

State of the Judiciary
Chief Justice Harold N. Hill Jr., Georgia Supreme Court
Message to the Georgia State Bar Meeting
June 8, 1984, in Savannah, Georgia

I appear before you today with a great sense of optimism and enthusiasm. The state of the Georgia judiciary is good and getting better. We have the means in hand to make improvements and, I believe, the spirit to accomplish those improvements.

This past year has been merely an incubation period for the year and years ahead. During the past year the General Assembly has increased the compensation of those judges compensated by the state, trial and appellate, as well as the district attorneys. Increased compensation is, as you know, a great morale booster, and hence the morale of the judiciary is high, possibly an all time high, and certainly the highest in recent years.

However, this is but one piece of evidence that the General Assembly is aware of and concerned about the judicial branch of state government and the state bar of Georgia. Another piece of such evidence was the adoption by the General Assembly, motivated by a committee chaired by your in-coming president, Duross Fitzpatrick, of legislation which will result in cutting the cost of the appellate court reports in half. The saving to the bar as a whole will exceed one hundred thousand dollars.

In a moment, I will refer to other matters demonstrating the General Assembly's willingness to assist in improving the judiciary of our State.

While the General Assembly meets only periodically, committees of judges, committees of judges and lawyers, and committees of judges, lawyers and lay people have been meeting repeatedly throughout the past year.

The Council of Superior Court Judges, under the leadership of Judge Emory Findley, and particularly the reorganized executive committee of the Council have been meeting regularly. They were successful at this last session of the legislature in obtaining funding to employ a director and open an office.

You have been reading throughout the year of problems with public employee pension and retirement systems. The Council of Superior Court Judges, with a great deal of foresight, adopted rules of self restraint recommended by the Supreme Court as to utilization of retired judges, and notwithstanding recurring criticism of retirement programs in other sectors, as a result of the Council's willingness to act, the judiciary has not been involved in that criticism.

The Indigent Defense Council, although handicapped by lack of funds this past year, will meet this afternoon in an effort to provide for the effective assistance of counsel for indigents. I am happy to report that the General Assembly has made available some funds starting July first so that these dedicated volunteers will not have to pay their own travel and mailing expenses.

Also during this past year, the Code of Judicial Conduct has been revised to conform to non-partisan elections provided by the new Constitution, and to conform at the same time to the

increasingly contested nature of judicial office. Again, this effort was undertaken by volunteers, judges, lawyers, and lay people, and was accomplished in time for this election season.

As you know, the new Constitution does away with the motion to dismiss for improper venue. It mandates transfer of cases from court to court, rather than dismissal. All five classes of trial courts – superior, state, juvenile, probate and magistrate – have adopted the same transfer rule so that a case can now be transferred from a state court to superior court as well as from one superior court to another.

On Tuesday of this week, the uniform rules drafting committee of the Council of Superior Court Judges presented to that Council uniform rules of court which the Supreme Court proposes to promulgate. That committee's work is now available for your review, and review by the superior court judges, as well as any other person interested.

A large part of my feeling of optimism and enthusiasm comes from these proposed uniform rules. With rule making authority granted to the judiciary by the new Constitution, the judges now have the ability to solve many of our problems and to implement improvements within the judicial system itself.

These new uniform rules when approved will be published in advance of the effective date, July first, 1985. These rules will be the most significant development in judicial procedure since adoption of the Civil Practice Act in 1966. We must take full advantage of this opportunity. Bar committees have been monitoring our progress and now is the time for them to help us make the new rules workable.

The second specific reason for my optimism and enthusiasm, in addition to the judicial esprit de corps I feel generally, is the Governor's Judicial Process Review Commission created at the instance of Governor Joe Frank Harris by joint resolution of the House and Senate at this last session of the General Assembly. This Commission, which is to make its report before the 1986 session of the legislature, can make possible judicial improvements which the judiciary may find are not within its newly created rule making authority.

In my view, the Governor's Commission should consider such matters as the level of funding of judicial service agencies. We should not have so much judge time spent in drafting committee meetings. The pattern charge books, the judge's bench books, the uniform rules could all be drafted by continuous staff personnel, rather than judges, so that when judges meet they have staff proposals before them. In my view, the judiciary needs an office funded so it can function like the office of legislative counsel functions for legislators.

The Governor's Commission can consider our method of judicial selection and tenure, the organization of our trial courts, the role of part time judges, the condition of our courthouses, the uses of new technology by the courts, the redistribution of workloads, alternatives to dispute resolution, the costs of litigation, the public's perception of the bar and the judiciary, the abolition of what the public perceives to be loopholes and technicalities, the hodge-podge state of our laws allowing attorney fees and punitive damages, the disparate methods of appealing cases to the superior courts from lower tribunals, and the lack of finality in both civil and criminal cases.

If you are interested in the work of the Governor's Commission, let me encourage you to join the American Judicature Society. The Judicature Society has formed a Georgia Chapter to which all Georgia members of AJS will belong. The Georgia Chapter will enable you to keep abreast of and contribute your thoughts to the Governor's Commission on Judicial Process Review.

So, you can see, for any problem facing the judiciary today, the judiciary has the means of solving it, either internally or with the help of the Governor's Commission. With this opportunity comes responsibility. No longer can we say we are unable to effectuate improvements. We can and we will.

Where has this opportunity originated? It originated with the people's passage of the new Constitution. It comes from the General Assembly and the Governor's office. It comes from the support of the lawyers of Georgia and the leadership of this organization. It comes from lawyers and judges volunteering their time and energy. It comes from judges at every level who are working to improve the system. It comes also from a revived spirit inside the judicial branch.

Time will not permit me to more than mention the appellate practice handbook project now underway, the revised requirements for taking the bar examination, the continued efforts of the State-Federal Judicial Council, the revised rules and internal procedures initiated by the Supreme Court, the harmonious relations among the courts including particularly the two appellate courts, our efforts to deter frivolous appeals, and many other matters which involve appellate judges. I am compelled to note, however, that as busy in these matters as appellate judges have been, the two appellate courts continue to be current, notwithstanding an ever increasing administrative workload and caseload.

As I said at the outset, the state of the judiciary is good and getting better. Although not all our problems have been solved, they are now vulnerable. The judges of this state, from magistrate's court to Supreme Court, are working hard to find acceptable solutions. On behalf of the Supreme Court and the judges of Georgia, thank you for affording me this opportunity to report to you on the State of the Judiciary.