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Introduction to the Judicial Symposium

Deborah L. Cook

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I am pleased to introduce this Judicial Symposium issue of the *Akron Law Review*. Having twice been elected to Ohio's Supreme Court, and also having survived the federal judicial-selection process, my "battle scars" alone might qualify me to comment on the Symposium's broad topic—judicial selection. But my status as an alumna together with my office's proximity—almost within wireless range of the law school—probably played a larger role than experience and perspective in securing this assignment.

The submissions published here pertain to the foundation of the rule of law—public confidence in courts. Each contributor to the Symposium acknowledges the fundamental ideals of any elective or appointive judicial-selection schema—impartiality, accountability and independence. And all four acknowledge the burdening of these ideals by public perceptions regarding election fundraising, political advertising, campaign activities, political and interest groups' pervasive roles, and elitism of appointing authorities.

I. AUTHORS

A. Chief Justice Thomas J. Moyer

The Symposium benefits from the perspective of my former colleague, Chief Justice Thomas Moyer whose work in behalf of judicial election reform is nationally known. It was, unfortunately, an Ohio Supreme Court election in 2000 (not mine) that garnered national attention for its vituperative tone, the intense participation of interest groups, and unprecedented expenditures. As a result, the Chief Justice,

Judge Cook was appointed by President George W. Bush to the United States Court of Appeals for the Sixth Circuit in 2003. Her prior judicial experience includes eight years as a Justice of the Ohio Supreme Court and four years serving on Ohio's Ninth District Court of Appeals. Before moving to the judiciary, she was a partner in Akron's Roderick Linton law firm.

already an advocate of election reform, intensified his efforts. His essay presents the culmination of the reform-centered work of the ABA-convened Commission on the 21st Century Judiciary in which he played a role.

B. Nancy Marion, Rick Farmer and Todd Moore (Bliss Institute)

The extensive study by the Bliss Institute of the financing of Ohio Supreme Court elections during the decade from 1992 to 2002 benefits the Symposium discussion because it questions the validity of certain preconceptions driving judicial reform agendas. The researchers combed and collated candidates' contributions reports in an effort to assess the effect of money on election results and whether the sources, amounts, (or proportionate amount) statistically substantiate certain oft-predicted pernicious results. Readers will find the conclusions interesting—critics may be overstating the case for reform. This study's data failed to support key preconceptions that animate certain reform agendas, including the ABA Commission reforms discussed by Chief Justice Moyer.

C. Phyllis Williams Kotey

Professor Kotey's well-researched paper examines the nation's history of selecting state judges. She notes recent national trends in elective versus appointive methods and, in assessing each—with its benefits and, invariably, its corresponding deficiencies—Professor Kotey's work leads her to make the case for reforms to the publicly-financed, elective methods. And to address certain oft-cited criticisms of publicly-financed judicial selection, Professor Kotey goes on to present some well-considered corrective measures she suggests be implemented in conjunction with publicly-financed judicial elections.

D. Rachel Paine Caufield

Professor Rachel Paine Caufield explores another key facet of the reform debate, the lessening of restraints on campaign speech wrought by *Republican Party of Minnesota v White,* 536 U.S. 765 (2002). She offers the reader historical context first, then predicted consequences, states' responses, and concludes with a summary of how states are attempting to balance democratic accountability with judicial independence in the aftermath of *White.*

II. CONCLUSION

I congratulate the *Akron Law Review*—this issue will add to worthwhile conversation around our nation on the subject. Judicial selection methods that are largely indistinguishable from those for state auditor or governor counsel reform. The precepts central to that debate are thoughtfully considered here.