

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

July 2, 1990

(601) 353-0911

CHARLES CLARK
CHIEF JUDGE
245 EAST CAPITOL STREET, ROOM 302
JACKSON, MISSISSIPPI 39201

The Hon. John F. Gerry
Chief Judge
United States District Court
United States Court House
Camden, New Jersey 98101-0588

Dear Chief Judge Gerry:

Thank you for your thoughtful letter of June 29. I have distributed copies to the members of the Executive Committee. We endeavored to present the consensus response we perceived. "Oppose" was softened to "cannot support." That position resulted from the amended bill's continued mandate and its overall posture of rejecting the regular rules-making process. Copies of Judge Peckham's statement and testimony on June 26 should be available soon. Your further comments would be welcome. Unfortunately, the hearing deteriorated into an attack by Chairman Biden on the judiciary as a whole because of what he perceived as personal slurs on his actions in creating new judgeships in Title II.

Sincerely,



cc: Members of the Executive Committee

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
UNITED STATES COURT HOUSE
CAMDEN, NEW JERSEY 08101-0588

CHAMBERS OF
JOHN F. GERRY
CHIEF JUDGE

June 29, 1990

Hon. Charles Clark
Chief Judge, U. S. Court of Appeals
245 East Capitol Street, Room 302
Jackson, Mississippi 39201

Dear Chief Judge Clark:

I have just learned that the Executive Committee has chosen to oppose the amended Biden bill which many of us believed to be the result of very productive and extended negotiations between the Committee and Senator Biden's staff. I am informed that very recent testimony by Committee members before the Senate Judiciary Committee indicated that federal judges strongly disfavor the amended bill.

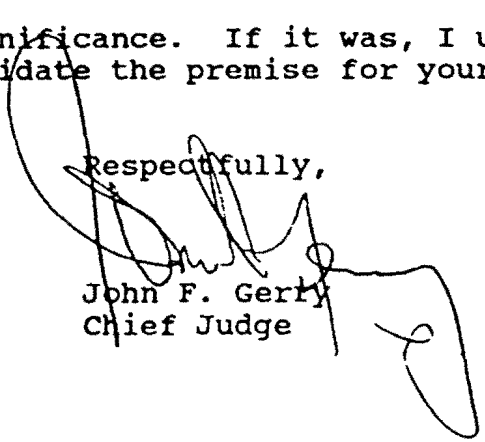
I have no sure way of knowing, but I have a strong belief that that is not so. While the chief district judges with whom I spoke may be less than an adequate sample and may have expressed unrepresentative sentiments, as Chairman of the Conference of Chief District Judges of the United States, I attempted to speak to as many of them as I could at our recent conference in Rancho Mirage. I have just learned that my good friend Aubrey Robinson had a different impression. With but a single exception, the chief district judges with whom I spoke were pleasantly surprised at the improvements that the amended bill had achieved and felt it quite livable. The opposition of the New Jersey federal bench to the Biden bill had been widely publicized, particularly due to the use of New Jersey state courts as a pilot program for DCM. I can report that the judges of the U. S. District Court for the District of New Jersey have responded favorably to the amended bill and has authorized me to represent that they do not join in the opposition to its passage.

We are very grateful for the continuing efforts of you and your Committee and Judge Peckham's Subcommittee on our behalf. We can imagine how difficult and exhausting this challenge has been to each of you, and it is not our intention to make your distinguished service more difficult or to undermine institutional policy. It is for that principal reason that I write this "inside-the-family" letter to you as Chairman of the Executive Committee and one for whom differing voices have a common respect.

If the opposition of your Committee was not driven by the premise that a majority of federal judges oppose this amended

bill, this letter has no significance. If it was, I urge you to reconsider or attempt to validate the premise for your opposition.

Respectfully,


John F. Gerly
Chief Judge

JFG/jem

cc: Chief Judge Aubrey E. Robinson, Jr.
U. S. District Court
3rd & Constitution Avenue, N.W.
U. S. Court House
Washington, D.C. 20001
