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Justice Franklin Spears Dedication.

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DEDICATION

St. Mary's Law Journal dedicates this issue to Justice Franklin S. Spears on the occasion of his retirement from the Texas Supreme Court.

JUSTICE FRANKLIN SPEARS

St. Mary's Law Journal is to be congratulated for dedicating this issue to a true friend of the School and an outstanding son of San Antonio, Justice Franklin S. Spears. I am honored to have been asked to be a part of this tribute.

Franklin Spears came early to public service, being elected to the Texas House of Representatives at the age of twenty-seven and to the Senate at twenty-nine. His defeat for Attorney General in 1966 frustrated hopes for high executive office, but led to a rich and distinguished career of twenty-two years as a district and appellate judge.

Justice Spears' contributions to Texas jurisprudence during his twelve years of service on the Supreme Court have been outstanding. Many of his opinions are cases familiar to all practicing Texas attorneys. Among these are *Sanchez v. Schindler*,¹ *Duncan v. Cessna Aircraft Co.*,² *Nelson v. Krusen*,³ *El Chico Corp. v. Poole*,⁴ *Burk Royalty Co. v. Walls*,⁵ *City of Houston v. Clear Creek Basin Authority*.⁶ These

1. 651 S.W.2d 249 (Tex. 1983).

2. 665 S.W.2d 414 (Tex. 1984).

3. 678 S.W.2d 918 (Tex. 1984).

4. 732 S.W.2d 306 (Tex. 1987).

5. 616 S.W.2d 911 (Tex. 1981).

6. 589 S.W.2d 671 (Tex. 1979).

writings reflect Justice Spears' belief that a supreme court should not merely resolve narrow legal points, but should, when appropriate, exercise its power to make the law consistent and comprehensible. His opinions not merely explain; they educate and elucidate. They are marked by clarity and elegance. Regardless of whether one agrees or disagrees with him, Justice Spears indeed is a person who has made a difference. The imprint of his vision and craftsmanship will remain with us for decades to come.

Justice Spears believes that the highest duty of the legal system is to serve the ends of justice. To meet those ends, he has frequently been willing to expand common-law doctrines and interpret statutes expansively to provide remedies for injured persons and aggrieved consumers. For instance, he has consistently taken a broad view of the Texas Deceptive Trade Practices Act,⁷ and has urged the court to view usury laws with the same liberality.⁸ To Franklin Spears, the law must reflect the needs of a changing society. "[T]he common law is not frozen or stagnant," he said, "but evolving."⁹ His career on this court has, to a great extent, been the story of these evolutions in Texas.

Despite this view, however, Franklin Spears' judicial philosophy cannot be conveniently classified as pro-plaintiff or pro-defendant, or conservative or liberal. His opinion for the court in *Moreno v. Sterling Drug, Inc.*,¹⁰ not to mention his dissenting opinions in such cases as *Garza v. Maverick Mkt., Inc.*,¹¹ and *Williams v. Glash*¹² demonstrate his determination to judge each case on its merits. Other more enduring principles characterize his service. One is a strong belief in the authority and independence of the judiciary as an equal branch of government with constitutional status. This belief was articulated in such cases as *Eichelberger v. Eichelberger*,¹³ *Vondy v. Commissioners Court of Uvalde County*,¹⁴ *LeCroy v. Hanlon*,¹⁵ and *Mays v. Fifth*

7. E.g., *Royal Globe Ins. Co. v. Bar Consultants, Inc.*, 577 S.W.2d 688 (Tex. 1979); *Melody Home Mfg. v. Barnes*, 741 S.W.2d 349 (Tex. 1987).

8. *Stedman v. Georgetown Sav. & Loan Ass'n.*, 595 S.W.2d 486, 490 (Tex. 1979)(Spears, J., dissenting), and *Republicbank Dallas, N.A. v. Shook*, 653 S.W.2d 278, 283 (Tex. 1983)(Spears, J., dissenting).

9. *El Chico Corp.*, 732 S.W.2d at 310.

10. 787 S.W.2d 348 (Tex. 1990).

11. 768 S.W.2d 273, 276 (Tex. 1989).

12. 789 S.W.2d 261, 265 (Tex. 1990).

13. 582 S.W.2d 395 (Tex. 1979).

14. 620 S.W.2d 104 (Tex 1981).

Court of Appeals.¹⁶ He insisted, however, upon absolute integrity as an accompaniment to judicial power, not only in appearance but in fact.¹⁷ A second principle is his dedication to an efficient resolution of cases. As a former trial judge, Franklin Spears has resolutely opposed those decisions which would transform settled questions of law into fact issues precluding summary judgment.¹⁸

In oral argument, Justice Spears never grandstands or pontificates, but uses his questions to clarify and to elucidate. In conference, his gracious manner and rapier wit (often characterized by outrageous puns) have made him not only a delightful colleague but also an important force for conciliation and efficiency. He is ever alert for the inconsistent or outrageous statement by a fellow justice, which he memorializes on a strip of paper and inserts under the conference table glass for a later, inevitable counterpunch.

In addition to his legal scholarship, Franklin Spears' contributions to the State in administrative matters have been invaluable. As the court's liaison to the State Bar from 1984 to 1988, he was responsible for a new vigilance in the court's supervision of the Bar's budget. In recent years, he has spearheaded the court's efforts to devise a fairer, more responsive attorney grievance system. If the mandatory state bar is preserved in Texas, it will in no small part be due to Justice Spears' efforts.

Justice Spears is devoted to his wife Becky, who has been a pillar of strength and support to him, and to his three sons, two of whom are attorneys, one of those a district judge. As he nears the end of his honorable and distinguished career in public service, he can be proud as they carry on that outstanding tradition of public and professional service which the Spears family has rendered to the people of Texas. As Justice Spears enters a new phase of his professional and personal life, all twenty-one living present and former justices with whom he has served extend their sincere best wishes.

Finally, I must add a word of personal gratitude. I came to the Supreme Court as the youngest chief justice in the state's history, with no previous appellate judicial experience and with a different political

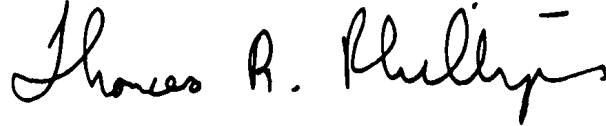
15. 713 S.W.2d 335 (Tex. 1986).

16. 755 S.W.2d 78, 80 (Tex. 1988)(Spears, J., concurring).

17. *Sun Exploration and Prod. Co. v. Jackson*, 783 S.W.2d 202, 206 (Tex. 1989)(Spears, J., concurring).

18. *See, e.g., Williams v. Glash*, 789 S.W.2d 261, 265 (Tex. 1990).

affiliation from the other members. As the senior justice, Franklin Spears was conspicuous and consistent in his support and encouragement. I will always be grateful for his advice and friendship.

A handwritten signature in black ink that reads "Thomas R. Phillips". The signature is written in a cursive style with a horizontal line above the name.

*Thomas R. Phillips
Chief Justice
Supreme Court of Texas*