

The Honorable
H. Nathan Swaim

In Respect to the Memory
of
The Honorable
H. Nathan Swaim

Proceedings had on the Seventh Day of May
One Thousand Nine Hundred and Fifty-eight

Before the
United States Court of Appeals
for the Seventh Circuit



HON. H. NATHAN SWAIM

Painted by Grace Annette DuPré

Memorial Ceremony for
Judge H. Nathan Swaim

Held in the United States Court of Appeals,
For the Seventh Circuit,
on Wednesday, May, 7, 1958,
at 9:30 o'clock a. m.

Before:

Hon. F. Ryan Duffy, Chief Judge,
Hon. J. Earl Major, Circuit Judge (Retired),
Hon. Philip J. Finnegan, Circuit Judge,
Hon. Elmer J. Schnackenberg, Circuit Judge,
Hon. John S. Hastings, Circuit Judge,
Hon. W. Lynn Parkinson, Circuit Judge.

The Court convened at 9:30 A. M. this day for the sole purpose of having Proceedings relating to the presentation of Memorial Resolutions.

Chief Judge Duffy recognized Mr. Arthur Wickham of the Wisconsin Bar, President of the Bar Association of the Seventh Federal Circuit.

Mr. Arthur Wickham addressed the Court.

MAY IT PLEASE THE COURT:

On behalf of the Bar Association of the Seventh Federal Circuit and on behalf of all members of the Bar of this Court, I ask leave of this Court to present memorials this

day in tribute to the late members of this Court, the Honorable Walter C. Lindley and the Honorable H. Nathan Swaim. I ask that this Court permit Casper W. Ooms of the Illinois Bar to present the tribute to the late Judge Lindley and Hubert Hickam of the Indiana Bar present that of the late Judge Swaim.

May I also move that this Court record the proceedings of this day upon the permanent records of this Court and that a suitable copy thereof be delivered to the respective families of these distinguished jurists.

Chief Judge Duffy, on behalf of the Court, granted the Motion and recognized Mr. Hubert Hickam of the Indiana Bar.

Mr. Hubert Hickham of Indianapolis, Indiana, Addressed the Court

MAY IT PLEASE THE COURT:

It is my privilege to present this tribute to the late Judge H. Nathan Swaim, a tribute of affection and a tender of the praise that is due to him.

Although he led a singularly useful life and attained the heights in his profession, he was truly a modest, unpretentious man.

His father was a farmer, a hardware merchant and a hotly partisan Democrat, who imparted to "Nate" an interest in politics and public service which never left him.

After graduation from the local high school, Judge Swaim worked his way through DePauw University, waiting on tables for his board, working out his room rent and tutoring other students in German. He made an excellent scholastic record. In 1949 DePauw University conferred upon him its LL.D.

At the University of Chicago School of Law again he worked to earn his tuition and all his living expenses. In spite of this drain upon his time and energy, he received its J.D. degree and was elected to the Order of the Coif. These hard-won honors attest the quality of his legal ability.

He fell in love with Clara L. Kenner. In 1917 after his enlistment in officers' training, they were married. They never fell out of love. They and their two children, Robert and Jean, formed a happy family. His children and their families were a source of great pride and satisfaction to him. He loved them, and the devotion he and his wife always had for each other was perhaps the greatest thing in his life. With him his family came first and the law

second, but he worked unceasingly to give to both the best that was in him.

Upon his discharge as an infantry lieutenant, he entered the practice at Indianapolis. He came to Indianapolis without influential friends, but rapidly earned friendships by his own friendly treatment of everyone he met. He kept those friendships green as he climbed the ladder to one of the highest positions a lawyer can attain. He retained the devotion of those friends by remaining the same affable, natural kind of person throughout his lifetime.

He had but one partner in his years of law practice, the late James M. Ogden. In his practice, before going on the bench, Nathan Swaim was widely respected by the bench and bar as a studious, thorough, painstaking lawyer of sound judgment. His integrity was always beyond question. He was not a specialist in any field. That general experience was very valuable to him in learning to deal with the endless variety of cases which came before him on this court.

For six years in the 1930s he served the Democratic Party at Indianapolis, first as its County Chairman and then as District Chairman. Under his leadership his party was unusually successful. He contributed to it hard work and organizing ability, but more importantly his gift for harmonizing and welding together the factions and patching up the intraparty feuds which are traditionally a part of politics in Indiana. Nathan Swaim was an honest and courageous political leader and in that capacity rendered to his party and to his community a real service.

He had a keen sense of humor and enjoyed telling about the letter of recommendation sent in by one of his old political associates at the time his name was being considered for appointment to this court. This letter said: "Judge Swaim served with distinction as Judge of the Supreme Court of this state and on many other committees

for the interest of the Democratic Party." He could laugh about that because his conscience was clear and his political beliefs or associations never had any bearing whatever in his discharge of his duties as a judge.

Judge Swaim was a religious man. In his home there was daily prayer. He and his wife were always workers in the Methodist Church and he served as a member of its governing board.

His service to the children of his community was noteworthy. For years he was president of the board of trustees of a children's home and head of the local chapter of the National Foundation for Infantile Paralysis. He was a boy scout counsellor and active in the Young Men's Christian Association. Few people learned of the extent to which he and his wife devoted themselves to the assistance of many needy young people.

He was sought out by a nonpartisan citizens committee to serve as a member of the Board of School Commissioners of the City of Indianapolis. This he cheerfully did, although it entailed arduous responsibilities and no remuneration.

These are only examples of his contributions to his community. For all this he expected no praise, but gave of his time and energies because he was just that kind of person.

Here was a distinguished life apart from his judicial career. But he remained modest and unpretentious. He rarely referred to these achievements.

This may seem like a lifetime of all work and no play. On the contrary, he loved to visit and swap stories with his friends, particularly with his lawyer friends. He went quail hunting and was an avid fisherman, either with friends or alone. Here the country boy got back to the country.

He genuinely liked a great many people. He talked easily to any chance acquaintance wherever he went. For example, when being served in a restaurant he promptly

would strike up a conversation and take a special interest in the waiter. After all, he had spent years as a waiter himself, both in college and at law school. On the Monon diner that plied between Indianapolis and Chicago he knew every waiter and trainman by name and was his friend. After his death the waiters selected one of their number to call on Mrs. Swaim and express their great sense of loss.

He served eight years with honor and distinction as judge of this court until his death on July 30, 1957. This was preceded by six years of eminent service as Judge of the Supreme Court of Indiana.

During Judge Swaim's service on the Supreme Court that court was known as a strong court. During his period on this court it, too, was regarded as one of the strong courts of appeals. He made a substantial contribution to the strength of both these courts.

In addition to his excellent mind and painstaking thoroughness he brought to the bench other qualities which not only helped to make him a splendid judge, but endeared him to his fellow judges. He was a simple, forthright man of high ideals, a man of gentle power, tolerant, but with the strength of his convictions. He was intellectually honest. He had the common touch. It was a part of him. He never lost these qualities even while serving in high places.

Before hearing any argument he took pains to read the briefs and often examined the record.

At the argument Judge Swaim rather sparingly took part in the questioning of counsel. When he did ask questions he was careful to do so in a manner which would not interfere with counsel's completing his argument as planned. He was always courteous to counsel before him.

He strove to write his opinions in easily understandable language and avoided Latin phrases and what he termed

flowery language. He told his law clerks, "Never use a twenty-five cent word where a nickel word will do."

During his service on the Supreme Court of Indiana the judges spent long hours in conferences and were usually able to agree upon their decisions and opinions. Judge Swaim believed in this. He believed that every effort should be made to reconcile his views with those of the majority. Only on rare occasions in either court did he feel impelled to file a dissenting opinion.

His years on the bench were happy years. The life of an appellate judge is one of great responsibility, constant dealing with controversies and hard grinding work. Yet it is removed from the hurly-burly of the market place and the clash of the trial courts. It has a comparative serenity. However, there goes with it a loneliness, some lessening of contact with lawyer friends and lay friends. This Judge Swaim sorely missed, but he compensated for it by forming close and rewarding friendships with his fellow judges both in Indianapolis and in Chicago. These men and their wives became his affectionate friends. He and his wife were devoted to them and truly loved them.

He would be embarrassed if referred to here as a profound legal scholar or as a great judge. But he had and richly deserved the reputation of being an excellent judge. In every way he lived up to the high standards and traditions of this court.

This good man's life was a success in every true sense of the word and can serve as an inspiration to all of us. He was a warm and valued friend to a great many people. The sentiments so eloquently expressed by Robert G. Ingersoll at the grave of his brother are befitting as well to Nathan Swaim:

"He added to the sum of human joy, and were everyone to whom he did some loving service to bring a blossom to his grave, he would sleep tonight beneath a wilderness of flowers."

Response by
Honorable F. Ryan Duffy, Chief Judge

By JUDGE DUFFY:

Upon behalf of this Court and each of its members, I desire to express our gratitude to the members of the bar for presenting here today, the Memorial Address which has been so ably presented, honoring our late colleague and our dear friend, Judge H. Nathan Swaim.

The bar does well to reverence the memory of its illustrious dead. I am happy to see here this morning so many of the bench and bar who have gathered to pay a deserving tribute on this occasion of this last farewell to Judge Swaim who was a distinguished member of the bar as well as a highly esteemed member of this Court. He was a judge of keen insight, with a broad, comprehensive knowledge of sound legal principles.

For nearly eight years we of the Court witnessed Judge Swaim's great devotion to the work of this Court, carrying on, at times, in spite of physical handicaps, and also, at times, with great personal discomfort, but with no complaint from him. We are proud of his scholarly opinions. His splendid record on our Court is indelibly impressed upon our minds and our hearts. We shall miss him much. This circuit and, indeed, the country, has lost an able, conscientious, hard-working jurist.

Judge Swaim was a simple man. *His* was a genial and kindly personality. His graciousness, his simplicity, and his good humor endeared him to all with whom he came in contact. His quiet courtesy to members of the bar was always appreciated by the lawyers who were privileged to

appear before him. His consideration for the feelings of others was one of his fine characteristics.

Judge Swaim was a man of high character. He always dealt fairly and honestly with his fellowman. He led an exemplary life. He thoroughly enjoyed the happy comradeship which he found in his own home. He fulfilled, in every detail, what might be called the specifications of the ideal American citizen.

The pleasant memory of our association with Judge Swaim will remain with us for a long, long time. We shall sorely miss his wise counsel and his sage advice. We shall miss the warmth of his friendship. His splendid record on this Court will stimulate those of us who are carrying on to redouble our efforts in order to do the kind of a job of which Nate Swaim would have approved.

In our mind's eye, we can visualize Judge Swaim appearing before the judgment seat of the Great Judge of all the Universe, and we think we can hear the verdict: "Well done, thou good and faithful servant—march on!"

It is ordered by this Court that the proceedings here this morning be spread upon the permanent records of this Court, and that a suitable copy thereof be delivered to the members of his family.