

# Memorandum



Subject

Meeting on Intercircuit Court Proposal

Date

November 18, 1982

To Kenneth W. Starr

From

John Roberts *JR*

At this morning's meeting on the intercircuit court proposal, attended by Ed Schmults, Jon Rose, Paul McGrath, Glen Archer, Bruce Fein, and myself, it was agreed that the Department should not support the proposal. The Department is already supporting several proposals to ease the High Court's workload, such as abolition of mandatory jurisdiction, and has -- through the person of the Attorney General himself -- addressed the underlying jurisprudential causes of the increase in workload. Both Paul and Glen pointed out problems with the proposal, including that it would increase the workload by presenting the Justices with an additional decision on each petition (whether or not to refer the case). There was also general unease about supporting a proposal whereby the composition of a new layer of judicial review was determined not by the President -- as with the other layers -- but by the Chief Justice. It was the general view that Congress would never agree to such a scheme.

The meeting participants did agree that the Department should support the proposal -- also supported by the Chief -- to establish a commission to review current judicial problems, from workload to salary. The Deputy felt this would deflect any criticism for not supporting outright the intercircuit court proposal.

If you have objections to this outcome -- or if you think the Attorney General might -- they should be raised soon.