

## Special Committee on Judicial Careers and Selectivity

The traditional perception that those who become judges are those who seek judicial office after a successful career as a lawyer has been with us for some time. Becoming a judge is thought by many to be the highlight of a legal career, and it gives lawyers the opportunity to provide public service and to give back to their communities. Judges have historically been held in high regard by the public, occupying positions of considerable power and influence. They form that critical third branch of government that interprets the Constitution and the law and serves the public so that justice is served.

Yet, despite all of this, there is evidence that there are fewer applicants for judicial office than before, and that fewer lawyers and judges (those seeking higher office) are applying. Even among those applying, are the best potential ones applying? Is our judiciary sufficiently diverse, reflecting our various communities? Is public confidence in the courts eroding, especially when judges have to make difficult, controversial decisions, so that it affects the attraction of becoming a judge? Is the movement toward alternative dispute mechanisms evidence of this as well? What is happening here - are we able to preserve our country's strong need for an independent and competent judiciary as well as for the high quality of our judiciary for the present and the long term

There are of course well-known impediments: relatively low compensation has been constant, especially for lawyers whose private practice compensation may be higher; the judicial selection process can be daunting, with a rigorous process to go through, with open season for comment by fellow lawyers, Senators, the bar association, and the public; the job itself is less than private and can be difficult on one's personal and family life; and the decision-making process is not easy, as judges make far-reaching, sometimes lonely, decisions that affect the lives of those that come before them.

Yet, our Federal and State Constitutions and our form of government require a strong and independent judiciary. Is now the time to begin a process to make sure that our judiciary continues to be that strong institution that we need it to be?

If we are to do so, where do we start? Do we need to start at schools, where in a well-documented survey by the ABA, two-thirds of high schoolers don't even know that there are three branches of government?

What about the role of the law schools? In Japan, one chooses a judicial career as soon as one passes the bar exam. Are law schools developing future judges - or at least interest in becoming judges?

Should becoming a judge be a career objective from an early point in one's career? It is suggested that a judge could first become a state district judge, then a trial judge, and finally an appellate judge. Is that an attractive alternative career path? For a young lawyer, that would mean giving up clients and the prospect of a successful practice in the law. And if that lawyer became a district judge, what assurance would he/she have to proceed up the chain? After a term or two, it may be difficult to get back into practice and to attract clients right away.

Are good, competent and experienced lawyers applying for judgeships? According to the AJS, private practitioners constituted 67 percent of President Eisenhower's appointees, but only 34 percent of President George W. Bush's. Is an appointing authority's desire to select from a particular field of law, such as prosecutors or defense counsel, preventing some lawyers in other areas from applying?

The Special Committee will be looking at these serious issues and try to find answers to these difficult questions. But the task is important for our state, and we need to find appropriate answers in order to assure a strong and independent judiciary, one that continues to enjoy the confidence of the public.