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REMARKS OF JUDGE JOE J. FISHER
AT THE DEDICATION OF THE UNITED STATES
COURTHOUSE, MARSHALL DIVISION

It has been said that anyone who is ignorant of the past and oblivious to the present cannot expect much of the future. Therefore, on the possibility that such a statement may have some merit, it would be well for us to review the history of the Federal Judiciary in Texas, and particularly, for the Eastern District and the Marshall Division.

When Texas was admitted to the Union on December 29, 1845, Congress created the "District Court of the United States for the District of Texas," to hold regular sessions of the District Court at Galveston. On May 29, 1846, John G. Watrous was confirmed as Judge of the Court. His appointment was the result of a deadlock between the two Texas United States Senators, Sam Houston and Thomas Jefferson Rusk. Rusk favored James Webb who had been Attorney General for the Republic of Texas under President Lamar who also had served ten years as a Federal Judge in Florida where it was his proud boast he had "escaped without a single one of his decisions being reversed by the Supreme Court." Senator Houston favored A. B. Shelby of San Augustine, a former District Judge of the Republic. Each of the candidates had strong endorsements and recommendations, but Judge Watrous was appointed.

On February 21, 1857, Congress divided the State of Texas into two districts. Judge Watrous was assigned to the Eastern District, which contained Galveston and Brownsville, and Judge Thomas H. Duval was appointed Judge of the Western District, with division points at Austin and Tyler. Judge Duval was commissioned on March 3, 1857.

At the outbreak of the War between the States, both of these judges left Texas on or about January 21, 1861, and did not return to their respective judgeships until in 1866. Judge Watrous held his first postwar session on May 7, 1866, at Galveston.

Judge Watrous spent a great deal of his time in Washington in defending himself against attempts to impeach him. He was troubled from the beginning with charges by members of the Bar as well as of the public, the principal charge being that he sat as Judge in matters in which he had a personal interest. Impeachment charges were filed. The House of Representatives of the Congress of the United States refused to sustain the impeachment. However, charges of dishonorable conduct continued to plague Judge Watrous and in the spring of 1869, he suffered a stroke of paralysis. On April 21, 1874, on the advice of his doctor, he resigned in order to permit Congress to confirm another Judge for the district.

The jurisdiction of the District Courts was defined to include all the powers enjoyed by other District Courts and also those normally exercised by Circuit Courts. Appeals and Writs of Error were to go directly to the Supreme Court in the same cases as they normally would from a
Circuit Court and under the same regulations. However, an act of July 15, 1862, attaching Texas to the Sixth Judicial Circuit, withdrew the special jurisdiction from the District Courts and provided that regular circuit courts should be held at the same times and places as the district courts.

Following the resignation of Judge Watrous, two judges served for short periods of time. Apparently, they were appointed but did not qualify, or rather, they merely served for recess appointments—Judge John F. Appleton, May, 1870 to October 11, 1870; Judge Joel C. C. Winch, October, 1870, to March, 1871; both serving less than one year.

It might also be mentioned that during the Civil War period, the Confederate States maintained Federal Courts of the Eastern and Western Districts. Judge Thomas J. Devine served as Judge of the Western District and Judge William P. Hill for the Eastern District.

Judge Amos Morrill, who qualified February 19, 1872, and served until March, 1884, was succeeded by Chauncey B. Sabin who served until March 30, 1890. David E. Bryant of Sherman served from May 27, 1890, to the date of his death, February 5, 1910. He was followed by Gordon Russell of Sherman, who served from June 6, 1910, to the time of his death, September 14, 1919. His successor was William Lee Estes of Texarkana, who was Judge from February 18, 1920, to June 14, 1930. He was followed by Randolph Bryant, son of Judge David E. Bryant, who served from January 31, 1931, to the time of his death, April 24, 1951. He was succeeded by Joseph Warren Sheehy of Tyler, who has served from June 23, 1951, to the present, and is now serving as Chief Judge of the Eastern District.

Another judgeship was created and the Eastern District had two judges for the first time when the late Lamar Cecil of Beaumont began service September 9, 1954, which continued until the time of his death, February 14, 1958. I succeeded Judge Cecil, and took the oath of office October 23, 1959, in Beaumont.

Court sessions for the Eastern District are held in Tyler, Sherman, Paris, Texarkana, Marshall, and Beaumont.

I believe it is interesting to note that of the twelve judges who have been appointed for the Eastern District, three were appointed by Democratic Administrations, to wit, Judge Watrous by President James Polk; Judge William Lee Estes by President Woodrow Wilson, and Judge Joe Warren Sheehy by President Harry S. Truman. Nine were appointed by Republican Administrations, to wit: Judge John F. Appleton and Judge Joel C. C. Winch and Judge Amos Morrill by President Ulysses S. Grant; Judge Chauncey B. Sabin by President Chester A. Arthur; Judge David E. Bryant by President Benjamin Harrison; Judge Gordon Russell by President William Howard Taft; Judge Randolph Bryant by President Herbert Hoover; Judge Lamar Cecil and I by President Dwight D. Eisenhower.

A rearrangement of the State into three districts—northern, eastern, and western—was provided for by an act of February 24, 1879, and each district was broken down into three divisions with seats at Waco, Dallas, and Graham in the northern district; at Galveston, Tyler, and Jefferson in the eastern district. Another act of the same year (June 11, 1879) placed Texas in the fifth circuit and provided that circuit courts should
be held regularly for the northern district at Waco, Dallas and Graham; for the eastern district at Jefferson; and for the western district at San Antonio. Additional sessions of the circuit court for the western district at Austin and Brownsville were provided for by an act of February 18, 1881; and an act of June 3, 1884, setting up a new division within the district, specified that regular terms of both district and circuit courts should be held for it at El Paso. On June 20, 1884, provision was made for the holding of circuit courts at Galveston and Tyler, as well as Jefferson in the eastern district.

By an act of March 1, 1889, the Chickasaw Nation and part of the Choctaw Nation were annexed for judicial purposes to the eastern district of Texas. These portions of the Indian Territory, together with the counties of Lamar, Fannin, Red River, and Delta formed a new division for which both district and circuit courts were to hold regular sessions in the City of Paris. Within the Indian Territory, thus annexed, the federal courts were granted a special jurisdiction to apply the criminal laws of Arkansas, as well as those of the United States. Civil causes not of a federal nature were left to the local tribunals already existing.

By an act of June 11, 1896, the courts at Graham in the northern district were transferred to Abilene. At the same time, two new divisions were established in the northern district with seats at Fort Worth and San Angelo, respectively. The Beaumont division in the eastern district was created by an act of February 8, 1897; and on February 19, 1901, in the same district, was established a division at Sherman.

A second major rearrangement, effected by an act of March 11, 1902, gave the state four districts. The northern district retained its division seats at Dallas, Fort Worth, Abilene, and San Angelo, but lost that at Waco to the western district. The eastern district kept its divisions of Tyler, Jefferson, Paris, Beaumont, and Sherman, but lost Galveston to the southern district. The new southern district received the division of Galveston from the eastern district and the division of Brownsville from the western district, besides the divisions of Houston, and Laredo, which were created by the act. The western district kept the divisions of Austin, San Antonio, and El Paso, and received the Waco division from the northern district, but lost the Brownsville division to the southern district.¹

We learned through our District Clerk, Mr. James R. Cooney, and our former Deputy Clerk, Mrs. Dixie L. Johnson, that the Jefferson Division was established by an act of Congress in 1879, with the following counties: Bowie, Camp, Cass, Franklin, Harrison, Hopkins, Marion, Morris, Red River, Titus, and Upshur. As you know, the Marshall Division was created by an act of Congress in October, 1961, which included all of the counties of the former Jefferson Division with the exception of Upshur, this county having been transferred to the Paris Division; Franklin County apparently was transferred to the northern district, and Bowie, Red River, and Titus counties became the Texarkana Division, created in 1903, leaving the remaining seven counties for the Jefferson Division.

The historical old red brick courthouse building in Jefferson was built in 1878-1879 and has been the only court building for the Jefferson and
Marshall divisions. Of course, it was with some emotion that we were forced to sever the tie with the past and make peace with reality by providing for our new, modern building here in Marshall. We recognize that, while historically and architecturally attractive, the old building in Jefferson had outlived its usefulness and for that reason, we are highly pleased and gratified to have the newly remodeled building which we are today dedicating.

I would also like to add, in absolute truthfulness and without any attempt to exaggerate, that I am personally far more satisfied with our remodeled court building, which is functional in every respect, than I would be with a completely new structure, and in my humble opinion, it answers our purpose far better because it represents a compromise between the old and the new, and should more than adequately serve our court needs for the next fifty years or longer.

I am sure I speak for Judge Sheehy in saying that we are honored to be the first judges to serve in the Marshall Division, and of course, I am extremely proud to have the Marshall Division assigned to me as my primary responsibility.

It affords me much pleasure to dedicate this building which will always stand as a symbol of our faith in the rule of law, and in the Judiciary, as the instrument which makes that rule a reality. This faith is a challenge to those of us who are honored to sit on the Bench of this court; to undertake the search for and determination of the correct law and the right decision, and to at all times maintain the high standards of judicial administration established by this Court's illustrious predecessors.

We are fully aware of the difficulty of preserving our cherished principles of right and justice, while at the same time meeting the demands of our complex social structure, but with help from above, we will accept the challenge and will give our best to measure up to the responsibility.

It is our fervent wish that this Court, with its great heritage, with the best efforts which we who are fortunate to serve may make, and the best efforts of those yet to come, may be maintained always as a citadel of justice where all may receive "equal justice under the law."

FOOTNOTES