

# President's Column

## Making Better Judges™

Kevin S. Burke

**R**obert F. Kennedy once said, “There is a Chinese curse which says, ‘May he live in interesting times.’ Like it or not we live in interesting times. They are times of danger and uncertainty; but they are also more open to the creative energy of men than any other time in history. And everyone here will ultimately be judged—will ultimately judge himself—on the effort he has contributed to building a new world society and the extent to which his ideals and goals have shaped that effort.”

There is little doubt that the judges in the United States and Canada “live in interesting times.” We face three enormous challenges: First, there is the budget. From California to British Columbia, the courts have seen a serious erosion of court funding. What has happened there is devastating, but not being as bad off as those courts is hardly acceptable. In part, lack of funding explains the membership challenge the American Judges Association faces. Many courts no longer pay for memberships in organizations like the American Judges Association or the National Association for Court Management. Despite our claim to the mantra: Voice of the Judiciary®, AJA isn’t going to single-handedly fix court funding. AJA must offer a reason for judges to spend their own money to be an AJA member.

The second challenge of these interesting times is courthouse morale. Judges and court employees are increasingly not feeling appreciated. The judiciary must be committed to building a strong organization, which then and only then can create the environment for courts to be an effective branch of government. While courts cannot unilaterally fix the budget, judges can exercise the leadership that creates good morale and organizational excellence.

The judiciary cannot be an effective branch of government if judges’ vision of sharing power with each other is no better than an office-sharing arrangement of solo practitioner lawyers whose practice specialty is being a judge. Professor Doris Marie Provine put it this way: “The basic problem, crudely put, is that judges don’t want to govern themselves, but they don’t want anyone else to do it either.” The American Judges Association has much to contribute in meeting this challenge. In our publications, website, blog, and conferences, the

American Judges Association is uniquely situated to address courthouse morale, leadership, and change.

The third challenge judges face is the legitimacy of our decisions. That challenge may be the most serious. For reasons not wholly the fault of the judiciary, there is a skepticism about government that, while not presently focused on courts, needs to be addressed. Regardless of their attitudes toward the other branches of government, people need to have confidence in their courts.

Legitimacy is in part about building a reservoir of goodwill so that when the inevitable unpopular decision is made, people trust that the judges are trying their best. People need to trust their judges. The American Judges Association made a significant contribution toward making better judges and building stronger legitimacy for courts when the White Paper on Procedural Fairness was adopted, but the real work occurred after the paper. Thousands of judges have participated in educational programs featuring the concepts of procedural fairness first articulated in the AJA

White Paper. AJA is prepared to offer more with the upcoming White Paper and conference presentation at our conference this fall on *Minding the Court: Improving the Decision Process and Increasing Procedural Fairness*.

The American Judges Association needs to focus on making better judges and is positioned to do that. But to paraphrase Robert Kennedy, everyone here will ultimately be judged—and will judge himself or herself—on the effort we each contribute. The AJA needs vibrant membership contributions but, more importantly, the judiciary needs vibrant contributions by individual judges. Building a strong multinational judicial organization is not for the fainthearted. But it can be done. Contribute to the AJA blog (<http://blog.amjudges.org/>); offer to write a lengthier piece for *Court Review*; send me an email with advice or ask me to share your thoughts with the membership.

It is a great privilege to be president of AJA, but it is even a greater privilege to be a part of a time when we can make AJA stronger and we can make courts stronger. Let us recommit the American Judges Association to a new and brighter future of making better judges.

