

# KEYNOTE ADDRESS

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## ELECTION OF STATE APPELLATE JUDGES AND LEGISLATIVE REFORM

The author is a member of the Oregon State Supreme Court Justices.  
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<sup>1</sup> It also of Oregon ballot measures in November 2002,  
and the author is a member of the Oregon State Supreme Court Justices.  
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<sup>2</sup> from my

political

today, in the most derogatory sense of the word.

A keynote speaker can only set the stage; raise questions, propose premises, and identify trends that are worrisome. Perhaps my role, then, is reminiscent of former German scientist Wernher von Braun, who is said to have remarked: "Once the rockets are up, who cares where they come down? That's not my department."<sup>3</sup> But in this case, I *do* care where the missiles land and, to anticipate just a bit, I suggest some targets, both intended and unintended.

I did vote in 1977 for legislative referral of a measure that was broadly characterized as a Missouri Plan for Oregon.<sup>4</sup> It was soundly defeated in the 1978 general election,<sup>5</sup> but I

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<sup>1</sup>. Republican Party of Minnesota v. White, 536 U.S. 765 (2002).

<sup>2</sup>. See OFFICIAL 2002 GENERAL ELECTION ONLINE V

stand by the reasons that persuaded me to vote for referral at the time. Moreover, I have grown to believe that the general direction set by the 1962 Oregon Commission for Constitutional Revision<sup>6</sup>—ill-fated because its proposals failed to gain referral to the people by one vote in the legislature—was nonetheless a wise course. It urged a carefully devised appointive system for appellate judges in Oregon. It had a muscular system of accountability built into it. That's one possible historical point of departure for today's symposium. But the reason that I come to this symposium with a particular energy and sense of urgency really begins with this story.

limits on the manner by which judicial candidates can engage in personal fundraising activity.<sup>8</sup>

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<sup>8</sup>. *See generally* In re Fadeley, 802 P.2d 31 (Or. 1990).