

1971 - 1996

Passing the Gavel:

A History of the

Illinois Judges

Association

*by Retired Circuit Judges Eugene L. Wachowski and Philip B. Benefiel*

The *Illinois Judges Association* was formed December 4, 1971 in order to bring together all Illinois state judges – or initially the elected ones – into one organization. It followed the changes in the Illinois Judicial System wrought by the adoption of the Illinois Constitution of 1970.

## **THE EARLY YEARS**

*1870 TO 1964.* Prior to the 1964 Amendment to the Judicial Article of the 1870 Constitution, Illinois had a variety of trial courts including the Circuit Courts, County Courts, Justices of the Peace and Police Magistrates, and in some places City Courts, Probate Courts, the Municipal Court of Chicago and the Criminal Court and the Superior Court of Cook County. These were in addition to the two reviewing courts, the Appellate Court and the Supreme Court. Except for the Circuit Court which had general jurisdiction, the other trial courts had limited and often overlapping jurisdictions. Prior to 1964, under the 1870 Constitution, all judges, from Justice of the Peace to Supreme Court, were elected and reelected in contested elections on partisan ballots. Also before 1965, judges – even the Supreme Court judges – did not have to be attorneys. For many years after the 1964 Judicial Article which required judges to be lawyers and even after the 1970 Constitution, there remained some non-lawyer judges who were “grandfathered in”.

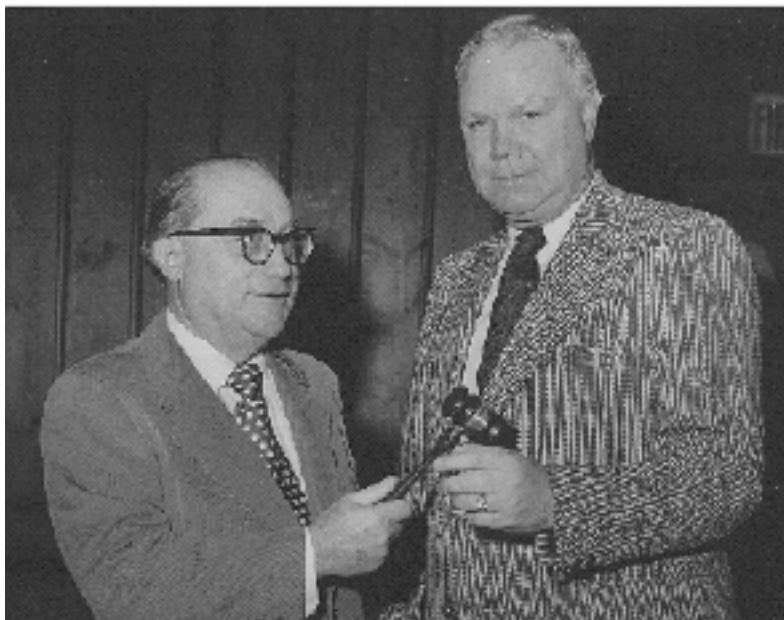
With the multiplicity of courts prior to 1964, there developed a variety of associations of judges of those courts. Among these were the Illinois Circuit and Superior Judges Association (IC&SJA) and the Illinois County and Probate Judges Association.

*1964 to 1970.* After several failed attempts in prior elections to reform the Illinois court system, in 1962 the “blue ballot” amendment passed (effective 1/1/64), creating a “unified” court system with only one trial court, the Circuit Court. The Circuit Court had three classifications of judges: Circuit Judges, Associate Judges and Magistrates. The Circuit Court judges were the former Circuit Judges within each of Illinois’ 21 Circuits, the judges of the Superior Court of Cook County, the County Judge and the Probate Judge of Cook County and the Chief Justice of the Municipal Court of Chicago. Associate Judges included former downstate County Judges, downstate Probate Judges and judges of the City, Village and Town Courts and the Judges of the Municipal Court of Chicago. Magistrates were appointed by the Circuit Judges. Circuit and Associate Judges, while initially elected on partisan tickets, served six-year terms, after which they could be retained for another six-year term if they received fifty percent or better favorable vote on a non-partisan ballot. Magistrates served at the pleasure of the Circuit Judges.

The Associate Judges formed an association known as Illinois Associate Judges Association while the Circuit Judges joined in an association with the Appellate Judges known as the Illinois Circuit and Appellate Judges Association.

*1971 to Present.* It was these two organizations which, after the 1970 Constitution, merged to form the *Illinois Judges Association (IJA)*. Judge Norman Eiger was President of the Associate Judges Association and active in the formation of the IJA, serving for years as the Chairman and Chairman Emeritus of its Convention Committee.

The 1970 Constitution made further changes in the courts. The three classifications of trial court judges were reduced to two: (1) Circuit Judges, which now included those previously called Associate Judges, and (2) Associate Judges who were formerly Magistrates and were hereafter to be



appointed and President (1971) Eugene L. Wachowski and 1972 President John S. Massieon

reappointed by the Circuit Judges including those who were formerly Associate Judges. Also the percentage of favorable votes required for Circuit Judges to be retained was increased from 50% to 60%. Associate Judges who now had 4 year terms were also required to receive 60% favorable votes from the Circuit Judges at the expiration of their terms in order to be reappointed or retained in office.

### **“UNIFICATION”**

Since the former Associate Judges who comprised the Illinois Associate Judges Association were now Circuit Judges, the changes brought by the 1970 Constitution required reorganization of the associations of judges. Leaders in those organizations conceived the idea of a “unified” association of judges to match the “unification” of the Illinois courts born of the 1964 Judicial Article and further refined by the 1970 Constitution. Throughout, there was a movement to further unify the courts by creating only one level of trial judge, giving all trial judges equal pay, equal jurisdiction and equal status. That movement has gradually over the years eroded some of the distinctions between classes of trial judges, but not yet all.

The history of the Illinois Judges Association is a history of the movement for equality among trial judges, Associate and Circuit, Cook County and downstate. The Illinois Judges Association, despite frequent opposition within the association, has been instrumental in bringing about a much greater, if not complete, degree of equality among judges.

The idea of a unified Judges Association was almost effected December 4, 1971 when the

two organizations merged. We say “almost” because the printed program for the new Illinois Judges Association’s First Annual Convention, December 7, 8 and 9, 1972, states: “All elected judges are eligible for membership in this organization.” By limiting membership to “elected” judges, the Associate Judges, who were appointed, were excluded. We had not yet achieved unification.

Immediately some of the Circuit Judges who belonged to the new IJA began a campaign to open up the organization to include Associate Judges. Others resisted, claiming that to give their appointees a voice in the business of the association would be like letting the employees manage the business. Ultimately those favoring admission of Associate Judges to membership prevailed and Associate Judges became members, although still with limited benefits. They could hold office, serve on the board, but never the president. Again a struggle eventually opened the presidency to Associate Judges and *Roland J. De Marco* in 1985 became the first Associate Judge to become President of the IJA.

It should be noted that following the 1970 Constitution, Associate Judges were limited as to the cases they could hear, both by Supreme Court Rule and by the assignments given to them by the Chief Judge. Generally, they heard smaller cases such as traffic, misdemeanors and small claims. Gradually they were given greater assignability so that in some circuits there is practically no difference in the cases heard by Circuit and Associate Judges. However, Associate Judges receive lower pay and cannot serve as Chief Judge or appoint Associate Judges.

The first president of the IJA was *Eugene L. Wachowski*. He served for the year 1972 with *John S. Massieon* as Vice President and *Joseph A. Power* as Secretary. *Gale A. Mathers* was the first Treasurer. Judges Massieon and Power succeeded to the Presidency in 1973 and 1974, respectively. *Philip B. Benefiel* who was the Vice President under Joe Power, became President in 1975, followed by *Charles Horan* in 1976.

*Divisive Issues.* Not only was there division within the Association over the role of Associate Judges in the organization but over other perceived inequalities such as the pay differential between Cook County and downstate judges, at times a very bitter struggle which was litigated in Federal Court, but which could not have been resolved without the assistance of the Association. These issues were not the only divisive factors within the new Association. Supreme Court Justices, who were not eligible to join, took a very dim view and even raised doubts as to the legality or propriety of any such Association. Judge Wachowski was on the Supreme Court’s Committee on the Judicial Conference and heard the high court’s objection to the IJA. They felt it infringed upon their power to supervise the judicial system. Judge Wachowski told them this was our union and we had a right to organize. Nevertheless, for years very few members of the Supreme Court would join, believing management should not join the union. When Justice Tom Moran, who had been active in the IJA, went to the Supreme Court he continued his membership and support of the IJA and eventually all members joined. Today, a majority of the Court are members. In spite of the Supreme Court’s early resistance to the IJA, a number of the Illinois Judges Association’s leaders were to become Supreme Court Justices: *Justices James Heiple, Joseph Cunningham and Horace Calvo* have all served as Presidents of the IJA, and *Justices Tom Moran and Mary Ann McMorro* have been among the most active leaders on the Association’s Board of Directors.

Whatever issues divided the judges – Associate and Circuit, Cook and downstate, Supreme and lower courts – the Illinois Judges Association has a proud history as the vehicle for resolving

those conflicts amicably and, we believe, fairly. The pay differential is an outstanding example of the absolute need for such an organization. Another example has been the Judicial Disciplinary System, also created by the 1970 Constitution.

*Cook County – Downstate Pay Differential.* When Philip Benefiel was a candidate for Associate Judge in 1968 the salary was \$17,500, even less for Magistrates. “At least I can get my kids through college on that,” he stated. “How little did I know.” With five children approaching college age it would have been monumental. Associate Judges were later raised to \$25,000, while in Cook County they received an annual supplement of \$7,500, giving them \$32,500. When the Associate Judges became Circuit Judges by operation of the 1970 Constitution, they received \$30,000 downstate and, with the supplement, Cook County Circuit Judges were paid \$37,500. There was also a supplement for Cook County Associate Judges giving them a pay differential over downstate Associates.

Many downstate judges resented the difference. The Cook County judges argued that the heavier caseloads and the higher cost of living in Chicago and its suburbs justified the differential. They also pointed out that the supplement was being paid by Cook County, not the state, thus the Cook County judges received the same amount from the state as their downstate brethren. Downstaters argued that it was the state law which mandated the differing pay scales, and no matter who paid, the difference was unjust discrimination. When downstate judges were assigned to Cook County they received a per diem supplement, varying from time to time, but at times \$25 per day paid from the Cook County marriage fund. Downstaters were somewhat appeased by getting \$125 for a week in Chicago in addition to compensation for food and lodging expenses.

Meetings at the Annual Convention in the early 70’s sometimes erupted into bitter confrontations between Cook County and downstate judges, the latter demanding that legislation be initiated to equalize judicial pay throughout the state. Principal advocates of uniformity of pay included *Judges William G. Eovaldi* of Benton, *James McMackin* of Salem and *Clarence Partee* of Mt. Carmel.

The controversy widened when *Associate Judge William Johnson* of Madison County filed suit in Federal Court to declare the differential unconstitutional. The more militant downstate judges encouraged and supported the suit while other downstate judges considered the suite unwise but, like Confederate General Robert E. Lee, felt they nevertheless owed loyalty to their downstate brethren in the cause. As one Cook County judge told Phil Benefiel, “Phil, that lawsuit is a burr in the rear of us Cook County judges.”

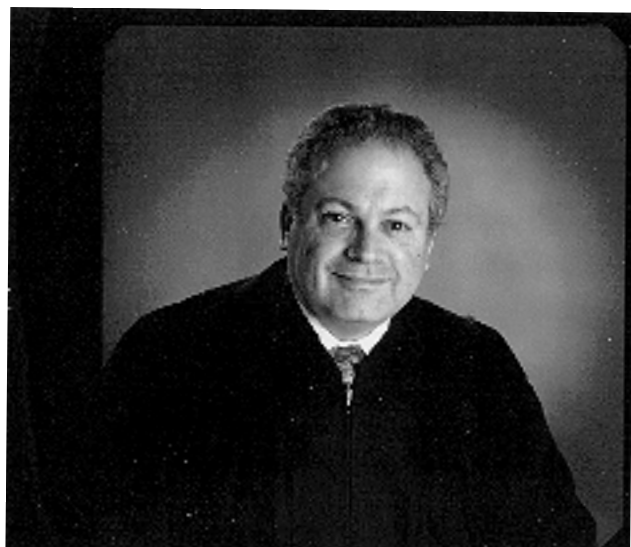
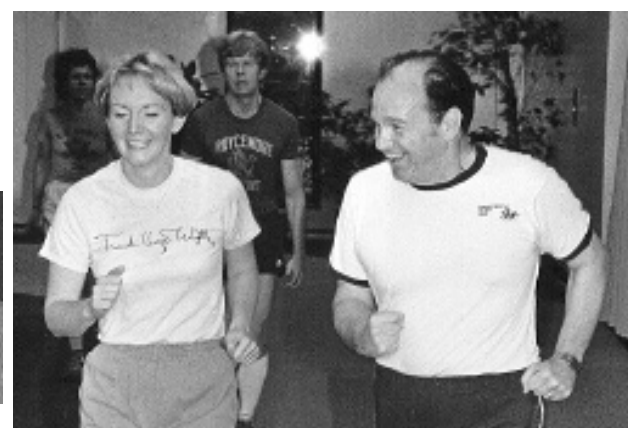
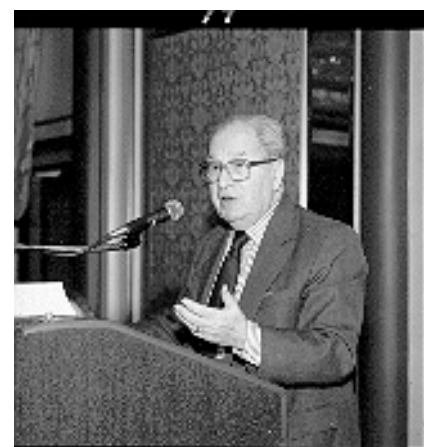
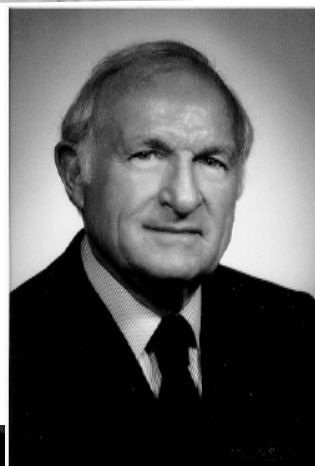
Cook County judges saw the lawsuit as an attempt to deprive them of their supplement, and they further feared that if the supplement were abolished, as the Downstaters were determined to do, they would also lose their health insurance provided by Cook County which depended upon their being County employees.

The downstate plaintiffs hired *Albert Jenner*, possibly the most prominent Illinois lawyer at that time, to represent them. Many downstate judges, even some who opposed the suit, contributed to the legal fees of Jenner & Block. Judge Jim McMackin of Salem pledged to guarantee personally the payment of those fees if the contributions were not sufficient.





Presidents,  
Panelists,  
Prominent  
Speakers and  
Convention  
Participants





Eventually, the suit was dismissed, but Association leaders in Cook County realized the need to confront the issue. Former IJA President Gene Wachowski was among the Cook County judges who supported uniformity of pay for downstate judges.

Each legislative session Cook County judges hoped to see a pay raise while downstate judges wanted their pay raised to the level of Cook County judges. There was always that conflict – equalize the pay, which meant no raise for the Cook County judges, or get an across-the-board pay raise and leave downstate judges some thousands of dollars a year behind Cook. To achieve both in one legislative session seemed impossible. To give Cook County Circuit Judges a \$5,000 pay raise and at the same time bring downstate judges to their pay level would have meant a \$12,500 per year or 42% pay raise for downstate circuit judges, and downstate legislators were traditionally opposed to raising judges' salaries.

Phil Benefiel was on the Legislative Committee and Board of Directors of the IJA and proposed resolutions before the IJA, the Conference of Chief Judges and the Judicial Administration Section of the ISBA endorsing the principle that judges at the same level be paid the same throughout the state. In spite of prior bitter confrontations between the more militant Cook County and downstate judges, Benefiel found Cook County judges ready to help resolve the issue and with their support the resolutions were passed. Implementing those resolutions was another matter.

Downstate judges should be especially grateful to Joe Power who as President of the IJA in 1974 worked tirelessly to get a bill through the legislature which satisfied the needs of both Cook County and Downstate judges. On numerous occasions he phoned then Vice President Benefiel to meet him in Springfield. Benefiel had recently been in the State Senate and knew most of its members. They went on the floor, buttonholing and counting votes, meeting legislators and lobbying at the Black Angus in Springfield. With the help of *Senator Richard M. Daley* the bill was passed by the time of the 1974 Convention when Benefiel assumed the Presidency. The bill gave Cook County Judges a \$5,000 raise to \$42,500 and downstate judges a \$12,500 raise, also to \$42,500. Associate Judges also received raises equalizing salaries for Downstate and Cook. Far more was accomplished than the pay raises or even the uniformity of pay. The once divided judiciary was united and in future efforts they could pull together for the benefit of all.

As mentioned, Cook County judges had been understandably concerned that if downstate judges succeeded in their efforts to abolish their supplement, either legislatively or in federal court, they would lose the health insurance the county provided. That concern was resolved by the new legislation which provided that a small part of the salaries in Cook and downstate, \$500, be paid by the counties, the balance by the state. As County employees, Cook County judges remained eligible for the County's insurance program. Another burr was removed.

The lawsuit by the downstate judges had cost thousands of dollars in legal fees to Jenner & Block above what had been raised by voluntary contributions. Judge McMackin of Salem had kept his word and paid the bill by going deeply in debt. Benefiel, the new IJA President, wrote letters to all downstate judges requesting that they donate a part of the increased amount received in their first higher pay check to reimburse McMackin. The downstate judges responded and Judge McMackin was fully reimbursed.

Without the Association, without the cooperation of the Cook County judges to help raise



Downstate salaries to their level, and without the support of Cook County legislators who were willing to vote for judicial pay hikes with the help of a few brave downstate legislators, a thorny problem could not have been solved.

## THE IJA & THE JIB

*Judicial Discipline:* The new judicial disciplinary system was another challenge to the new IJA. Most judges weren't too concerned when the 1970 Constitution created the Illinois Judicial Inquiry Board and permanently convened the existing Illinois Courts Commission. They felt they were ethical officials who had no reason to fear. Then as cases went to the Courts Commission fears among the most conscientious judges arose. A Cook County judge was disciplined for ruling before all the evidence was in. It was a high volume court and the Courts Commission in its opinion didn't say whether it thought the judge had acted capriciously in denying the defense its right to be heard or merely mistakenly assumed it had rested. Could an honest mistake bring a judge before the JIB or even the Courts Commission? A Downstate judge was disciplined for assessing costs in minor cases which were dismissed, but the Courts Commission made no allowance for the fact that traditionally many minor offenses were plea bargained where the state agreed to dismissal on payment of costs. Prominent Cook County judges were summoned before the JIB on charges of attending political rallies. Even when acquitted by the JIB or the Courts Commission, a judge could spend thousands of dollars in defending disciplinary charges and of course lose many hours of sleep.

*The Harrod Case.* Judge Samuel Harrod III of Eureka was charged before the Inquiry Board with requiring young male defendants with long hair to get haircuts as a condition of probation. In the early 70's, shoulder length hair on males had been rare and was becoming a sign of rebellion and drug involvement. It was part of the image of a drug dealer, and Judge Harrod had reasoned that a more respectable image would aid rehabilitation. When those charges were investigated, it also appeared that he had required youthful offenders to pick up cans along the highway as a condition of probation for underage drinking. At the suggestion of his probation officer, he also required probationers to post their drivers' licenses with the circuit clerk for which they received a receipt. Thus if a probationer was arrested while driving, the receipt would alert the arresting officer to the fact that the offender was already on probation. Finally, Judge Harrod had denied bail to a person charged with a third offense of drunk driving and driving on a revoked license before the first charge come to trial. He based his decision on the authority of *People ex rel. Hemingway v. Elrod*, (1975) 60 Ill.2d 74, 322 N.E.2d 837 which recognized preventative detention as authorized in some circumstances.

Judge Harrod's case was heard before the Judicial Inquiry Board which found a reasonable basis to charge him before the Courts Commission on all four alleged offenses: (1) the haircuts, (2) requiring community service picking up cans, (3) requiring posting of drivers' licenses, and (4) ordering detention without bail.

After a lengthy and expensive trial before the Courts Commission in which Harrod was represented by *Jerome Mirza* of Bloomington, the Courts Commission dismissed two charges but ordered Judge Harrod suspended without pay for the haircuts and having probationers post their drivers' licenses which the Commission ruled was the province of the Secretary of State. Judge *Rodney Scott* was the lone member of the Commission to dissent from the Commission's order suspending Judge Harrod. His dissent was almost unanimously hailed by the members of the



## **Planning Session**

The Illinois Judges Association's Annual Convention, to be held Nov. 30 - Dec. 2 at the Continental Plaza Hotel, was discussed last Wednesday at the Covenant Club by the association's executive committee. Seated from left are: Judges Margaret O'Malley, Richard Fitzgerald, James Heiple, Norman Eiger and Gerald Sbarboro. Standing from left: Charles Horan, Jerome Slad, Robert Buckley, Philip Benefiel, Eugene Wachowski, James Crosson, Joseph Power, Harold Siegan, David Linn, Thomas McGlooin and Roland De Marco.

**This photo appeared originally in the October 24, 1978 Chicago Daily Law Bulletin.**

IJA who were increasingly alarmed at the apparent unlimited power of the Courts Commission to override a judge's decision. On appeal, the Supreme Court ruled it lacked jurisdiction to review the Commission's decision, citing the Constitutional provision that the decisions of the Courts Commission shall be final.

The Illinois Judges Association took a bold step in petitioning to intervene in Harrod's Petition for Reconsideration before the Supreme Court. In one of the rare cases, where the Supreme Court reconsidered and reversed its earlier ruling, it ruled that the decision of the Courts Commission could only be final if it had jurisdiction, that its decision that Harrod exceeded the statutory authority to impose conditions of probation was based on the Commission's interpretation of the statute and that interpretation of the statutes is a judicial function. Thus the Courts Commission lacked jurisdiction and its suspension of Harrod was vacated. *Bill Harte* represented the IJA in its successful intervention and appeal and has represented many of the judges in their appearance before the Judicial Inquiry Board and Courts Commission.

Again the involvement of the IJA was crucial. To have left standing a decision giving the Courts Commission absolute power even to interpret statutes would have deprived the judiciary of its powers under the Constitution.

It appeared to many in the IJA that the JIB was not merely concerned with clearly unethical conduct by judges but any action where the judge's view differed from theirs. The catch-all rule that the judge avoid impropriety or the appearance of impropriety depended on the Board's interpretation, and while the Harrod case held that only the courts, not the Courts Commission, could interpret statutes, the JIB and ultimately the Courts Commission could interpret the Supreme Court Rules including the Canons of Judicial Conduct.

"*Greylord*". The Judicial System in Illinois came under fire in the 1980's in what was called "Operation Greylord". In a major and successful investigation, the FBI uncovered numerous incidents and patterns of corruption within the Cook County Courts, from Traffic to Chancery, involving judges, attorneys, clerks, bailiffs and police officers, many of whom were indicted, convicted and sentenced to prison. It should be noted that the judiciary did not observe a "code of silence" or cover for its errant members. Assistance and cooperation in the investigation came from the judiciary which issued the orders authorizing surveillance of judges and other personnel by the FBI.

JIB proceedings are confidential so little can be said of specific cases related to Greylord. However, the IJA and especially *Judge Harold W. Sullivan* were usually apprised by the respondent judge of any summons by the JIB to respond to charges. Since charges of judicial misconduct in the Greylord investigation involved both disciplinary and criminal proceedings, the JIB agreed to defer disciplinary action in such cases until criminal actions were concluded.

A "squeal" rule, as recognized in *In re Himmel*, (1988) 125 Ill.2d 531, 531 N.E.2d 790, 127 Ill.Dec. 708 and other cases during this period of time and the Supreme Court's adoption of Canon 3 (Rule 63B(3)) clearly point out the duty of judges and lawyers to take appropriate action when they become aware of legal or ethical violations by other members of the bench or bar. In the past some well-intentioned lawyers and jurists who personally observed the highest standards of ethical conduct may have looked the other way when colleagues failed to observe those same

high standards. The IJA recognizes that day has passed and is committed to helping its members understand and observe the Canons of Judicial Conduct, in practice and in spirit.

## THE ANNUAL MEETING

*The Programs.* Throughout the years, the IJA has presented interesting and informative programs at its annual meetings. There have been lectures and panel discussions on timely issues of substantive and procedural law. There have also been programs spotlighting the judges' role in improving the administration of justice. All of these programs have featured leaders of the bench and bar of Illinois, as well as other states. Many programs have as well included speakers and panel members representing academia, the media, and professions independent from but allied with the law. At each annual meeting a featured speaker addresses the members of our Association and, in joint session, since 1989, the members of the Illinois State Bar Association, as well. These featured speakers have been drawn from among nationally known (or even internationally known) leaders in the fields of law, letters, politics, law enforcement and the media.

*The Run For Justice.* The Run For Justice is an annual event initiated by then Illinois Supreme Court Justice Seymour Simon in 1983. The run is held on the Friday morning of the IJA Annual Meeting. Hundreds of judges and their spouses and friends have participated in this event over the years. Afterward, Justice Simon arranges for the participants to assemble around a breakfast of bagels, cream cheese, coffee and orange juice to discuss the events of the day, significant and otherwise, and life in general. Many judges continue to enjoy and look forward to this event.

## CONTRIBUTIONS

*Legislation and Ethics Opinions.* Judge Harold W. Sullivan, Presiding Judge of the 2<sup>nd</sup> Municipal District of the Cook County Circuit Court, was a leader of the IJA from the beginning. With the IJA headquartered in Skokie, Judge Sullivan has closely monitored both legislation affecting the judiciary and judicial disciplinary proceedings. The IJA and its officers over the years found the services of IJA Executive Secretary, Maureen McClelland, Mary Tierney and the rest of her staff in Skokie indispensable to the smooth functioning and success of the Association.

Through the Legislative and Judicial Discipline Committees which he chaired at various times, and by reports Judge Sullivan gave at each Annual Convention and Board of Directors' meeting, he kept Association members apprised of developments and encouraged action to address the needs and problems confronting Illinois judges. Those needs and problems were many: unjust criticism of judges, improved pension benefits, cost of living adjustments, ambiguities regarding judicial ethics rules and JIB proceedings, taxation of pension contributions, and many others. Through the efforts of the IJA, Judge Sullivan and other leaders, many of the needs have been met and problems alleviated. With the assistance Judges Toby Barry, Al Green and others who served in or were familiar with the legislature, and with the support of legislative members and bar groups such as the Illinois State Bar Association and The Chicago Bar Association, the IJA has enjoyed remarkable success. It has been instrumental in bringing about pay hikes, a salary commission, cost of living increases, improved retirement benefits for judges and spouses, and numerous other improvements for which the IJA has worked.



The establishment of a Judicial Ethics Committee comprised of judges and lawyers rendering ethics opinions to judges, the providing of advice and assistance to those summoned before the JIB, and keeping abreast of judicial disciplinary proceedings are among the many projects in which Judge Sullivan has given leadership and management. He has also pioneered in a Judicial Performance Evaluation project to help judges better understand their own strengths and weaknesses as perceived by those most familiar with their judicial service and thus help them improve the quality of such service.

*The Legislature and the Judiciary.* Judges have always debated whether it was appropriate for them to go to Springfield to lobby legislators for higher pay or other benefits or to seek legislation which would improve the administration of justice. At times the legislature, or some of its members, as well as the media have been critical of judicial lobbying. The Association has given much debate as to whether it should use a paid lobbyist or use its members with some legislative experience or familiarity to promote or oppose legislation of concern to the judiciary. Many responsible legislators in both houses and on both sides of the aisle have invited and welcomed judicial viewpoints on such legislation, and there are outstanding legislators who have contributed greatly to the quality of our judicial system.

Of historical significance is the contribution of *Alan Dixon*, most recently a United States Senator, who as State Senator and Chairman of the Judicial Advisory Council, gave Illinois the leadership needed to bring about a unified judiciary and the implementation of the 1964 Blue Ballot Amendment. As a result, judges no longer ran for reelection on partisan tickets and were not beholden to or subjected to pressures by political organizations or power. Such was necessary to assure an independent judiciary. This reform was not popular with some politicians who, in 1973, succeeded in getting a Constitutional amendment (SJR 23) through both Houses of the General Assembly by the necessary 3/5ths majority to return to political judgeships. It was Democratic Senator Alan Dixon along with former Republican *Governor Richard Ogilvie* who persuaded both Houses, again by the necessary 3/5ths majority, to rescind the resolution and spare Illinois from a return to what Senator Dixon called “the bad old days”. Senator Dixon and Governor Ogilvie were supported in their efforts by the IJA which sent members to Springfield to testify in opposition to SJR 23 and in support of its rescission.

*COLA and Salaries.* Over the years the IJA has worked closely with friendly legislators and the Compensation Review Board (25 ILCS 120/1 et seq.) in an effort to secure fair compensation for all judges.

In its May 1990 Report to the General Assembly, the Compensation Review Board proposed pay raises for all judges and a Cost of Living Allowance (COLA) provision which would guarantee that thereafter judges’ salaries would not be eroded by increases in the cost of living. COLA is an annual adjustment in salary based on the percentage the cost of living has risen during the preceding year. This percentage is calculated and published by the U.S. Department of Labor. The Board’s report proposed that the judges’ salaries be increased each year by the percentage increase in the cost of living, but not more than 5%. The General Assembly disapproved the salary increases that had been recommended but approved the COLA. Judges started receiving COLA adjustments on July 1, 1991 and have received such adjustments on July 1<sup>st</sup> of each succeeding year.

In its April 1994 Report to the General Assembly, the Compensation Review Board proposed

pay raises for all judges, in addition to COLA, to take effect in two installments of 6% each over two fiscal years. The first raise would go into effect on July 1, 1994 and the second on July 1, 1995. These two raises were approved by the General Assembly and went into effect as recommended by the Board.

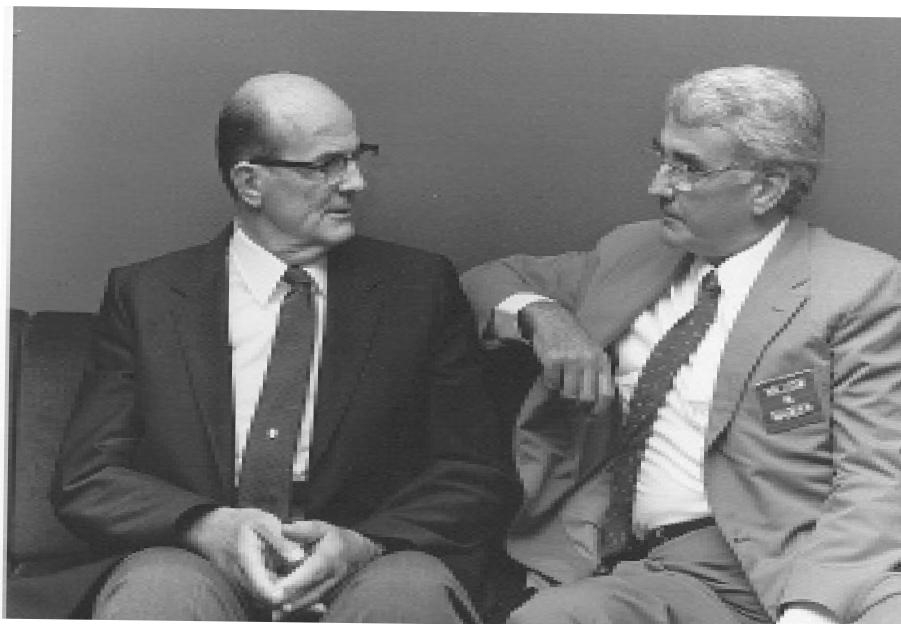
So many people helped to bring these significant developments to fruition that it would be presumptuous of us to single out individuals to thank for the help they gave us in this effort. The salary increases and the COLA provision would not have been possible without the assistance of the Illinois State Bar Association, The Chicago Bar Association and many seasoned judges. Obviously, Chairman *Kevin Forde* and all the members of the Compensation Review Board were key players in the effort. We thank them all for their courage and their vision.

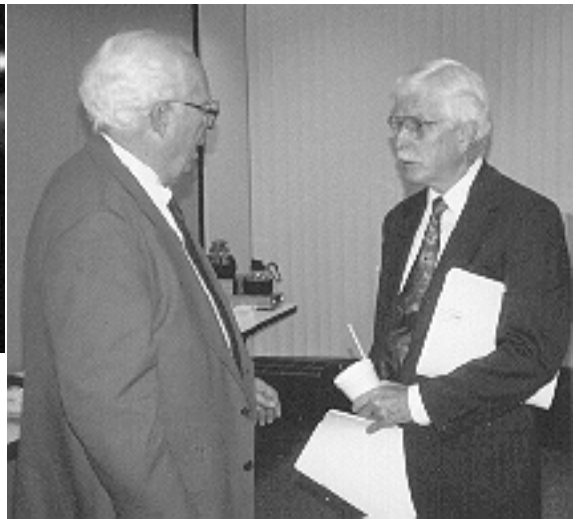
In each case, in both 1990 and 1994, it was necessary for a majority of at least one House of the General Assembly to stand firm for what they believed was right and face the possible wrath of their constituents. Both Houses stood firm in 1990. In 1994 the Senate stood firm, and it was not necessary for the House to vote on the issue. We cannot and will not name here all of those Representatives and Senators who voted in favor of these resolutions, but their names are in the roll call record. We thank all legislators who, by refusing to vote against the implementation of these Reports, allowed them to become a reality. We thank those legislative leaders and members of the General Assembly who have helped us in so many ways over the years.

*Public Relations.* The Association affords judges an opportunity to improve their relations with the public, not merely to help them when they seek retention, but to help the citizens and particularly young people to understand their rights and responsibilities in our judicial system. A speakers' bureau, meetings with the media and legislators, judicial peer evaluations and joint programs with the bar associations are among the numerous activities promoted by the IJA to improve both public relations and public understanding and to help assure the quality of the system.

During much of the IJA's 25 year history, the Administrative Office of the Illinois Courts (AOIC) was headed by *Director Roy O. Gulley*, sometimes referred to as the "Court Administrator". *Judge William M. Madden* served as Deputy Director and as Acting Director of the AOIC, and this history would not be complete without acknowledging the cooperation and support the Illinois Judges have received throughout the years from the Administrative Office and its staff.

*Committees.* The Illinois Judges Association owes much of its success to the various committees which address particular areas of concern to the judiciary. The Convention Committee plans the annual conventions. The Judicial Discipline Committee attempts to keep abreast of issues before the Judicial Inquiry Board and the Courts Commission and apprise the judges of developments. The Retired Judges Committee meets from time to time with *Rudy Kink* and *Barbara Baird* of the Judges Retirement System to keep informed on developments affecting pensions, insurance and other concerns of retirees. Currently that Committee has established an Ad Hoc Sub-Committee chaired by Retired *Judge B. B. Wolfe*, a former legislator, to consider creation of a "Senior Judge" status for retired judges who meet certain criteria. *State Senator Arthur Berman*, who has given much leadership in legislation affecting the judiciary, and *Professor Ann M. Lousin* of The John Marshall Law School are meeting with that ad hoc committee as advisors to study the feasibility of that proposal and the possibility of recalling such "Senior Judges" for individual cases or for periods when additional manpower is limited.







## **CONCLUSION**

It is quite probable that this history will be viewed by some as a saga of judges promoting their self-interests by seeking to improve their salaries, pensions and protection against judicial disciplinary proceedings. It should be admitted that much effort by this Association has been given to the economic concerns of its members and towards what judges regard as needed assurances of fairness in the disciplinary system. As judges who have been active in charting the direction of the IJA, we make no apology for addressing these concerns. An apology would be in order if we failed to do so.

First, we believe that most judges are very dedicated lawyers who are motivated by their desire to see justice for all litigants whose rights they must adjudicate. We believe that the pay judges receive will not determine that dedication. But we also feel that the salaries and benefits should be adequate to compensate the best lawyers, some who may be attracted to the bench even at financial sacrifice, but many who must consider their own obligations to family and to assure the good educations for their children. We believe that fair compensation and benefits for those who serve also serves the interests of the public.

But while the Association has sought to meet personal concerns and needs of its members, it has given even greater attention to the concerns of judges, lawyers and the public for the improvement of the administration of justice. We are honored to be a part of the best system of justice the world has ever known. But we also know that system has many imperfections and is in constant need of review and improvement.

Our Annual Conventions generally assign only a part of Saturday morning to business of the IJA, election of its officers, and “bread and butter” topics, salaries, pensions, legislation and judicial discipline. Fridays, both morning and afternoon, are given to topics designed to help judges do their job better, thus contributing to the betterment of our system of justice.

“Those who do not remember the past are doomed to repeat it.” We hear some calls for changes in our system such as a return to the Cook County supplements. Such would again be divisive. It is well to consider how judges in the past have achieved greater unity and by organization are continuing to improve the system. It is important to understand how we got where we are. That is why this history was written.

The authors wish to acknowledge the help they have received from Justice (and former IJA President) Toby Barry and Judges Bill Madden and Dan Gillespie in researching, writing and editing this history.

**December 13, 1996**

## **Presidential Updates**

Judge William Schwartz was elected President in December of 1996 which was a watershed year for the Illinois Judges Association. The Executive Committee of the Association faced two major issues during the year. The first major issue, which had been brewing for years, was the taxation of judicial pensions. This problem was not unique to Illinois but the Illinois Judges Association was at the forefront in addressing the problem. The Internal Revenue Service ruled that certain retirement accounts were subject to taxation but the implementation of the ruling had been delayed. 1997 was the year the taxation was to be implemented. Contributions made to our retirement system were going to be taxed and the tax was going to be imposed retroactively. The financial consequences were enormous.

The IJA had been working with Congressmen and Senators in an effort to resolve the problem. Of particular note was the work done by Judge Louis Rathje. Through his efforts, and the work of many others, legislation was passed in 1997 negating the IRS ruling and exempting our pensions from taxation. The tireless efforts of Judge Rathje were honored with a special presentation at our annual meeting.

The second major issue concerned the basic operation of the Illinois Judges Association. For more than twenty years, the administration of the Illinois Judges Association was taken care of through the offices of Judge Harold Sullivan. All records, mailings, accounts, equipment and clerical assistance were housed and provided through the good graces of Judge Sullivan. All of this changed in 1997. For a variety of reasons the Association no longer had any support services. All clerical staff were gone. The Association had no "home", no mailing address, and no telephone number. Through the superlative efforts of the officers of the association, the business of the organization continued without missing a beat.

The result of the administrative change was the creation of a truly free standing association. However, the immediate concern in 1997 was to keep the association functioning while developing a permanent administrative structure. A decision had to be promptly made concerning a physical location for the offices of the IJA. A number of alternatives were discussed by the Executive Committee. Someone needed to take the time to talk with various individuals concerning the rental of space and the purchase of clerical help. Judge Harvey Schwartz, the immediate Past President of the Association, volunteered and spent many hours working on arrangements before an agreement was reached with the Chicago Bar Association. The Illinois Judges Association will be forever indebted to Judge Schwartz for his efforts.

The work of the Executive Committee during this period of transition resulted in a new administrative structure for the Association. Many thanks are owed to the Chicago Bar Association and its Executive Director Terrance Murphy for the help and assistance which that organization provided. The hard work and extensive efforts of the 1997 Executive Committee left as its legacy the strong and independent Association which exists today.

In December 1997 the IJA had weathered the changes of becoming an independent organization through the steady leadership of Bill Schwartz. The organization was established in its new home on Plymouth, staffed by Kathy McEnroe, and advised on public relations issues by Chris Ruys. With that professional team in place, President Mary Jane Theis was able to focus on other concerns.

Theis's theme for the year was improving the relationship between the judiciary and the community, highlighting innovative programs developed by judges around the state. Chris Ruys developed a media campaign that included meetings with newspaper editorial boards, TV appearances, radio shows, and partnerships with other organizations. For the first time the IJA produced its own

cable TV show, Judicial Perspectives.

With the assistance of the organized bar, the IJA responded to unfair criticism of judges. In one case Bill Quinlan as Judicial Liaison of the ISBA responded to the IJA's request for help when the Chicago Sun Times wrote an outrageous editorial attacking a judge and his supervising judge. Later the Sun Times acknowledged it was wrong, and apologized to the judges. In another case, a family of a defendant campaigned against the judge who had convicted him during a retention election. The IJA brought together a large number of bar leaders at a press conference. This response to a direct attack on judicial independence received broad print and TV coverage.

1998 was a Compensation Review Board year, and with Tim Evans and Mike Galasso as co-chairs of the IJA's Government Affairs Committee, the IJA's lobbying efforts were successful. The Board's report was rejected by the House of Representatives, but the rejection failed in the Senate with 25 yes, 31 no, 2 present and 1 not voting. Judicial salaries were increased 3% in July 1998, and 3% in July 1999, coupled with the COLA for each year.

At the Annual Convention in December 1998, Abner Mikva, former member of all three branches of government, was awarded the first Founder's Award. Judge Mikva spoke about judicial independence in a speech entitled "Ain't Misbehavin'." A panel discussion followed to discuss the resolution "An independent judiciary is vital to our democracy." DePaul Professor Jeffery Shaman, Mary Jane Theis, Tim Slavin, Senator Carl Hawkinson, Jay Levine of News 2 Chicago, attorneys Patti Bobb and William Conlon, and Edward Murnane of the Illinois Civil Justice League participated.

During the annual meeting of the IJA the next morning Mary Jane Theis noted that she had achieved her cherished goal - being a past President of the Illinois Judges Association.

Timothy J. Slavin of Morrison, Whiteside County, was elected President of the IJA in December of 1998. Judge Slavin's public theme for his year at the helm was fostering an understanding of the importance of the independence of the judiciary. A full press public relations campaign included an interview with the editor of the Chicago Tribune.

Internally, he dedicated himself, the officers and the staff to shoring up what he called the institutional "nuts and bolts." Time and effort was spent reworking and amending the by-laws, putting a financial policy in place, implementing the process of budget planning, giving each committee a written charge and wrapping procedural mandates around the guidelines of some standing committees. Slavin also planted the seeds of the present day relationship with the Supreme Court of Illinois by opening up a dialogue with that body when he was the first president to formally meet with the Chief Justice to discuss areas of mutual interest. Then the draft of a dormant pension enhancement bill was resurrected and given a breath of life. The Governmental Affairs Committee went to work along with many others who were versed in the workings of the legislature. By the fall, Senate Bill 1020 became the focus of Judge Slavin's administration. The proposed statute rewarded longevity in judicial office by incrementally lowering the age at which the maximum pension could be received for members of the judiciary who had more than twenty years of service but were not yet the previously magical sixty years of age. As goes the ebb and flow of pending legislation, SB 1020 was alternately pegged a sure winner and then a dead horse. A last hour push in the veto session was made. The leadership of the IJA spent considerable time in Springfield and eventually carried the day.

Slavin's tenure was marked by educating the public about the unique and necessarily independent role of our profession, shoring up internal policy and procedure, reaching out to the state's highest court and the passage of the pension enhancement now enjoyed by many.

The Illinois Judges Association was led by Judge Patrick E. McGann as President from Decem-

ber 1999 to December 2000. Judges Stephen C. Mathers, First Vice President, Stuart A. Nudelman, Second Vice President, Michael R. Galasso, Third Vice President, John O. Steele, Secretary and Ann B. Jorgensen, Treasurer were the officers. The theme of the year was “Judges in the Community.” The Association focused on raising its identity across the state. The focus was on informing the public of the important problem-solving approaches judges take in addressing issues that affect the justice system. The main ingredient of this approach was expanding the reach of Judicial Perspectives, the Association’s periodic cable television show. The March 2000 show featured Chief Justice Moses Harrison. The Chief Justice explained the role of the Supreme Court in the administration of justice. This program was shown throughout the state and received extremely positive responses. The Association also sponsored a program on “Drug Courts.” Judges from Cook and Madison County explained the focus of this problem-solving court. They also shared the extremely positive results both in terms of reducing recidivism and taxpayer cost gained by effective use of this strategy. As result of Justice Harrison’s participation in our program, the Judges Association was asked to participate with the Supreme Court in developing a Judicial Speakers Bureau. This program was publicly announced in October 2000. The Association also helped to develop and present the Drive Wise/Stay Alive Program to several high schools, as well as, the Have a Heart child protection initiative.

The year 2000 was also a Compensation Review Board year. The Association was very much concerned about the increasing disparity between the pay scales for associate and circuit Judges. The focus of the Judges Association presentation was an equalizing that disparity. Judge Thomas Callum, then Chief Judge of the 18th Judicial Circuit, appeared with the President and testified to the workload distribution between circuit and associate Judges. As a result, for the first time, the Compensation Review Board recommended that a pay differential of 5% be established between all levels of the judiciary. Unfortunately, this recommendation was not accepted by the Legislature.

The Supreme Court’s initiative to install electronic recording devices in courtrooms throughout the state elicited calls for assistance from the court reporters of Illinois. The Association attempted to assist these hard working men and women with their concerns with the recognition that our responsibility was to make certain the best record of proceedings was kept and maintained.

The Association continued developing its relationship with the Judicial Inquiry Board during this year. This led to an advisory from the Board relating to increasing concerns about ethical considerations relating to a judge’s participation in fund raising activities. An article concerning this issue was published in *The Gavel*. The Board acknowledged our prompt and helpful response to their concerns.

The year 2000 also saw the implementation of the first investment policy established by the Board. The Illinois Judges Foundation was also created. At the year’s end, retired Judge Michael R. Galasso became our second Director Emeritus. The Board also established the first Judge Harold Sullivan Scholarship Award recipient as De Paul University College of Law, the judge’s alma mater. A \$5,000 grant was given to the school in recognition of Judge Sullivan’s contributions to the judiciary. In addition, the Association recognized the contributions of Leonard Amari and William Austin in forwarding the cause of judicial independence by bestowing the Founders Award on them at the annual convention. Judge Blanche Manning of the District Court was the luncheon speaker in 2000.

In the first year of the new century, the IJA was planning for, and implementing, increasingly effective infrastructure and policy changes.

While continuing programs of previous presidents which articulated and emphasized Judicial Independence, Community Outreach by judges, and Public Education concerning the role of the



Courts, President Stephen C. Mathers (Knox County; 9<sup>th</sup> Judicial Circuit) also concentrated on enhancing the independence of the Association itself. As the first President in four years who did not have to work for the acceptance of a Compensation Review Board salary increase or a major pension enhancement bill, Mathers was able to effectively concentrate upon long-range planning and improvements to the operational/structural support for the Officers and Committee Chairs.

Mathers' first major act as president was the appointment of a Long-Range Planning Committee, chaired by retired Appellate Court Judge Gino DiVito. After several planning and fact-finding sessions during the spring and summer, the committee members and officers were led by ISBA Executive Director, and experienced facilitator, Bob Craghead, in a day-long Planning session in DuPage County. The result was over 40 specific tactical and strategic goals for the IJA to implement in the immediate and long-term future. Several of those goals would require a specific change that Steve Mathers had begun researching and preparing for since being elected in December 2000. For five years, the IJA had no employee of its own. Rather, the terms of its agreement with the Chicago Bar Association was for office space and secretarial support, as provided by mutual agreement with the CBA. Knowing that the vitality and credibility of the IJA, with leading bar associations and others, would be increasingly dependent upon implementing and following through on its own programs and initiatives (a concept ratified by the Long-Range Planning Committee Report), Mathers hired as Executive Assistant, the IJA's first permanent and full-time employee, Maureen McClelland. [Ms. McClelland had earlier served in a part-time capacity for the IJA, with secretarial and accounting duties, and had recently retired as Court Administrator with the Circuit Court of Cook County in Skokie.]

Less significant, but nonetheless important, activities during 2001 included:

- The completion of the preparation for and actual establishment of the Illinois Judges Association Foundation, as a charitable institution and a potential source of funding for such activities as the annual Harold W. Sullivan Scholarship, then being funded from dues and the general operating budget.
- The general implementation and use of e-mail and the Internet as a less expensive and more prompt communication vehicle between officers and for the enhanced effectiveness of telephonic 'emergency' meetings. For the first time, e-mail addresses were included in the Yearbook, for ease of access to officers and committee chairs by all Association members. At least one President's Task Force meeting in Chicago was able to be canceled because Executive Committee and Task Force members had already been fully informed of the progress of activities and programs of the Association and no timely in-person vote was necessary.
- Similarly, plans were completed for the distribution of The Gavel via e-mail and via posting of this newsletter at the IJA web site, [ija.org](http://ija.org), maintained by Electronic Media Committee Chair David A. Youck.
- The implementation and effective functioning of the joint, Illinois Supreme Court-Illinois Judges Association co-sponsored, Speakers Bureau as a viable resource for any organization or group needing a speaker on topics related to the law and the judiciary. Publicized by the Administrative Office of Illinois Courts, which took the initial inquiries, the speakers were promptly and efficiently provided through the work of then-1st Vice President Stuart A. Nudelman.

Judge Stuart Nudelman took over the reigns in December of 2001. 2002 was an interesting year for the Illinois Judges Association, as well as all judges across the state of Illinois. Membership in the IJA approached the 1,000 mark as more judges realized the benefits that are derived from membership.

Certainly the events in 2002 tested the mettle of the leadership of the IJA. We were so

fortunate to have an outstanding Executive Committee, as well as President's Task Force. These committees are composed of judges from across our state who have an interest in the welfare of their brothers and sisters on the bench. They have been active regarding judicial criticism, COLA issues and outreach to bar associations from Cairo to Rockford. Our Criticism Response Team worked tirelessly to combat unfair criticism of judges and have partnered with the American Board of Trial Advocates toward that end.

Relations with the ISBA, the CBA and regional and ethnic bar associations have never been better. We continue to work with the Conference of Chief Judges, as well as the Justices of our Supreme Court. We hope to form new relationships with the Judicial Inquiry Board, the Courts Commission and the Attorney Registration and Disciplinary Commission for the benefit of lawyers and judges statewide.

We, as an association, have made great progress in many areas. This year brought a total restructuring of the IJA to revamp our organization to be more in sync with other bar associations across the state. The officers and members of the board of directors will now serve from June to June rather than terms expiring at the winter convention.

Our committees did yeomen service in their assigned tasks with special kudos going to David Youck and the Electronic Media Committee enabling us to have almost instant communication with the 480+- judges currently on line.

The Illinois Judges Association was involved in many statewide events that brought us recognition for the good work that we have done. Programs such as You Drink & Drive, You Lose; the Illinois Judicial Speakers Bureau; Judicial Job Shadow Day and the Judicial Perspective Cable Television Show brought us the exposure and recognition that we deserved.

Judge James M. Wexstten began his term as President in June 2005.

Without doubt our associations most significant accomplishment was the end of the growing disparity of the salaries between circuit and associate judges. After testimony from President Wexstten and Vice President Jesse Reyes, supported by testimony from representatives of the Chicago Bar Association and the Illinois State Bar Association, the Compensation Review Board recommended that associate judge salaries be fixed at ninety-five percent of circuit judge salaries. The legislature agreed and the recommendation became law.

The Judicial Intern Opportunity Program of the American Bar Association was expanded statewide and in the first year of this expansion eighteen of twenty-two circuits had summer interns. The program, designed for financially disadvantaged and minority law students, continues to thrive as funding is now provided through the Illinois Judges Foundation.

For the first year time since adoption of the 1970 Illinois Constitution, the Supreme Court of Illinois, as a result of efforts of the Illinois Judges Association, approved the concept of “full state funding of the trial courts.” While this effort has not yet come to fruition, it nevertheless focused attention on the mirage that Illinois is a unified court system.

Other efforts in which our association took a leadership role included:

- Convening a meeting with the leadership of other organizations impacted by the under-funding of our pension systems;
- Working with the Supreme Court of Illinois to revitalize the Speakers Bureau;
- Adding thirty-seven judges from the Board and Task Force as new intervenors for the Lawyers Assistance Program;
- Working with the Illinois Judicial Ethics Advisory Committee to provide input to the Supreme Court of Illinois resulting in amendment of Supreme Court Rule 64 to clarify the role judges are permitted to play with respect to fund-raising events sponsored by law-related organizations.





## Presidents of the IJA

1972	Eugene L. Wachowski*
1973	John A. Massieon*
1974	Joseph A. Power*
1975	Philip B. Benefiel
1976	Charles P. Horan*
1977	John A. Krause*
1978	Richard J. Fitzgerald
1979	James D. Heiple
1980	Jerome C. Slad*
1981	Joseph F. Cunningham*
1982	David J. Shields
1983	John P. Shonkwiler
1984	Anthony J. Scotillo*
1985	Roland J. De Marco*
1986	Mel R. Jiganti
1987	Tobias Barry
1988	Rosemary D. LaPorta*
1989	Horace L. Calvo*
1990	Thomas R. Fitzgerald
1991	Richard P. Goldenhersh
1992	Sophia H. Hall
1993	Jack Hoogasian*
1994	Gino L. DiVito
1995	Robert L. Carter
1996	Harvey Schwartz
1997	William G. Schwartz
1998	Mary Jane Theis
1999	Timothy J. Slavin
2000	Patrick E. McGann
2001	Stephen C. Mathers
2002	Stuart A. Nudelman
2003	Ann B. Jorgensen
2004	John O. Steele
2005	James M. Wexstten
2006	Jesse G. Reyes
2007	Mark A. Schuering
2008	James R. Epstein
2009	Ronald D. Spears

### **Lifetime Service Award Recipients**

1990	Harold W. Sullivan
1990	Norman N. Eiger* - Special Memorial Award
1991	Philip B. Benefiel
1992	Eugene L. Wachowski*
1993	Tobias Barry
1994	Harry G. Comerford*
1995	Carl Albert Lund
2000	S. Louis Rathje
2001	Albert Green
2002	Gino L. DiVito
2002	Seymour Simon*
2003	Michael R. Galasso
2004	Stuart A. Nudelman
2004	Mary Jane Theis
2004	David A. Youck* (posthumously)
2005	Thomas R. Fitzgerald
2005	Ann B. Jorgensen
2006	Timothy C. Evans
2007	Rita M. Garman
2008	William M. Madden

### **Founders Award Recipients**

1998	Abner J. Mikva
2000	Leonard F. Amari
2000	Richard William Austin
2005	Rudy Kink
2005	Warren Lupel

\* Deceased

## Convention Speakers

Dr. Mortimer Adler  
Honorable Marvin Aspen  
F. Lee Bailey  
Honorable Anne M. Burke  
John Callaway  
Archibald Cox  
Mayor Richard M. Daley  
U. S. Attorney Patrick J. Fitzgerald  
Honorable Thomas R. Fitzgerald  
Fred W. Friendly  
Rudolph W. Giuliani  
Honorable Arthur Goldberg  
Richard "Racehorse" Haynes  
Honorable Henry Hyde  
Bill Kurtis  
Honorable Lisa M. Madigan  
Judge Blanche M. Manning  
Carol Marin  
Wade McCree, Jr.  
Judge Abner Mikva  
Governor Louis B. Nunn  
Clarence Page  
Milt Rosenberg  
Gerry L. Spence  
Professor Mark E. Steiner  
Margaret O'Brien Steinfels  
Eugene C. Thomas  
Honorable Robert R. Thomas  
Richard Threlkeld  
Scott Turow  
William H. Webster  
George F. Will