

Joseph H. Goldenhersh
1970-1987

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Joseph H. Goldenhersh was born in East St. Louis on November 2, 1914, one of five children born to Benjamin and Bertha Goldenhersh who had immigrated to the United States in 1907. His parents owned a small store. He attended local elementary schools and East St. Louis High School. He graduated from Washington University Law School in St. Louis, Missouri, in the fall of 1935 and was admitted to the Illinois bar in the spring of 1936, having attended college and law school during the Great Depression.¹



He entered the practice of law in East St. Louis from 1936 until his election to the Illinois Appellate Court for the Fifth Judicial District in 1964. While in private practice he served as city attorney of the City of Lebanon. He was special counsel to the City of East St. Louis and as attorney for the East Side Levy District Sanitary District. During World War II, he was an advisor to the local draft board. He was also president of the East St. Louis Bar Association.² He was elected to the appellate bench to fill a seat created by the new judicial article in the state constitution.

After six years of service on the appellate court he was elected to the Illinois Supreme Court in November 1970, on his fifty-sixth birthday, and was sworn in on December 7, 1970. He filled the seat vacated by the death of Justice Byron O. House. In the election he beat Harold

Clark, the Republican candidate from Alton. His election victory gave the Supreme Court its first Democratic majority since 1942.³ He was reelected for a second ten-year term in 1980. During his time on the court his colleagues chose him to be Chief Justice from January 1979 to December 1981. Because of the onset of Parkinson's disease he felt compelled to retire September 12, 1987, with more than three years remaining in his term. He had hoped to complete his second ten years, but his disease progressed faster than expected, causing him to miss the better part of three court terms in 1987. He served on the court for seventeen years.⁴

As one of the more liberal justices, he wrote an above-average number of dissents and earned a reputation for his pithy, direct style of writing in which he was not afraid to include the occasional stinging comment aimed at his colleagues and attorneys appearing before the court. One of the most important decisions he wrote, however, was for the majority in *Jack Spring, Inc. v. Little*, a landlord-tenant dispute from Cook County. In his opinion, Goldenhersh overturned the common law rule absolving a landlord of any obligation to maintain or repair his property. Instead, the court recognized an implied warranty of habitability in all residential leases. This warranty imposed a duty on landlords to comply substantially with applicable municipal building code health and safety provisions. This decision gave tenants' rights advocates a useful tool for helping achieve fair treatment of tenants.⁵

Goldenhersh also wrote the court's majority opinions upholding the conviction and death sentence of serial killer John Wayne Gacy. In 1980, a trial court found Gacy guilty of thirty-three murders and sentenced him to death, in compliance with the recently enacted death penalty law in Illinois. In the summer of 1984, the Supreme Court upheld Gacy's conviction and his execution by lethal injection. Gacy began an appeal process in federal courts that ended with the United States Supreme Court's final denial of his petition in 1993. He was executed in May

1994. Goldenhersh wrote a ninety-two page opinion affirming the convictions and the sentence of death coming at a time when constitutional issues surrounding death sentencing created controversy across the nation.⁶

Goldenhersh won reelection for a second ten-year term on the Supreme Court in 1980, while he was serving already as Chief Justice. Known for his diligence and extraordinary memory of case law and facts, he was also very busy with activities related to the judiciary. He served as the court's liaison to the Supreme Court Rules Committee, the executive committee of the Illinois Judicial Conference, and the administrative committee of the Illinois Appellate Court. He served as chairman of the Illinois Courts Commission from 1976 to 1979. The John Marshall Law School bestowed a Doctor of Laws on him to honor his contributions to the law profession.⁷

He would not be able, however, to complete his second term. He developed Parkinson's disease and became unable, in his own opinion, to fulfill his court duties satisfactorily. He worked at his home in Belleville as much as he could, but during 1987, he could not participate in three terms of the court because of frequent hospitalizations. With the best interests of the court in mind he retired effective September 12, 1987.⁸ His health continued to decline and became complicated with heart problems. He underwent a quintuple by-pass surgery, but several weeks later, on March 12, 1992, at age seventy-seven, he died of a stroke in Barnes Hospital in St. Louis. He was buried the next day at Beth Hamadros Hagodol Cemetery in St. Louis following services at Berger Memorial Chapel.⁹

He was survived by Maxine (Zelenka) Goldenhersh of Chicago, his wife of fifty-three years. She was an accomplished painter who studied at the University of Illinois and the Art Institute of Chicago. They had two children, Richard, who at the time of his father's death was an Illinois appellate court judge, and Jerry, a lawyer in private practice in Belleville. His three

brothers, David, Martin, and Samuel were all lawyers practicing in East St. Louis. He had one sister, Esther, who was married to attorney Albert L. Felberbaum, who also practiced there.¹⁰

His accomplishments were not all in the field of law. He also participated in many civic activities. He was a member of the Board of Trustees Executive Committee of the Christian Welfare Hospital in East St. Louis, a board member of the St. Clair County Heart Association and president of the Jewish Federation of Southern Illinois. He was a member of the Missouri Athletic Club, the Masonic lodge in East St. Louis, and a member of Agudas Achim Synagogue in East St. Louis.¹¹

His approach to the law and his commitment to it were embodied in his own words when he said, “The Constitution is not the last word, it is the beginning.”¹²

¹ *St. Louis Globe-Democrat*, September 25-26, 1971, p. 6F.

² 143 *Illinois Reports* 2nd Series xxv-xxix.

³ *St. Louis Globe-Democrat*, September 25-26, 1971, p. 6F; *Chicago Tribune*, March 12, 1992, p. 11;

⁴ *Ibid.*; Illinois State Bar Association, *Bench and Bar*, vol. 18, no. 5 (1987), pp. 1-3.

⁵ *Jack Spring, Inc. v. Little*, 50 *Illinois Reports* 2nd Series 351 (1972); Anthony J. Fusco, *et al.*, “Damages for Breach of the Implied Warranty of Habitability in Illinois—A Realistic Approach,” *Chicago-Kent Law Review*, vol. 55 (1979), pp. 337-360.

⁶ *People v. Gacy* 103 *Illinois Reports* 2d Series 1 (1984); The federal appeal process begins with *John Wayne Gacy, Petitioner-appellant, v. Thomas Page, Warden, Respondent-appellee* 24 F.3d 887.

⁷ *Bench and Bar*, vol. 18, no. 5 (1987), pp. 1-3.

⁸ *Springfield State Journal-Register*, September 9, 1987, p. 12.

⁹ *Chicago Tribune*, March 12, 1992, p. 11

¹⁰ *Ibid.*; *St. Louis Globe-Democrat*, September 25-26, 1971, p. 6F; 143 *Illinois Reports* 2nd Series xxv-xxix.

¹¹ Ibid.; “Biographical Information,” typescript, Joseph H. Goldenhersh file, Illinois Supreme Court Library.

¹² *Bench and Bar*, vol. 18, no. 5 (1987), pp. 1-3.