

MEMORIAL RESOLUTION OF THE BAR ASSOCIATION
OF THE SEVENTH FEDERAL CIRCUIT
AT ITS ANNUAL MEETING - MAY 8 - 10, 1988
INDIANAPOLIS, INDIANA

Senior Judge Luther M. Swygert of the United States Court of Appeals, Seventh Circuit, was born on a family farm in Miami County, Indiana on February 7, 1905, the son of Irvin W. and Catherine Hoover Swygert. He was educated in a one-room country school for the first five grades and then in Gilead, Indiana from whose high school he graduated. He then attended the University of Notre Dame and graduated magna cum laude from its law school in 1927. He was admitted to the Indiana Bar and practiced law in Michigan City and Hammond, Indiana for four years. He described those early years as extremely difficult, saying that he was broke and nearly starving most of the time. In 1931 he became deputy prosecuting attorney of Lake County, Indiana which helped economically. Soon thereafter, he married Mildred Kercher and they became the parents of two children, Robert L., who died at age 13, and Michael I, now a distinguished legal scholar, author and professor of law at Stetson University. In 1969, Judge Swygert's first wife died, and he then married Mrs. Gari Pancoe.

In 1934, Judge Swygert became Assistant United States Attorney for the Northern District of Indiana, which office he held until 1943 when President Franklin D. Roosevelt nominated him as a United States District Judge for the Northern District of Indiana. He was the first Democrat appointed to the federal bench from Indiana since the civil war. He served as District

Judge until 1961 when President John F. Kennedy, nominated him to the Seventh Circuit Court of Appeals. He served from 1970 through 1975 as Chief Judge of the Seventh Circuit. He became a Senior Circuit Judge in July 1981 but continued to serve the court until recently when he became ill.

In 1948, early in his career on the bench, Judge Swygert received national attention when he enjoined strikes against five Chicago newspapers by the International Typographical Union in the first major case brought under the Taft-Hartley Act. Also, as a district court judge, he decided the Playboy magazine case in which the Gary, Indiana prosecutor had ordered the magazine off the newsstands. Judge Swygert ruled in favor of Playboy.

Throughout his career Judge Swygert was known for his strong, ably expressed views in support of individual civil rights. He came from a liberal family and was proud to consider himself a liberal. Among his Seventh Circuit opinions was that sustaining the right of members of the Hari Krishna sect to solicit contributions in the Chicago O'Hare Airport. Another was that which ordered cross-district bussing of school children to alleviate racial discrimination in the Indianapolis schools. In 1979, Judge Swygert wrote the Seventh Circuit opinion ordering a new trial in the suit by survivors of the 1969 police raid in which two leaders of the Black Panther group had been killed. The decision overturned the lower court ruling in favor of the agents and officers who conducted the raid.

Judge Swygert died in Chicago on March 16, 1988. He had been a federal judge for 45 years. Until he became ill, he was frequently asked to sit on the Courts of Appeals in other circuits across the country, as well as the Seventh Circuit.

Judge Swygert was an enthusiastic and active alumnus of his college and law school, Notre Dame, and he served on the law school's faculty as an Adjunct Professor. He also served as a member of its Alumni Board of Directors and on the Board of Visitors of the Valparaiso University School of Law. More recently, Judge Swygert served as the first Judge-In-Residence at the Washington and Lee University School of Law in Lexington, Virginia. He lectured there, researched and wrote articles published in its law review. He received Doctor of Laws degrees from Valparaiso School of Law in 1964, Notre Dame University in 1969 and Stetson University in 1982.

Judge Swygert was an active innovator in matters of judicial systems and methods. He was the first to give written instructions to jurors to help them answer their own questions. During his tenure as the Seventh Circuit's Chief Judge, he launched a program to encourage the parties' settlement of cases during their pendency on appeal. From his experience as a U.S. Attorney and as a Judge, he became convinced that when a case is reversed and remanded it should be sent to a new judge.

Concerning these cases, he said:

"First, the judge thinks he was right and he doesn't like having been reversed. At the same time, he remembers that you prosecuted

the appeal and he doesn't like that either.
So you have two strikes against you."

In the face of some resistance, he managed to change the rule so as to send all such cases to another judge. He also tried to have the same applied to summary judgment and preliminary injunction reversals, but he was unsuccessful. He did succeed, however, in changing the practice of panel selection by the chief judge to a random selection system. The new system was first employed to select the panel to hear the "Conspiracy Seven" case.

Judge Swygert once commented that when he came to the Seventh Circuit in 1961 there were only about 300 appeals a year, whereas, during the following 25 years, they increased eight fold. Concerning the problems spawned by such case loads, he said:

"I think judges ought to have a lot of time to reflect, to let things develop... anything to get the subconscious and the unconscious into operation. There is pressure that defeats that very process, and we are apt to get into a mechanical, routine way of thinking. I deplore it."

Concerning the work of judging, he also said:

"I think there is a similarity between the monastic kind of existence and judging. While judges can't be cloistered, there ought to be that kind of devotion and commitment to their jobs."

Concerning the work of the opinion writer, he said:

"One thing that happens... is that once you start to write an opinion and get into it, sometimes you change your mind. I think the possibility of the writer of the opinion

changing his mind is high - much higher than the other people in agreement."

Judge Swygert once remarked that much of the happiness and lifelong satisfaction he had found in the legal profession derived from having encountered within it everyday so many stimulating minds and personalities. But Judge Swygert himself was indeed a superior example of those traits. He was a widely read, broadly educated and genuinely cultured man. He was also one with abundant humor, compassion and goodwill. We may well conclude by quoting Chief Judge William J. Bauers' statement when he announced Judge Swygert's death.

"The bench has lost a tremendous man and the United States has lost a great jurist."

Beverly W. Pattishall
Chicago, Illinois

MINUTES OF THE JOINT ANNUAL MEETING
OF THE BOARD OF GOVERNORS
AND MEMBERS OF THE SEVENTH CIRCUIT BAR ASSOCIATION
HELD IN INDIANAPOLIS, INDIANA
ON TUESDAY, MAY 10, 1988

The Joint Annual Meeting of the Board of the Governors, committee chairmen, and members of the 7th Circuit Bar Association was called to order at 11:45 a.m. on Tuesday, May 10, 1988 at the Hyatt Regency, Merchants Plaza, Indianapolis, Indiana, pursuant to call by the President and noticed by the Secretary. Present were:

OFFICERS: Eugene C. Miller, Jr., President; William A. Montgomery, First Vice President; Howard A. Pollack, Second Vice President; Harvey M. Silets, Secretary; Dale E. Ihlenfeldt, Treasurer.

BOARD OF GOVERNORS: Etha Beatrice Fox; Carl D. Overman; Thomas F. Ryan; William F. Welch; Thomas W. Yoder.

PAST PRESIDENTS: Sigmund J. Beck; Jerry P. Belknap; James P. Brody; Joseph B. Carney; Irvin B. Charne; William M. Evans; Edward A. Haight; Robert C. Williams; Harold R. Woodard.

COMMITTEE CHAIRMEN

BANKRUPTCY LAW AND PROCEDURE: Louis W. Levit, General Chairman.

CRIMINAL LAW & PROCEDURE: Richard L. Darst, General Chairman.

MEETINGS ARRANGEMENTS: James A. Strain, General Chairman; Thomas B. Quinn, Illinois Chairman; Lynn Brundage Longleaux, Indiana Chairman.

MEETINGS PROGRAMS: Theodore R. Boehm, General Chairman.