

# A Small Affidavit with Big Implications

by

**John W. Gofman, M.D., Ph.D.**

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*"Crime does not pay at your level."*

**Committee for Nuclear Responsibility, Inc.**

P.O.B. 11207, San Francisco, California 94101

# A Small Affidavit with Big Implications

This brief affidavit was written on behalf of some members of the non-violent Trojan Decommissioning Alliance who were arrested in November, 1977, for trying to shut down the Trojan nuclear power plant by blocking access to it. They were charged with criminal trespass.

The defendants, with the aid of the Community Law Project in Portland, tried to invoke Oregon's "choice of evils" law (whose text is provided on page 4). However, the judge did not permit them to do so, and on June 30, 1978, they were found guilty.

The logic of the attached affidavit may be widely useful, nevertheless, in helping to show the PUBLIC that acceptance of nuclear power (and certain other polluting activities) is also the acceptance of premeditated random murder as a legitimate policy of modern "civilization".

The moral depravity of such a policy, and the duty to try reversing it, should be self-evident to all who agree that people have at least the inalienable right to life, to freedom from premeditated physical abuse. An effective tool to prevent murder-by-pollution might well be insistence that the Nuremberg principles be applied in our own country, both to those who commit the crime and to those who try to prevent the crime. (Please see page 4).



AFFIDAVIT OF DR. JOHN W. GOFMAN

STATE OF OREGON )  
COLUMBIA COUNTY ) ss.

DR. JOHN W. GOFMAN, being duly sworn , deposes and says:

I am professor emeritus of medical physics in the University of California, Berkeley. I became a full professor there in 1954, and retained that status until taking the emeritus status. I have served as Associate Director of the Lawrence Livermore (Radiation) Laboratory from 1963 through 1969. I organized the Biomedical Program and Department there, with the mission of studying the effects on man and the remainder of the biosphere from all types of nuclear energy activities. I served as the Chairman of that Department during its initial two years.

I hold the Ph.D. degree in Nuclear Physical Chemistry from the University of California at Berkeley, awarded for my dissertation on the discovery of  $U^{232}$ ,  $U^{233}$ ,  $Pa^{232}$ , and  $Pa^{233}$ , and for the discovery of the fissionability of  $U^{233}$  with slow and fast neutrons. It is this last discovery that makes  $U^{233}$  available for use in nuclear power plants and for use in nuclear weapons.

I also hold the M.D. degree from the University of California in San Francisco, California. I interned there in Internal Medicine.

I have taught in the field of biological effects of radiation and the application of artificial radioisotopes in medicine and biology, as well as having taught graduate courses in biological effects of radiation in cancer production as well as courses in the mechanism of cancer production.

I served as physician to the Aerojet General Nucleonics Corporation, a company manufacturing nuclear reactors and fuel elements, a position for which I was selected because of my background in nuclear energy and its medical effects.

A detailed biography is attached as Exhibit 1.

As a result of my education and research in relevant areas, I feel qualified to make the statements which follow in this affidavit.

If called upon to testify in the trial of the Trojan Decommissioning Alliance defendants, I would testify as follows:

I have carefully examined the performance of the regulatory processes in nuclear energy and conclude that these processes do not work and do not provide any protection to the public from injury by nuclear energy.

It is my opinion that the operation of the Trojan Nuclear Power Plant or any other nuclear power plant creates an immediate hazard to members of the public as a direct result of its creation of artificial radionuclides, such nuclides creating the hazard of cancer, leukemia, and genetic injury to the public.

It is a fallacy to think that an accident is required to create the hazard. The hazard is created the moment the radionuclides are generated in the nuclear power plant. This is so for the following reasons, my reasons being extensively supported in the research papers appended as Exhibits 2, 3, 4, 5, 6, and 7 .

Reason 1: There is no such thing as a safe dose of radiation with respect to cancer, leukemia, or genetic mutation injury .

Reason 2: All authoritative bodies have held that we must operate on the basis that there will be such injuries in proportion to accumulated dose of radiation down to the lowest doses.

Reason 3: It is not credible that the entire nuclear fuel cycle can ever contain the radionuclides perfectly, with or without accidents . Indeed such nuclides are released during so-called normal operation. Therefore, it follows that injury to humans is guaranteed the moment the plant starts to operate and to create the radionuclides.

Reason 4: The workers in the nuclear power plants receive a dose that will provoke genetic injury, and because of intermarriage with non-workers, this will result in the genetic degradation of the population-at-large, one of the most serious of all types of human injury. Since the workers start receiving this dose the moment the plant operates, the injury is, in effect , established the moment the plant starts to operate.

Reason 5: There has been gross public deception and public misunderstanding concerning the so-called " permissible" or "tolerance" dose of radiation. The public has been misled into believing that such doses are without medical effect, when in truth such "permissible " doses represent nothing other than a legalized permit to commit random murder upon members of the population.

Reason 6: Even though the injury manifests itself after periods measured in years, the actual injury is done to the genetic materials, namely, genes and chromosomes, immediately upon radiation. Thus, it would be totally false to assume there is no immediate injury involved. The injury is immediate, is a danger now, even though visibly manifest at a later time.

Reason 7: It is only the simplest of logic that is required to demonstrate that the essence of protection of one's health and life and those of his or her children ( and their children) must necessarily

Reason 7(cont'd)

reside in prevention of production of the radionuclides, since, once produced, these radionuclides will guarantee the human injury and deaths. The only way to prevent the production of the radionuclides is not to have nuclear power plants operate.

Reason 8: It may be inappropriately assumed that the operation of a nuclear power plant is not an "immediate" threat to health and life. For the reasons outlined above, the threat is immediate. A simple, and highly relevant, analogy is provided in the occurrence of a fire. We do not consider it rational for one to wait to try to put out a fire simply because the flames have not started to burn our clothing or our skin. Also, we do not consider fire-fighters to be destroying property when they must hack away at furniture and other property objects and real estate in the effort to control the blaze. Properly in a fire we consider the threat immediate no matter how far the flames have spread at a given moment, and we take action on this basis. The situation is no different for a nuclear power plant. Prevention of the injury and death of members of the public from the operation of a nuclear power plant is a public service. I am aware of no instance in the civilian economy where we take it as a premise that injury and murder of members of the public is to be regarded as a beneficent act.

Reason 9: Since the regulatory processes do not work to protect the public, and since the regulatory authorities continue to grant licenses for the random murder of members of the public through the licensing of nuclear power plants, it is abundantly clear that the public can count upon no protection against victimization through the regulatory process.

The extended support of the reasons listed above is presented in the exhibits listed above . .

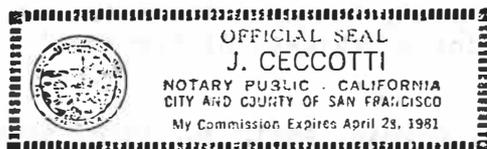
Dated June 5, 1978.

*John W. Gofman, M.D., Ph.D.*  
JOHN W. GOFMAN, M.D., Ph.D.

Subscribed and sworn to before me  
this 5 day of June, 1978, in San Francisco, California .

*Peccotti*

Notary Public in San Francisco, San Francisco County, State of California



Below is the text of Oregon's "choice of evils" law:

161.200 Choice of Evils (1) Unless inconsistent with other provisions of Chapter 743, Oregon Laws 1971, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when:

(a) That conduct is necessary as an emergency measure to avoid an imminent public or private injury; and

(b) The threatened injury is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue.

(2) The necessity and justifiability of conduct under subsection (1) of this section shall not rest upon consideration pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder.

Below are some of the declarations of the Nuremberg Tribunal:

---"Murder, extermination...or other inhuman acts done against any civilian population" constitute a crime against humanity;

---"Crimes against international law are committed by men, not by abstract entities";

---a superior order "does not relieve a person from responsibility under international law, provided a moral choice was in fact possible to him";

---"Individuals have international duties which transcend the national obligations of obedience imposed by the individual state."

(NOTE: Part 2 of the Oregon law appears to deny that disobedience is ever permissible on "only" moral grounds, and falls far short of incorporating the Nuremberg principles).

Below are some thoughts about the Nuremberg principles:

"The anti-nuclear movement could become the driving force in spreading the Nuremberg principles throughout the land---namely, that people will be held personally responsible for what they do to other humans. We tried the Nazis for crimes against humanity, even though many claimed that they were just following orders. We held them personally responsible for their acts...

"If the Nuremberg principles were applied in our courtrooms, it would mean that those who refuse to stand by 'like good Germans' while random murder by radiation is planned---indeed, who refuse to be accomplices in this program via their taxes---these defendants would be tried before juries who would have the right to rule that such defendants were not breaking the law, because they were obeying a higher law.

"In my opinion, the anti-nuclear movement would have an impact far far beyond the nuclear power issue if it would insist that the Nuremberg principles be applied throughout the land. Until that happens, what restraint is there on greater and greater government-licensed abominations? Until the Nuremberg principles are established in this land, laws can force us to violate our deepest religious or ethical beliefs---making a travesty of freedom."

---John W. Gofman, April 30, 1978, at the Barnwell rally