

Memorandum



Subject		Date	
Internal History of Supreme Court Appointment		September 17, 1981	
To	Kenneth W. Starr Counselor to the Attorney General	From	John Roberts W Special Assistant to the Attorney General

My involvement in the Judge O'Connor appointment process began my first day on the job, August 10. I started in on the process of preparing draft answers to questions that were likely to be asked during the confirmation hearings. The approach was to avoid giving specific responses to any direct questions on legal issues likely to come before the Court, but demonstrating in the response a firm command of the subject area and awareness of the relevant precedents and arguments. The preparation of such questions and answers remained a steady job for all concerned right up to the day before the hearings began.

A significant part of the process involved reading through past confirmation hearings, which I began to do sometime during the week of August 17. I covered the hearings of the Chief Justice and Justices Stevens, Harlan, Stewart, and, with your help, Blackmun. A topic outline of the more recent hearings (Chief Justice, Blackmun, Stevens) was prepared to identify the major areas of questioning and pet projects and concerns of Judiciary Committee members. A complete digest of significant questions and particularly good answers was also compiled. During the week before the hearings I read Judge O'Connor's extrajudicial writings (two articles) and used them as a source for further questions and answers.

In addition to the Q&A project, I also helped in preparing several written submissions to the Committee. I drafted the reply to the questionnaire item on judicial activism, and researched past hearings for that portion of the letter to Senator Helms concerning the practice of past nominees in not commenting on recent decisions. I later drafted the Judge's reply to Helms' second letter.

I participated in the two "moot court" sessions with Judge O'Connor held here prior to the hearings, primarily asking questions based on past hearings.