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# The Sweeney Legacy: A Tribute to the District Court of Maryland's First Chief Judge

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## TRIBUTE

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### THE SWEENEY LEGACY: A TRIBUTE TO THE DISTRICT COURT OF MARYLAND'S FIRST CHIEF JUDGE

**By: The Honorable John P. Morrissey<sup>1</sup> and Lauren Kitzmiller<sup>2</sup>**

Many changes have been made during my first eighteen months as the Chief Judge of the District Court of Maryland. For example, we have added a brand new program to provide all indigent defendants with representation at initial appearances before Commissioners. We have also converted the judiciary from paper filing to an electronic filing and case management system and moved the location of the district court headquarters.

All of these endeavors have been challenging, but something special came when packing up the old office and moving next door. In the accumulation of folders, documents, and other miscellaneous office supplies, I found two ordinary file folders hidden amongst the many records accumulated by the district court over the years. These files, however, were anything but ordinary. What I found was not only history of the district court, but also history of its first Chief Judge – the man who sat in my position, over forty years ago. Looking through these folders that contained speeches, convocations, and publications, I not only received first-person insight to the beginnings of a new court, but of the man behind it all – the Honorable Robert F. Sweeney.

Although the 45th anniversary of the district court may not be the most notable milestone, I want to take the time to pay tribute to the man who helped shape the “People’s Court.” Judge “Bob” Sweeney was born in Baltimore on September 17, 1926, and was the middle child of seven siblings in a large Irish-Catholic family. He attended both Loyola High School and Loyola College and eventually received his degree from the University of Baltimore School of Law. In 1959, he was appointed to a Magistrate’s seat on the Baltimore Housing Court. Two years later, he went to work at the Attorney General’s Office.

Chief Judge Robert Murphy of the Court of Appeals of Maryland, Maryland’s Supreme Court, was a childhood friend of Judge Sweeney and had kept in touch throughout the years. When Judge Murphy recruited Judge Sweeney to take on the position of Chief Judge of the district court in 1971, Judge Sweeney was not easily persuaded. The legislature had just passed an amendment to create the district court and gave the judiciary just sixty days

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to do so. While Judge Sweeney was concerned about the limited time in which to develop and implement a statewide court system, he was motivated to action by the widely known corruption and disorganization in the former Trial Magistrate Courts, People's Court, and Commissioners system. In the determined and understated fashion that was characteristic of his judicial career, Judge Sweeney turned down a lifetime appointment to the Federal Court to serve as the Chief Judge of a court not yet created.

In 1971, Maryland was one of the first states in the nation to abolish all of its part-time, non-lawyer courts. Thirteen years later, it remained one of only ten states that had developed a statewide system comparable to that of the district court. Judge Sweeney took on the monumental task of starting an entire court system from scratch without any playbook or guide. In sixty days, he needed to find and furnish space to open a courthouse in every county in the State, including Baltimore City. With the short deadline looming, these courthouses initially were located in gas stations, storage areas that typically held voting machines, basements of county buildings, and firehouses. In his old file folders, I found speeches he had given only three months after the court opened. Judge Sweeney acknowledged the dire conditions of some of the courthouses, calling them "unsuitable and shameful," yet he proclaimed that the district court was already successful "because we have improved the quality of justice by, on the whole, improving the quality of those dispensing justice."

While Judge Sweeney was proud of the improvement of justice initially, he worked tirelessly to improve the physical image of the courts. It was determined that most of the fifty buildings available for the district court were completely unsuited as workable courthouses. Within three years, Judge Sweeney managed to build a brand new district court building in Annapolis – a time frame that is unheard of today. Within the next decade, Judge Sweeney built and opened an additional ten courthouses across the state. Obtaining the necessary funds and space to complete this feat was certainly not easy, which is why the district court building in Annapolis now bears the name of Robert F. Sweeney – a tribute to its creator and his perseverance.

Judge Sweeney's unique personality jumped off the pages of his speeches and publications. Even a casual reading demonstrates his commitment to bring systemic change to the former "People's Court" and to root out corruption. After his retirement, in an interview with the *Baltimore Sun*, Judge Sweeney commented on the historic judicial system prior to the implementation of the district court saying, "there were judges who were racists, who had alcohol problems, who were wife-beaters and who thought they had found the greatest 10-to-2 job in the world. I outlived the bastards, the whole collection of them."

The principal of creating a judiciary based on equality and impartiality is derived from Judge Sweeney's character. One of the frequent topics in his speeches and publications was segregation in the courts. He placed great importance on creating diversity, which highlighted how his upbringing

influenced his mindset. He spoke of growing up in the Catholic Church, where two pews were designated for African-American church members. He described the beautiful brick buildings that housed public schools for white students, and the single wooden “rickety” building on 32<sup>nd</sup> & Barclay that was solely for black students. Judge Sweeney also occasionally accompanied his uncle who worked as a clerk in the Court of Common Pleas. In a courthouse of over 400 employees, he never once saw a black employee - in a city that was 33 percent African American, no less. The greatest irony, Judge Sweeney proclaimed, was that the very courthouse he visited as a boy now bears the name of Clarence M. Mitchell, Jr., an African American civil rights activist.

In one of many speeches on civil rights, Judge Sweeney details an impactful personal event that occurred in 1958. He had just started practicing law, and would often have lunch at Reads Drug Store in downtown Baltimore. It was there where Judge Sweeney was introduced to the Honorable Everett Lane, an African American judge appointed by Governor McKeldin. Judge Lane had lunch at the drug store counter every day because no other restaurant in downtown Baltimore would serve blacks – not even a judge. This shocked Judge Sweeney, and was a driving force in his initiative to diversify the district court.

Prior to the creation of the district court, the predecessor courts had 625 clerical staff, yet only 25 clerks were black. Maryland had a black population of 20 percent and only had 3 African American judges at the time. Judge Sweeney worked with the first administrative judge of Baltimore City, John Hargrove, “to rectify as quickly as we could the shocking racial imbalance that existed in our workforce.” Judge Sweeney did work quickly, he appointed 26 commissioners in Baltimore City – 13 whites and 13 blacks. He further ordered that at least one African American court official be present in every courtroom. Judge Sweeney learned of a program that took young black women from the inner city and taught them clerical and filing skills. He visited the school and was so impressed that he hired the entire graduating class of 25 women and put one of them in each of the 22 courtrooms.

Judge Sweeney took great pride in his ability to create diversity in the courts. In a 1990 speech, he explained that of the 1,200 non-judicial staff, 900 were white and 300 were black, which was a reflection of the racial composition of Maryland at that time. The commitment to diversity in the district court persists today. Presently, there are approximately 695 African Americans working for the district court, which constitutes 37 percent of judges and employees – diversity exceeding that of the African American population currently in Maryland. Judge Sweeney commented that after visiting courtrooms in other states and nations he always returned to Maryland with a renewed pride because he felt that justice was “dispensed in this state with an equal hand to black and white alike, to young and old, to the well-dressed matron and shabby derelict.”

Another area that was near to Judge Sweeney's heart was the judiciary's role in preserving the rule of law. This manifested itself in his passion for analyzing the role of judges and the legal system during World War II in Nazi Germany. In a commencement address to the University of Baltimore in 1989, Judge Sweeney called this fascinating period in history his "obsession." He wanted to know, where the lawyers and judges were during this time of mass inhumanity.

Several professional experiences sharpened Judge Sweeney's thinking on this topic over the years. The first occurred while working as an Assistant Attorney General. An inmate and known anti-Semite brought a case against the warden for denying his right to access his hate-filled mail. Judge Sweeney represented the warden, and a court-appointed local, Jewish attorney represented the inmate. The case reached the Court of Appeals for the Fourth Circuit and the Honorable Simon Sobeloff, who also happened to be a former Chief Judge of the Court of Appeals of Maryland. Judge Sobeloff, who was Jewish, recused himself so as not to give even the appearance of impropriety. The Fourth Circuit upheld the warden's discretion to discipline inmates, but also stressed the inmate's right to access the court by mail. Judge Sweeney recognized that the case was not one of great legal importance, but it was one that stuck with him forever.

The second occurred early in his tenure as Chief Judge when he hosted a German judge in 1981 and inquired as to why German judges and lawyers did not challenge Hitler's movement. The judge replied that the Germans did not have a tradition of challenging authority. Judge Sweeney could not help but to speculate whether incalculable atrocities could have been prevented had the German attorneys and judges insisted on maintaining the rule of law.

In comparing the lapse in adherence to individual rights that occurred in Nazi Germany to present day American courts, Judge Sweeney proclaimed that he was proud to be a part of a system of justice where, on a daily basis, thousands of lawyers – regardless of background – protect the rights of "the underprivileged, the friendless, and the despised." The fact that so many German judges and lawyers gave "silent witness" to the dismantling of the German justice system made Judge Sweeney angry, yet grateful at the same time. He was proud of the system in which our Constitution was built and used this passion to create a brand new justice system in 1971 for the people of Maryland.

Much has changed in the forty-five years since the opening of the district court. Today, there are more than 1,700 employees and 116 judges, including the Chief Judge. More than two million cases are filed annually, which truly represents that the District Court of Maryland is still the "the People's Court." When Judge Sweeney initially took on this challenge, there were many obstacles in his path. Yet he possessed the personal fortitude and character to create and expand a system that celebrates equality and is committed to providing "equal and exact justice for all who are involved in litigation before the court."

The three other Chief Judges that have led the district court since Judge Sweeney's retirement – Judge Rasin, Judge Vaughan, and Judge Clyburn – have carried on the tradition that Judge Sweeney initiated. They pioneered drug and mental health courts recognizing that these specialty courts can provide lasting change by offering resources to those in great need. They introduced translators to the courthouse so that all Marylanders can understand the proceedings. I, too, have taken up the mantle that Judge Sweeney threw down so long ago. The district court is in the process of expanding Self- Help Centers to assist those who cannot afford an attorney have meaningful access to justice. I am confident that if Judge Sweeney were to look down upon his district court today, he would be proud of the justice system that he created.

One final quip that demonstrates the creative humor that Judge Sweeney so oft employed to preserve in the face of adversity: the legislature threatened to cut five million dollars from the district court's budget and Judge Sweeney was not having it. Being a family man, he appeared at the State House with his grandsons, Billy and Bobby, in tow, carrying picket signs stating "Don't Cut Pop-Pop's Budget." The legislature listened to Billy and Bobby – and Judge Sweeney saved the budget.

This story captures the type of person that Judge Sweeney embodied. He was exactly what the district court needed during its early days. Judge Sweeney's strong leadership, commitment, and focus, yet lighthearted personality shaped "the People's Court" in to the well-respected court it is today. And for that, we are extremely grateful.