alice E., First Circuit Representative, Standing Committee on the Federal Judiciary, American Bar Association	340
Rangel, Jorge, Fifth Circuit Representative, Standing Committee on the Federal Judiciary, American Bar Association	340

Questioning by:

Chairman Biden	348
Senator Heflin	350
Senator Simon	352

Gregg, Hon. Judd, Governor, State of New Hampshire

Questioning by:

Senator Humphrey	358
Senator Heflin	359
Senator Simon	359

Material Submitted for the Record

	Page
Letter from Ralph I. Lancaster, Jr., to Chairman Joseph R. Biden, Jr., regarding the nomination of David H. Souter to be Associate Justice of the Supreme Court, September 14, 1990.....	342

Tuesday, September 18, 1990

Witnesses

Panel:	
Michelman, Kate, executive director, National Abortion Rights Action League	362
Wattleton, Faye, president, Planned Parenthood Federation of America	382
Questioning by:	
Chairman Biden	388, 410
Senator Thurmond	391
Senator Kennedy	394
Senator Simpson	396
Senator DeConcini	400
Senator Grassley	405
Senator Heflin	406
Senator Specter	406
Panel:	
Bell, Hon. Griffin, former Attorney General of the United States	415
Gorton, Hon. Slade, U.S. Senator from the State of Washington	416
Baliles, Hon. Gerald, former Governor and former attorney general from the State of Virginia	417
Diamond, Hon. Jerome, former attorney general, State of Vermont	418
Questioning by:	
Senator Thurmond	420
Senator Heflin	420
Senator Specter	422
Senator Leahy	425
Senator Grassley	426
Panel:	
Hernandez, Antonia, president and general counsel, Mexican-American Legal Defense and Education Fund	430
Rauh, Joseph L., Jr., general counsel, Leadership Conference on Civil Rights	466, 533
Bronk, Joan, president, National Council of Jewish Women	534
Questioning by:	
Chairman Biden	540
Senator Thurmond	541
Senator Kennedy	542
Panel:	
Douglas, Hon. Chuck, U.S. Congressman from the State of New Hampshire	547
Broderick, John, president, New Hampshire Bar Association	548
McAuliffe, Steven J., president-elect, New Hampshire Bar Association	551
Cooper, Deborah, former deputy attorney general, State of New Hampshire	553
Questioning by:	
Chairman Biden	554
Senator Specter	556
Senator Simon	559
Panel:	
Holtzman, Elizabeth, comptroller, city of New York	565
Neuborne, Helen, executive director, NOW Legal Defense and Education Fund, National Organization for Women	569
Allred, Gloria, Los Angeles, CA, accompanied by Norma McCorvey	605
Yard, Molly, president, National Organization for Women	666
Smeal, Eleanor Curti, president, The Fund for the Feminist Majority	684
Questioning by:	
Chairman Biden	700, 716
Senator Hatch	704
Senator Simpson	709
Senator Specter	713

VI

Panel:	Page
Ruiz, Robert I., president, Hispanic National Bar Association	719
Dunfey, William L., director, The Dunfey Group	729
Martin, R. Eden, Sidley & Austin, Chicago, IL	730
Hall, Hon. Sophia H., president, National Association of Women Judges....	732
Coleman, Doris, president, California Women Lawyers	740

Prepared Statements

Wattleton, Faye.....	384
Hernandez, Antonia	433
Bronk, Joan.....	537
Yard, Molly	668
Smeal, Eleanor Cutri.....	686
Ruiz, Robert	722

Materials Submitted for the Record

National Abortion Rights Action League Memorandum, "The Confirmation Hearings of Judge David Souter: The Legal and Political Context"	365
Rauh, Joseph, submitted a number of articles and letters demonstrating racism in the State of New Hampshire.....	467
New Hampshire Bar Association resolution regarding the nomination of David H. Souter to be an Associate Justice of the U.S. Supreme Court	550
NOW Legal Defense and Education Fund Memorandum, "David Hackett Souter, A Women's Rights Analysis, September 4, 1990"	572
<i>Roe v. Wade</i>	608
Chemerinsky, Erwin, "Ideology, Judicial Selection and Judicial Ethics," The Georgetown Journal of Legal Ethics, winter 1989	642
Wermiel, Stephen, and David Shribman, "High Court Nominee Is Conservative but Isn't Seen as an Ideologue," Wall Street Journal.....	665
Martin, R. Eden, "Reflections on the human quality of David Souter," Chicago Tribune, September 18, 1990	730
National Association of Women Judges memorandum regarding the nomination of David H. Souter to be an Associate Justice of the U.S. Supreme Court.....	734

Wednesday, September 19, 1990

Witnesses

Panel:	
Williams, Wesley S., Jr., Covington & Burling, Washington, DC.....	749
Beck, Robert L., immediate past chairman of the board and chief executive officer, Mothers Against Drunk Driving.....	756
Barr, Robert L., Jr., president, Southeastern Legal Foundation, Inc.....	764
Questioning by:	
Chairman Biden.....	755
Senator Thurmond	771
Senator Kennedy	772
Senator DeConcini.....	773
Senator Specter.....	774
Senator Grassley.....	777
Panel:	
Burns, Haywood, immediate past president, The National Lawyers Guild..	777
Ryder, Christopher F.D., member, advisory board, Supreme Court Watch..	783
Ettelbrick, Paula L., legal director, Lambda Legal Defense and Education Fund	803
Vaid, Urvashi, executive director, National Gay and Lesbian Task Force...	811
Rios, Sara E., staff attorney, Center for Constitutional Rights.....	817
Questioning by:	
Senator Kennedy	842
Senator Simon	845
Senator Specter.....	847
Chairman Biden.....	850
Panel:	
Mosca, Edmund, chairman, legislative committee, International Association of Chiefs of Police.....	857

VII

Panel—Continued	Page
Rice, Bob E., Polk County Sheriff's Department, Des Moines, IO, and president, National Sheriffs' Association.....	864
Hughes, Johnny L., director, legislation and congressional affairs, National Troopers Coalition, accompanied by James J. Doyle.....	869
Stokes, Dewey R., president, Fraternal Order of Police.....	877
Questioning by:	
Senator Thurmond.....	885
Chairman Biden.....	886
Phillips, Howard, chairman, The Conservative Caucus, Inc.....	890
Questioning by:	
Chairman Biden.....	893
Senator Specter.....	895
Senator Humphrey.....	898

Closing Statement

Biden, Chairman Joseph R., Jr.....	907
------------------------------------	-----

Prepared Statements

Williams, Wesley S., Jr.....	752
Beck, Robert L.....	759
Barr, Robert L.....	766
Burns, Haywood.....	781
Ryder, Christopher F.D.....	786
Ettlebrick, Paula L.....	806
Vaid, Urvashi.....	814
Rios, Sara E.....	837
Mosca, Edmund.....	859
Rice, Bob.....	866
Hughes, Johnny L.....	871
Stokes, Dewey R.....	880
Phillips, Howard.....	902

Additional Materials Submitted for the Record

The Campaign for a Just Supreme Court, "Why Not the Best? David Souter Fails to Meet Minimal Standard for the Supreme Court".....	818
---	-----

WRITTEN QUESTIONS SUBMITTED BY SENATE MEMBERS AND JUDGE SOUTER'S RESPONSES

Questions submitted by Senator Levin, with Judge Souter's answers.....	909
--	-----

ADDITIONAL SUBMISSIONS FOR THE RECORD

Alliance for Justice:	
Statement.....	1037
Brown, Frank:	
Statement.....	916
Coalition for America:	
Statement of Thomas L. Jipping.....	1067
Citizens for God and Country:	
Statement of Anne Neamon, national coordinator.....	992
Denman, Nathaniel:	
Statement.....	919
Grano, Joseph:	
Statement.....	924
International Narcotic Enforcement Officers Association:	
Statement of John J. Bellizzi, executive director.....	913
Jones, Michael E.:	
Letter to Senate Judiciary Committee.....	961
Machado, Barbara Jean:	
Statement.....	971
Minnick, John B.:	
Statement.....	979
National Association of Criminal Defense Lawyers:	
Statement.....	1101

VIII

National Abortion Rights Action League:	Page
Statement of Dawn Johnsen, legal director	1112
National Women's Law Center:	
Statement	1116
Nicholson, Shelley:	
Statement	999
Pollitt, Daniel H., professor of law, University of North Carolina at Chapel Hill:	
Statement	1001
Smith, Arlene:	
Statement	1021
Society of American Law Teachers:	
Statement	1172
Women's Legal Defense Fund:	
Report on Judge David Souter's record	1175
Women's Legal Defense Fund:	
Statement of Judith L. Lichtman	962

**ALPHABETICAL INDEX OF WITNESSES, QUESTIONING, AND MATERIALS
SUBMITTED FOR THE RECORD**

Alliance For Justice:	
Statement	1037
Allred, Gloria:	
Testimony	605
Baliles, Hon. Gerald:	
Testimony	417
Barr, Robert L., Jr.:	
Prepared statement	766
Testimony	764
Beck, Robert L.:	
Prepared statement	759
Testimony	756
Bell, Hon. Griffin:	
Testimony	415
Biden, Chairman Joseph R., Jr.:	
Opening statement	1
Prepared statement	5
Closing statement	907
Questioning of:	
Judge Souter	53, 192, 300, 337
Panel of Ralph I. Lancaster, Jr., Alice E. Richmond, and Jorge Rangel	340
Panel of Kate Michelman and Faye Wattleton	388, 410
Panel of Antonia Hernandez, Joseph L. Rauh, and Joan Bronk	540
Panel of Chuck Douglas, John Broderick, Steven J. McAuliffe and Deborah Cooper	554
Panel of Elizabeth Holtzman, Helen Neuborne, Gloria Allred, Molly Yard, and Eleanor Curti Smeal	700, 716
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.	755
Panel of Haywood Burns, Christopher F.D. Ryder, Paula L. Ettelbrick, Urvashi Vaid, and Sara E. Rios	850
Panel of Edmund Mosca, Bob E. Rice, Johnny L. Hughes, and Dewey R. Stokes	886
Howard Phillips	893
Broderick, John:	
Testimony	548
Bronk, Joan:	
Prepared statement	537
Testimony	534
Brown, Frank:	
Statement	916
Burns, Haywood:	
Prepared statement	781
Testimony	777
Campaign for a Just Supreme Court:	
Article, "Why Not the Best? David Souter Fails to Meet Minimal Standard for the Supreme Court"	818

IX

	Page
Chemerinsky, Erwin:	
Article, "Ideology, Judicial Selection and Judicial Ethics," The Georgetown Journal of Legal Ethics, winter 1989.....	642
Citizens for God and Country:	
Statement of Anne Neamon, national coordinator.....	992
Coalitions for America:	
Statement of Thomas L. Jipping.....	1067
Coleman, Doris:	
Testimony.....	740
Cooper, Deborah:	
Testimony.....	553
DeConcini, Hon. Dennis:	
Opening statement.....	28
Questioning of:	
Judge Souter.....	127, 245
Panel of Kate Michelman and Faye Wattleton.....	400
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.....	773
Denman, Nathaniel:	
Statement.....	919
Diamond, Hon. Jerome:	
Testimony.....	418
Douglas, Hon. Chuck:	
Testimony.....	547
Dunfey, William L.:	
Testimony.....	729
Ettlebrick, Paula L.:	
Prepared statement.....	806
Testimony.....	803
Gorton, Hon. Slade:	
Testimony.....	416
Grano, Joseph:	
Statement.....	924
Grassley, Hon. Charles E.:	
Opening statement.....	30
Questioning of:	
Judge Souter.....	137, 240
Panel of Kate Michelman and Faye Wattleton.....	405
Panel of Griffin Bell, Slade Gorton, Gerald Baliles, and Jerome Diamond.....	426
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.....	777
Hatch, Hon. Orrin G.:	
Opening statement.....	17
Questioning of:	
Judge Souter.....	106, 223, 270, 311
Panel of Elizabeth Holtzman, Helen Neuborne, Gloria Allred, Molly Yard, and Eleanor Curti Smeal.....	704
Heflin, Hon. Howell:	
Opening statement.....	37
Questioning of:	
Judge Souter.....	162, 279, 319
Panel of Ralph I. Lancaster, Jr., Alice E. Richmond, and Jorge Rangel.....	350
Governor Judd Gregg.....	359
Panel of Kate Michelman and Faye Wattleton.....	406
Panel of Griffin Bell, Slade Gorton, Gerald Baliles, and Jerome Diamond.....	420
Hernandez, Antonia:	
Prepared statement.....	433
Testimony.....	430
Gregg, Hon. Judd:	
Testimony.....	355
Hall, Hon. Sophia H.:	
Testimony.....	732
Holtzman, Elizabeth:	
Testimony.....	565

	Page
Hughes, Johnny L.:	
Prepared statement	871
Testimony	869
Humphrey, Hon. Gordon J.:	
Opening statement	43
Questioning of:	
Judge Souter	170, 272
Governor Judd Gregg	358
Howard Phillips	898
International Narcotic Enforcement Officers Association:	
Statement of John L. Bellizzi, executive director	913
Jones, Michael:	
Letter to Senate Judiciary Committee	961
Kennedy, Hon. Edward M.:	
Opening statement	15
Questioning of:	
Judge Souter	68, 211, 308
Panel of Kate Michelman and Faye Wattleton	394
Panel of Antonia Hernandez, Joseph I. Rauh, Jr., and Joan Bronk	542
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.	772
Panel of Haywood Burns, Christopher F.D. Ryder, Paula L. Ettelbrick, Urvashi Vaid, and Sara E. Rios	842
Kohl, Hon. Herbert:	
Opening statement	40
Questioning of:	
Judge Souter	185, 296
Lancaster, Ralph I., Jr.:	
Letter to Chairman Biden, September 14, 1990	342
Testimony	340
Leahy, Hon. Patrick J.:	
Opening statement	33
Questioning of:	
Judge Souter	145, 261, 314
Panel of Griffin Bell, Slade Gorton, Gerald Baliles, and Jerome Diamond	425
Machado, Barbara Jean:	
Statement	971
Martin, R. Eden:	
Article, "Reflections on the human quality of David Souter," Chicago Tribune, September 18, 1990	731
Testimony	730
McAuliffe, Steven J.:	
Testimony	551
Metzenbaum, Hon. Howard M.:	
Opening statement	20
Questioning of:	
Judge Souter	114, 2305
Michelman, Kate:	
Testimony	362
Minnick, John B.:	
Statement	979
Mosca, Edmund:	
Prepared statement	857
Testimony	859
National Abortion, Rights Action League:	
Memorandum, "The Confirmation Hearings of Judge David Souter: The Legal and Political Context"	365
Statement of Dawn Johnson, legal director	1112
National Association of Criminal Defense Lawyers:	
Statement	1101
National Association of Women Judges:	
Memorandum	734
National Women's Law Center:	
Statement	1116
Neuborne, Helen:	
Testimony	569

	Page
New Hampshire Bar Association:	
Resolution	550
NOW Legal Defense and Education Fund:	
Memorandum, "David Hackett Souter, A Women's Rights Analysis, Sep- tember 4, 1990"	572
Nicholson, Shelley:	
Statement	999
Pollitt, Daniel H.:	
Statement	1001
Phillips, Howard:	
Prepared statement	902
Testimony	890
Rangel, Jorge:	
Testimony	340
Rauh, Joseph L., Jr.:	
Testimony	466, 533
Submitted a number of articles and letters demonstrating racism in the State of New Hampshire	467
Rice, Bob E.:	
Prepared statement	866
Testimony	864
Richmond, Alice E.:	
Testimony	340
Rios, Sara E.:	
Prepared statement	837
Testimony	817
<i>Roe v. Wade</i>	608
Rudman, Hon. Warren B.:	
Testimony	46
Ruiz, Robert I.:	
Prepared statement	722
Testimony	719
Ryder, Christopher F.D.:	
Prepared statement	786
Testimony	783
Simon, Hon. Paul:	
Opening statement	39
Questioning of:	
Judge Souter	179, 292
Panel of Ralph I. Lancaster, Jr., Alice E. Richmond, and Jorge Rangel	352
Governor Judd Gregg	359
Panel of Chuck Douglas, John Broderick, Steven J. McAuliffe, and Deborah Cooper	559
Panel of Haywood Burns, Christopher F.D. Ryder, Paula L. Ettel- brick, Urvashi Vaid, and Sara E. Rios	845
Simpson, Hon. Alan K.:	
Opening statement	25
Questioning of:	
Judge Souter	121, 286
Panel of Kate Michelman and Faye Wattleton	396
Panel of Elizabeth Holtzman, Helen Neuborne, Gloria Allred, Molly Yard, and Eleanor Curti Smeal	709
Smeal, Eleanor Curti:	
Prepared statement	686
Testimony	684
Smith, Arlene:	
Statement	1021
Society of American Law Teachers:	
Statement	1172
Souter, Judge David H.:	
Opening statement	49
Testimony	53
Letter to Sheri Sweitzer, staff member of Senator Howard M. Metz- enbaum, September 5, 1990	23
Brief, <i>Helgemoe v. Meloan</i> , January 1978	77
Answers to questions submitted by Senator Levin	909

XII

	Page
Specter, Hon. Arlen:	
Opening statement.....	35
Questioning of:	
Judge Souter.....	153, 254, 323, 336
Panel of Kate Michelman and Faye Wattleton.....	406
Panel of Griffin Bell, Slade Gorton, Gerald Baliles, and Jerome Diamond.....	422
Panel of Chuck Douglas, John Broderick, Steven J. McAuliffe, and Deborah Cooper.....	556
Panel of Elizabeth Holtzman, Helen Neuborne, Gloria Allred, Molly Yard, and Eleanor Curti Smeal.....	713
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.....	774
Panel of Haywood Burns, Christopher F.D. Ryder, Paula L. Ettelbrick, Urvashi Vaid, and Sara E. Rios.....	847
Howard Phillips.....	895
Stokes, Dewey R.:	
Prepared statement.....	880
Testimony.....	877
Thurmond, Hon. Strom:	
Opening statement.....	12
Questioning of:	
Judge Souter.....	61, 203, 332
Panel of Kate Michelman and Faye Wattleton.....	391
Panel of Griffin Bell, Slade Gorton, Gerald Baliles, and Jerome Diamond.....	420
Panel of Antonia Hernandez, Joseph L. Rauh, and Joan Bronk.....	541
Panel of Wesley S. Williams, Jr., Robert L. Beck, and Robert L. Barr, Jr.....	771
Panel of Edmund Mosca, Bob E. Rice, Johnny L. Hughes, and Dewey R. Stokes.....	885
Vaid, Urvashi:	
Prepared statement.....	814
Testimony.....	811
Wattleton, Faye:	
Prepared statement.....	384
Testimony.....	382
Wermiel, Stephen, and David Shribman:	
Article, "High Court Nominee Is Conservative but Isn't Seen as an Ideologue," Wall Street Journal.....	665
Williams, Wesley S., Jr.:	
Prepared statement.....	752
Testimony.....	749
Women's Legal Defense Fund:	
Report on Judge David H. Souter's record.....	1175
Statement of Judith L. Lichtman.....	962
Yard, Molly:	
Prepared statement.....	668
Testimony.....	666