Idea to Reality

Conceptual Ideas. Production Notes and Facts

- Reasons for formation
- Key persons in formation (both for and against - detail who is on which side?)

People:

Logan Bleckley
Pope Barrow
Members of Committee decided at Warm Spring Bar Meeting:
Burton Smith
Orville Park
Washington Dessau
J. Hansell Merrill
Samuel Adams
Arthur G. Powell
E.A. Hawkins
Thomas Chappell
Hoke Smith
Marcus Beck
John W. Akin
A.L. Bartlett
J.B. Park, Jr.
W.A. Charters
W.K. Miller
John Bennett

- Opposition to Court
- Relation to trend toward centralized government (Big Business, RR's, McKinnely, etc.)
- Friction or relation to hesitancy to establish a Supreme Court
- Why not just restructure the Supreme Court? Why the Need to create a separate body? Trend or logic?
- Election vs. appointment controversy
- Decision regarding the number of judges
- Suggestion of a circuit Court of Appeals vs. centralized
- Other suggestions for Supreme Court relief
- Original jurisdiction of court (and other idea that were suggested - why was it last resort??)
- Was it the first elected court of last resort? In GA?

Idea to Reality Facts (from articles)

Number of Supreme Court Justices had not been increased since conception. However, in the time since the Supreme Court's inception the number of county and superior courts increased 47%, city courts 66%, and population 335%.

Judge Bleckley resigned after the defeat of the amendment - "Shall I continue on th bench and dismiss my wok half done, or shall I refuse to be party to such course?" (From Article)

A bill was drafted by a "prominent man from south Georgia" to provide for three judges to be known either as the Supreme Court Commission or the Court of Appeals. The proposed court would not make decisions, but instead hear arguments, and the present the case to the Supreme Court. (Like a chancery court).

Since the people would not vote to enlarge the court, the idea for a separate court, which was within the legislature power to conceive, was suggested as a method of relief. It was noted that this court should not impede the jurisdiction of the supreme court.

Cotton State Exposition was where the Ga. Bar Assoc. had there annual meeting - same yr as Booker T. Washington??

At Bar meeting a three circuit court of appeals was suggested - Judge Barrow's Bill - the three circuits would be judged by superior and city court judges within that jurisdiction. The superior court judge with the oldest commission would preside. One term of the first district would be in Savannah, Thomasville, Brunswick, and Albany each year. Second would have a yearly term in each of Augusta, Columbus and Griffin. The Third would meet in Athens, Atlanta, Rome, and Newnan. More detail in Article.

Bill drafted following Bar meeting in Warm springs allowed that:

- no right of appeal to supreme court in cases under $500
- with classified exception

That bill, drafted by a committee of lawyers after the Warm Springs Bar Meeting (1902) was then reviewed at the Tallulah Falls bar meeting (1903) and submitted to the legislature sometime in the fall of '03 or Spring '04. The bill passed the senate and received a favorable vote from the judiciary of the house, but failed to reach a vote in congress. They were going to try to bring it up for vote again in the summer session of '04 during the bar meeting in Warm Springs

Different plans included a circuit court like approach, others thought and dispute under a certain sum should be heard by the new court, with various mixes of the two also proposed.

One proposal made at the bar meeting was to give suitors their choice on which court they wanted to go to. While the appeals court was not as glamourous, it would provide a quick, easy and accessible option to people disputing smaller matters.

Constitution had to be amended when the court was created.

To avoid conflicts of precedent, the supreme court's decisions would be binding on the court of appeals.

The amendment limited the Supreme Courts jurisdiction over civil case originating in the superior court, or carried there from the court of ordinary, capital felony cases, determination of question to be certified from the appeals court.

Since its creation the Court of Appeals was NOT an intermediate appellate court. It was a court for the correction of error of law alone, just like the supreme court. It heard misdemeanors, and minor claims.

At the beginning, the only way the decisions of the Appeals Court were not final was if the losing party appealed to the Supreme Court of the United States on the grounds of a violation of the federal Constitution and they granted cert.

At this time the intention of its founders was Not to create an intermediate court

Among other ideas proposed in the bar association's report were the establishment of two supreme courts, one for criminal cases and another for civil; abolition of the contingent fee, restriction on the right to appeal; and limitation of the class of cases which could be reviewed by the Supreme Court

The Constitutional provision proposed by the Bar Association's Committee for the Relief of the Supreme Court originally called for a Presiding Judge and four Associate Judges.

Notes from A. G. Powell's article, The Birth of the Court of Appeals of Georgia

the 1896 constitutional amendment increasing number of supreme court justices produced an unsatisfactory decision. It allowed the court to be divided into two divisions, on which Powell says "the word "supreme" as applied to a court, connotes, or should connote, the final say-so as to the law, and in this sense, there cannot be what is in effect two supreme courts functioning at the same time, in the same jurisdiction, deciding the same points of law."

The men appointed to the committee for the Relief of the Supreme Court met in the Supreme court room and often Justice Samuel Lumpkin sat with them. This was in 1901.

For the next few years, mostly the same guys met and discussed possibilities. By 1906 they had decided on a three member appellate body. It was to be final court making decisions of "lesser importance" with the only standard or review being the US Supreme Court, and even then only on constitutional issues.

The bill finally submitted in 1906 contained for gubnitorial appointment of the judges, and the gov. met with the committees, the Bar Assoc., and supreme court members to announce the appointment of Powell, Peeples and Perry. However, the General Assembly changed the bill to provide for popular election of judges. The people would also have to ratify the creation of the court in the next election.

Powell has the number fo informal candidates to be as high as 26

Hoke Smith had recently been elected governor. Then the democratic convention was held. The itinerary included the election of judges at the convention, but there was fear that if they announced the judges before the ratification of the bill it would not pass because so many popular men were in the running. The fear was that the supporters of whichever men lost the election would decide not to support the bill out of spite. So instead they held the judicial election and the ratification on the same ballot, in the Democratic Primary (Oct. 3 1906) and the final election of the Judges in the general election on Nov. 6, 1906.

"The Court of Appeals of Georgia was established because it was an absolute necessity. For years, the Supreme Court Justices had been overburdened with work. The lawyers of the State, who knew of this condition of affairs had for some time tried to create enough sentiment over the State to bring relief. The Georgia Bar Association with seriousness, energy and determination took hold of the matter, and made known to the people at large the true situation. Two Supreme Court Justices had only recently sacrificed their lives on the alter of unremitting toil. Another had just resigned on account of ill health brought about by overwork. Many cases were affirmed by operation of the provision in our Constitution that commanded that they be heard and decided at least during the next term after the one to which they were returnable. The Association, at its annual session in 1906 heard the honorable Andrew J. Cobb, then a member of the Supreme bench, give an intimate account of the real situation that confronted the court. Up to the first day of July 1906, that court had disposed of 704 cases since the preceding first day of October, which meant that since the beginning of the preceding October term it had disposed of nearly twice as many cases as were brought to the two terms of the court the two years before that date. The Court was faced with the prospect of beginning the October term, 1906, with three hundred cases behind, and with entering on the following March term with 500 or 600 cases brought over from the preceding term....."

"Distinguished lawyers proposed bills, some of which were introduced. The general trend of all legislation designed for relief of the Supreme Court was towards the establishment of a supplemental court for the correction of errors. Some suggested that the cleavage in the jurisdictions between the proposed court and the Supreme Court be fixed by the among of money involved in the suits. Others thought that the new court should be fashioned somewhat after the Circuit

Court of Appeals of the United States. Still others suggested a modification and combination of these two plans. But Governor Terrell was the one who in his message to the General Assembly formulated the plan which was finally adopted. The cardinal feature was the avoidance of conflicting precedents by the two tribunals, which was accomplished by the declaration that the opinions of the Supreme Court were binding on the Court of Appeals a precedents."

"The establishment of the Court of Appeals was for the purpose of furnishing double relief. Relief to the overburdened judges of the Supreme Court, and to the people who on account of this condition were threatened with a denial of justice." (Chief Judge Hill, January 7th 1907 - Atlanta Constitution)