

State of the Judiciary
Chief Justice Thomas O. Marshall, Georgia Supreme Court
Message to the Georgia State Bar Meeting
June 12, 1987, in Savannah, Georgia

Once again I accept with pleasure this opportunity to report to the bench and bar assembled here on the state of the judiciary in Georgia. In my opinion, the state of the judiciary is excellent. Moreover, I think that it is improving day by day through the concentrated efforts of the men and women who preside over our courts and those members of the bar who have made it their concern to provide our citizens with the very best judiciary and system of justice that can be devised.

We are living in a new world and it is moving pretty fast. We are now well into the age of computers. They have reached our courts in growing numbers. They no longer are regarded merely as a new gadget, a new toy or a symbol of the affluence of our more prosperous law offices but are being put to great practical use – perhaps a use not many of us had dreamed of less than a decade ago. Once a luxury, they are fast becoming a necessity in the practice of law and in the processing of cases in our courts.

We have, in the Supreme Court, been using word processors and a specially tailored system of computerization for several years. Now we are beginning to use this almost unlimited form of communication on an expanded scale. A number of trial courts are also seeing the great value in this new technology.

In a recent essay, my colleague, Justice Charles L. Weltner, noted that a study by the National Center of State Courts suggested that neither the Supreme Court of Georgia nor the Court of Appeals of Georgia – standing alone – has sufficient volume of filings to warrant a shift to a computerized docket.

This came as a bit of surprise to me since both of our appellate courts are described as among the busiest in the nation. Nonetheless, the ability of computers to deal with vast volumes of data is so great that in the case of our two courts it is taking "two to tango" to the computer "beat." And tango we will, hopefully, in the near future when through an unprecedented cooperative endeavor we hope to bring to both courts new capabilities in caseload management and analysis.

The Supreme Court recently acquired new IBM PCs to replace the standard word processors it has been using since 1983 and we now have a system for maintaining a database of the last 16 months of opinions which are "searchable" under systems similar to those devised by Lexis and Westlaw. Each justice's office may maintain its own "library" in the same manner. Each office can be connected, when necessary, to national electronic law libraries.

This new system will reduce from four steps to one the drafting of an opinion and life will be a bit easier for everyone. Not only will the new system keep us fully abreast at all times of our caseloads, but a system is being written for public access. Simply put, this system will allow you to call us up on your computer and read our dockets and read our opinions as they are issued. And some time in the future we may develop a capacity for electronic brief filing which may

save you a drive to Atlanta. Other possibilities are electronic advance sheets and a database that can be searched by remote devices.

I had the opportunity a while back to appoint a committee of superior court judges to study other possibilities of computerization. This committee is headed by Judge Curtis Tillman of the Stone Mountain Judicial Circuit and one of its main purposes is to inquire into the kinds of information that can be of value to other state agencies.

Some of our trial judges have forged ahead into this field. Chief Judge A. Wallace Cato of the South Georgia Circuit, and Mrs. Zadie B. King, clerk of the Decatur County Superior Court, have worked to develop a smaller county system that has been demonstrated in many locations. Judge Joseph B. Newton has worked hard to bring computers into the counties of the Waycross Judicial Circuit.

A recent survey by the Administrative Office of the Courts showed that 78 counties report some use of computers. That survey shows that computer use by Georgia courts no longer tend to cluster about urban areas and in the northern part of the state. It is important that computer equipment and software be compatible so that various court and state agencies can "talk to each other."

Another technological advance in court proceedings has been the use of videotape in record making. This system is not to be confused with closed-circuit television which is also coming to the front. Closed circuit television has been used mostly for taking guilty pleas from a place of incarceration to avoid transportation to the courtroom. Some questions concerning due process are yet to be answered with such a system.

On the other hand, videotape has been used mainly in the use of depositions and the making of court records. It seems to me that such a system has a great potential value.

While Georgia has provided the leading edge of many innovative courtroom procedures such as permitting television in our courtrooms by the news media, our sister state Kentucky has provided a greater amount of trail-blazing into the use of videotape. Since 1982, all trials in the Madison County Circuit Court in Richmond, Kentucky, have been videotape-recorded. Based on what is considered a successful operation in that court, videotaping has been extended to other courts in that state. While set-up costs have been pegged at upwards to thirty thousand dollars per courtroom, one of the first surprises has been that the cost of videotaping of the record has compared favorably with other methods. Proponents of videotape hope to be able to show that such a technique is superior to other available court reporting alternatives. The National Center for State Courts has conducted a study of videotape procedures used in Kentucky and on a more limited scale in Ohio and Tennessee.

Some day, perhaps, our appellate courts in Georgia will be reviewing records consisting of videotapes. Already, from time to time, the Supreme Court of Georgia has set up a television monitor to see and hear certain portions of trial testimony.

I mentioned in the opening remarks that the state of the judiciary is excellent. I base that observation, partly, on the reduction in the total number of open cases in our superior courts. According to the figures of the Administrative Office of the Courts, the number of open cases

was reduced from 145,951 in 1981 to 117,823 in 1985. That's a decrease of 28,128 cases or 19 percent – a commendable feat.

The average time from filing to disposition for both civil and criminal cases decreased by three months or 31 percent over the same period of time.

An increase in the number of superior court judges to handle an increasing caseload, the diligent efforts of those judges, and the improved record keeping of clerks of court have all contributed to the decrease in open cases and reduction in time from filing to completion for all cases.

The AOC study indicates that the number of open cases per judge has dropped from 1,247 in 1981 to 913 in 1985, a decrease of more than 26 percent. Open caseload figures reflect the number of cases that have been filed and served but which have not been tried, settled, or otherwise disposed of by the court.

The average time to process a civil or criminal case fell from 10.4 months to 7.23 months during the five-year period. The average time to process a domestic relations case dropped from 10.2 months in 1981 to 6.6 months in 1985. This represents a 35 percent reduction which was the greatest decrease among the three major types of cases handled in the superior courts.

Average time for processing a felony case fell from 6.3 months in 1981 to 4.4 months in 1985 and for a typical general civil case from 15.2 months in 1981 to 12.4 months in 1985.

These times compare favorably with standards adopted by national court organizations. We can never attain a zero time lag but with continued improvement, complaints by citizens and attorneys that they "can never get a case through court" will cease.

Crime continues to be one of the biggest problems facing our nation and drug and alcohol abuse are among the major reasons for these problems. We are not, if the statistics are any indication, winning the war against the importation, distribution and use of cocaine and marijuana and other dangerous and addictive drugs. We must turn our attention and our energies toward coping with these problems. I offer no guaranteed solution but it is becoming increasingly obvious that hard decisions must be made if we are ever to rid this menace from our society. While strict enforcement of our laws in dealing with drug abuse could reduce this problem, education could provide a better tool. Rejection by society as a whole would be even better.

I note a recent newspaper story concerning baseball players in Japan. According to the story, no big leaguers from America can play in Japanese leagues if they have ever been involved with drugs – even the entry into a rehabilitation program would exclude an athlete over there. Our society needs to apply some of the same hard rejections toward drug abuse.

Another approach to the problem – and one in which I have been interested for a number of years – concerns juvenile justice. If we can get to the roots of the problem, early on, I think we may be able to make progress. It is often the treatment, or mistreatment, of our youth that sets the stage for a budding criminal career. If we can improve the way we handle youthful offenders and protect our children from the corruptive effects of abuse we will have gained ground.

In this regard, I am happy to report that for the first time in Georgia's history, we are starting to develop a comprehensive program that has enlisted the juvenile justice leadership and practitioners of this state to plan and build a juvenile justice system for the future.

Under this program, children are never to be viewed simply as miniature adults who can be served by the same institutions using the same principles and programs as those designed for adults. The end result of the program is that we don't increase or hasten the chances of our young citizens becoming criminals, the drug abusers or the drug importers of the future.

I had the opportunity to join in a conference sponsored by the governor a few months ago that took a detailed look at the needs, at the emergence and at the growing up of juvenile justice as a specialized system – separate and distinct from the adult system – for dispensing justice and providing treatment for Georgia's youth. I will not go into detail of this program because of the limited amount of time in this forum. However, the importance of such a coordinated program is emphasized by the projected growth figures of this state. According to figures provided by the Governor's office and budget, the state's juvenile population – those from ages 10 to 16 – is expected to grow by 10 percent between 1985 and 1990 and will soon exceed 800,000 children. This program would create a system of fulltime specialized judges to hear juvenile cases. I endorse this program and urge each of you to become familiar with the various reports arising from that conference and to actively participate in carrying out the worthwhile aims for an improved juvenile justice system. Such a system is, beyond a doubt, an investment in our future.

A continuing problem is the lack of state funding of the Indigent Defense Council to provide lawyers for indigent criminal defendants. The General Assembly has not seen fit to provide funding despite requests for the past three years. It has been suggested that funds be secured by imposing a surcharge on fines in all criminal cases throughout the state. This is an urgent concern and early action is needed.

This is a very good year – 1987. We have a very special reason to mark it. Georgia, as one of the original 13 states, is joining the rest of the nation in commemorating the 200th anniversary of the framing and adoption of the Constitution of our United States. The Constitution, as drafted and as it remains, places a great degree of importance upon an independent judiciary. At Philadelphia in that hot summer of 1787, the delegates accepted without debate the proposition that the Constitution's division of powers, its guarantee of individual rights, and its intricate set of checks and balances would be monitored by a judicial system independent of, and as much as possible, insulated from the other two branches of government, the executive and legislative.

The constitutional responsibility of the judiciary can be simply stated: To provide a forum in which disputes can be resolved by the neutral application to the facts of controlling legal standards. Judges are constitutionally bound to decide cases without fear or favor, whether the case be between different branches of government, between a citizen and the state, or between citizens.

Courts work well to the extent that they are accessible to the people and to the degree that they resolve controversies speedily, economically and fairly.

While the judiciary is regarded as an equal and independent branch of our government, it is not always treated as an equal when it comes to setting up budgets. A computation to be published shortly will show the general appropriation for the coming fiscal year for the state to be five billion and 782 million dollars. Of this amount, the state's total tab for the judiciary is 42 million, six hundred fifty three thousand and 700 dollars. The portion for the judiciary comes to only 74 hundredths of one percent of the entire state budget.

Of course, the 42 million, six hundred fifty odd thousand is not the total sum spent on the judiciary. Counties and cities fund many of our limited jurisdiction courts. But that figure does include the appropriations for the Supreme Court, the Court of Appeals, operations of the superior courts and attendant functions such as the Council of Superior Court Judges, Judicial Administrative Districts, Prosecuting Attorneys' Council and Sentence Review Panel. It also includes several administrative and training functions for other courts, for the Judicial Council and for the Institute for Continuing Judicial Education.

Certainly, an appropriation of less than three-quarters of one percent of the entire state budget for these important judicial functions gives no indications of equal status when compared with the other branches.

Make no mistake – I make no pitch for one-third of the state's budget. I do ask that you support adequate funding to make the judiciary more technically efficient, that enhances the training of the men and women who preside over our courts, and provides for adequate support staff and suitable facilities.

I have touched only briefly on a number of matters that I think are important. The Administrative office of the Courts, under the direction of the Judicial Council of Georgia, has issued its Thirteenth Annual Report on the Work of Georgia Courts. I suggest that each member of the judiciary and each member of the bar carefully examine this report to understand the magnitude of the work of the judiciary in Georgia.

Thank you.