

The Executive Session of the Judges of the Seventh Circuit was convened by Chief Judge Hastings at 10:30 A.M. Wednesday, May 12, 1965 in the Conference Room of the Court of Appeals. All active Federal Judges of the Seventh Circuit were present, except Judge Platt of the District Court for the Eastern District of Illinois, who was excused by the Chief Judge because of illness. In addition Hon. Tom C. Clark, Associate Justice of the Supreme Court, Hon. William J. Brennan, Jr., Circuit Judge J. Skelly Wright, United States Court of Appeals for the District of Columbia Circuit, Senior District Judge Walter J. La Buy of the Northern District of Illinois, Mr. William R. Sweeney, Assistant Director of the Administrative Office of the United States Courts and Mr. Kenneth J. Carrick, Clerk of the Court of Appeals and Secretary of the Conference were present.

Chief Judge Hastings invited Hon. Tom C. Clark to preside. Justice Clark reported on cases taken to the Supreme Court from this Circuit during the past year.

Chief Judge Hastings reported to the Conference on the business of the Circuit. He discussed inter-circuit and intra-circuit assignment of judges, cases pending more than three years, the sessions of the Judicial Conference of the United States, Appellate review of sentences, the proposal to hold a joint seminar on sentencing with the Eighth and Tenth Judicial Circuits; mandatory retirement, pay of a disabled judge who does not retire, policy that conference recommend additional judgeships every four years and the status of a number of bills affecting the courts.

Circuit Judge F. Dyan Duffy read a Memorial Resolution for Justice Sherman Minton, as follows:

MEMORIAL RESOLUTION  
for  
JUSTICE SHERMAN MINTON

Presented at Meeting of Federal Judges  
Seventh Circuit, Chicago, Illinois  
May 12, 1965

A Committee consisting of Judge J. Earl Major, Judge Luther M. Swygert, Judge Abraham L. Marovitz and your speaker, was appointed by Chief Judge John S. Hastings to present a Memorial at this meeting.

Upon behalf of the Committee it is my privilege, although it is, indeed, a sad one, to present this tribute to our late colleague and dear friend, Sherman Minton. His death on April 9 last, brought to a close a most distinguished career. The story of his life should be an inspiration to all and especially to the young people of this nation who may be in humble circumstances.

Sherman Minton was born on October 20, 1890, in the little village of Georgetown, Indiana, which is located near the Ohio River and across from Louisville, Kentucky. His mother died when he was nine years of age. The family moved to Texas, but Sherman returned to New Albany, Indiana, where he finished high school. On his return, Sherman said "Floyd County is where I belong."

Sherman Minton entered Indiana University. He was at all times exceedingly proud of his alma mater. Throughout his college career, Sherman worked at various jobs ranging from waiting on table to stacking planks in a lumber yard. Yet he found time for participation in athletics and both he and his brother were outstanding football players. He was also an excellent speaker easily holding his own with such outstanding orators and colleagues as Paul McNutt and Wendell Willkie. Sherman won a scholarship at Yale, and as a graduate student, studied under ex-president William Howard Taft. He received a Masters Degree at Yale.

The story is told that one day Mr. Taft and Minton differed on the correctness of a Supreme Court decision pertaining to the confiscation of nets of a fisherman who was convicted of charges that he seined in a navigable stream. Naturally, Sherman's sympathies were all with the poor fisherman. The story is that President Taft said "I am afraid, Mr. Minton, if you don't like the way the law has been interpreted, you will have to get on the Supreme Court and change it." Perhaps Sherman took the advice seriously.

After a summer's job as chautauqua platform manager, Sherman Minton returned to New Albany and joined the law firm of Stotsenberg, Weathers & Minton. Thereafter, he married his high school sweetheart, Gertrude Gurtz. Three fine children were born to this union. They are today - Dr. Sherman Minton of Indianapolis, John E. Minton and Mrs. John E. Callanan (Mary Anne), both of Washington, D. C.

Our hearts go out to Gertrude, a faithful and constant companion of our departed friend and colleague. In the long period when Sherman was severely handicapped and crippled and could walk only with great difficulty, suffering constant pain, she was at all times at his beck and call, waiting upon him, cheering him up, thus making life worth living. I don't think I ever have witnessed such complete devotion.

Sherman served in World War I in the American Expeditionary Forces. He completed that service with a rank of captain of infantry. He returned to New Albany. Later, for a three-year period, he practiced law in Miami, Florida, and then returned to the place he liked so much, New Albany, Indiana. His ability and skill as a lawyer soon became widely known.

In 1932, Governor McNutt appointed Minton as Public Counselor for the Indiana Public Service Commission. He fought vigorously for utility rate reductions and became well and favorably known throughout the state of Indiana. In 1934, he was elected to the United States Senate.

If I may interject a personal note, I would like to recall the practice in the Senate on the first day of the first session after a senatorial election had been held. The older senators (in point of service) would carefully look over what was sometimes referred to as the "new crop". I recall in the first session in 1935, there were quite a few new senators. I particularly noted two whose seats were adjoining and who soon thereafter were together a great deal. We all knew that they had become warm friends. One was the junior senator from Indiana, Sherman Minton; the other was the junior senator from Missouri, Harry S. Truman.

Sherman Minton was a fine senator. He had the courage of his convictions. One always knew where he stood. He was a staunch supporter of the program of President Roosevelt. At all times he seemed to have a keen grasp of the many details involved in the most pressing and difficult problems of those days.

After the expiration of Sherman Minton's term as senator, he served for a short time as Administrative Assistant to President Roosevelt, in the White House.

On May 7, 1941, he became a member of the United States Court of Appeals for the Seventh Circuit. He made a splendid record on that Court. He was of a tough judicial fiber. Both Judge Major and I consider it was a high privilege to have served with him on the Court of Appeals. He had the respect and affection of all of his colleagues.

After serving on the Court of Appeals for nearly eight and a half years, Sherman Minton was appointed to the United States Supreme Court by President Truman on September 15, 1949. He replaced Justice Wiley B. Rutledge who had died earlier that year. Justice Minton's career on our highest court was outstanding. He made a great contribution to the Court and to the country. I quote the recent tribute by Chief Justice Warren - "He made important contributions to the history of our time. Those of us who had the privilege of serving with him on the Supreme Court, mourn his loss as we would a brother."

I recall an incident which demonstrates his courage and fine legal ability as well as his power of persuasion. In June 1948, the Supreme Court of the United States handed down its decision in Trupiano v. United States, 334 U.S. 699. This decision involved search and seizure. I recall discussing this decision with Sherman Minton on several occasions before he ascended the highest bench. We both thought the decision left much to be desired. Within six months after Sherman became a Supreme Court Justice, our high court handed down the decision in United States v. Rabinovitz, 339 U.S. 56. Justice Minton was the author of that opinion. Trupiano was repudiated, at least, in part. The fog of uncertainty with reference to several points in issue, was lifted. Members of our Court and I am sure of all courts which had to do with search and seizure problems, were pleased that the Supreme Court had settled an issue which had been giving judges so much trouble.

In 1956, after seven years on the Supreme Court, Justice Minton retired, due to ill health. He went back to his beloved New Albany in Floyd County. He bore his affliction with great courage and patience. He put on a brave front and seemed to enjoy visits with old friends.

All who had contact with Sherman (Shay) Minton were enriched by that experience. His memory will live long among his devoted friends. We mourn his loss but he has earned his rest.

/s/ J. Earl Major

/s/ Luther M. Swygert

/s/ Abraham L. Marovitz

/s/ F. Ryan Duffy

It was moved that the Memorial Resolution for Justice Sherman Minton be adopted and spread upon the records of the Conference. Motion seconded and unanimously passed.

The Wednesday morning session recessed at 12:00 noon.

-----

An informal reception was held in the Chambers of Chief Judge Campbell, followed by lunch in the Executive Dining Room of the Court House.

The Wednesday afternoon (Executive) session convened at 2:00 P. M. Wednesday, May 12, 1965, in the Conference Room of the Court of Appeals, Judge Edwin A. Robson, presiding.

Senior District Judge Walter J. La Buy reported on changes in the uniform standard instructions in federal criminal cases.

It was moved by Judge Marovitz that the Conference adopt a Resolution commending Judge La Buy's efforts in the preparation of the Manual on Jury Instructions in Federal Criminal Cases. Motion seconded and unanimously passed.

It was moved that Judge La Buy be made the irremovable Chairman of the Committee. Motion seconded and unanimously passed.

MINUTES OF THE ANNUAL JUDICIAL CONFERENCE OF THE SEVENTH  
CIRCUIT HELD AT CHICAGO, ILLINOIS ON MAY 11 AND 12, 1965

The Annual Judicial Conference of the Seventh Circuit convened, pursuant to Section 333 of Title 28 of the United States Code and Rule 30 of the Rules of the United States Court of Appeals for the Seventh Circuit, at 10:00 A.M. Tuesday, May 11, 1965 in the Four Georges Room of the Ambassador West, Chicago, Illinois.

Present were:

Hon. Tom C. Clark, Associate Justice of the Supreme Court of the United States, and Circuit Justice for the Seventh Circuit  
Hon. William J. Brennan, Jr., Associate Justice of the Supreme Court of the United States  
Hon. John S. Hastings, Chief Judge  
Hon. F. Ryan Duffy, Circuit Judge  
Hon. Elmer J. Schnackenberg, Circuit Judge  
Hon. Win G. Knoch, Circuit Judge  
Hon. Latham Castle, Circuit Judge  
Hon. Roger J. Kiley, Circuit Judge  
Hon. Luther M. Swygert, Circuit Judge  
Hon. J. Skelly Wright, Circuit Judge for the District of Columbia Circuit  
Hon. Michael L. Igoe, District Judge  
Hon. William J. Campbell, District Judge  
Hon. Robert E. Tehan, District Judge  
Hon. William E. Steckler, District Judge  
Hon. J. Sam Perry, District Judge  
Hon. Julius J. Hoffman, District Judge  
Hon. Cale J. Holder, District Judge  
Hon. Kenneth P. Grubb, District Judge  
Hon. Frederick O. Mercer, District Judge  
Hon. William G. Juergens, District Judge  
Hon. Robert A. Grant, District Judge  
Hon. Omer Poos, District Judge  
Hon. Edwin A. Robson, District Judge  
Hon. Richard B. Austin, District Judge  
Hon. James B. Parsons, District Judge  
Hon. S. Hugh Dillin, District Judge  
Hon. Hubert L. Will, District Judge  
Hon. George N. Beamer, District Judge  
Hon. Jesse E. Eschbach, District Judge  
Hon. Bernard M. Decker, District Judge  
Hon. Abraham L. Marovitz, District Judge  
Hon. Fred L. Wham, Senior District Judge  
Hon. Walter J. LaBuy, Senior District Judge  
Mr. William R. Sweeney, Assistant Director, Administrative Office of the United States Courts  
Mr. Kenneth J. Carrick, Secretary of the Judicial Conference Officers and Members of the Bar Association of the Seventh Federal Circuit.

The fifteenth annual joint meeting of the Judicial Conference of the Seventh Circuit and the Bar Association of the Seventh Federal Circuit was convened by Mr. Walter J. Cummings, Jr., President of the Bar Association of the Seventh Federal Circuit at 10:00 A. M.

Hon. Edwin A. Robson, Judge of the Northern District of Illinois, Chairman of the Committee on Arrangements for the Conference, gave an appropriate address of welcome to the Judges and members of the bar and their guests.

Mr. Fred P. Bamberger, President of the Indiana State Bar Association and Member of the Board of Governors of the Bar Association of the Seventh Federal Circuit, presented the following Tribute to the late Justice Sherman Minton:

It is my privilege to present this tribute to the late Mr. Justice Sherman Minton.

Born in Georgetown, Indiana, October 20, 1890, the son of John E. and Emma Minton, "Shay" Minton as he was affectionately called by his friends from early youth, was a true native Hoosier. After graduating from New Albany High School he attended Indiana University. He excelled in the sports of baseball and football during his under-graduate career and graduated at the head of his class in the Law College, Summa Cum Laude.

A Five Hundred Dollar scholarship enabled him to do a year of graduate work at Yale Law School where he won scholastic honors and helped establish the University Legal Aid Society. He received his Master of Laws Degree Cum Laude at Yale University and subsequently in 1950 was awarded a Doctor of Laws Degree by the Indiana University Law School. While at Yale he studied under William Howard Taft who declared Sherman Minton's final examination paper to be one of the finest he had ever read. Once, however, when young Minton was expounding his views, Taft interrupted him with the prophetic remark, "I am afraid, Mr. Minton, that if you don't like the way this law is interpreted, you will have to get on the Supreme Court and change it."

After graduating from Yale he entered the practice of law in New Albany. His law practice was interrupted by service overseas as an infantry captain in World War I. In 1925, after returning to New Albany following the war he moved to Miami, Florida, where he practiced law for three years and again returned to New Albany.

On August 11, 1917, he was married to Gertrude Gurtz and to this union were born three children, Sherman, Mary Ann and John.

In 1933 he became public counselor of the Indiana Public Service Commission and in 1934 was elected to the United States Senate where he served until 1941 when he became administrative assistant to the late President Franklin Delano Roosevelt.

It is said that an accident in seating in the Senate played an important part in Mr. Justice Minton's subsequent career. A new row of seats had to be installed for the democrats in the rear of the chamber after the 1934 election and he found himself next to another freshman, the former President, Harry S. Truman, and the two became very close friends.

On May 7, 1941 he was nominated by President Roosevelt to the United States Court of Appeals for the 7th Circuit and he took his oath of office on May 29, 1941. In 1949 President Truman elevated him to the Supreme Court of the United States and he took his oath of office in that Court on October 12, 1949.

Time will not permit a survey or analysis of the opinions of Mr. Justice Minton. When he was appointed he went to the Supreme Court wearing the tag of a liberal in the minds of most of the public. He left the Court with a firmly established reputation as a judicial conservative. On the Court he was reputed to be a humorous and earthy figure, beloved by his colleagues. He wrote short opinions, directed to the immediate issue with little or no embellishment.

His retirement from the Court in 1956 because of ill health was not easy for him. However, the recognition of his physical incapacity to maintain his high record of judicial productivity overcame his love for the bench.

Mr. Justice Minton died on April 9, 1965 in Memorial Hospital, New Albany, Indiana, after confinement for just a week. It is difficult indeed to contrive a memorial which would do justice to the memory of the late Justice Minton.

He made substantial contributions to the strength and prestige of both of the Courts he so loyally served. He was one of the nation's great citizens and left behind him an indelible record as a distinguished public servant. In every way he measured up to the high standards and traditions of the judiciary of our country. The record of his unselfish devotion and service to his country is a much greater memorial than we can devise. His was a noble and useful life.

It was moved that the Tribute to Justice Sherman Minton be spread upon the records of the Conference. Motion seconded and unanimously passed.

President Cummings called on Mr. Kenneth J. Carrick, Clerk of the United States Court of Appeals to present the Annual Report of the business of the Federal Courts of the Seventh Circuit for the calendar year 1964.

Mr. Carrick briefly commented that as the Annual Report had been distributed to all present, that reading of the report be dispensed with and that the report be placed on file and made a part of the records of the Conference. Chief Judge Hastings accepted the Report as chairman of the Judicial Conference.