



## Introduction

*John B. Oakley\**

Like the tectonic plates that form the surface of our planet, the distinct executive, legislative, and judicial branches of our constitutional system are not wholly separate. They necessarily intersect at their margins, and this can produce great eruptions and upheavals. One of the most active fault lines in recent constitutional politics has been the process of recruiting, nominating, and confirming candidates for lifetime service as federal judges.

The papers that follow are based on the panelists' presentations at the U.C. Davis Law Review's Symposium on Federal Judicial Selection in the New Millennium, held at King Hall on April 5, 2002. The landscape they addressed has, of course, been substantially altered by the congressional election held exactly seven months later, but the issues discussed in this symposium remain very much at play in contemporary dialog about politics and public affairs. Notwithstanding his party's success in gaining control of the Senate, President Bush lacks total freedom of action. Both houses of Congress remain narrowly divided, and contentious confirmation hearings might well draw on resources that the President needs to accomplish other priorities of his administration. We can expect federal judicial selection to remain an ideologically divisive issue, and occasionally one in which the major

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parties lock horns, draw blood, and one side or the other prevails after much rancor by the slimmest of margins.

The symposium brought together a distinguished group of panelists to address how federal judicial selection does and ought to proceed in these enduring circumstances of ideological controversy, political visibility, and high public awareness.

Our introductory speaker, Elliot Slotnick, is professor of politics in the Department of Political Science and an associate dean of the graduate school at the Ohio State University. His research and teaching interests include the federal courts and judicial recruitment. He has written and spoken extensively on the politics of federal judicial selection from both contemporary and historical perspectives.

I will introduce the panelists in alphabetical order. Theresa M. Beiner is an Associate Professor of Law at the William H. Bowen School of Law at the University of Arkansas at Little Rock. Professor Beiner previously served as a law clerk for Judge John F. Grady of the United States District Court for the Northern District of Illinois, and was engaged in private practice in San Francisco before joining the academy. Her teaching and scholarship focuses on employment discrimination law and the interaction between civil procedure and civil rights.

Erwin Chemerinsky is the Sydney M. Irmas Professor of Public Interest Law, Legal Ethics and Political Science and Academic Director, Center for Communications Law and Policy at the University of Southern California. Professor Chemerinsky focuses on constitutional law and civil rights and teaches Constitutional Law, Federal Courts, Civil Procedure, Legal Profession, and Administrative Law. He has testified before the Senate Judiciary Committee and is a lecturer at the Federal Judicial Center, the National Judicial College, the Center for Civic Education, and the Constitutional Rights Foundation. Professor Chemerinsky is the author of many books and articles, including leading texts on Constitutional Law and Federal Jurisdiction.

John C. Eastman is an Associate Professor of Law and Director of the Center for Constitutional Jurisprudence at Chapman University. Professor Eastman previously served as a law clerk for Justice Clarence Thomas at the Supreme Court of the United States and for Judge J. Michael Luttig at the United States Court of Appeals for the Fourth Circuit. Professor Eastman was the Director of Congressional and Public Affairs at the United States Commission on Civil Rights during the Reagan Administration and was the 1990 Republican Nominee for Congress in California's 34th District. He teaches in the areas of Constitutional Law, Civil Procedure, and Federal Courts. Professor

Eastman has testified before the Senate Judiciary Committee and is a frequent contributor to symposia as well as print and broadcast news outlets on constitutional law.

Michael Gerhardt is the Arthur B. Hanson Professor of Law at William & Mary Law School. He currently teaches a seminar on the Congress and the Presidency as well as Constitutional Law and Federal Courts. Professor Gerhardt was previously the Dean of Case Western Reserve School of Law. He has written numerous books and articles on the relationship between the executive and legislative branches and other aspects of constitutional law.

Sheldon Goldman is a Professor of Political Science at the University of Massachusetts, Amherst. He teaches and writes in the areas of constitutional law, civil liberties, and judicial behavior, and the political process of selecting judges. He has chaired the Law and Courts Section of the American Political Science Association and served on the editorial boards of numerous political science journals.

Carl W. Tobias is a Professor of Law at William S. Boyd School of Law, University of Nevada, Las Vegas. He is a prolific writer on the topics of federal civil procedure and judicial administration; he also teaches and writes extensively in the fields of Constitutional Law, Torts, and Products Liability. He is currently a member of the American Law Institute, and of the Study Committee to Review the Nevada Rules of Civil Procedure.

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