

THE GAVEL

A Publication of the Illinois Judges Association

Fall, 2000

Volume 23, Issue 5

The Gavel

Inside This Issue

Cook Co Judges Seek Retention
Page 3

Judicial Redistricting
Page 3

Did You Know . . .
Page 4

IJA Annual Meeting
Page 5

**A Word to the Wise: Ethics Rules
Violations Regarding Charitable
Contributions**
Page 5

Health Insurance Changes
Page 9

JRS Military Service Purchase
Page 9

Meet Your Treasurer
Page 10

Minutes of the Board
Page 11

The Gavel

Illinois Judges Association
321 S. Plymouth Court
Chicago, Illinois 60604
Phone: 312.431.1283
Toll-free: 888.431.1283

Check out our Web site at:

www.ija.org

President's Message

Honorable Patrick E. McGann

Dear Colleagues:

The summer is quickly ending and as Labor Day passes, there seems to be a renewed sense of purpose in the air. It is as if we are all going back to school, beginning a new year, facing new challenges or returning to old ones. I, for one, seem to mark the beginning of a new year with the end of summer rather than a cold and snowy night in December.

From my perspective as your president, we must begin this "New Year" focusing on the retention election. While most of us are not personally involved in this biennial exercise, each of us in a sense is on the ballot. I say this in response to the often heard comment that "voters don't know anything about the judges". While in reality many voters may be unfamiliar with an individual judge, especially in an urban setting, I would suggest a fair number of citizens have beliefs about the judiciary that are reflected in the voter's booth on election day. The results of past retention elections suggest a strong majority of our fellow citizens have very positive opinions of the judiciary.

If this is true, why am I writing about the retention election? The answer is found in a 1999 survey by the National Center for State Courts. The results suggest that only 23% of our fellow citizens have great trust and confidence in local courts. The court

system is ranked behind the medical profession; 43%, local police; 43%, U.S. Supreme Court; 32%, the Governor; 30%, and Public Schools; 26%. Some may observe that we are in a profession that naturally disappoints 50% of our clients. This response is overly simplistic. A deeper reading of the survey points to many areas of concern for members of the judiciary.

In my opinion, the most telling statistic from this survey is that more than 60% of our fellow citizens form their opinions about the court system from reports in the print and electronic media. This column is not about media bashing. The same survey found only 10% of the public have great confidence in the media. This is about the reality of the world in which we live.

The truth is that the media thrives on conflict and failure. This was best illustrated in a column written by Andy Rooney a number of years ago. In response to complaints that the media focused too much on failure, Mr. Rooney wrote about how many planes successfully took off and landed; all of the mail properly delivered. You get the picture; very dull. This is not a new phenomenon. One of my favorite quotes is attributed to the late Justice Douglas who always read the Sports Section first because it "always chronicled man's successes rather than his failures". Parenthetically, this was about newspapers published in the fifties.

See PRESIDENT cont'd on Page 2

ILLINOIS JUDGES ASSOCIATION 2000 COMMITTEES

ASSOCIATE JUDGES

Joseph M. Claps, Co-Chair
Ann A. Einhorn, Co-Chair

BENEFITS AND PENSION

Richard Kavitt, Co-Chair
Patrick J. Leston, Co-Chair

BUDGET AND FINANCE

Ann B. Jorgensen, Chair
John O. Steele, Co-Chair

CONVENTION

Michele F. Lowrance, Co-Chair
Mary Ellen Coghlan, Co-Chair

COURT FACILITIES AND SECURITY

Fred Geiger, Co-Chair
J. Patrick Morse, Co-Chair

ELECTRONIC MEDIA

David Youck, Chair
Joseph Kazmierski, Vice-Chair

GOVERNMENT AFFAIRS

Michael R. Galasso, Co-Chair
Timothy C. Evans, Co-Chair

JUDICIAL DISCIPLINE

Nancy J. Arnold, Co-Chair
Dennis K. Cashman, Co-Chair

JUDICIAL SELECTION AND RETENTION

Richard P. Goldenhersh, Chair
Raymond L. Jagielski, Co-Chair

LIAISON COMMITTEE

Tim Slavin, Chair
Stephen C. Mathers, Vice-Chair

MEMBERSHIP

Ronald D. Spears, Co-Chair
Vanessa A. Hopkins, Co-Chair

PUBLIC RELATIONS

Stuart A. Nudelman, Chair

PRESIDENT *Cont'd from Page 1*

The results of the great reliance on this information source are very disturbing. More than 40% of White and Latino and 70% of African-American respondents expressed the opinion that African-Americans are treated less fairly by the courts. A majority felt that juries were not representative of the community. An overwhelming majority believe courts take too long and cost too much. In the world in which we live, these perceptions become reality for many voters.

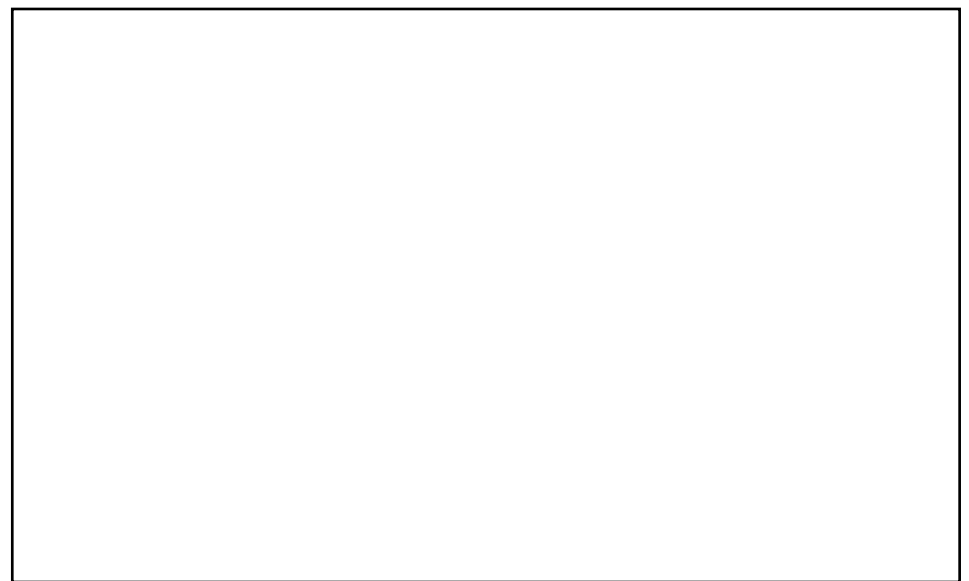
During my more than 12 years on the bench, I can say categorically that judges strive mightily each day in court to prove these impressions are false. Clearly, we must do more. In a recent Gallup Poll, only 15% of the respondents felt courts were in touch with the communities they serve. Each of us must reach out to the community and become an alternate reality based source of information. As court procedures are improved or streamlined, we must take the time to inform the public through announcements or press releases. As backlogs are reduced, take the time to share the information with groups other than the Bar Association. Reach out to groups that feel left out and encourage partici-

pation in jury duty, explain court procedures, innovations and new programs. This must be an ongoing effort, not something that occurs every two years.

Every day, the judiciary comes in contact with the community we serve. While 50% of the people involved may be disappointed with the result, no one should leave without an understanding of what happened and why the decision was made. Judges must constantly be aware that all of the litigants do not look at the world from the same perspective. Sensitivity to these differences will go a long way to dispelling the impressions revealed in the survey.

In an effort to achieve some of the goals outlined, our cable television program Judicial Perspective will be producing two shows focusing on the retention election. One will host judges from Cook County and the other will feature judges from other metropolitan areas of the state. The goal is to distribute these at a time when voters are focused on retention.

Finally, I would appreciate your thoughts on my comments. I can be reached at (312) 431-1283 or by email at pmcgann321@yahoo.com; or by mail at 321 N. La Salle St., Rm. 120, Chicago, Illinois 60610.



Among Cook County judges who are helping plan an outreach program to educate the public about judges running for retention in the November election are (from left, standing) Hon. Daniel A. Riley (of Hickory Hills), Hon. Mary Maxwell Thomas (of Evanston), Hon. Edward R. Jordan (of Arlington Heights), Hon. Martin S. Agran (of Arlington Heights), and (seated) Judge Carole Kamin Bellows (of Wilmette). Voters will have the opportunity to vote "yes" or "no" on the green ballot for the retention judges when they vote for other candidates for statewide office.

79 Cook County Judges Seeking Retention

"Vote YES To Retain Judges" is the campaign theme for the 79 retention judges in Cook County whose names will appear on the green ballot on Tuesday, November 7.

By using the color green on buttons, t-shirts, posters, post cards and other materials, the retention judges hope voters will be encouraged to turn to the green ballot and vote "yes."

The t-shirt and button clad retention judges already have made numerous public appearances, notably in parades (including the city's annual Gay Pride Parade in June and the Bud Billiken Day Parade in August) and at other public events (such as Race Judicata run and walk in August to raise funds for Chicago Volunteer Legal Services).

"Our message across the board is that it is essential for voters to take the time to learn about the judges running for retention," according to Hon. Gino DiVito, chair of The Committee for Retention of Judges in Cook County, 2000. "As a group, these judges are among the finest in Cook County and include some of the most highly-

regarded judges of the county's circuit and reviewing courts. Most have outstanding individual records and should be retained."

Supreme Court justice Charles E. Freeman, three Appellate Court judges, and 75 Circuit Court judges – including four who are assigned to the Appellate Court – are up for retention. Judges who have been appointed chairs of the retention effort steering committee are Hon. Carole K. Bellows, Hon. Daniel A. Riley and Hon. Ronald C. Riley.

The campaign features an aggressive advertising and public relations campaign with the "Vote YES" message. Print ads will appear in many of the Chicago community newspapers. Noted TV anchor (and attorney) Bill Kurtis provided the voice-over for a radio spot that will air on Chicago's major radio stations.

Press releases, photos, editorials, letters to the editor and media interviews are among the marketing tools being used to educate the public about how to become informed about a judge's record. In addition to bar association

evaluations, the publicity materials suggest referring to a web site, currently under construction, which will feature general information and biographies of the retention judges. Two separate IJA "Judicial Perspective" cable TV programs, hosted by IJA president, Hon. Patrick McGann, will be taped featuring Cook County and downstate retention judges.

Some 100,000 "friend to friend" post cards, individualized for each retention judge, will be printed for distribution to the judge's friends who in turn sign the cards and mail them to their friends.

And last but not least, fundraising! The Committee for Retention of Judges will host a reception for the retention judges on Wednesday, Sept. 13, from 5 to 7 p.m. at Preston Bradley Hall in the Chicago Cultural Center in downtown Chicago. All are welcome! Tickets will be available at the door.

Around the state, Judges Jim Wexsten and Tom Sutton from the 2nd Judicial Circuit and Judges Kendall O. Wenzelman and Fred S. Carr, Jr. from the 21st Circuit are also up for retention.

WAITING FOR THE CENSUS: JUDICIAL REDISTRICTING

By Robert M. Keenan, Jr.

Article VI, section 2 of the Illinois Constitution of 1970 divides the State of Illinois into five judicial districts. The First Judicial District is comprised of Cook County, and the remainder of the State must be divided into four districts "of substantially equal population, each of which shall be compact and composed of contiguous counties."

Under Article VI, section 3, the Illinois Supreme Court consists of seven judges. Three of these judges are to be elected from the First Judicial District, with a single supreme court judge to be elected from each of the other four districts.

This arrangement was left over from a substantial restructuring of the Illinois courts, which was brought about by a 1962 amendment to the

then-existing Constitution of 1870. The theory behind this design was to retain the concept of geographic representation in the selection of judges by distributing supreme court judgeships among districts of "substantially equal" populations. In reality, however, disparities existed from the outset.

And these disparities have grown, in all but the First District.

In 1970, for example, whereas the First Judicial District had 43% of the State's supreme court judges, it had about 49% of the State's population. This number dropped to about 46% in 1980, then to just over 44% in 1990. If the trend continues, census figures could show that the First District currently has just about exact parity, 43%, in the per-

Percentage of total downstate population in the four downstate districts

	1970	1980	1990
<i>2nd District</i>	34.75	34.14	37.56
<i>3rd District</i>	20.63	24.39	22.69
<i>4th District</i>	21.8	20.33	19.87
<i>5th District</i>	23.43	20.33	19.87

centage of supreme court judges and in percentage of the State's population.

In contrast, the disparity that existed in the other four districts since 1970 has been exacerbated by the passage of time. Ideally, each district should have 25% of the downstate population. The above chart shows the percentage of total downstate population in each of the four downstate districts.

See CENSUS on page 7

Did You Know . . . by Lainie Berger & a host of statewide correspondents

DID YOU KNOW.

This column will appear in every issue of The Gavel and will be devoted to promotions, new assignments, appointments, retirements, achievements and, well, just plain gossip. For the intellectuals among us, please see the substantive law articles. For the rest, please send all items of interest to me or any of our correspondents. As co-editor, I reserve the right to comment on the achievements of my pals and those in superior positions to me.

Cook County's Corner

In Cook County, change has been afoot. Accolades to **Judith Cohen**, formerly Presiding Judge of the Law Division on being named to the appellate court. She joins the former Presiding Judge of the Chancery Division **Francis Barth** on that court. Judge Cohen was appointed to the vacancy created by Justice **Thomas Rakowski's** retirement. No word on his future plans. **Susan Snow** retired early after a distinguished career on the bench to pursue painting along with other legal endeavors. (I miss her sage advice.) Also announcing their retirements are **Clarence Bryant, James Pendergast** and Associate Judges, **Eugene Campion, Robert Retke, Perry Gulbrandsen, Calvin Hall, and Clarence Lipnik.**

Patricia Martin-Bishop was named the new Presiding Judge of the Child Protection Division. AND . . . With both personal regret because I will miss him and congratulations because it's certainly an honor, kudos to IJA Board Member **Tim Evans** (formerly Presiding Judge of the Domestic Relations Division) on becoming Presiding Judge of the Law Division AND with personal best wishes to my new boss, **Moshe Jacobius** who is the new Presiding Judge in Domestic Relations.

We welcome to the bench the first

Asian American Circuit Court Judge, **Sandra Otaka**, and other new appointees, **Robert Quinlivan, Sheldon Harris, Thomas M. Donnelly, James Prendergast** and **Charles Winkler.**

DuPage Doings

Circuit Judge **John W. Darrah** has been appointed to the United States District Court for the Northern District of Illinois, Eastern Division, and was sworn in on September 5, 2000. Associate Judge **Stephen J. Culliton** was recently appointed to fill the vacancy created by the appointment of **Michael R. Galasso** to the Second District of the Illinois Appellate Court. **James J. Konetski** has been selected as the newest Associate Judge of the DuPage County Circuit Court and took office on September 14, 2000.

Get your scorecards ready for the changes in players. Effective September 5, Judge **Edward R. Duncan** of the Law Division will replace Judge Darrah in the Chancery Division. **Stephen J. Culliton** will be assigned to the Law Division, **Hollis L. Webster** to the Domestic Relations Division, and **Patrick J. Leston** to the Misdemeanor Division. More re-assignments are expected in early to mid-January 2001.

Laudable in Lake

Yet another member of Lake Co. Public Defenders Office from the early 80's has been appointed an Associate Judge (in addition to this editor and **Val Ceckowski**) . . . **Brian Hughes.** Joining him is **Diane E. Winter.** Welcome to the bench. Goodbye and Good Luck to **Charles Scott** who retired in July.

Lake County has named its first

woman Chief Judge, **Jane Waller.** Will any other counties follow suit?

Around the State

Judge **Jack Roe** of the Ogle County Circuit Court retired effective September 2, 2000. He will begin his retirement by going back to work: He will be teaching Remedies at Stetson University School of Law, in St. Petersburg, Florida. **Michael Kick** was appointed to fill the vacancy. **William Reardon**, a retired Associate Judge was appointed to a vacancy in the 10th Judicial Circuit formerly held by **Richard McCoy.**

Gary V. Pumilia was selected Associate Judge in Winnebago County and will be assigned to the Traffic Division. Judge Pumilia previously served as the Public Defender of Winnebago County.

Ronald L. Pirrello, Winnebago Circuit Court Judge, had an opportunity to brush up on his Russian language skills recently when he hosted a visit by a civil prosecutor from Ekaterinburg, Russia.

Ron Spears, resident judge in Christian County, completed the Army Half-marathon in St. Louis, in May. Judge Spears is a Colonel in the Judge Advocate General Corps, is certified as a military judge, and continues to serve in the Illinois Army National Guard.

Gerry Patton from the 6th Judicial Circuit retired after more than 25 years on the bench.

In the 12th Circuit, **Cathy W. Block** was appointed an Associate Judge and **John R. Cirricione** retired.

Jim Wexsten was named Chief Judge for a 2-year term in the 2nd Judicial Circuit.

IN MEMORIAM

WE WILL MISS these judges who died recently. . . . Judge **Hanley Jones**, Retired Circuit Judge from Crawford County and Judge **Philip A. Fleichman** died January 27, 2000, after serving many years as a trial judge in the Tort Division.



HUMAN GENETICS ON TAP FOR IJA ANNUAL MEETING

On Friday afternoon, December 8th, judges attending the Annual Conference will be in for an educational treat. A team convened by the Einstein Institute for Science, Health & the Courts (EINSHAC) will provide a riveting, interactive three-hour tour through the revolution in human genetic discovery. These developments could create over the next decade a host of cases of first impression for Illinois' trial and appellate courts. Following a briefing on the state of the science using a visual glossary, the session will turn to case scenarios. Adjudication issues will be experienced in family, equitable, products liability, contract, tort and criminal dispute resolution forums. Management of novel scientific evidence will be a prime focus. Recent developments in behavioral genetics, environmental genetics, and genetically-modified foods will take front and center stage, as cases are "managed" by the conference's participants. Tools for courts' use in adjudicating cloned human reproduction will comprise the third hour's centerpiece. Materials will be distributed at the Conference.

Faculty convened by EINSHAC include: Linda K. Ashworth, Lawrence Livermore National Laboratory; Dr. Ananda Chakrabarty, University of Illinois / Chicago Medical Center; Dr. James P. Evans, Professor of Medicine and Genetics, University of North Carolina School of Medicine; Hon. Michael B. Getty, Chancellor (Retired), Circuit Court of Cook County; Dr. Robert F. Murray, Jr., Professor of Medicine and Director, Division of Medical Genetics, Howard University College of Medicine; Dr. Catherine Pierce, Chair, Department of Immunology, Loyola / Chicago Medical Center; Dr. Sylvia J. Spengler, National Science Foundation; Dr. Franklin M. Zweig, President, EINSHAC.

Mark your calendars for this lively, provocative workshop. The next genetic treat you see may be you own!

A Word to the Wise

By Nancy Arnold & Dennis Cashman,
Co-Chairs, Judicial Ethics Committee

There has apparently been an increasing number of complaints being made regarding violation of ethics rules by judges involved in civic or charitable activities. Judge McGann has suggested that the Illinois Judges Association help make its members aware of the rules and the situations they govern.

What follows is a summary intended to do that. All references in this article are to the Advisory Opinions of the Illinois Judicial Ethics Committee. These opinions are readily accessible from the IJA web site, where a descriptive index is maintained. The index is current, listing

o p i n i o n s
issued 1993-
2000, and
allows the user
to retrieve the
full text of any
selected opinion
with ease.

This article will confine itself primarily to a judge's involvement in civic, community, and bar-related activities. Beyond its scope are ethical questions concerning political activity and non-civic avocations, such as music and the arts.

The Text of the Rule

Illinois Supreme Court Rule 65
(Canon 5)

A Judge Should Regulate His or Her
Extrajudicial Activities to Minimize
the Risk of Conflict With the Judge's
Official Duties

A. Avocational Activities (text omitted)
B. Civic and Charitable Activities

A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an offi-

cer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any such organization. A judge should not allow his or her name to appear on the letterhead of any such organi-

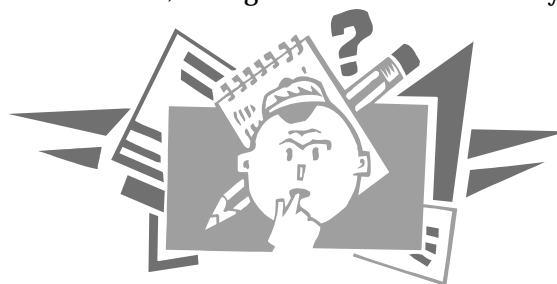
z a t i o n
where the
stationery
is used to
s o l i c i t
funds and
should not
permit the
j u d g e ' s

staff, court officials or others subject to the judge's direction or control to solicit on the judge's behalf for any purpose, charitable or otherwise. A judge should not be a speaker or the guest of honor at an organization's fund-raising events, but he or she may attend such events.

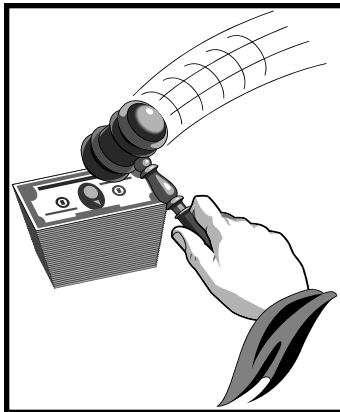
Summary of the Rule

Reviewing the IJEC opinions applying this rule, these principles emerge: A judge can be involved in his community, in various organizations, but an absolutely bright line is drawn against him soliciting or being used to solicit funds. There are other limitations as well. He cannot participate in an organization if its nature or activities would cast doubt on his impartiality. Nor can he participate

See *OPINIONS* on Page 6



OPINIONS Cont'd from Page 5 in such a way that his judicial office will be exploited. Specifically as to fund-raising, a definite contrast is delineated between fund-raising for charitable/ civic activities and fund-raising for law-related organizations. We discuss this as a further method of illumination. In sum, while some may lament the restrictions on their ability to participate in their communities, brought on by their judicial office, the Rule and the IJEC advisory opinions reveal that the doors to the community remain open. Guidance for safe entry can be found in the detail of the Rule itself.



involved in litigation and it does not effect the judge's impartiality. (Opinion 96-24)

Treasurer: A judge may serve as the treasurer of a non-profit corporation that provides money to educational programs of a school district.

His name will not be used for the solicitation of funds. (Opinion 97-6)

President: A judge may serve as president of a cancer society, and his name may appear on its stationary, but not if the stationary is used for fundraising. He may explain the charity's financial situation to its members, but may not

solicit funds. He can attend its fundraisers, but he may not participate. His "explanation" of the financial situation cannot be followed by solicitation of funds by another member. (Opinion 97-15)

A judge may serve as president of his synagogue. He can make presentations about the financial status of the synagogue, but he cannot make the traditional appeal for donations during services. The stationary bearing his name will not be used for fundraising. (Opinion 96-4)

Parish school board: A judge may serve on a parish school board, as long as he does not allow the prestige of his office to influence the private interests of others. (Opinion 96-7)

Economic development board: Qualified approval was given to a judge's desire to serve on the board of a non-profit corporation whose purpose is the economic development of a local area. Fund-raising was not expected to be involved. The real concern was the likelihood of the judge mixing with business people and lawyers likely to come before the judge, so that his impartiality would be questioned. The permissibility of the service depended on the likelihood and frequency of such occurrences. (Opinion 97-13)

See *OPINIONS Cont'd on Page 8*

Summary of the IJEC Advisory Opinions

Judge Serving on Corporate and Other Boards

There are quite a few IJEC opinions dealing with a judge's service as an officer or member of the board of various kinds of organizations.

Charitable foundation: A judge can serve on the board of a charitable foundation that distributes trust funds to cultural, research, and other programs. The foundation does not raise funds and is not engaged in adversarial proceedings. (Opinions 00-1 and 97-5)

Aid to the retarded: A judge may serve as the president of a non-profit organization that aids retarded people. His name will be kept off all fund-raising materials. (Opinion 93-5)

Institute of Peace: A judge may accept a presidential appointment to the United States Institute of Peace. This is an institution funded by Congress to disseminate knowledge about international peace and conflict resolution. It is not likely to be

**Illinois Judicial Association
2000 Officers
& Board of Directors**

Patrick E. McGann
President

Stephen C. Mathers
1st Vice President

Stuart A. Nudelman
2nd Vice President

Michael R. Galasso
3rd Vice President

John O. Steele
Secretary

Ann B. Jorgensen
Treasurer

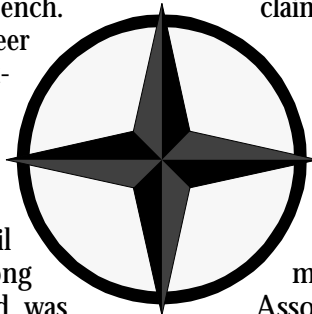
Board of Directors

- | | |
|-----------------------------|----------------------|
| John L. Bell | Lynne Kawamoto |
| Philip B. Benefiel | Richard A. Kavitt |
| Helaine L. Berger | Stephen Kernan |
| Donald Bernardi | Patrick J. Leston |
| Robert W. Bertucci | Michele F. Lowrance |
| Bruce W. Black | Tom M. Lytton |
| Judith M. Brawka | J. Patrick Morse |
| Dennis J. Burke | C. David Nelson |
| Robert E. Byrne | Stuart E. Palmer |
| Robert L. Carter | Sebastian T. Patti |
| Carl Cipolla | S. Louis Rathje |
| Harry E. Clem | Ellis E. Reid |
| Sharon J. Coleman | Victoria A. Rossetti |
| Rosemary Collins | David L. Sauer |
| Jacqueline Cox | Stephen G. Sawyer |
| David Delgado | Harvey Schwartz |
| Donald M. Devlin | William G. Schwartz |
| Gino Divito | John J. Scotillo |
| Thomas A. Dunn | Stuart H. Shiffman |
| Annette A. Eckert | Timothy J. Slavin |
| Lynn M. Egan | Susan Snow |
| Timothy C. Evans | John O. Steele |
| Patricia P. Golden | Jane L. Stuart |
| Richard P. Goldenhersh | Mary Jane Theis |
| James F. Henry | Chet W. Vahle |
| Raymond L. Jagielski | Kenneth O. Wenzelman |
| Barbara C. Gilleran Johnson | Walter Williams |

THE TWENTY-FIRST JUDICIAL CIRCUIT IN THE NEW CENTURY

The New Year brought several changes in the 21st. Circuit Judge Dan Gould retired December 31, 1999 after over 27 years on the bench.

Judge Gould began his career first as an Associate Judge sitting in Iroquois County, and then serving in Kankakee County as a Circuit Judge. Gould was Chief Judge from August of 1992 until December of 1996. Among other accolades, Judge Gould was honored by the Eastern Illinois Police Association. Metamorphosed into a snow bird, this retired jurist now winters in Florida and returns to



Kankakee in the spring where he continues to run, bike and golf. He was seen sporting a new red PT Cruiser he claims belongs to his wife.

On June 13, 2000, Michael Kick, Kankakee State's Attorney, filled the vacancy created by Gould's retirement. On that same date former Will County Associate Judge Ed Smith, assumed the office of Kankakee County State's Attorney.

Under the direction of Chief Judge Kendal Wenzelman, the 21st continues

to work in the areas of Domestic Violence and Drug Abuse. Kankakee County's Domestic Violence Diversion program continues in its fifth successful year and in the fall of 1999, the Presiding Judge of Iroquois County, Gordon Lustfeldt, created a similar system in Iroquois County. The Watseka Domestic Violence Diversion Court is unique in that it has success in a sparsely populated rural area. Kankakee County Drug Court's Judge Clark Erickson, hosted a meeting with state legislators and officials in July seeking support and funding for drug courts throughout the State.

CENSUS Cont'd from Page 3

As is evident, the disproportion in population among the five judicial districts that has existed in one form or another since the Constitution of 1970 was adopted is increasing. Consequently, a supreme court judge in one district does not "represent" the same number of citizens as does a supreme court judge in another district.

The purpose of this article is not to discuss whether judges "represent" citizens in the way elected members of the legislative or executive branches of government do, to debate whether a variation in population might offend the equal protection clauses of either the Illinois or U.S. Constitutions, or even to speculate about what population difference might be so great as to violate the "substantially equal" requirement of Article VI. The sole purpose is to spotlight the situation and to warn judges of the possibility that they may be required to hear and decide challenges to the current scheme of judicial districts.

The Constitution of 1970 does not define "substantially equal," and some might argue that the downstate districts did not have "substantially equal" populations when the Constitution of 1970 was adopted. On the other hand, regional demographics have caused larger disproportions than have previ-

ously existed. The Second District population, in particular, has grown rapidly. As of 1990, that district's population far exceeded the 25% optimal number described above. If the trend continues, it will take another steep increase when the 2000 figures are made public.

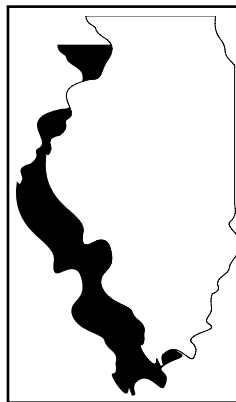
The General Assembly appears to have made a single effort to create new judicial districts since 1970: Public Act 89-719, the Judicial Redistricting Act of 1997. The Act was short-lived because in *Cincinnati Insurance Company v. Chapman*, 181 Ill. 2d 65, 691 N.E.2d 374 (1998), the supreme court held the statute unconstitutional. First, relying on its earlier decision in *People ex rel. Chicago Bar Association v. State Board of Elections*, 136 Ill. 2d 513, 558 N.E.2d 89 (1990), the court invalidated a provision that attempted to subdivide the First Judicial District into three subdistricts for purpose of electing supreme and appellate court judges. Second, the court struck down a provision that attempted to redraw district boundaries for the remaining four districts. The provision drew district lines so that, in some instances, the district was comprised of less than a full circuit. That is, under the Act, a portion of the

circuit would be encompassed by one judicial district and the remaining counties would be assigned to another judicial district. According to the court, this scheme was inconsistent with the constitutional design of a "unified circuit court structure . . . , comprised of judicial circuits resting 'within' the judicial districts." *Cincinnati Insurance Company*, 181 Ill. 2d at 79, 691 N.E.2d at 380.

As a result of this ruling, a major revision in the judicial districts will have to be accompanied by a reorganization of existing circuits. Whether the General Assembly will undertake such a project remains to be seen.

If trends continue, it appears likely that the percentage difference between the Second Judicial District and the other downstate districts will intensify. If the General Assembly does

not act quickly to alleviate what some certainly will see as inequities in the system, we could be faced with constitutional challenges to the appellate districts based upon Article VI, section 3 of the Constitution of 1970, as well as upon equal protection grounds.



OPINIONS Cont'd from Page 6

Condo association A judge may serve on the board of his condominium association. This activity is not really a civic one, but falls more within the realm of activities usually incident to the ownership of real estate, governed by a different rule. (Opinion 95-13) Other boards are more problematical.

Anti-drug A judge may serve on the board of a non-profit organization devoted to anti-drug efforts. Service here should not effect the judge's impartiality and he will not be involved in fundraising. (Opinion 99-4)

Sexual assault and death penalty: He may not serve, however, on a local task force on sexual assault, because the task force assists the prosecution (raising concerns of impartiality), nor may he serve in a religious group advocating abolition of the death penalty. (Opinions 07-3 and 93-7)

Mandated programs: A judge who hears prostitution cases and routinely imposes as a condition of bond in those cases completion of a special program cannot sit on the board of the charitable organization that runs that program. (Opinion 98-5)

But see Opinion 94-20, which approves a judge who hears drunk driving cases serving on the board of the organization that runs a program that is typically ordered as part of offenders' sentences.

Prohibition Against Fundraising

The prohibition in Rule 65 against a judge participating in charitable fundraising is absolute and is quite well spelled out in the Rule itself. As we will see, that is not the case when Rule 64, relating to activities benefitting the legal system, governs. Applying Rule 65,

Alumni fund drives: A judge may not lead his college alumni fund drive, even if the funds are being raised to establish a scholarship foundation in honor of a distinguished judge. (Opinion 99-7)

He may not serve as a speaker at a university scholarship fundraiser. He may sit at the head table there; but he may not be a guest of honor and may not even introduce the honoree or speaker. (Opinion 96-3)

Letterhead: A judge's name may appear on the letterhead of an organization, but not if the letterhead is used to solicit funds. (Opinions 97-15 and 97-6)

Charity stunts: For the sake of charity a judge may not allow his office to be used by participating in a dunk tank, where the public would pay for the opportunity to see a judge dunked in a water tank (Opinion 96-10), nor by acting as a "celebrity bagger," so that a supermarket would donate a percentage of its sales to charity. (Opinion 99-1).

**Contrast to Activities
Benefitting the Law**

Rule 64 (C) provides that a judge may serve an organization devoted to "improvement of the law, the legal system, or the administration of justice." As to those kinds of organizations, he may "assist ... in raising funds ...but should not personally participate in public fund-raising activities. He...may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice." The contrast with Rule 65 is deliberate, although not profound, but as result

Bar Foundation: A judge may serve as the Chair of the Fellows of the Bar Foundation, the charitable arm of the ISBA. While he will not directly solicit funds himself, his name can remain on the letterhead that is used for this purpose. (Opinion 95-22)

Lawyers Assistance Program: He may also serve on a joint committee of bar associations and allow his name to be used in conjunction with efforts to obtain funding for the Lawyers Assistance Program. Here the method of funding being sought was not direct solicitation of funds from the public, but an earmarked part of an increase of attorneys' registration dues. (Opinion 98-11)

Seminars: He may also help raise money for a seminar being put on by a
See OPINIONS Cont'd on Page 10

S a v e t h e D a t e

IJA 29th Annual Convention

Thursday, December 7 through Saturday, December 9, 2000

at the Sheraton Chicago Hotel and Towers
301 N. Water Street, Chicago

IMPORTANT DATES 2000

October 20

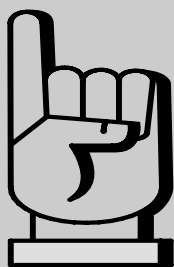
President's Task Force Meeting
IIA Headquarters

November 3

Committee Reports Due for
Annual Meeting of the Board
of Directors

December 7, 8 & 9

Annual Meeting & Convention
Chicago



Bev Wells to Retire

By Rudy Kink

After almost 37 years of service with SRS, JRS/GARS Assistant Manager Beverly Wells announced her retirement effective December 31, 2000. Her career in State government spans 44 years, including a seven year leave of absence to raise her daughters. Bev started with SRS on June 1, 1956 as a Clerk Stenographer.

In 1972, the Judges & General Assembly Retirement Systems moved to new offices, and Bev became a full-time employee for these Systems. She stayed with JRS/GARS when they reunited with SRS in 1989, and became the JRS/GARS Assistant Manager on November 1, 1989 until the present.

Bev has worked for all four SRS

Important Health Insurance Changes

By Ruby Kink

There has been a significant change in the pre-certification for members who are enrolled in UNICARE with Medicare as their primary insurance. In the past we advised our Medicare primary members that there was no need to pre-certify for outpatient surgery or hospital admission.

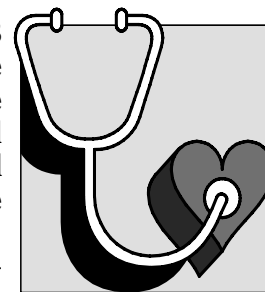
Starting July 1, 2000, pre-certification is required for all members enrolled in the Quality Care Health Plan. The toll-free number to pre-certify is 800-327-7443. This number also appears on your Quality Care identification card.

Effective April 10, 2000, UNICARE, the administrator for the Quality Care Health Plan started offering Medicare Crossover, an automated claims processing service for

Medicare Part B claims. This service applies to Medicare primary members and dependents enrolled in the Quality Care Health Plan.

Claims are submitted to Medicare by your health care provider, then Medicare forwards your claim to UNICARE for payment, eliminating the need for you or the provider to file separate claims with UNICARE.

There is no charge for this service, but you must enroll with UNICARE to participate. We encourage all members enrolled in Medicare Part B to sign up for this program by calling UNICARE at 1-888-659-2273. If you have questions, call us at 217-782-8500.



JRS Military Service Purchase

By Helaine Berger

The First District Appellate Court upheld an administrative ruling (and reversed the trial court) finding that time served in the "Ready Reserves" does not qualify as "military service" for the purpose of purchasing military service credit in the Judges' Retirement System. In the case of *Lieb vs. JRS*, 2000 LEXIS 378, 731 N.E.2d 809, 247 Ill.Dec. 36(2000),

Executive Secretaries over the course of her career. She has many fond memories of her work with the judges and legislators in the state saying "they are the greatest people to work for." We will miss her pleasant personality and unselfishness in helping our members and our staff. We wish her the best of luck in a well-deserved retirement!

Judge Lieb wished to purchase two years military service credit; he had served time in the U.S. Army's "Ready Reserves" from 1961 to 1967 after finishing 6 months on active duty. The JRS allowed him to purchase credit for time on active duty only.

The Appellate Court found the term "military service" ambiguous and looked to the legislative history and other extrinsic aids in determining that the term should be limited to active military service. Lieb makes it clear that a judge can purchase up to two years of military service credit for time on active duty before assuming the bench, but not for inactive time before assuming the bench or for time in the National Guard while on the bench.



MEET YOUR TREASURER – ANN B. JORGENSEN

By Hollis Webster

Circuit Judge Ann B. Jorgensen of the 18th Circuit currently serves as Treasurer of the IJA. Ann's has demonstrated an extraordinary commitment to this organization, as well as to a host of other professional groups. She is truly one of DuPage County's shining stars.

Judge Jorgensen rises to a leadership position wherever she goes. Currently, she is the Presiding Judge of the Felony Division, where she has launched a specialized drug court to deal with the escalating number of nonviolent offenders who suffer from substance abuse problems and who can benefit from treatment rather than incarceration. This program is also aimed at benefiting the community by reducing recidivism. Previously, Ann was the Supervising Judge of the Mandatory Arbitration Program. She has served on the Illinois Judicial Conference and the Illinois Supreme Court's Rules Committee. Ann is a past-so chair of the ISBA's Criminal Justice Section.

The DuPage County State's Attorney's Office is where Ann began her legal career in 1980, after graduating from DePaul University's College of Law. She later joined the firm of

Donahue, Jorgensen, Sowa and Bugos, where she maintained a criminal defense practice. In 1989, Ann was appointed an Associate Judge. She was elected to the Circuit bench in 1994. Her judicial career includes service in traffic, misdemeanor, arbitration, law and felony.

Judge Jorgensen lives in Wheaton with her husband Dr. Richard Jorgensen, a general surgeon, and her two teenage daughters, Kathryn and Meaghan.

Ann was asked how and why she became involved with the Illinois Judges Association:

"I've been a member of the Illinois Judges Association since 1989. Even before I knew what IJA stood for, my participation in the IJA was insured by our former Chief Judge Carl Henninger. He had the foresight to convince our County Board to allocate annual funds for the IJA dues of every judge in this circuit. This money is well spent to support the only organization which represents the interests of the judges of the State of Illinois.

My personal involvement in the IJA began when I met Judge Harold Sullivan. His enthusiasm and dedica-

tion was immediately evident as was his determination to get new judges involved. He convinced me that even though my time on the bench was limited, I would have something to contribute. I agreed to join the Judicial Discipline Committee. It was a wonderful experience, and I was hooked.

Through my participation in this committee, I realized that judges from throughout the state face the same issues and unanswered questions. The common place to air these issues and formulate a consensus was the forum provided by the

IJA. I was very impressed by the depth of the talent in this organization, and its ability to address any issue which was presented. Personally, I enjoyed a great deal of satisfaction from participating in the solutions. From there, it was a short step to serve as a member of the Board of Directors, and ultimately accept the nomination as Treasurer.

I will continue to participate in this organization whose goal is to improve the life and work of the judges of the State of Illinois and, like Judge Sullivan, urge all members to give their time and talents to the common good."

Well said.



OPINIONS Cont'd from Page 8

national association of judges. He may "explain" the seminar to a potential donor, and leave the actual request for funds to someone else. (Opinion 94-9)

Charity stunts: Even though it was a bar association, however, that proposed raising money by offering the opportunity to see judges dunked in water tanks, a judge's participation in that activity is out of the question. (Opinion 96-10)

Buying tickets: Neither Rule 64 nor Rule 65 prohibits a judge from buying tickets to a civic or law-related fundraiser, even if as a result his name will be listed in the program as a donor and later a newspaper advertisement announcing the results will also display the list of donors.

(Opinion 99-3)

Display of Judge's Name as Sponsor, Speaker or Honoree

Other kinds of activities present ethical questions.

Little League: May a judge sponsor a Little League team and have his name emblazoned on the back of the team's shirts? Yes, says Opinion 00-3. There is nothing smacking of impropriety in this and the shirts would not detract from the dignity of the judge's office.

Screenplay credits: May a judge's name appear in the credits for a screenplay he has written? Yes. (Opinion 98-13)

Book critique: He may not, however, write an appraisal of a book—even one on a legal subject—if excerpts from the review will be used to promote sales of

the book. (Opinion 94-15)

Speaker: He may speak at a non-fundraising dinner, but if the group he is addressing is partisan, this raises questions as to his impartiality. (Opinion 93-4)

In sum, there is guidance to be found in the Code of Conduct and, especially as to activities in the community, limitations are described with specificity. The IJEC leaves us with this quote from Benjamin Cardozo: "This is no life of cloistered ease to which you dedicated your powers. This is a life that touches your fellow man at every angle of their being, a life that you must live in the crowd, and yet apart from it, man of the world and philosopher by turns." (Opinion 98-01)

www.ija.org

A publication of The Illinois Judges Association David A. Youck, Chairman: dayouck@prairienet.org

ija.org has all the information you need about The Illinois Judges Association and a whole lot more! Have YOU tried the internet? If not, you're missing out on a whole lot, including:

The Latest Appellate & Supreme Court Decisions
Complete Information About the IJA

- | | |
|--|------------------------|
| Search Engines | Law Links |
| Public Information | Retirement Information |
| 1999 IJA Yearbook | Court Boundaries |
| Judges Seminars | Internet Resources |
| Judge's Specialty Areas | Insurance & Investing |
| <i>The Gavel</i> , Current & Past Issues | Investments |
| Online Member Applications | Travel Information |

Available 24 hours a day 7 days a week!

email - fast, cheap, convenient & FREE OF CHARGE!

New IJA Member Application

Judge Name: _____ Position: _____
 Judicial Circuit: _____ Appellate District: _____
 Home Street Address: _____ PO Box: _____
 City: _____ State: _____ Zip: _____
 Office Street Address: _____ PO Box: _____
 City: _____ State _____ Zip _____
 Office Phone: _____ Fax: _____ Home: _____
 Please use my HOME or OFFICE address.
 email Address: _____
 State Senator's Name & District #: _____ State Rep.'s Name & District #: _____
 On which committees would you like to serve? _____

Please submit your membership fee (\$150 for active judges and \$75 for retired judges annually) with this application to:

Illinois Judges Association
321 South Plymouth Court
Chicago, IL 60604

Editors Corner

Co-Editors

Helaine Berger

2102 Richard J. Daley Center
Chicago, Illinois 60602
312-603-6140
HELAINEBER@aol.com

Rita Novak

1100 South Hamilton Avenue
Chicago, Illinois 60612
312-433-6911
Novak1249@aol

The goal of the Gavel is to provide practical and useful information, on activities of the association, its judges and the circuits through which each of our state judges, active and retired, have an interest. It also seeks to bring all of our judges together by providing a vehicle for communication. In every issue, we hope to include information that will be useful in everyday work.

As the new editors, we invite the submission of unsolicited articles, essays and book reviews. Letters to the editor, intended for publication, are also welcome.

Correspondents

Robert M. Keenan, Jr.; 2nd Circuit

Mark M. Joy; 4th Circuit

Stephen H. Peters; 6th Circuit

Mark A. Drummond; 8th Circuit

Larry S. Vandersnick; 14th Circuit

Ron Pirrello; 17th Circuit

Hollis Webster; 18th Circuit

Tom Riggs; 18th Circuit

Susan S. Tungate; 21st Circuit

Kathy Bradshaw Elliot; 21st Circuit

Nancy Arnold; Cook County

Barbara McDonald; Cook County

Michele F. Lowrance; Cook County

Rudy Kink; State Retirement Board

The GAVEL

Illinois Judges Association

321 South Plymouth Court

Chicago, IL 60604
