

State of the Judiciary
Chief Justice Robert H. Jordan, Georgia Supreme Court
Message to the Georgia State Bar Meeting
June 11, 1982, in Savannah, Georgia

This is the second time that I have been privileged to address the Bench and Bar as the Chief Justice of the Supreme Court of Georgia. These occasions have truly been the highlights of my career.

As most of you know I will enter into retirement very shortly. I know that I will miss the excitement of these past years. I shall, however, continue my interest in the law and the judiciary.

Would you believe I am planning to write a book? One of my planned projects is to travel to each of the 159 counties in Georgia, photograph existing old and new courthouses, and write a short history of each centered on the courts and the courthouses. To my knowledge this has never been done in Georgia so I am making a public announcement of this project. It probably will not have the appeal of a Griffin Bell or a Jimmy Carter book. However, I have no agent and am wide open to television or movie rights. If you have any offer of any kind, see me later at the bar.

I have spent nearly a quarter of a century on the appellate courts of this state. They have been exciting years. I doubt that there has been a period in our history in which the judiciary and the law have experienced greater changes. These changes have come swiftly. Some we have considered revolutionary.

I invite you to join with me for a few minutes in looking back at the law as it was then and as it is today. Making a fair assessment of these events I think we can agree that it has surely been "A Generation of Progress."

The most dramatic changes of the past 25 years have perhaps been in the field of human and individual rights. We have seen the advancement of justice and equality for all our citizens. Most important of all, through the best of times and the worst of times in our generation, we have seen the triumph of democracy.

During this period of time the Supreme Court of the United States has issued some of the most important decisions in the history of our nation. In the field of criminal justice we have such landmark decisions as *Witherspoon v. Illinois*, *Miranda v. Arizona*, *Sandstrom v. Montana*, *Jackson v. Virginia*, and many others. The 1963 opinion of *Gideon v. Wainwright* upheld the right of indigent defendants in felony cases to the assistance of counsel, a right recognized in Georgia long before that date. *Brady v. Maryland* gave an accused the right to see exculpatory material in the states' file. *Mapp v. Ohio* and *Jackson v. Denno* were other landmark cases guaranteeing certain rights to an accused.

While some of these decisions seemed novel and controversial at the time they were rendered, who of us can now deny that the sum total of these opinions lifted individual rights to lofty heights never before reached in any civilization.

Other important decisions have guaranteed that all votes be counted equally. Basic due process rights have been extended to juveniles. Absolute executive privilege has been denied even to the President of the United States. The result of other laws and court decisions have assured women and minority groups equal education and employment opportunities.

While these dramatic changes have been made at the national level, equally dramatic changes in the law and our profession have taken place here in Georgia.

As a profession, we have advanced from a loose knit social group of several thousand lawyers to an organization of nearly fourteen thousand members. The State Bar today is a full service organization dedicated to serving the needs of Georgia lawyers. Its accomplishments have been largely due to the excellent leadership of its officers and staff.

The State Disciplinary Board provides disciplinary procedures where none existed before.

The Judicial Qualifications Commission looks over the shoulders of all judges from the justice of the peace to justice of the Supreme Court.

The newly created Fee Arbitration Board is easing tensions between lawyers and clients in fee disputes.

Continuing legal education is now a cherished reality for both lawyers and judges.

The Board to Determine Fitness and the Board of Bar Examiners assure us that only the most worthy enter our profession. As a result the young men and women who join our ranks yearly are of the highest character and intelligence.

The Judicial Nominating Commission has assured that only qualified candidates have been submitted to the Governor for judicial appointments.

Creation of the Judicial Council of Georgia and the Administrative Office of the Courts has provided a service to all components of the judicial system, furnished a much needed forum for discussion of problems, and brought us a step closer to a unified judicial system.

In line with the developments in the field of criminal justice, our Legislature has provided for full discovery in criminal cases.

Jury lists in all state courts have been revised to reflect a true cross section of the community, assuring fair jurors in all litigation, civil and criminal.

Our Unified Appeal Procedure will hopefully shorten the appellate process in the state courts.

Pursuant to the *Orr v. Orr* decision, we have updated our divorce and alimony laws. A recent landmark decision of the Supreme Court of Georgia recognized the equitable division of property in divorce cases.

It is hard to realize that all of these developments have occurred in the short span of some 20 years.

New words have entered into our legal vocabulary. "Aesthetics," for example, is such a word. It appears when cities attempt to beautify their urban environment through the use of aesthetic zoning ordinances, now upheld by our Court. "Closure" is another word that is beginning to have a familiar ring. The word took on new meaning after *Gannett v. DePasquale* and a violent tug of war is now going on between rights guaranteed by the First and Sixth Amendments to the U.S. Constitution.

I believe that it can correctly be stated that the judiciary of Georgia has kept pace with the ever expanding needs and rights of our society. Georgia courts have ceased to swim against the current and have joined the steady flow of progress in the orderly development of the law.

THE ROAD AHEAD

While pausing to recall the events of the past, we must remember that the most important thing is to look to the future. We cannot turn back.

We cannot rest upon the achievements of the past. Many challenges and opportunities lie ahead. Much remains to be done.

One of our immediate objectives should be the adoption of a new State constitution. The proposed constitution to be voted on in November is a modern streamlined version designed to meet the needs of Georgia for many years to come. The judicial article, while not addressing all the needs of the judicial system, is a step forward toward a more efficient and unified court system. Perhaps its most important provision mandates uniform rules of procedure for each of the classes of courts.

Improvements must be made in our juror selection process. Our most capable and intelligent citizens should not be exempt from jury duty.

We must take continued action to assure finality of convictions in criminal cases.

We must ferret out and correct any abuses in the judicial system, one of which has been recently brought to our attention by the press.

We must dedicate ourselves to closer cooperation with the federal judiciary. Under a true doctrine of federalism, the state and federal judiciary each has its own important role in the administration of justice. One system cannot do the job alone. Nor should it try. Therefore it behooves all of us in both systems to recognize the duties and responsibilities of the other, and to respect the prerogatives of each. I am happy to report that progress has already been made in this area with the creation of a State-Federal Judicial Conference at a meeting last Wednesday. I have high and fervent hopes that much can be accomplished by such an organization in the months and years ahead.

Many other opportunities exist for the improvement of the administration of justice.

CONCLUSION

I could not conclude this "swan song" without paying a brief tribute to the judges with whom I have served on both appellate courts during the past 22 years. They have been men dedicated to the improvement of justice in all areas of the law. I call the roll of some of them: Jule Felton, Red Townsend, John Sammons Bell, Vance Custer, Bobby Russell, Homer Eberhardt, Ira Carlisle, George Whitman, Randall Evans, Braswell Deen, Kelley Quillian, Sol Clark, Charlie Pannell, John Frankum, Peyton Hawes, Bob Hall, Bill Gunter, Conley Ingram, Carlton Mobley, Benning Grice, Jesse Bowles, H. E. Nichols, Hi Undercofler, and of course my present associates on the Supreme Court, Harold Hill, Tom Marshall, Harold Clarke, George T. Smith, Hardy Gregory and Charles Weltner.

Having the privilege of knowing these fine men, working with them, loving and respecting them, has been reward enough for my service on the courts. I can claim all of them as dear friends and will forever cherish the memory of my association with them.

It is said that Plato thanked the gods that he was born in the same age with Socrates. So am I thankful to have been born at a time to know and serve with these men.

From the beginning of recorded time the force that has propelled civilization onward has been man's desire for liberty and freedom. I believe that our generation has shown itself committed to these principles. The public interest prevails. Government of, for and by the people stands secure. But as Montesquieu said years ago, "Whatever be the cost of this glorious liberty, we must be content to pay it to Heaven."

In my opinion the state of the Judiciary of Georgia is good. I leave it in good hands. Competent judges at all levels of the court system, working with a dedicated Bar, assures another "generation of progress."

Carved in marble in the Court of Appeals courtroom are these words:

"UPON THE INTEGRITY, WISDOM AND INDEPENDENCE OF THE JUDICIARY
DEPEND THE SACRED RIGHTS OF FREE MEN"

Today this motto shines truer and brighter than ever before. God save our Courts and our noble profession.