



ILLINOIS STATE BAR ASSOCIATION

BENCH & BAR

The newsletter of the Illinois State Bar Association's Bench & Bar Section

Remembering Harold

By Hon. Gino L. DiVito (ret.)

The Illinois Judges Association (IJA) and he were synonymous. He assisted in its birth. He was its key strategist. He was the center of its activities. He had the institutional memory concerning all of its efforts. He was IJA's heart and soul.

Those attributes could apply to only one person: Judge Harold W. Sullivan who, on March 22, 2010, just a month shy of his 84th birthday, ended his earthly journey and began a new one.

Since 1971, one could not be a judge in Illinois without appreciating Harold Sullivan's impact. That was the year in which, with other giants of the judiciary, he co-founded IJA, based on the premise that judges united in a common cause could obtain appropriate benefits for themselves while achieving great benefits for the justice system as well. The premise was valid then and it remains so today.

IJA has a history of uniting judges in seeking and sometimes obtaining fair compensation, including annual cost of living allowances that had to be secured through a difficult legislative process and then had to be reclaimed through court proceedings that ended favorably in the supreme court. IJA has secured pension benefits that provide retired judges and their widowed spouses at least some financial resources during their final years. It is ironic indeed that the General Assembly should reduce pension benefits for future judges over Harold's dead body, two days after his death—when his voice could no longer be raised in protest.

In addition to compensation and pension benefits, IJA was, and is, the go-to entity for judges for insurance benefits, for fairness in disciplinary proceedings, for responses to

unfair criticism, and for safeguarding the judicial independence that makes possible the attainment of justice. And right in the middle of all the efforts of IJA—indeed, leading the charge—was Harold Sullivan.

Members of the board of directors, officers, and presidents come and go, but the one constant was Harold. He lived to ensure that IJA would thrive. When it was time to select leaders, he was ready, bolstered by a wide circle of "advisors." A typical phone conversation with him might begin with: "What do you think of Judge X for that spot?" The position referred to as "that spot" might have been an IJA committee chairmanship, membership on the board, an office, the presidency. Every candidate had to be fully vetted. Never occupying the office of president himself, he preferred working to ensure that worthy judges attained that position. He observed. He listened. He remembered. He looked for and, with input from others, he found leaders. Leaders among leaders. All for the benefit of IJA—for the judges. All for the benefit of the justice system—for the people.

You could not have a discussion with Harold—on the phone, at a meeting, over a meal—without his steering the conversation to something of concern to judges. He would rail about "what 'those guys' [usually meaning legislators, or the news media, or members of the Judicial Inquiry Board] were doing

to us." Or he would pontificate about "what 'those guys' should be doing for us." Discussions were never one-sided. He invited input. Yes, he had his viewpoint, and it was passionately presented. But he genuinely wanted to know the thoughts of others about every issue. And, after there was consensus about a goal or a problem, there had to be agreement on how to address it; there had to be agreement on the strategy for resolution.

There were countless discussions, one-on-one or in innumerable meetings, that proceeded in the same fashion: identification of the issue; consultation with, and inclusion of, others in addressing it; agreement on the solution; and strategizing on achieving the goal. This is how dedicated judges, frequently involving non-judges as allies, strived to reach articulated goals. That is how Harold animated the leaders that he carefully assembled. In that fashion—through "Harold's method"—he got results.

In the struggle, it was important to involve others. There are limits to what judges can do on their own. We needed allies. We needed to let others know what was important to us. We needed to inspire others to action. And we needed to know what was important to those who worked with us. In short, we needed to work collaboratively. All of which explains Harold's passion for working with the organized bar. All of which explains why he served on ISBA's Board of Governors for six years and, when he was termed off the Board, why he enlisted me to replace him and, when I was termed off after six years, why he returned to the Board. It was simple: share with your allies your needs and desires and learn theirs, and then work jointly to achieve each other's goals. Harold and I shared 18 years of ISBA Board membership,

**...it was
interesting
to witness the
familiar fervor...
from the leaders
that Harold
had cultivated.**

and that's what we did. That's how the joint conventions of IJA and ISBA came into being, as the very manifestation of cooperation. Since then, others who are passionate about addressing the interests of judges and those of the bar have carried on the tradition—the tradition of applying Harold's method.

The same process had been followed with the Chicago Bar Association. Harold served on the CBA Board of Directors for a two-year term starting in 1972, a year after co-founding IJA and during a period when it was not fashionable for judges to be actively involved in bar association governance. His successor on that Board was Gene Wachowski, another judicial legend, a co-founder of IJA, and its first president. The pattern of cooperation with the organized bar was set during IJA's infancy. From that time, IJA has focused on having not just a freelance judge on the CBA Board, but one who would collaborate to attain its goals—one who cares about the interests of judges, of lawyers, of the people, of the justice system.

Judicial discipline was another focus for Harold. Through him, IJA leaders had regular and formal dialogue with the Judicial Inquiry Board. The goal was not to obstruct required discipline, but to ensure that judges received due process. IJA succeeded, and judges facing disciplinary proceedings today are the beneficiaries of his efforts. Harold saw, too, that sometimes disciplinary proceedings were initiated in matters where ethical requirements were uncertain. His solution: the creation, with the cooperation of ISBA and CBA, of the Joint Judicial Ethics Committee. Finally, judges had, and continue to have, a place where questions related to judicial ethics could be addressed.

Judicial Performance Evaluation, now embodied in Illinois Supreme Court Rule 58, was Harold's brainchild and is a perfect example of the application of Harold's method. It came about because he felt that judges needed both mentoring and feedback about their performance on the bench—mentoring and feedback that would occur before retention-related bar evaluations, and that would have a positive impact both on judicial performance and on such evaluations. He knew that positive reports from lawyers would provide incentive for judges to continue good practices, especially when it was rare to receive prompt and favorable feedback; and he knew that negative reports would provide an opportunity for conscientious judges to acknowledge the unacceptability of poor performance and try to make

necessary corrections. It was as simple as that.

After he convinced the supreme court of the merits of his plan for performance evaluation, but before the court adopted a rule related to it, he went about the task of implementation. He first enlisted administrators and faculty at Loyola University to gather reports from lawyers about individual judges and, for comparison purposes, about other judges presiding over the same type of cases. He told them what the reports needed to address, and then left it to them to assemble usable and credible reports for evaluation purposes. Then, in typical fashion, he assembled those that he knew would be appropriate facilitators for the evaluation process. Those persons, judges and non-judges, once informed of the concept and the processes to be followed, became stakeholders. They were trained to facilitate the evaluations—to encourage best practices, and to work to repair negative performance, with follow-up meetings if necessary, while always upholding confidentiality.

The evaluation processes that Harold put in place in those early years continue today. The goal is well stated by the supreme court in its rule on the subject: "There shall be a program of judicial performance evaluation for the purpose of achieving excellence in the performance of individual judges and the improvement of the judiciary as a whole." Illinois Supreme Court Rule 58(c). "Achieving excellence," or at least striving to do so, was Harold's lifetime passion.

Harold's method was not restricted solely to achieving the goals of IJA. It was his *modus operandi*, the method he used to achieve all his goals. For all the years that he was the presiding judge of the circuit court of Cook County's 2nd Municipal District, he used the same procedures with the judges he supervised: regular monthly meetings; assignments to research and discuss with colleagues relevant substantive and procedural issues; inclusion and consultation; and obtaining consensus about best courtroom practices.

When he began work on the design of the new courthouse scheduled to be built in Skokie, he involved others in his construction plans. He discussed with trial lawyers and trial judges the location of jury boxes, witness stands, counsel tables. He wanted the courtrooms to be user friendly—for everyone. And he focused on important details. The fact that there were tennis courts near the building that was to be the "house that

Harold built," did not escape his attention. An avid tennis player who lived across the street from public tennis courts, he invited me to experience the courts in a spirited tennis match before construction of the courthouse began—to ensure that they would be acceptable for lunchtime play. It is not by happenstance that the presiding judge's restroom in Municipal District 2 is equipped with a shower.

Skiing was another passion of Harold's. His two favorite mountains were Vail and Steamboat Springs. Although I shared his love for Steamboat, where one of my brothers lived for some time and where all three of my daughters learned to ski more than 30 years ago, we never skied it together, merely sharing stories about our experiences there. But we managed to get together a number of times on the vast and magnificent slopes of Vail. Just as in other matters, I heeded his call to "follow me," as he led me down break-neck, double-black-diamond runs. He knew that skiing was a great metaphor for life in many ways, but he knew particularly—despite his goal-driven nature—that the goal of skiing is not to get to the top or the bottom of the mountain, but just to ski, just to enjoy it with loved ones, just to enjoy the journey. He truly enjoyed the journey.

The father of 12 and grandfather of 40, Harold spent a lot of time with his offspring, enjoying the journey on tennis courts, golf courses, and snow-packed mountains. At his funeral mass, it was said that, in his almost-60 years of marriage to his beloved Mildred, they never had an argument—because he knew that she was always right. This was a man, "called to the service of others" in the words of Jim, his last-born, who, while jogging his "maintenance mile" on his way to daily mass a short distance from his home, would pick up his neighbors' newspapers at the end of their driveways and place them near their front doors. This was a man who knew how to build community, who truly worked at serving others.

IJA has recognized Harold's accomplishments in many ways. Among them was the naming of the scholarship awarded to a different Illinois law school each year as the Judge Harold W. Sullivan Scholarship. That scholarship award, given in Harold's name by IJA for many years and indicative of his commitment to the legal profession and the judiciary, is now funded and will continue to be given in his name by the Illinois Judges Foundation. In 1990, IJA presented Harold its first Lifetime Achievement Award. To say

that it was a fitting honor would be a gross understatement.

For many years, starting well before he retired from the bench in 1999, Harold met with selected judicial colleagues, active and retired, for monthly lunches at Roditys Restaurant in Greektown, an accessible location because of its proximity to the Loop and to the Kennedy Expressway. Before his retirement, he would choose a date for the luncheon and send invitations from his office. After his retirement, he asked me to take over the responsibility of sending the invitations. I enjoyed doing so because, when he called me each month, two or three weeks before his targeted date, I was able to ensure that the date we selected was a date on which I could attend. Soon after taking over the task, I began referring to the event as the “Sullivan Invitational Luncheon.”

Not surprisingly, the luncheons followed the same pattern as every meeting with Harold: his steering the conversation and leading us in passionate terms about what “they” were doing to, or should be doing for, judges. In recent times, however, due to assaults on his physical and mental health, the tenor of the luncheons changed. To be sure, the group still talked about the same familiar topics, now related to current events, but Harold no longer led the discussions. He became a passive participant, a listener. Nevertheless, it was interesting to witness the familiar fervor from the attendees—from the leaders that Harold had cultivated.

Something else was different. We no longer planned a specific action, because everyone knew that a different and younger generation of IJA leaders was in charge and would do the right things—after all, they too

were subjected to Harold’s influence. Indeed, the retired and active judges who attended, some of whom have passed on, did so not for a cause, but out of a sense of camaraderie driven by genuine affection for Harold, and because it was good to be in the company of a giant, even a diminished one.

On April 27, 2010, we will meet again, on Harold’s 84th birthday—just as we did for his 83rd and almost every month for so many years. This time our focus will be to reminisce about our departed friend. Sure, we’ll discuss current and relevant issues. And we’ll have to decide whether we will continue to meet for the Sullivan Invitational. I believe I know what the group’s decision will be. It will be to do what Harold would have wanted. ■

*Gino DiVito is a retired circuit and appellate court judge and a former president of IJA.

REPRINTED WITH PERMISSION FROM THE
ILLINOIS STATE BAR ASSOCIATION’S
BENCH & BAR NEWSLETTER,
VOL. 40 #7, MAY 2010.
COPYRIGHT BY THE ILLINOIS STATE BAR ASSOCIATION.
WWW.ISBA.ORG