Howard C. Ryan
1970-1990

A native of Tonica, Illinois, Howard Christopher Ryan was born on June 17, 1916, the son of John F. and Sarah Egger Ryan. Reared on a farm and educated at Tonica

public schools, Howard attended LaSalle-Peru-Oglesby Junior College and the University of Illinois. Graduating from the University of Illinois College of Law, he received his law license in April 1942. The following month he enlisted in the Army Air Corps, serving as a radio operator during World War II. After the Allies captured Paris in 1944, Ryan and his crew flew supplies into the city and returned wounded troops to the U.S.[1]

On October 16, 1943, he married Helen Cizek in Chicago, and they became the parents of three children, including a son who died in infancy. After the war, Ryan practiced law briefly in Decatur with the firm Evans, Kuhle and Leach. Returning to La Salle County, the Ryan family resided in Tonica and he became a partner with Van Peursem, McNeilly and Ryan in nearby Peru. Appointed an assistant state's attorney in 1952, Ryan won election as county judge in 1954 as a Republican. Three years later he was elected a judge of the Thirteenth Judicial Circuit, serving as Chief Judge from 1963 to 1968, before being elected to the Third District Appellate Court. From that district, he

won election to the Illinois Supreme Court in 1970, filling the vacancy created by the resignation of Justice Ray I. Klingbiel. Ryan was retained in 1976 and 1986, serving as Chief Justice from 1982 to 1985.

During the first decade of his Supreme Court tenure, Ryan expressed opposition to the Illinois death penalty law. He and two other Justices strongly dissented from the majority opinion in the 1979 case of *Carey v. Cousins*, which upheld Cook County State's Attorney Bernard Carey regarding the constitutionality of the 1977 capital punishment statute. The dissenting Justices agreed with Cook County Circuit Judge William Cousins Jr.'s refusal to convene a death-penalty hearing following a defendant's murder conviction. Writing the dissent, Ryan maintained that the statute "contains no directions or guidelines to minimize the risk of wholly arbitrary and capricious action by the prosecutor in either requesting a sentencing hearing or in not requesting a sentencing hearing. The vague belief of the majority that the State's Attorney will not request such a hearing unless he believes that there will be evidence which will persuade a jury that the requisite elements for a death sentence exist is meaningless." Without such guidelines, Ryan continued, the state's death penalty could be "wantonly and freakishly" imposed.[2]

In the 1984 case *People v. Albanese*, however, he concurred in the Supreme Court's affirmation of the capital punishment statute. Charles Albanese, found guilty of the arsenic-poisoning murder of his mother-in-law, unsuccessfully appealed the verdict as well as his death sentence on several grounds. In a four-page opinion, Ryan explained his concurrence in the Court decision. "I must accept the fact that my opinion was wrong" in *Carey v. Cousins,* "because four members of this court said it was wrong. . . . The decision of the majority in *Cousins* is binding not because of the concept that it is right or

correct as a proposition of law, but because it is the final statement on that issue made by the highest judicial tribunal that has considered it. . . . Simply because I dissent in a case does not mean that I must forever insist that I was right and the majority was wrong."[3] In a 1991 *Chicago Tribune* interview, Ryan said that "he came to have fewer doubts about capital punishment and accepted it as the law of the land."[4]

In the 1978 case *Kelsay v. Motorola, Inc.,* Ryan delivered a landmark opinion establishing that a worker may sue an employer for retaliatory discharge if terminated for asserting rights under the state's 1973 Workmen's Compensation Act. After the Livingston County Circuit Court awarded Marilyn Jo Kelsay compensatory and punitive damages against Motorola, the Fourth District Appellate Court reversed the judgment on grounds that an employee had no cause of action against an employer for retaliatory discharge. "An action for retaliatory discharge should be allowed," Ryan wrote in reversing the Appellate decision, "in order to prevent employers from putting employees in the position of choosing between their jobs and seeking their remedies under the Workmen's Compensation Act."[5]

In a 1983 ruling, Chief Justice Ryan concurred with Rule 61 C (24) that banned media cameras in trial courts. "Having served as a trial judge for 14 years," Ryan wrote, "I am well aware of the fact that in conducting a trial, civil or criminal, of sufficient importance to attract the photographers and television crews into the courtroom, a trial judge has enough to do without having the additional responsibility of policing the conduct of a group of people who have no connection with the litigation." In 2012, the Supreme Court reversed the more than forty-year camera ban. "It gives the opportunity to

bring the public's eye, through the media, into the courtroom," explained Chief Justice Thomas L. Kilbride. "Ultimately, we hope it's a good civics lesson."[6]

In what he described as "his most challenging case" as an Illinois Supreme Court justice, Ryan delivered the majority opinion *In re Estate of Longeway*. The guardian and daughter of Dorothy M. Longeway, an elderly comatose convalescent center patient who had not executed a "living will," appealed a DuPage County Circuit Court decision preventing the withdrawal of sustenance. The 1989 decision reversed the circuit court, recognizing the right of a guardian to refuse or to withdraw artificial nutrition and hydration from a terminally ill patient. "Because we believe the right to refuse artificial sustenance is premised on common law," Ryan wrote, "the legislature is free to streamline, tailor, or overrule the procedures outlined in this opinion to the extent that no constitutional doctrine is abrogated. The legislature is the appropriate forum for the ultimate resolution of the questions surrounding the right to die."[7]

Conservative and independent, "I suppose that my decisions and my opinions probably reflect that I am not what they call an activist judge," Ryan mused in 1990. "I do believe that there is such a thing as separation of powers and that the Legislature should be performing legislative functions and the courts performing judicial functions. I do think that in the past a good many judges have not been happy with what the Legislature has [or has not] done and therefore have taken it upon themselves to do some of what probably rightfully can be called legislative work."[8] Ryan strove to reduce delays in criminal case appeals and to develop alternate methods of resolving disputes, including a Supreme Court rule that established mandatory arbitration in civil suits seeking $15,000 or less in damages.[9]

Retiring in 1990, six years before the expiration of his term, Ryan became of counsel to the Chicago firm Peterson and Ross. He held memberships in the LaSalle County, Illinois State, and American Bar associations, the American Judicature Society, Phi Alpha Delta law fraternity, American Legion, Odd Fellows, Elks, and was a 33rd Degree Mason. He died at age ninety-two on December 10, 2008, at Manor Court nursing facility, Peru. After services at Tonica United Methodist Church, Ryan was buried beside his wife in Fairview Cemetery.

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[1] mywebtimes.com/archives/Ottawa/print_display

[2] 77 Ill. 2d 531-61.

[3] 104 Ill. 2d 504-46.

[4] *Chicago Tribune,* Dec. 17, 2008, Sec. 1, p. 45.

[5] 74 Ill. 2d 172-90.

[6] www,qconline.com/archives/qco/print_display

[7] 133 Ill. 2d 33-55; *Chicago Tribune,* Dec. 17, 2008, Sec. 1, p. 45.

[8] Illinois State Bar Assn., *Bench & Bar,* Special Issue, Oct. 1990, p. 4.

[9] Springfield *State Journal-Register,* Oct. 11, 1989, p. 8.