

State of the Judiciary

Chief Justice George T. Gregory, South Carolina Supreme Court

Message to the Legislature

February 28, 1990, in Columbia, South Carolina

Mr. President, Mr. Speaker, Honorable members of the Senate and House, and friends... First, on behalf of the South Carolina Supreme Court, the Court of Appeals, the Circuit Court, the Family Court, Masters-In-Equity, Probate Court, Magistrates Court and Municipal Court, as well as all judicial personnel, let me thank you for the honor and privilege given me of addressing this Joint Assembly today. I appreciate your having invited me as Chief Justice to report the State of the Judiciary in South Carolina. This afternoon, I will briefly review 1989 accomplishments and the needs for 1990 and future years. I am especially happy to see a good relationship grow between the legislative and judicial branches of government. Our court continues to be grateful to the General Assembly and its leadership for understanding and encouragement. The judiciary, likewise, enjoys a good relationship with the Governor and members of the executive branch, for which we are also grateful. The genius of our system of government is the separation of powers, with each branch providing checks and balances on the others. I remind you that the pursuit of justice is the shared concern of all three branches which are truly partners in the administration of justice, but with separate and distinct responsibilities. Our common goal continues to seek for South Carolina a legal system that is just and fair to all its citizens. Perfection is not attainable, but we who are judges must maintain rigorous professional and personal standards and high ideals tempered only by a recognition of our human limits and capabilities. We pledge our best within the resources provided. South Carolina's record of selecting judges of high ability and integrity is good. The judiciary supports and endorses the Joint Legislative Judicial Screening Committee's recent action to ensure that judicial candidates will continue to meet the highest standards. The committee formalized its procedures based on models endorsed by the American Judicature Society and the American Bar Association. The committee adopted clear and stringent evaluative criteria against which to measure a judicial candidate's integrity, legal ability, temperament, work habits and financial responsibility. The background disclosures now required are sweeping, rigorous and detailed. It is crucial to our system of justice that we attract judicial candidates of impeccable character, keen judgment, demonstrated ability, dedication, common sense and sensitivity. Recent reforms ensure that the high caliber of our judiciary will be maintained. Procedures for the discipline of judges and lawyers were again reviewed during the past year. We recognize that public confidence in both the Bench and Bar is dependent on the integrity of our disciplinary procedures. Lay participation in the disciplinary process of judges and lawyers began in 1989. Their active involvement and participation adds strength and credence to the systems. Last year, we discussed with you the court's concerns with the delay from initial complaint about a judge or lawyer until final resolution. Complaints of substance are investigated and processed by the Attorney General's office. Formal complaints cannot be prepared and filed until fully investigated. You provided the Attorney General with funding for two additional investigators. Yet, more are needed for prompt investigation and timely resolution of all complaints. Unnecessary delay in processing complaints about judges and lawyers is intolerable. Effective September 1, 1990, the rules of the professional conduct will replace the code of professional responsibility as the rules governing the conduct of lawyers in South Carolina. These rules were proposed by the American Bar Association and have been adopted in nearly all of the states. The South Carolina Bar recommended they be adopted in South Carolina.

After a public hearing by the Supreme Court, the rules were adopted with time allowed for all lawyers to learn them before their effective date. We commend to you the South Carolina Appellate Court rules submitted to the Chairmen of the Senate and House Judiciary Committees. Chief Justice Littlejohn chaired the Ad Hoc Committee which developed the rules. Justice Toal, of the Supreme Court, and Chief Judge Sanders, of the Court of Appeals, were the vice-chairmen. Input in this project was broad and included all segments of the Appellate Bar. The antiquated Supreme Court rules have long needed revision. The new Appellate Court rules, under study of over four years, answer that need. During 1989, we continue to experience a tremendous growth in litigation. The case load in both the Circuit Court and Family Courts, is increasing faster than we are able to dispose of the work. As a result, the number of cases pending in these courts had skyrocketed. We endeavored to address these increases over the years with a number of administrative initiatives. For example, we reduced the number of in-chamber or in-office weeks to create more trial court. We assigned special and retired judges from 1982 until 1989. The average yearly equivalent of 4.2 active full-time circuit judges and 1.0 active full-time family judge. In 1989, the court's criminal information system was in transition. General sessions or criminal cases were tracked by indictment number in 1988 and before. To coordinate with SLED's records, we now track by warrant number. More than 86,400 criminal warrants were filed in 1989. Pending at year's end were 31,300. This translates into an unmanageable 22 percent growth in 1989 with no end growth in sight. The filings of civil cases in Circuit Court remained the same in 1989 as the year before, 53,500. Dispositions slightly exceeded filings. By year's end, 24,400 cases were awaiting disposition, but only 3.7 percent had been docketed longer than one year. Common pleas cases require, on average, 23 weeks to be disposed. Last year, 75,800 cases were filed and 74,200 ended. The 19,600 cases pending at the end of 1989 is higher than the year before. The case load grows 1,000 to 1,500 yearly. Our goal is for every Family Court matter to be concluded within six months of filing. During 1989, 6 percent required longer. The average age of a pending case is now 12 weeks. In 1983, the South Carolina Supreme Court first provided for automatic enforcement of child support accounts paid through Clerks of Court. In the following fiscal year, 1983-84, statewide collections were \$41,000,000. In the past fiscal year, statewide child support collections processed by clerks topped the \$100,000,000 mark. We can be justifiably proud of our efforts, implemented long before federal recognition of the importance of timely collection of child support. The case load of the Probate Courts has been tracked for six years, and has remained relatively constant at more than 19,000 cases each year. Of the approximately one and one-third million cases handled by the state's trial courts each year, 57 percent or 742,000 were handled in Magistrate's Court, and 30 percent or 390,000 were handled in the Municipal Courts. Of course, a large share of those cases are disposed as bond forfeitures in traffic cases. A citizen's typical encounter with the court system will be an appearance before a magistrate or municipal judge. These two courts generate nearly \$50,000,000 for their counties and municipalities at a cost of less than \$20,000,000 to operate statewide. In February, 1989, following ratification by the General Assembly of a Constitutional Amendment, the State Grand Jury Act became effective. Attorney General Travis Medlock names Cameron M. Currie as a Chief Deputy Attorney General and as Chief, State Grand Jury section. Critical to the success of this effort was the selection of its chief. The Supreme Court then entered an order on March 9, 1989, establishing procedures for selection of the first state grand jury. Participating in the jury selection and notification process were the Clerk of the State Grand Jury, personnel of the Division of Information Resource Management, the Clerks of Court of all 46 counties, the sheriffs and the chief administrative judge for the fifth circuit. The first state grand jury was sworn and charged on June 14, 1989. The Grand Jury meets once a month

for a three day session. To date, the State Grand Jury had indicted 110 individuals for trafficking in drugs. 40 persons have been found guilty or have entered pleas of guilty. All defendants sentenced to date have received jail time. The State Grand Jury has had an impact on the judiciary. The presiding judge has assumed numerous duties related to the Grand Jury in addition to his already heavy load as chief administrative judge, criminal, for the fifth circuit. Five circuit judges have been assigned both criminal and civil cases arising from action by the Grand Jury. The first criminal trial in a state grand jury case lasted 14 days. Appeals from that trial have now been filed with the Supreme Court. Extra terms of court have been ordered to handle these cases, court reporters, juror fees and related expenses have been incurred. The State Grand Jury appears to be doing exactly what the legislature envisioned, investigating and indicting drug traffickers, and seizing their assets. This activity has had and will continue to have a significant impact on the state's judicial system. The impact of Hugo on the judicial department was both immediate and long term. Court was initially disrupted in a number of areas but all counties, including Charleston, were able to resume court within three weeks after the storm. Charleston, our third busiest, was the hardest hit with the condemnation of the county courthouse. I compliment the citizens and government of Charleston, county officials and the judges, lawyers and Bar officers, for their response to this emergency. A temporary replacement courthouse, larger and more functional than the old courthouse, was opened in January, less than four months after the loss of the old facility. This temporary courthouse should be more than adequate until a permanent replacement can be planned and rebuilt. The long-term impact of Hugo is difficult to project but we anticipate an avalanche of civil filings and to a lesser extent, additional criminal cases. The courts will be years working through cases generated by Hugo. The judicial department's number one priority is additional circuit court judgeships. Our request for nine new judges and related support positions was recently passed by the House, and is now before a Senate Judiciary Subcommittee. The need of the new judgeships is clear. The Omnibus Crime Bill, increased drug and DUI cases, Hugo, State Grand Jury proceedings, death penalty cases and the tremendous growth of complex civil litigation has overwhelmed the Circuit Courts. Approval by the Governor of the pending abortion bill now on his desk will add to the load. The last increase in circuit court judges occurred in 1979, when we went from 25 to 31 judges. The availability of family court judges for assignment to Circuit Court had disappeared. We presently require and assign all family court judges to that court. Our request for additional circuit judges is prudent and timely. Having experienced the Circuit Court caseload growth of the 80's, we cannot meet the demands of the 90's with the resources of the 70's. Justice unnecessarily delayed is justice denied to the people of South Carolina. The only question is budgetary. I am confident of your favorable response. Before closing, I will touch briefly on the Supreme Court and the Court of Appeals. Both are functioning well and in harmony. The Supreme Court is temporarily housed in the Calhoun Building with the Court of Appeals during renovation of the Supreme Court Building. Asbestos removal has momentarily delayed progress on the renovation. With your permission, I will introduce our colleagues present with us today. From the Supreme Court, we have Justices David Harwell Lee Chandler, Ernest Finney, and Jean Toal. From the Court of Appeals, are Chief Judge Alex Sanders and Judges Randy Bell, Jasper Cureton, Jack Gardner, Bert Goolsby and Curtis Shaw. All have been wonderfully encouraging and supportive of me during the two years I have served as your Chief Justice. Similar encouragement and support has come from other judges of the unified court system and all court staff and department personnel. I thank them all. In closing, I thank the General Assembly for cooperation with and support of the judicial branch as we labor together for the good of all South Carolinians. Fidelity to our shared trust is our common goal as we administer justice. My faith rests in you and the people of

our great State. Thank you very much."

Compiler's note: Long paragraph present in source material.