



Court Historical Society NEWSLETTER



Eastern District of Tennessee

JULY 2007

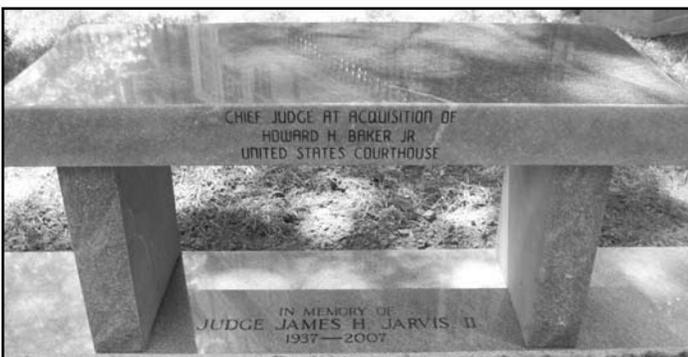


JARVIS GAVELS--Judge James H. Jarvis bequeathed his gavels, shown here, to the Court Historical Society. They have been placed on display in the History Suite of the Howard H. Baker Jr. U.S. Courthouse in Knoxville along with a photo made of him on the bench three months before his death. The oversize gavel, which is three feet long, was given to him during his tenure as president of the Tennessee Judicial Conference in 1983-84. In addition, he bequeathed his two robes to the Society.

Supporter of History

Senior U.S. District Judge James H. Jarvis, who died June 6, was a strong supporter of the Court Historical Society. As chief judge at the time of the founding of the Society in 1993, he served as the Society's first honorary chairman. He issued the following statement for publication in the Society's first newsletter in August 1993:

On behalf of the judges of the Eastern District, I wish to thank the members of the executive committee and the president, Jack Wheeler, for the expeditious and professional manner in which the Historical Society has been established. We know that this project could not be successful without the interest and support of the Bar. We appreciate your financial support and your help otherwise, to the end that the work of this society will document and preserve our history for the first time since the district was established in 1797.



JARVIS BENCH IN COURTYARD--This granite bench rests in the courtyard of the federal courthouse in Knoxville as a memorial to Judge Jarvis. The bench bears the judge's birth and death years, 1937 and 2007, and the words: "Chief Judge at Acquisition of the Howard H. Baker Jr. United States Courthouse." The bench was donated by Knoxville businessman **Hugh Ray Wilson**, a friend of the judge.

The History of Judgeships

When U.S. District Judge James H. Jarvis took the bench in Knoxville on October 30, 1984, he filled the first new judgeship created for the Eastern District of Tennessee since 1961. His arrival also marked the first time that there were two district judges domiciled in the same division of the court. The other judge at the time was **Robert L. Taylor**, who, though in failing health, was still on the job.

The 1984 expansion gave the district its fourth judgeship, increasing the total from the three it had remained at since 1961. Before 1961, only two judges served the district, one based in Knoxville, the other in Chattanooga, and each held court from time to time in Greeneville and Winchester. When the 1961 judgeship was created, it went to **Charles G. Neese**, who was assigned to hold court in Greeneville and Winchester.

Until 1939, the district had only one judge. When the second judgeship was created in 1939, it went to **Leslie R. Darr**, who received the appointment because of a twist in fate.

The appointment had gone to a Knoxville lawyer, **W. Baxter Lee**, who was confirmed by the Senate and was scheduled to take the oath of office in February 1939. He died of a heart attack two days before the scheduled ceremony.

Lee was representing a litigant in a patent case that was winding up in federal court in Knoxville. He and the other lawyers were in the chambers of U.S. District Judge **George C. Taylor** on a Saturday morning (court was held on Saturdays in those days) discussing the jury charge when he was stricken. A doctor was summoned from the Medical Arts Building across the street from the courthouse, and Lee was placed on a lounge in the judge's chambers. He died shortly afterward.

That leather-covered lounge on which Lee died remained in the judicial chambers at the former U.S. Post Office and Courthouse through the years and today is on display in the History Suite of the Howard H. Baker Jr. U.S. Courthouse.

Today, the Eastern District of Tennessee has five district judgeships. The fifth one was created by Congress in 1994, and it was filled by Judge **Curtis L. Collier** in 1995. ■

Summers On Jarvis



Jerry Summers

Chattanooga lawyer **Jerry H. Summers**, a member of the Court Historical Society, offers the following story about an incident that occurred in a Knoxville trial before Judge Jarvis, who he described as "a fair and compassionate jurist."

During the 1980s, following the fall of the **Butcher** banking empire, Summers was representing the son-in-law of the former lieutenant

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governor of Georgia, one of three men accused of defrauding a bank in a coal-mining scheme. The other two defendants, twin brothers, were represented by **Phil Durand** of Knoxville, now deceased, and his brother, **Kemper Durand**, of Memphis. **Assistant U.S. Attorney Bob Simpson** prosecuted the case.

“At the close of the government’s proof, I made a rather routine Rule 29 Motion for Judgment of Acquittal,” Summers said, “and, much to my surprise, and particularly to the surprise of Bob Simpson, Judge Jarvis granted my motion. My client was obviously confused as to what was going on, and I informed him, ‘Don’t ask any questions. Just help me get these books together so we can get out of here.’”

Summers said, “Bob Simpson, who was obviously as surprised as I was, made a futile but valiant effort to reverse Judge Jarvis, and was carrying on his argument as to why the court was in error in granting my motion to dismiss my client from the litigation.

“As I and my client feverishly tried to get our documents together to leave the courtroom, Judge Jarvis looked down and said, ‘Slow down, Mr. Summers. I’m not going to change my opinion in spite of Mr. Simpson’s excellent argument.’”

“Afterward, Judge Jarvis had an occasion to relate a story pertaining to him and his father in state court in Maryville when the judge was a young attorney. He said he appreciated my efforts to get out of the courthouse quickly because, in a similar case, his father had been victorious on a motion to dismiss the plaintiff’s case in Chancery Court, and he was instructed by his father to leave the courtroom while the counsel on the other side were attempting to convince the judge to reverse his ruling.

“He said he and his father quickly left the courthouse, got in their car, and hurriedly left the site of the hearing. Upon arriving at their office, they were informed by their secretary that their opponent had been successful in getting the judge to reverse himself, but, since the parties had already left the courtroom, the judge had decided to allow his original ruling, dismissing the case in favor of the Jarvises and their clients, to stand,” Summers said.

“Judge Jarvis related his personal story to me and indicated he knew that I was eager to get out of there, and we both had a good chuckle over the story,” Summers said. ■

Revenuers

We all know the lore of the revenuer and the moonshiner, but what about the revenuer and the legal whiskey distiller?

In days gone by, this revenuer was known as the “storekeeper and gauger,” an Internal Revenue Service agent stationed on the premises of the distillery to ensure that the regulations governing bonded whiskey were observed and that the proper tax was paid.

This subject came up when Society member **K. Karl Spalvins**, a Knoxville lawyer, gave the Society an 1891 book titled “Internal Revenue Service Gaugers’ Manual.” It was given to him several years ago by **Dorothea “Dottie” Brown**, a deputy U.S. marshal in Knoxville now deceased, with whose husband, the late **Sterling Brown**, Spalvins used to practice law. Spalvins doesn’t know where she obtained the manual, but he held on to it through the years. When he saw in the May issue of the Society’s Newsletter that **Circuit Judge Tom Wright** of Greeneville had donated to the Society a 1921 book that had belonged to **Robert L. Taylor**, who later served as a federal judge, Spalvins said he decided to donate the IRS book.

Inside the cover of the well-worn book are two names written in longhand:

John H. Faucette S&G, Johnson City, Tenn. Oct. 16th, 1893.
W.T. Matthews S&G, Cedar Creek, Tenn. June 12th, 1894.

Since these two locations are in Northeast Tennessee (Cedar Creek is in Greene County), the question arises as to whether there were legal distilleries in that region of the state in those years.

Apparently there were, according to **Don Miller**, director of the T. Elmer Cox Historical and Genealogical Library in Greeneville. He said his research shows that in the 1890s, there was a firm in Greeneville named Miller Lea and Brothers that sold legal whiskey and apparently distilled it also. There may also have been other distillers in that part of the state, he said.

Steve Weiss, a longtime federal alcohol and tobacco tax agent in Nashville, said the job of storekeeper and gauger, whose duty station was the distillery, was considered a cushy one. And this is borne out by written histories of the job, which show that they were prime political appointments. This, of course, was before the establishment of the Civil Service Commission, which imposed greater regulation on government jobs.

The job of storekeeper and gauger was abolished in 1980, and all agents were designated as inspectors. Today, these inspectors make only periodic visits to distilleries to check records to make sure the proper amount of tax is being reported, Weiss said. ■

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