

COURT OF APPEALS OF GEORGIA

1907- 2003

...

The Court of Appeals has statewide appellate jurisdiction of all cases except those involving constitutional questions, land title disputes, the construction of wills, murder, election contests, habeas corpus, extraordinary remedies, divorce and alimony and cases where original appellate jurisdiction lies with the superior courts. The Court of Appeals may certify legal questions to the Supreme Court.

Over the last twenty years, statistics show a yearly increase in the number of cases considered by the Court of Appeals peaking in 1995. Although the caseload has remained fairly level since 1998, the cases filed per judge in 2000 still exceeded the national average for intermediate appellate state courts. Also, during the 1990s, the Georgia Court of Appeals was, on the basis of the number of cases decided by each judge, one of the busiest appellate courts in the country. Despite this demanding caseload, the Court is noted for its prompt rendition of quality decisions. Over three fourths of the 2,544 direct appeal decisions issued by the Court of Appeals in 2001 were final. Of the remaining quarter in which applications for certiorari were filed, the Georgia Supreme Court agreed to review less than 10%. As of the date of this publication, 18 of the 56 applications had been decided by the Supreme Court and only 6 were reversed.

Most opinions of the Court of Appeals are reported in full in the Georgia Appeals Reports and the Southeastern Reporter, and are available. Over the past several years, the Court has published an average of 1,461 opinions per year.

The first sessions of the Court of Appeals were held in a courtroom which was located in the State Capitol building. Initially, the courtroom was used in the afternoons by the Court of Appeals and in the mornings by the Supreme Court. Later, this same courtroom continued to be used by both courts, sitting on separate days, until the State Judicial Building was completed in 1956. At the dedication proceedings of the present courtroom, reported at ~~93 Ga. App. 904~~ the motto engraved upon the marble wall behind the bench was noted: "Upon the integrity, wisdom and independence of the judiciary depend the sacred rights of free men." This credo was conceived and formulated by Chief Judge Jule Wimberly Felton, and reported in ~~243 Georgia XXXIX~~. In 1992, at the suggestion of the first woman judge, Judge Dorothy Toth Beasley, the Court of Appeals revised its motto to read: "Upon the integrity, wisdom and independence of the judiciary depend the sacred rights of free men and women." These thought provoking words have guided the court well for many years and continue to inspire the members of the Court of Appeals.

At one time, the Chief Judge was elected by the Court and served in that capacity at the pleasure of the Court. Presently, the position of Chief Judge is rotated, usually for a two-year term and upon the basis of seniority of tenure on the Court. By statutory authorization the Chief Judge appoints a Presiding Judge for each of the four divisions. The Presiding Judges remain as the heads of the divisions for the full two-year term of the Chief Judge. The other Judges are assigned to the panels on an annual basis. The Court instituted this rotation procedure to diffuse the judicial power among the members of the court, to give each Judge the opportunity to serve with every other Judge on the court, and to avoid stereotyping of the judges, divisions, and their opinions.

The history of appellate courts in Georgia shows a consistent reluctance to have them at all and, when necessity demands their creation, a consistent determination to keep them as small as possible. The Supreme Court was not established until 1845, seventy years after Georgia became a state. Until the Supreme Court was established, Georgia was the only American commonwealth having a judicial system without an appellate court. At its creation, the first bench consisted of three Justices elected by the House of Representatives. During the first fifty years, the workload imposed upon the three Justices increased steadily.

The first move by the organized bar to alleviate the caseload on the Supreme Court came at the Bar Association's 1895 annual meeting in Atlanta, held at the Cotton States and International Exposition. This symposium followed a vote by the electorate against a constitutional amendment increasing the number of Justices on the Supreme Court from three to five during the previous October.

The first proposal to create a court of appeals was also made during the 1895 Bar Association annual meeting. In "~~Relief of the Supreme Court of Georgia: Is the Remedy One or More Intermediate Courts?~~", Volume Twelve, Page 23 of the Georgia Bar Association Reports, Z. D. Harrison, then Clerk of the Supreme Court, argued: "Let the Legislature establish a competent intermediate court, a court which will command the confidence and respect of the bar and of the people, and establish it, too, upon such terms as will make its entrance easy so that every litigant and suitor can enter this court upon terms quite as easy as those upon which he can now enter the Supreme Court by writ of error."

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 Association also declined to consider the novel idea "to establish the right of trial by another jury . . . and have a trial by a first and second jury before a case can go to the Supreme Court." ~~Page 37~~

Of particular interest in this report are the presentations of W. W. Gordon, Jr., of Savannah and Joseph Hansell Merrill of Thomasville, which appear as ~~Appendix 10 and 11~~, respectively. These papers described a bill prepared by Superior Court Judge Pope Barrow of Savannah, which would have created five district courts of appeal. The bench was to be

composed of jurists serving in the superior courts and city courts in the district who would be designated to handle the business of these courts of appeal. Atlanta, Athens, Savannah, Columbus and Macon were suggested as the locations where the district courts would hold their sessions. Judges were to be paid from the State Treasury at the rate of four cents per mile for travel and \$4 per day for services.

Nothing further was done at this time towards the creation of another court, but in 1897, the Supreme Court was increased to six Justices. This increase in personnel apparently failed to provide a solution, as five years later, at the 1902 Bar Association session held at Warm Springs, there was another symposium on the subject. The discussion was based on a paper delivered by Justice Andrew J. Cobb captioned: "~~The Judicial System of Georgia: Its Defects; What Changes Are Necessary to Bring About a More Harmonious and Orderly System and to Relieve the Supreme Court?~~" This paper recites statistics demonstrating that it was not humanly possible for the Supreme Court Justices to manage the workload. See ~~Appendix I, 19 Georgia Bar Association Reports, 183.~~ Justice Cobb noted, "The working hours of the Court for hearing argument and consultation have been, since October 1897, from 9 a.m. to 1 p.m. and from 3 p.m. to 5 p.m. in the Fall and Winter and 6 p.m. in the Spring and Summer. These hours, however, do not represent all of the working hours of the justices." [Page 187].

Among proposals mentioned in this paper were limitation of oral arguments, disposition of cases by a written synopsis of the points decided, reduction of the number of written opinions, addition of Justices and divisions, and restriction of jurisdiction by monetary amount or subject matter. Justice Cobb observed that "[s]ome favor an intermediate appellate court, from which a writ of error to the Supreme Court will lie only in certain cases." [Page 192].

Judge Barrow again submitted his bill to create district courts of appeal from the trial courts of the respective districts, but limited to three districts rather than five. Each judge was to be paid three cents per mile and \$5 per day "for each day court is in session and he is sitting."

The 1902 symposium terminated with passage of a motion for appointment of a committee to draft a curative statute and designation of an eminent attorney from each Congressional District to serve on the statewide committee to prepare "Legislation for the Relief of the Supreme Court." Among these committee members were such legal luminaries as Washington Dessau from Macon, Samuel B. Adams from the First District, Arthur Gray Powell from the Second District, Hoke Smith from the Fifth District, and Marcus W. Beck from the Sixth District. Adams of Savannah later served in 1903 as an interim appointee on the Supreme Court bench. Powell became one of the first three Judges of the Court of Appeals. Smith was later Governor and United States Senator. Beck subsequently served on the Supreme Court for 32 years.

This committee suggested two constitutional amendments which were reported at the 1903 annual meeting held at Tallulah Falls. One provided that a civil case could not be appealed to the Supreme Court unless the amount involved exceeded \$500. The second amendment proposed to create a Court of Appeals. The court would have a Presiding Judge and four

Associate Judges, with salaries of not less than \$3,000 per annum. Jurisdiction was co-equal with that of the Supreme Court "for the trial and correction of errors from the Superior Courts and from the City Courts of Atlanta and Savannah and such other like courts . . . in all cases in which jurisdiction is not conferred by the constitution upon the Supreme Court."

The 1903 report was adopted with the requirement that a copy be mailed to every Georgia lawyer, along with an abridged version of Justice Cobb's 1902 address. The report was addressed "~~To the People of Georgia~~" and concluded as follows: "To a people numbering now largely more than two million, active in every commercial enterprise, advancing rapidly along all the best lines of civilization, spreading an influence all over the Union and determined to hold the State's place as the empire State of the South, this measure is commended as a step forward and upward, for the honor and glory of the Commonwealth of Georgia." [Page 143].

Despite this modern-seeming public relations strategy, the bill, which in October 1902 was introduced by John M. Slaton (who later became a Governor of Georgia), languished in the Legislature until 1906. In that year, Peter W. Meldrim of Savannah (later President of the American Bar Association) initiated an effort "to see that proper legislation is passed for the relief of the Supreme Court, looking to the establishment of a court of appeals." (~~25 Georgia Bar Association Reports 36~~) Again Justice Cobb spoke at length concerning the plight of the Supreme Court's swollen docket and the strain upon the health of the Justices seeking to perform an impossible task. He commented: "I think it is unfortunate that it has been termed a movement for the relief of the Supreme Court. It is a movement in behalf of the administration of the law, for the relief of those whose lives, whose liberty, whose property is involved, those who have been given under the constitution of the state the right to have an adverse decision reviewed." [Page 37].

The organized bar's campaign for legislation finally succeeded. On July 31, 1906, a bill to submit to the electorate an Amendment to the State Constitution, "to provide for the establishment of a Court of Appeals, and to define its powers and jurisdiction; . . . ," was approved almost unanimously, with only four votes in opposition. (~~1906 Ga. Laws, p. 24~~)

Under this constitutional amendment, the jurisdiction of the two appellate courts in civil cases depended upon the identity of the trial court in which the case originated; while the Supreme Court was given exclusive jurisdiction in capital felonies. The Court of Appeals was mandated to certify to the Supreme Court all state and federal constitutional questions and was privileged to "certify any other question of law concerning which it desires the instruction of the Supreme Court for proper decision." Although the amendment also provided that "[t]he decisions of the Supreme Court shall bind the Court of Appeals as precedents," each was designated a court of final jurisdiction. The amendment was ratified by the electorate at the general election of October 3, 1906.

The election of judges followed on November 6, 1906. There were sixteen candidates; the three receiving the most votes were to form the first bench. Arthur G. Powell of Blakely (who together with Logan E. Bleckley is regarded as among the very great appellate court judges) wrote

in his fascinating book, ~~*I Can Go Home Again*~~, that the original Bar proposal was for the Governor to appoint the Judges. Governor Terrell had agreed that he would appoint H. H. Perry of Gainesville, Henry C. Peeples of Atlanta, and Powell, but the House had altered the Bar proposal to require that the Judges be elected by the people. The Bar Association then asked these three lawyers to become candidates, and only Mr. Perry declined. The newspapers first announced that the three candidates receiving the highest votes were Richard Brevard Russell, Powell, and Peeples. Instead, the final tally of votes showed that Benjamin H. Hill, the son of Georgia's great United States Senator Benjamin Harvey Hill, had defeated Peeples by a few votes.

The original minutes of the Court of Appeals indicate that the three elected Judges convened at the State Capitol on January 2, 1907, and determined by lot the length of their respective terms. They appointed Logan Bleckley, the namesake son of the legendary Supreme Court Justice, as Clerk of Court, and James H. Pittman as the first Sheriff. These first minutes also reveal that by Supreme Court order dated December 17, 1906, 155 pending civil cases had been transferred to the new tribunal. Later, by order dated January 12, 1907, an additional 24 criminal cases and one more civil case were transferred.

Dissents developed on two matters at this first *en banc* meeting. The statute provided for "short-hand writers" to serve each Judge. Two males and one female were proposed. Powell dissented as to the woman, asserting that under the then ~~Civil Code § 1810~~ females were declared ineligible to hold any civil office or to perform any civil function, unless specially authorized by law," and that ~~Civil Code § 5507~~ declared the Supreme Court stenographers to be civil officers. His dissent concluded: "If I could find any escape from what seems to be an irresistible [sic] legal conclusion, I would take great pleasure in joining with my brethren in the selection of this most excellent young lady." Judge Hill concurred with Judge Russell's nomination of the lady, stating that since he had "doubt on this [legal] question I prefer to concur to the appointment, especially in view of the practice of the Supreme Court in permitting the exercise of personal preference in the selection of stenographers by the individual judges." Thereby, Marian Bloodworth became the Court's first female employee. The first female attorney ever to argue a case before the Court of Appeals, as well as the Supreme Court, was Viola Ross Napier of Macon, Georgia.

The other dissent occurred in the determination of who was to be Chief Judge. Hill and Powell wanted the selection of Chief Judge to be based on seniority according to age. Judge Russell dissented vigorously. Not only did he contend that the legislative intent was "that all of the judges should be equal," but with customary "Russell candor" he argued that the proposal was one that was "arbitrary and personal." He concluded, "I have never yet, and cannot now, give my consent to any doctrine which gauges the peculiar fitness of any individual for office holding by his age or youth, other than the present statutory requirements. The achievements and services of our young men are perhaps the preeminent glories of American history. Long life sometimes brings knowledge but not always wisdom."

In an article in the ~~Summer 1948~~ issue of ~~*The Georgia Review*~~ entitled ~~"The Birth of the Court of Appeals of Georgia,"~~ Judge Powell revealed the inside story as to how Hill was

persuaded to vote for himself: "He [Hill] told me he was anxious to be the first Chief Judge of the Court, but did not wish to commit the indelicacy of voting for himself. I told him that I could avoid that embarrassment for him; that the constitutional amendment had made no provision for the selection of a Chief Judge. I reminded him that the same situation had confronted the Supreme Court when it was organized in 1845, and that an act had been passed providing that the oldest Justice in commission or (if there were more than one whose commissions were of the same date) the one who was oldest in point of time should be Chief Justice. I told him that in the present plans of organization I had been delegated to draw, I could with propriety embody such a provision, and that with his vote and mine it would be adopted, and that he would so automatically become the Chief Judge." ~~(Page 151)~~ As one reads Powell's beautiful opinions, one should remember that when he became Judge he was 34 years old and that he remains to this day the youngest person to have served on this bench.

Despite Judge Russell's candid arguments, the rule of age prevailed. Hill, being 57 years old, became the first Chief Judge. Russell was then 45 but afterwards became Chief Judge and in later years Chief Justice of the Supreme Court. He was the father of the famed United States Senator Richard B. Russell, Jr. His grandson, Robert L. Russell, Jr., was also to serve on the Court of Appeals. This Russell combination is the only one of grandfather-grandson in the Court's history. As the Russells came from Winder, it is of interest to note that the only father-son combination (Joseph D. Quillian and J. Kelley Quillian) were also from Winder. Of further interest is the fact that Julie and Clay Custer, children of Mr. and Mrs. Henry Custer of Albany, have the distinction of having had both of their grandfathers serve as Judges on the Court of Appeals, viz., Judge Vance Custer and Judge Julian Webb.

Examination of the original Rules of Court drafted by Judge Powell illustrates the importance in those days of the oral argument when "briefs" really meant brevity. Historically, ~~the shortest written presentation in Georgia~~ was by Robert Toombs and consisted of four words: ~~"Marriage Seizin Death Dower."~~ ~~Rule 5~~ stated that "[a]rgument is limited to four hours upon each case, two hours on each side, unless by special leave an extension of time is granted." Perhaps the oral argument did assist the Court, as the Court's first opinion was rendered only three days after oral presentation.

However, with the ever-increasing number of appeals and, therefore, of opinions to be written, the oral argument of necessity subsided in importance. Today judicial reliance on the written brief has become paramount. Compare the initial rule with that appearing on the current oral argument calendars of the Court of Appeals: "The following cases have been placed on the calendar for argument. . . . Generally, the cases will be called in the order listed and on the days named, beginning at 10 o'clock a.m. To accommodate the bar and pro se parties, the Court will call cases out of turn in which counsel or pro se parties respectively inform the Clerk that time of argument will be limited to 5 or 10 minutes per side." ~~[Rule 28(f)]~~

Our three progenitors, Hill, Russell and Powell, proved to be legal giants. That the work of these jurists was favorably received by Georgia lawyers is shown by a resolution unanimously adopted at the 1907 annual bar meeting, which requested West Publishing Company to add this

Court's opinions to its Southeastern Reporter because "these decisions will be valuable not only in this State, but in every law library in America."

During the first ten years of its existence there was no review of this Court's decisions by our Supreme Court. Its judgments were final. Apparently, however, the existence of two courts of last resort created problems. An address by J. R. Pottle of Albany appearing in the ~~1914~~ ~~Georgia Bar Association Reports~~ (pages 216-226) detailed the conflicts between decisions of the two appellate courts (which arose despite the constitutional requirement that the Supreme Court rulings were to be binding precedents) and it provided supporting statistics. J. R. Pottle had been Judge Powell's law partner in Blakely, and succeeded his partner on this bench when Powell resigned to enter private practice in Atlanta in January 1912. Pottle served two years and then returned to practice in Albany. Thus, he was able to present these problems from the prospective of both a former judge and as a practitioner.

By its 1915 annual meeting, the workload of the two appellate courts had grown so much that the Georgia Bar Association deemed it necessary to take positive steps toward alleviation. Noting that for two successive years none of the appellate judges had been able to attend its meetings, the Association passed a resolution, supplemented with an appropriation of \$1,000, aimed at "working out measures of relief." Part of this resolution reads: "Whereas, said courts have been forced to remain in continuous sessions with no opportunity for even the briefest vacation, and without cessation from their onerous and exacting labors; and whereas, said courts are now annually deciding more than 1600 cases, which is a greater number than can be disposed of with satisfaction to the bar or credit to the court, even with the incessant slavish toil to which the Justices and Judges are being subject. . . ."

Thereafter, in 1916, the General Assembly took action. Rejecting the suggestion of having one court deal exclusively with appeals of criminal cases and the other with civil, the 1916 Legislature approved for submission to the electorate a constitutional amendment which limited the class of cases over which the Supreme Court was to have jurisdiction and enlarged that of the Court of Appeals. This amendment was ratified by the people the same year.

Only a few other jurisdictional changes have occurred since 1916. The first was a 1956 constitutional amendment providing for direct review by the two appellate courts of juvenile court judgments. ~~In Powell v. Gregg, 224 Ga. 226,~~ the Supreme Court held that those cases were solely within the purview of the Court of Appeals. Another change, by statute, transferred from the Supreme Court to the Court of Appeals jurisdiction over appeals of cases of armed robbery, rape and kidnaping where the death penalty is not imposed, and transferred from the Court of Appeals to the Supreme Court jurisdiction in cases involving contested elections and the validity of legislative enactments of municipalities (~~GA. LAWS 1977, p. 710~~).

Anticipating passage of the proposed 1916 constitutional amendment, the General Assembly also passed a statute changing the structure of the Court. This Act added three Judges to the three already comprising the bench of the Court of Appeals and provided for them to sit in two divisions, with each to determine "independently of the other the cases assigned to it."

The statute directed that "all criminal cases shall be assigned to one division." In complying with the statutory directive to "[d]istribute the cases between the divisions in such manner as to equalize their work as far as practicable," the Judges decided that two criminal cases would equal one civil case. In an address to the 1927 Georgia Bar Association annual meeting, Judge R. C. Bell stated that "in making up the calendars for the arguments the cases are allotted to the two divisions on this basis until the criminal cases are exhausted, after which the remaining civil cases are distributed equally to the two divisions." (~~44 Georgia Bar Association Reports 232~~)

One of the three new judges elected at the 1916 General Election was Walter F. George, then 39 years old. He served from January 1, 1917, until October of that year. He returned to private practice and later had an illustrious national career which included 34 years as a leader in the United States Senate, followed by service as Special Representative of the President of the United States to the North Atlantic Treaty Organization from January 5, 1957, until his death on August 4th of that year.

In 1960 (~~1960 Ga. Laws, p. 158~~) the number of judges was increased to seven. In the following year, the General Assembly by statute (~~1961 Ga. Laws, p. 40~~) added two more judges and decreed that the Court was to sit in three divisions of three judges each, one of which was to handle all criminal cases. The assignment of criminal cases to a single division was not eliminated until 1967 (~~1967 Ga. Laws, p. 538~~).

Although remaining a court of nine judges until 1996, the bench became more diversified in 1984 with the appointment of the first woman, Dorothy Toth Beasley, and the appointment of the first African American judge, Robert Benham, who later was appointed to the Georgia Supreme Court. Then in 1996, Governor Zell Miller's legislative package for that year included a bill to increase the number of judges on the Court of Appeals by four, bringing the number to thirteen. The Governor's plan was for the Court to serve in four divisions of three judges each and the Chief Judge to function as an administrative head of the Court and to assist each division. While the Governor was not successful in creating four additional judgeships for the Court, the Legislature did pass ~~Senate Bill 750~~, which added a tenth judge.

That legislation also changed the process by which cases would be decided in the event of a dissent. Before the 1996 amendment (~~1996 Ga. Laws, p. 405~~), cases in which there was a dissent in one division were decided by the whole court. Now, cases involving a dissent are determined by seven judges, including the assigned division, the next division in succession and a seventh judge.

Governor Miller signed ~~Senate Bill 750~~ into law on April 2, 1996, as ~~Act No. 738~~. On July 16, 1996, Governor Miller swore-in Judge Frank M. Eldridge as the first ever tenth judge of the Court of Appeals of Georgia and as the sixty-third judge in the Court's history.

Further, legislative efforts to increase the number of judges on the Court of Appeals of Georgia fell short in both 1997 and 1998. However, in 1999, the legislature passed ~~Senate Bill 59~~ which was signed into law by Governor Roy Barnes. This bill increased the number of judges

on the Court of Appeals from 10 to 12 and permitted the Court to sit in four divisions. Governor Barnes appointed that year, in order of seniority, M. Yvette Miller, formerly state court judge of Fulton County; John J. Ellington, formerly state court judge of Treutlen County and Herbert E. Phipps, formerly superior court judge in the Dougherty Judicial Circuit, as the three judges to fill an existing vacancy and the two newly created judgeships.

Laymen who do not understand the dedication and devotion of bench and bar to serving the cause of justice would have predicted difficulties in the directive that "[e]ach division shall hear and determine, independently of the others, the cases assigned to it." In actuality, there have been few problems in complying with this mandate. This is undoubtedly due to the quality of those who have served on the Court of Appeals. They have shown an exemplary respect for the Court as an institution. This was shown from the very origin of the Court in the case of ~~Gainesville~~ *Midland Ry. vs Jackson*, 4 Ga. App. 632. There, in an appeal upon a bill of exceptions signed by the trial judge on December 31, 1906, appellant argued absence of jurisdiction because the Judges elected in the November election did not take their oaths of office until January 2, 1907. In ruling against this contention, the opinion says, "Counsel for defendant in error has confounded the Judges with the court. The court when created became at once, upon the proclamation of the Governor, an integral part of the judicial department of the State, and it existed as such whether there were Judges thereof or not."

A unique relationship has existed between our two appellate courts during these ninety-six years, with many Justices of the Supreme Court having served previously on the Court of Appeals. For the convenience of the Bar, the two courts have consulted in making their rules, even while recognizing their independence to set their own rules. They have further recognized the need for each bench to determine its own internal operating procedures. Ninety-one individuals have served on the Supreme Court of Georgia. Seventy persons have served as members of the Court of Appeals. Fifteen people have served on both courts. Only one of the fifteen, Richard Brevard Russell, has served as Chief Justice and Chief Judge of both courts. One Judge, Benjamin Harvey Hill, served on the Court of Appeals at two different times.

Space limitations prevent paying proper homage to those whose dedicated service as Judges has made the Court of Appeals of Georgia a nationally respected institution. Indicative of the harmony which has always been a hallmark of this bench is the fact that before the position of Chief Judge was placed on a rotating basis in 1979, there had been only seven Chief Judges. Hill served for six years (1907-1913). His colleague, Russell, followed him for a period from October 13, 1913 until June 1916, when he resigned to return to the private practice of law. The third Chief Judge was Peyton L. Wade of Dublin, who became Judge in February 1914 and Chief Judge in 1916, serving three years in that capacity until his death on August 22, 1919. His successor was Nash R. Broyles, who had come to the bench in 1914 and was made Chief Judge in 1919. Broyles' tenure as Chief Judge was the longest; he served 28 years as Chief Judge until his death in 1947 at the age of 78. Following him was I. Homer Sutton, who served from April 10, 1947, until January 15, 1954. His successor as Chief Judge, Jule W. Felton, had the longest tenure of service as a Judge on the Court, a total of 32 years and eight months (three months longer than Broyles' total tenure). Felton came to this bench in 1937 and was named Chief Judge in 1954,

occupying that position until 1969. John Sammons Bell was elected Chief Judge by his colleagues on September 5, 1969, after 10 years of service as Judge and Presiding Judge, and served 10 more years in this position. The judges serving as Chief Judge since 1979 are listed immediately following this history.

Also, appended to this history is a roster of all who have served on this bench arranged chronologically, along with the years during which each served. Readers who desire to know details concerning the deceased Judges are referred to the index of memorials of Georgia's appellate judges through 1973, which may be found in ~~230 Georgia XXVII~~ Tributes to retired Judges, found in ~~150 Georgia Appeals et seq.~~, provide details regarding those Judges who have retired from the Court since 1979. Confirmation that each served well is provided by the fact that never, during the entire existence of the Court, has a judgment been affirmed by operation of law because of failure to render a decision by the end of the term next after that at which a case was docketed. Court portraits and photographs of present and past members of the Court of Appeals now hang in the banc room and courtroom.

There have been only six persons who have served as Clerk of Court. The first was Logan Bleckley, son of the famed Chief Justice Logan E. Bleckley. He served from January 1, 1907, until his death in 1938. The second, William G. England, served from 1938 until his retirement in 1957. The third Clerk, Morgan Thomas, was connected with this Court longer than any other person. He served as Deputy Clerk to both predecessors from October 24, 1934, until December 1957, and as Clerk from that date until December 31, 1980. He was popularly and accurately designated as "The Court's Ambassador," and a tribute to him is found in 159 Georgia Appeals. The fourth Clerk, Alton Hawk, served from 1981 through 1986. The fifth Clerk, and the first and only female Clerk of the Court, was Victoria McLaughlin, who served from 1987 until December 31, 1993.

By January 1, 1994, the Court had recognized the need for a Court Administrator. On that date, William L. Martin, III, became the first Clerk and Court Administrator of the Court of Appeals of Georgia.

Space limitations also make it necessary to omit reference to noteworthy opinions. Suffice it to say that books containing compilations of decisions under such titles as "~~Wit and Wisdom in Court Opinions~~" always include reprints from the Court of Appeals of Georgia. (See also former Court of Appeals Judge H. Sol Clark's "~~Judicial Humor(?) : A Personal Reminiscence~~," ~~20 Trial 68 et seq.~~, Association of Trial Lawyers of America, June 1984). An extensive bibliography has been appended to this history to provide source material for those who are interested in further information about the history of this court.

"Upon the integrity, wisdom and independence of the judiciary depend the sacred rights of free men and women."

(The original research and writing of the history of the Court of Appeals was principally completed by Judge H. Sol Clark in 1977-1978. This history has been revised and updated since

then, primarily by Presiding Judge Braswell D. Deen, Jr., in 1990 with contributions by the other Judges on the Court.)

THE CHIEF JUDGES OF THE COURT OF APPEALS OF GEORGIA

| | |
|-----------|-----------------------------|
| 1907-1913 | BENJAMIN HARVEY HILL |
| 1913-1916 | RICHARD BREVARD RUSSELL |
| 1916-1919 | PEYTON L. WADE |
| 1919-1947 | NASH ROSE BROYLES |
| 1947-1954 | I. HOMER SUTTON |
| 1954-1969 | JULE WIMBERLY FELTON |
| 1969-1979 | JOHN SAMMONS BELL |
| 1979-1980 | BRASWELL D. DEEN, JR. |
| 1981-1982 | J. KELLEY QUILLIAN |
| 1983-1983 | ARNOLD SHULMAN |
| 1984-1984 | WILLIAM LEROY MCMURRAY, JR. |
| 1985-1986 | HAROLD R. BANKE |
| 1987-1988 | A. W. BIRDSONG, JR. |
| 1989-1990 | GEORGE H. CARLEY |
| 1991-1992 | JOHN W. SOGNIER |
| 1993-1994 | MARION T. POPE, JR. |
| 1995-1996 | DOROTHY TOTH BEASLEY |
| 1997-1998 | GARY BLAYLOCK ANDREWS |
| 1999-2000 | EDWARD H. JOHNSON |
| 2001-2002 | G. ALAN BLACKBURN |
| 2003-date | J.D. SMITH |

Untitled

BIBLIOGRAPHY

Georgia Official and Statistical Register, Department of Archives and History, State of Georgia.

Low Lib - Bell, R. C. - "A Case in the Court of Appeals," 44 Ga. Bar Association Reports 228 (1927).

Low Lib - Bloch, Charles J. - "The Supreme Court and the Court of Appeals of Georgia," 23 Ga. Bar Journal 523 (1961).

Bolton, Arthur K. - Unpublished address to 1975 Georgia Bench and Bar Conference in Savannah.

Arch - Grice, Warren - The Georgia Bench and Bar, J. W. Burke Co., 1931, Pages 372-383, Chapter 21: "The Establishment of the Court of Appeals; The Completion of the Structure."

Low Lib - Jordan, Robert H. - "A History of the Court of Appeals of Georgia," 24 Ga. Bar Journal 371 (Feb. 1962).

Low Lib - Pottle, J. R. - "Should There Be Two Courts of Last Resort in Georgia, and If So How Should They Be Related to Each Other?" 31 Ga. Bar Association Reports 216 (1914).

Acc - Powell, Arthur G. - I Can Go Home Again, University of N.C. Press, 1943, Chapter 37: "The Birth of the Court of Appeals of Georgia," 2 Georgia Review, (Summer 1948), Pages 144-156.

Stolz, Irwin W., Jr. - "Judicial Modernization: An Idea Whose Time Has Come." Georgia Defense Lawyers Association, 1972.

Low Lib - 11 Ga. Bar Association Reports - 1894 Meeting. "Report of Committee on Necessity of Relief for the Supreme Court," Page 197; "Do We Need More Judges on the Supreme Court?" Page 241.

12 Ga. Bar Association Reports - 1895 Annual Meeting. Symposium on "Relief of the Supreme Court of Georgia: Is the Remedy One or More Intermediate Courts?" Pages 21-45, and two papers on the subject "Is the Remedy One or More Intermediate Courts?" Pages 164-176.

19 Ga. Bar Association Reports - 1902 Annual Meeting. Pages 34-42 and paper by Justice Andrew J. Cobb entitled "The Judicial System of Georgia: Its Defects; What Changes Are Necessary to Bring About a More Harmonious and Orderly System and to Relieve the Supreme Court?" Pages 182-195; and "A Proposed Act Establishing District Courts of Appeals," by Judge Pope Barrow, Pages 196-203.

21 Ga. Bar Association Reports - 1904 Annual Meeting, Pages 47-54, "Report of Committee on Court of Appeals."

22 Ga. Bar Association Reports - 1905 Annual Meeting, Page 22.

23 Ga. Bar Association Reports - 1906 Annual Meeting, Pages 34-52.

24 Ga. Bar Association Reports - 1907 Annual Meeting, Pages 17-18.

32 Ga. Bar Association Reports - 1915 Annual Meeting, Pages 25-28.

Georgia Laws 1906, Pages 24-28.

Georgia Laws 1916, Pages 19-22 and 56-57.

Georgia Laws 1943, Pages 677-679.

Georgia Laws 1960, Pages 158-161 and 911-912.

Georgia Laws 1961, Pages 140-142.

Georgia Laws 1996, Page 405.

Message of the Governor of Georgia to the General Assembly, June 27, 1906.

Message of the Governor of Georgia to the General Assembly, June 26, 1907.

Senate Journal, 1906, Pages 290, 310, 337 and 354.

Untitled

House Journal, 1906, Pages Unavailable.

Newspaper sources are the Atlanta Constitution, Atlanta Journal and Atlanta Georgian from July- August 1906 and January 1907.

Arch A History of the Supreme Court of Georgia - A Centennial Volume (J. W. Burke Co., 1948).

THE
GEORGIA BENCH AND
BAR

VOLUME I

THE DEVELOPMENT OF GEORGIA'S
JUDICIAL SYSTEM

By
WARREN GRICE



MACON, GEORGIA
THE J. W. BURKE COMPANY
PUBLISHERS

CHAPTER XXI

The Establishment of the Court of Appeals: The Completion of the Structure

Georgia's judicial establishment has grown with the State. From the first, it was intended by those in authority that ample facilities should be provided for the administration of justice according to law. It is true that under the Trustees, there appears to have been some instances of tyrannical conduct on the part of the magistrates, but no cases of actual corruption on the bench. It is also recognized that it was rather a crude arrangement and bad for our courts in the first twenty years of the colony's existence, but it must be remembered that our population for the most of that period was numbered merely by the hundreds, and that there was small likelihood of any civil cases of importance to arise; and besides, at that early day the province was in reality but a mere military colony without any but the most limited civil government, with the whole thing under the immediate eye of the benevolent Oglethorpe. That the Courts under the laymen, as provided for by the Trustees, administered their duties rather crudely, and offer us at this day much room for laughter at the expense of the magistrates, was not because there was any lack of purpose to set up a judiciary that would satisfactorily function; for, as we have seen, this was one of the first things to which the Trustees gave thought and attention—even before the first emigrants embarked.

But when the crown took charge of the colony in 1752, the improvement was speedy and effective, and served well the colonists. As Georgia grew, the judicial system expanded to meet the needs; and if under the first half of her Colonial experience, the courts fell behind the other departments in

efficiency, the excellency of the judiciary and the entire system was universally recognized after the charter was surrendered to the crown. The king's ministers realized that if the colony were to prosper, the courts must command the confidence of the people, justice should be speedily and impartially administered by those capable from training and experience to occupy the bench, under a system of laws and procedure that was workable. And all this was provided, and the courts ran smoothly until the Revolution.

The Revolutionists continued during the war practically the same system; and immediately thereafter amplified it somewhat; and as our population increased, and our needs grew, so did our judicial system.

First the Chief Justices, and the Assistant Judges, the latter laymen; then the dropping of the laymen assistants; and a court held by a Superior Court Judge alone; the increase of the circuits; the creation of inferior nisi prius courts; the establishment of the Supreme Court, its later enlargement; and the provision for a Court of Appeals, followed in a few years by the doubling of its membership. As our needs have increased, so has our judicial machinery. Sometime these have not come as quickly as some have desired—notably the Supreme Court—but when our people are made to see the need of additional facilities for meting out justice, these are supplied. The creation of numerous City courts, many additional circuits from time to time, the enlarged membership of the Supreme Court, and finally the appearance of our Court of Appeals all go to demonstrate this truth.

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 sacri-

ficed their lives on the altar of unremitting toil. Another had just resigned on account of ill health brought about by overwork. Many cases were about to be 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 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 as many cases as were brought to the two terms of the court 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. Judge Cobb made it plain that it would only be a matter of twelve months before the time would have arrived when, by reason of the Constitutional provision above referred to, judgments would be affirmed by operation of law, without being considered at all by the court of review. He urged the establishment of a Court of Appeals. The Association appointed a strong Committee, and made what would now be called a drive to get a measure through the General Assembly in the form of a proposal to amend the Constitution so as to create a Court of Appeals. Distinguished lawyers proposed bills, some of which were introduced. The general trend of all legislation designed for the relief of the Supreme Court was towards the establishment of a supplemental court for the correction of errors. Some suggested that the cleavage in jurisdiction between the proposed court and the Supreme Court be fixed by the amount 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 as precedents.

The General Assembly in July 1906 prepared an amendment to the Constitution creating the Court of Appeals of Georgia, limiting the jurisdiction of the Supreme Court to civil cases originating in the Superior Court, or carried thereto from the Court of Ordinary, and in all cases of correction of a capital felony; and to the determination of questions certified to it by the Court of Appeals; giving to the last named court jurisdiction of all other cases. This amendment was ratified on October 3, 1906, and the Court of Appeals came into being on October 12, 1906. The Amendment was practically self-executing. The election for Judges of the Court of Appeals held on November 6th of the same year resulted in the choice of Honorable Benjamin H. Hill of Fulton County, Honorable Richard B. Russell of Jackson County and Honorable Arthur G. Powell of Early County. The Judges so elected met at the capital on January 2, 1907, and organized the court. Judge Hill was designated as Chief Judge. Mr. Logan Bleckley was elected Clerk, and Mr. William E. Talley was appointed Deputy Clerk. Mr. J. H. Pittman was elected Sheriff for a term ending October 1, 1907, and Mr. P. W. Derrick was elected sheriff for a term of four years from that date. The reporter was Mr. George W. Stevens, Mr. John M. Graham being the assistant reporter. On January 7, 1907, the court adopted rules, strikingly similar to those then in force in the Supreme Court. The first case heard was that of *Hunter v. Lissner*, from Glynn Superior Court, argued on January 8th and decided on January 11, 1907.

From the beginning the Court of Appeals has sat for argument in the afternoon, in the same room where the Supreme Court. Its practice and procedure are quite similar to that of the Supreme Court.

The first change in the personnel of the Court occurred in January 1912, when Judge Powell resigned to re-enter the practice, his successor being his former law partner, Judge J. R. Pottle. Judge Hill resigned on November 1, 1913, and was succeeded by Judge L. S. Roan, and Judge Russell became Chief Judge. In February 1914, Judge Pottle resigned and Judge Peyton L. Wade was appointed in his place. Judge Nash R. Broyles succeeded Judge Roan in November 1914. On June 6, 1916, Judge Robert Hodges succeeded Judge Russell, who had resigned, and Judge Wade became Chief Judge. Judge Hodges died on December 12, 1916, and the vacancy was supplied by the appointment of Judge O. H. B. Bloodworth on January 1, 1917.

On August 19, 1916, the General Assembly proposed an Amendment to the Constitution further limiting the class of cases over which the Supreme Court is given jurisdiction, and enlarging that over which the Court of Appeals has jurisdiction; providing at the same time for increasing the number of Judges of the Court of Appeals. The people at the polls ratified this Amendment and the same General Assembly enacted a law approved August 19, 1916, adding three more judges to the three already composing the court, and providing specifically that the Court sit in two divisions, and that each division hear and determine, independently of the others, the cases assigned to it. The three new Judges were Honorable Walter F. George, Honorable Roscoe Luke and Honorable William F. Jenkins, who took their seats January 1, 1917. The next change that occurred was in the fall of 1917 when Judge George was named to fill a vacancy on the Supreme bench, and Judge Frank Harwell was made his successor on the Court of Appeals. Judge Alexander W. Stephens succeeded Judge Harwell on November 21, 1918. Judge Wade died on August 29, 1919, and Judge Charles W. Smith was named by the Governor in his place. At that time, Judge Broyles became Chief Judge and Judge Jenkins, Presiding Judge of the Second Division. Judge Benjamin H. Hill went on the court again November 15, 1920, succeeding Judge Smith. Judge Hill died in 1922, and Judge R. C. Bell was appointed to the vacancy.

The Court of Appeals is not, as its name might imply, an appellate court, but is a court for the correction of errors of law alone, as is the Supreme Court. In addition to the misdemeanor cases, and the smaller civil cases, the Court of Appeals handles a large volume of important business as to all of which its judgments are final, save in those rare instances where the losing party is able to get the Supreme Court to grant the state's most gracious writ of certiorari. The intention of those who brought it into existence was not that it should be made an intermediate court.

In the main, it is a court of last resort. In the Supreme Court, six justices participate in the decision of each case. In the Court of Appeals, only three take part, and in reality, each of the two divisions is a separate court, since the Constitutional Amendment requires that each division hear and determine case independently of the other.

Of course the Court of Appeals has not been in existence long enough for traditions to have grown up around it as they have about the Supreme Court. It is a fixture, however, in our judicial life, and fills a necessary place in our establishment. Its rulings are cited and its opinions are quoted by the Courts of review in the other states of the American Union, and its discussions of law and its pronouncement of principles make a worth while contribution to the growth of our jurisprudence. It completes for the present, at least, Georgia's judicial structure.

It is a far cry from the Town Court of Savannah in which was centered jurisdiction of all kinds of causes imaginable to the symmetrical system of courts we have today; the Justice Courts, the Courts of Ordinary, the Superior Courts; the Court of Appeals and the Supreme Court; the Police Courts; the Municipal Courts; the County Courts and the City Courts; and the Courts of the United States, all functioning smoothly and satisfactorily. It is likewise a far cry from the magistrates that undertook to administer laws in that first court to those who preside over our tribunals today. In the nearly two hundred years that have intervened, constant progress has been made in the administration of

justice. It is not too much to say that the annals of the bench and bar and the record of their struggle constitute an important part of the history of Georgia. Nor is it too much to claim that those who aided in giving shape to our judicial structure and form to our body of laws, who declared what the law was and applied it to the varying situations with which they were from time to time confronted, were engaged in a work second to none in its importance or influence on the lives of the people of Georgia.

Webster was right when he declared:

"Justice, sir, is the greatest interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, a general happiness and the improvements and progress of our race. And whoever clears its foundations, strengthens its pillars, adorns its entablatures or contributes to raise its august dome still higher in the skies, connects himself in name and face and character with that which is and must be as durable as the frame of human society."

GA Official +
Statistical Reg.

Judges of the Court of Appeals
Background

| Judges | Hometown (birth) | Education/Law School | Politics | Judicial | Other |
|---|---------------------------------------|------------------------------------|-------------------------------------|---|---|
| Benjamin Harvey Hill 1/2/1907 to 11/1/1913 11/15/1920 to 7/19/1922 (d) | La Grange | UGA | General Assembly | Court of Appeals (2); Superior Court of Fulton County | Private Practice; Solicitor General; US District Attorney |
| Richard Brevard Russell Sr. 1/2/1907 to 6/6/1916 | Cobb County | UGA | Legislature | Judge of Western Circuit; Court of Appeals; State Supreme Court | UGA Board of Trustees; Solicitor General |
| Arthur Gray Powell 1/2/1907 to 1/15/1912 | Blakely, Early County | Mercer | | Court of Appeals | Private Practice |
| James Robert Pottle 1/15/1912 to 2/9/1914 | Warrenton | Georgia Military College | State Senator | Circuit Judge; Court of Appeals | Private Practice; Trustee of UGA |
| Leornard Strickland Roan 11/1/1913 to 11/14/1914 | Henry County | Law firm of Peeples and Stewart | Mayor of Fairburn | Superior Court of Stone Mountain Circuit; Court of Appeals | Solicitor |
| Peyton L. Wade 2/9/1914 to 8/29/1919 (d) | | UGA | | Court of Appeals | Private Practice |
| Nash Rose Broyles 11/14/1914 to 4/7/1947(d) | Atlanta | UGA | | Court of Appeals | Private Practice; US Commisioner; City Recorder of Atlanta |
| Robert Hodges 6/16/1916 to 12/12/1916 (d) | Macon, Bibb County | Emory; Mercer | Legislature | City Court of Macon; Court of Appeals | Private Practice; Solicitor Protem of Macon; Solicitor General; Captain in Spanish American War |
| Oliver Hazzord Bartow Bloodworth 1/1/1917 to 6/17/1932 | Liberty Hall, Pike County | UGA; Local Law office | Mayor; State Representative | Court of Appeals | Solicitor General; President of Bessie Tift College Board of Trustees |
| Walter Franklin George 1/1/1917 to 10/1/1917 | Preston, Webster County | Mercer | US Senator | Cordelle Judicial Circuit; Court of Appeals; State Supreme Court; | Private Practice; Solicitor General |
| Roscoe Luke 1/1/1917 to 11/14/1932 | Thomasville | | Mayor of Thomasville | Court of Appeals; City Court Judge | Solicitor |
| Walter Franklin Jenkins 1/1/1917 to 1/1/1937 | Webster County | UGA | Mayor of Eatonton; House of Rep; | Court of Appeals; State Supreme Court | Private Practice; Profesor of law at Emory |
| Frank Harwell 10/1/1917 to 11/21/1918 | Troup County | UGA; La Grange | | Court of Appeals | Private Practice |
| Alexander Williams Stephens 11/21/18 to 12/16/1943 (d) | Atlanta; Crawfordville; Washington | UGA; Law office of John C. Reed | | Court of Appeals | Private Practice |

W.F.J.

Judges of the Court of Appeals
Background

| | | | | | |
|---|---------------------------|-------------------------------------|---|---|---|
| Charles Whitefoord Smith 9/12/1919 to 11/15/1920 | Atlanta | Law office of Gartrell and Stephens | State Senator; Mayor of Edgewood; Atlanta City Council; | Superior Court of Stone Mountain Circuit; Court of Appeals | Private Practice; Georgia State Militia; Captian of Georgia Governors Horse Guard Association |
| Reason Chestnutt Bell 7/24/1922 to 5/27/1932 | Webster County | Mercer | | Albany Judicial Circuit; Court of Appeals; State Supreme Court | Solicitor General; |
| I. Homer Sutton 5/27/1932 to 1/15/1954 | Towns County | Hiwassee Junior College | Mayor of Clarkesville | Superior Court of the Northeastern Circuit; Court of Appeals; State Supreme Court | County Attorney; City Attorney |
| Frank A. Hooper Jr. 6/18/1932 to 12/31/1932 | Americus, Sumpter County | Fathers Law Office | State Rep Fulton County | Court of Appeals; Superior Court Atlanta District; U.S District Court Northern District | Law Clerk for Walter George |
| Hugh James MacIntyre 11/14/1932 to 2/27/1952 | Thomas County | Virginia Military Institute; UGA | | City Court of Thomasville; Juvenile Court of Thomasville; Court of Appeals | Solicitor General |
| John Benjamin Guerry 1/1/1933 to 5/17/1940 (d) | Georgetown | Mercer | | Court of Appeals | Solicitor of Quitman County; Solicitor of City Court in Oglethorpe; |
| Jule Wimberly Felton 1/1/1937 to 9/5/1969 | Montezuma, Macon County | Mercer | Mayor of Montezuma | City Court of Oglethorpe; Court of Appeals; State Supreme Court | |
| Bernard Clay Gardner Sr. 5/23/1940 to 10/15/1960 | Garden Valley | UGA | | Superior Court in the Albany Judicial Circuit; Court of Appeals | Solicitor General |
| David Monroe Parker 1/13/1944 to 6/4/1949 (d) | Baxley, Appling County | Mercer | Mayor of Baxley; House of Rep | Court of Appeals | City attorney of Waycross; Assistant Attorney General |
| John Murphy Clagett Townsend 4/10/1947 to 10/6/1961 (d) | Dade County | Chattanooga College | House of Rep | Cherokee Judicial Circuit; Court of Appeals | Assistant Attorney General |
| Charles William Worrill 6/8/1949 to 10/6/1953 | Cuthbert, Randolph County | Mercer | | Pataula Judicial Circuit; Court of Appeals; State Supreme Court | City Attorney of Cuthbert; County Attorney of Randolph County; |

6A
Reason

Judges of the Court of Appeals
Background

| | | | | | |
|---|---------------------------------------|-----------------------------------|--|--|---|
| Ira Carlisle 2/27/1952 to 9/5/1963 | Thomas County | Stanley's Business College | House of Rep; State Senator | Cairo City Court; Court of Appeals; Judge Emeritus | Solicitor of Cairo City Court |
| Joseph Dillard Quillian 10/6/1953 to 2/8/1960 | Dalton, Whitfield County | South Georgia at Oxford; Emory | | Court of Appeals; State Supreme Court; Judge Emeritus | City Attorney of Buford, Bethlehem, Statham, Auburn, and Winder; County Attorney of Barrow County; school board member City of Winder; State Board of Review |
| Horace Elmo Nichols 1/15/1954 to 11/15/1966 | Elkmont, Limestone County, Alabama | Cumberland Law School | | Superior Court of Rome Circuit; Court of Appeals; State Supreme Court | Assistant Solicitor of the Blue Ridge Circuit; Assistant Attorney General |
| John Sammons Bell 2/8/1960 to 1/31/1979 | Macon, Bibb County | Mercer; Emory; John Marshall | | Court of Appeals | Assistant Attorney General of Georgia |
| John Eccleston Frankum 3/4/1960 to 4/19/1967 | Soque, Habersham County | Atlanta Law School | Mayor of Clarkesville | City Court of Habersham County; Superior Court of Mountain Circuit Court of Appeals; State Supreme Court; Judge Emeritus | Solicitor-General of the Northeastern Circuit |
| Robert Henry Jordan 10/31/1960 to 4/3/1072 | Talbot County | UGA | State Senate | Court of Appeals; State Supreme Court | Private Practice |
| Homer Christian Eberhardt 3/16/1961 to 10/31/1974 | Banks County | UGA; Mercer | | Court of Appeals | Private Practice |
| Robert Howell Hall 3/16/1961 to 3/10/1974 | Soperton, Treutlen County | UGA; Virginia | | Court of Appeals; State Supreme Court; U.S. District Judge, Northern District of Georgia | Professor of Law at Emory; Assistant Attorney General of Georgia |
| William Vance Custer Jr. 10/9/1961 to 1/31/1962 (d) | Mobile, Alabama | Studied Law in Fathers office | General Assembly | Court of Appeals | |
| Robert Lee Russell Jr. 2/9/1962 to 6/14/1965 (d) | DeKalb County | Emory; UGA | General Assembly | Court of Appeals | law clerk for Fifth Circuit Court of Appeals Judge Curtis L. Waller; Private Practice |
| Charles Adams Pannell 9/5/1963 to 12/31/1976 | Eton, Murray County | Young Harris; Mercer; UGA | Mayor of Eton; House of Rep; State Senator | Court of Appeals | County Attorney, Murray County; City Attorney Chatsworth |

Judges of the Court of Appeals
Background

| | | | | | |
|--|--|---|---|---|---|
| Braswell D Deen Jr. 6/24/1965 to 12/31/1990 | Telfair County | UGA | | Court of Appeals | Private Practice; County Attorney |
| John Kelley Quillian 11/15/1966 to 10/1/1984 | Winder, Barrow County | Peidmont College; UGA | | Court of Appeals | Sergeant-at-Arms for the Georgia Senate; Assistant Attorney General; Attorney for Georgia Highway and Defense Departments |
| George Stanley Joslin 4/21/1967 to 6/30/1967 | Sextonville, Richland County, Wisconsin | Wisconsin; Michigan | | Court of Appeals | Professor of Law at Emory; Dean of Emory Law school |
| George Price Whitman 7/1/1967 to 1/3/1972 | Marshfield, Wood County, Wisconsin | UGA; Yale | | Superior Court Judge of the Atlanta Circuit; Court of Appeals; Judge Emeritus | Editorial staff of the Michie Publishing Company; Private Practice |
| Randall Evans Jr. 9/5/1969 to 4/30/1976 | Thomson | Maynard Law School | Mayor of Thomson; House of Rep; State Senate; | Court of Appeals | City Attorney of Thomson; McDuffie County Attorney; |
| H. Sol Clark 1/3/1972 to 12/29/1976 | Savannah, Chatham County | Cornell University | | Court of Appeals | Private Practice |
| Irwin W. Stolz Jr. 4/13/1972 to 3/1/1977 | Atlanta | UGA; Emory | | Court of Appeals | Private Practice |
| Julian Webb 3/19/1974 to 1979 | Byromville, Dooly County | Mercer | State Senate | Court of Appeals | City and County Attorney |
| Thomas O. Marshall 11/1/1974 to 7/15/1977 | Americus, Sumpter County | Emory; U.S. Naval Academy; UGA | | Superior Courts of the Southwestern Judicial Circuit; Court of Appeals; State Supreme Court | Private Practice |
| William LeRoy McMurray Jr. 5/3/1976 to 3/31/2000 | Rock Hill, South Carolina | Georgia Southwestern College; Mercer | | Superior Court Judge of the Cordele Judicial Circuit; Court of Appeals | Special Agent in FBI; City Attorney of Cordelle |
| George T. Smith 9/1/1976 to 12/31/1980 | Mitchell County | UGA | House of Rep; Lieutenant Governor | Court of Appeals; State Supreme Court | Private Practice |
| Arnold Shulman 1/7/1977 to 4/1/1984 | Philadelphia, Pennsylvania | Emory; UGA | | Court of Appeals | Private Practice |

Judges of the Court of Appeals
Background

| | | | | | |
|---|-------------------------|---|------------------|---|---|
| Harold R. Banke 4/1/1977 to 9/5/1991 | Pilot Point, Texas | The College of Marshall (now East Texas Baptist University); Southern Methodist and National University (now George Washington) Law Schools | | Superior Court, Clayton Circuit; Court of Appeals | City Attorney, Riverdale and Morrow; Deputy Assistant Attorney General; County Attorney (Clayton); Assistant Solicitor-General, Solicitor-General |
| A.W. Birdsong Jr. 7/28/1977 to 6/6/1998 (d) | LaGrange, Troup County | Marion Military Institute, Georgia Military Academy and the United States Military Academy at West Point; UGA | | Juvenile Court, Troup County; Court of Appeals | Private Practice |
| Norman L. Underwood 2/16/1979 to 12/31/1979 | Calhoun, Gordon County | UGA | | Court of Appeals | Private Practice; Executive Secretary to Gov. George Busbee |
| George H. Carley 4/5/1979 to 3/16/1993 | Jackson, Mississippi | UGA | House of Rep | Court of Appeals; State Supreme Court | Private Practice; attorney for the Housing Authority of the City of Decatur |
| John W. Sognier 1/7/1980 to 12/31/1992 | Savannah | Columbus University Law School | General Assembly | Court of Appeals | Chatham County Registrar; Chatham County Attorney |
| Marion T. Pope Jr. 1/5/1981 to 8/29/2002 | Thomaston, Upson County | UGA; Virginia | House of Rep | Superior Court, Blue Ridge Judicial Circuit; Court of Appeals | Private Practice |
| Robert Benham 4/3/1984 to 12/31/1989 | Cartersville | Harvard; UGA; Virginia | | Court of Appeals; State Supreme Court | Private Practice |
| Dorothy Toth Beasley 10/1/1984 to 4/1/1999 | | Eastern Academy, St. Lawrence University, and American University Washington College of Law | | State Court of Fulton County; Court of Appeals | Assistant Attorney General; Assistant U.S. Attorney |
| Clarence Cooper 2/1/1990 to 5/27/1994 | Decatur | Emory | | City of Atlanta's Municipal court; Fulton County Superior Court Bench; Court of Appeals; U.S. Court of Appeals 11th District | Assistant District Attorney |

Judges of the Court of Appeals
Background

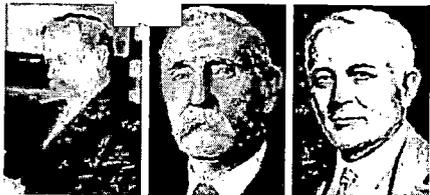
| | | | | | |
|---|----------------------------|--|---------------|---|--|
| Gary Blaylock Andrews 1/1/1991 to present | Chickamauga, Walker County | UGA | | Superior Court Judge of the Lookout Mountain Judicial Circuit; Court of Appeals | Assistant Attorney General; Attorney General; Commissioner of the Georgia Public Service Commission |
| Edward H. Johnson 2/28/1992 to present | Newnan, Coweta County | Georgia State; Vanderbilt; Virginia; Harvard | State Senator | Superior Court, Atlanta Judicial Circuit; State Court of Fulton County; Court of Appeals | |
| G. Alan Blackburn 1/1/1993 to present | East Bend, N.C | John Marshall; Virginia | | Court of Appeals | Private Practice; Administrative Law Judge for the Georgia Department of Medical Assistance; |
| J.D. Smith 5/10/1993 to present | Hall County | UGA | | Superior Courts of the Northeastern Judicial Circuit; Court of Appeals | law assistant to Justice William B. Gunter ; Private Practice |
| John H. Ruffin Jr. 8/24/1994 to present | Waynesboro, Burke County | Morehouse College; Howard University | | Superior Court Judge of the Augusta Judicial Circuit; Court of Appeals | Private Practice |
| Frank M. Eldridge 7/16/1996 to 12/31/2004 | Atlanta | Vanderbilt University; New York University | | Superior Court of Fulton County; Court of Appeals | Private Practice; District Administrative Judge |
| Anne Elizabeth Barnes 1/1/1999 to present | DeKalb County | Georgia State; UGA | | Court of Appeals | Private Practice |
| M. Yvette Miller 7/12/1999 to present | Macon, Bibb County | Emory; Mercer | | Director/Judge Appellate Division on the State Board of Workers' Compensation; Court of Appeals | Law clerk for Judge William Alexander of the Fulton County State Court; Assistant District Attorney for Fulton County; Senior Associate Counsel to MARTA; Private Practice |
| John J. Ellington 7/12/1999 to present | Soperton, Treutlen County | UGA | | State Court Judge of Treutlen County; Superior Court; Municipal Court; Court of Appeals | Private Practice |

Judges of the Court of Appeals
Background

| | | | | | |
|--|---------------|--|--|---|--|
| Herbert E. Phipps 7/12/1999 to present | Baker County | Morehouse College; Case Western Reserve University | | Magistrate and Associate Judge of the State Court of Dougherty County; Juvenile Court of the Dougherty Judicial Circuit; Superior Court of Dougherty Judicial Circuit; Court of Appeals | Private Practice |
| Charles B. Mikell Jr. 5/31/2000 to present | Savannah | Princeton | | Chatham County State Court Judge; Superior Court; Court of Appeals | Private Practice |
| A. Harris Adams 12/31/2002 to present | Toombs County | Mercer | | State Court of Cobb County; Court of Appeals | Assistant District Attorney; Private Practice |
| Debra Bernes 1/1/2005 to present | Atlanta | University of Florida | | Court of Appeals | Assistant District Attorney; Private Practice |

Judges of the Court of Appeals
Timeline

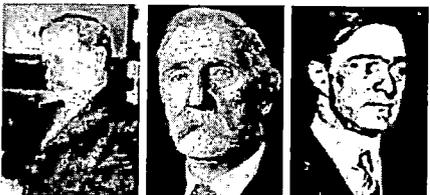
| | | | | | | | | | | | | |
|------|------------|------------|--------------|----------|-----------|-----------|-----------|--------------|-----------|-----------|----------|----------|
| 2005 | GB Andrews | EH Johnson | GA Blackburn | JD Smith | JH Ruffin | AE Barnes | MY Miller | JJ Ellington | HE Phipps | CB Mikell | AH Adams | D Barnes |
|------|------------|------------|--------------|----------|-----------|-----------|-----------|--------------|-----------|-----------|----------|----------|



Hill Russell Powell



1/2/1907



Pottle



1/15/1912



Roan



11/1/1913



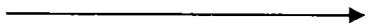
Wade



2/9/1914



Broyles



11/14/1914



Hodges



6/6/1916



Bloodworth George Luke Jenkins



1/1/1917



Harwell



10/1/1917



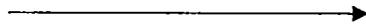
Stephens



11/21/1918



Smith



9/12/1919



Hill



11/15/1920



Bell



7/24/1922



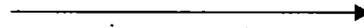
Sutton



5/27/1932



Hooper



6/18/1932



MacIntyre



11/14/1932



Guerry



1/1/1933



Felton



1/1/1937



Gardner



5/23/1940



Parker



1/13/1944



Townsend



4/10/1947



Worrill



6/8/1949



Carlisle



2/27/1952



Quillian



10/6/1953



Nichols



1/15/1954



Bell



2/8/1960



Frankum



3/4/1960



Jordan



10/31/1960



Eberhardt

Hall



3/16/1961



Custer



10/9/1961



Russell Jr.



2/9/1962



→ 9/5/1963

Pannell



→ 6/24/1965

Deen



→ 11/15/1966

Quillian



→ 4/21/1967

Joslin



→ 7/1/1967

Whitman



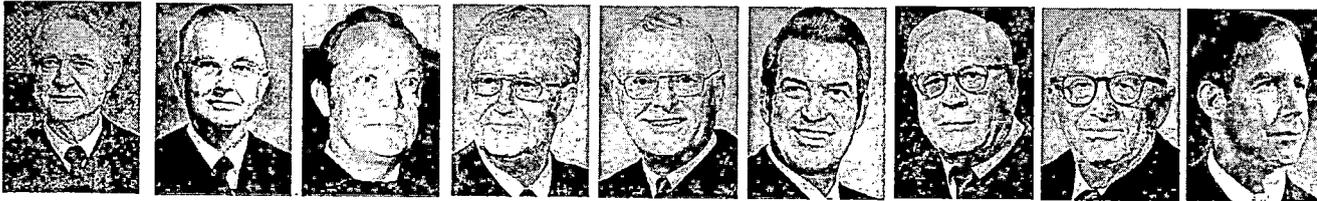
→ 9/5/1969

Evans



→ 1/3/1972

Clark



→ 4/13/1972

Stolz



→ 3/19/1974

Webb



→ 11/1/1974

Marshall



→ 5/3/1976

McMurray



→ 9/1/1976

Smith



Shulman

→ 1/7/1977



Banke

→ 4/1/1977



Birdsong

→ 7/28/1977



Underwood

→ 2/16/1979



Carley

→ 4/5/1979



Sognier

→ 1/7/1980



→ 1/5/1981

Pope



→ 4/3/1984

Benham



→ 10/1/1984

Beasley



→ 2/1/1990

Cooper



→ 1/1/1991

Andrews



→ 2/28/1992

Johnson



→ 1/1/1993

Blackburn



→ 5/10/1993

Smith



→ 8/24/1994

Ruffin



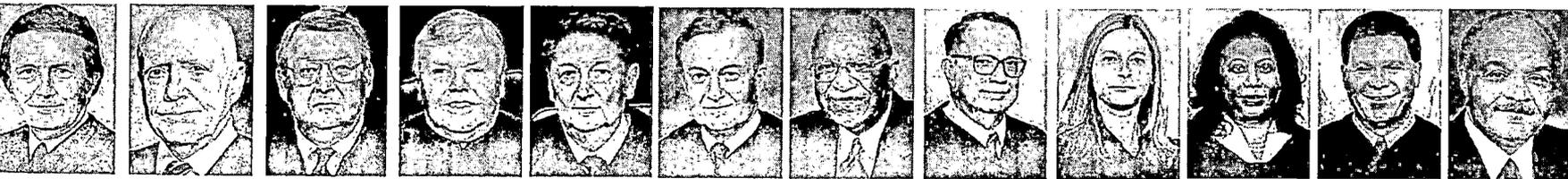
→ 7/16/1996

Eldridge



→ 1/1/1999

Barnes



7/12/1999

Miller

Ellington

Phipps



5/31/2000

Mikell



12/31/2002

Adams



1/1/2005

Bernes

Judges appointed by Governors

| GOVERNOR | JUDGES | | | | | | | |
|----------------------------|----------|------------|-------------|-----------|-----------|--------|-------------|------|
| <i>John Slaton</i> | Pottle | Roan | Wade | | | | | |
| <i>Nathaniel Harris</i> | Hodges | Bloodworth | | | | | | |
| <i>Hugh Dorsey</i> | Harwell | Smith | | | | | | |
| <i>Thomas Hardwick</i> | Bell | | | | | | | |
| <i>Richard Russell Jr.</i> | Sutton | Hooper | McIntyre | | | | | |
| <i>Eurith Rivers</i> | Gardner | | | | | | | |
| <i>Ellis Arnall</i> | Parker | | | | | | | |
| <i>Melvin Thompson</i> | Townsend | | | | | | | |
| <i>Herman Talmadge</i> | Worrill | Carlisle | JD Quillian | Nichols | | | | |
| <i>Ernest Vandiver</i> | Bell | Frankum | Jordan | Eberhardt | Hall | Custer | Russell Jr. | |
| <i>Carl Sanders</i> | Pannell | Deen | JK Quillian | | | | | |
| <i>Lester Maddox</i> | Joslin | Whitman | Evans | | | | | |
| <i>James Carter</i> | Clark | Stolz | Webb | | | | | |
| <i>George Busbee</i> | McMurray | Schulman | Banke | Birdsong | Underwood | Carley | Sognier | Pope |
| <i>Joe Harris</i> | Benham | Beasley | Cooper | | | | | |
| <i>Zell Miller</i> | Johnson | Smith | Ruffin | Eldridge | | | | |
| <i>Roy Barnes</i> | Miller | Ellington | Phipps | Mikell | Adams | | | |



Appointed →

H. Smith
6/29/07 to
6/26/09



Appointed →

J. Brown
6/26/09 to
7/1/11



Appointed →

H. Smith
7/1/11 to
11/16/11



Appointed →

J. Slaton
11/16/11 to
1/25/12



Pottle



Appointed →

J. Brown
1/25/12 to
6/28/13



Appointed →

J. Slaton
6/28/13 to
6/26/15



Roan



Wade



Appointed →

N. Harris
6/26/15 to
6/30/17



Hodges



Bloodworth



Appointed →

H. Dorsey
6/30/17 to
6/25/21



Harwell



Smith



T. Hardwick

6/25/21 to
6/30/23

Appointed
→



Bell



C. Walker

6/30/23 to
6/25/27

Appointed
→



L. Hardman

6/25/27 to
6/27/31

Appointed
→



R. Russell

6/27/31 to
1/10/33

Appointed
→



Sutton



Hooper



MacIntyre



Appointed →

E. Talmadge

1/10/33 to
1/12/37



Appointed →



E. Rivers

1/12/37 to
1/14/41

Gardner



Appointed →

E. Talmadge

1/14/41 to
1/12/43



Appointed →



E Arnall

1/12/43 to
1/14/47

Parker



M. Thompson

3/18/47 to
11/17/48

Appointed →



Townsend



H. Talmadge

11/17/48 to
1/11/55

Appointed →



Worrill



Carlisle



Quillian



Nichols



M. Griffin

1/11/55 to
1/13/59

Appointed →



E. Vandiver

1/13/59 to
1/15/63

Appointed →



Bell



Frankum



Jordan



Eberhardt



Hall



Custer



Russell Jr.



C. Sanders

1/15/63 to
1/10/67

Appointed →



Pannell



Deen



Quillian



L. Maddox

1/10/67 to
1/12/71

Appointed →



Joslin



Whitman



Evans



J. Carter

1/12/71 to
1/14/75

Appointed →



Clark



Stolz Jr.



Webb



G. Busbee

1/14/75 to
1/11/83

Appointed →



McMurray



Shulman



Banke



Birdsong



Underwood



Carley



Sognier



Pope



J. Harris

1/11/83 to
1/14/91

Appointed →



Benham



Beasley



Cooper



Z. Miller

1/14/91 to
1/14/99

Appointed →



Johnson



Smith



Ruffin



Eldridge



R. Barnes

1/14/99 to
1/14/03

Appointed →



Miller



Ellington



Phipps



Mikell



Adams



S. Perdue

1/14/03 to
present

Appointed →

Judges Elected to First Term

| | |
|------|-----------------------------|
| 1907 | Benjamin Harvey Hill |
| 1907 | Richard Brevard Russell Jr. |
| 1907 | Arthur Gray Powell |
| 1914 | Nash Rose Broyles |
| 1917 | Walter Franklin George |
| 1917 | Roscoe Luke |
| 1917 | William Franklin Jenkins |
| 1918 | Alexander William Stephens |
| 1920 | Benjamin Harvey Hill |
| 1933 | John Benjamin Guerry |
| 1937 | Jule Wimberly Felton |
| 1974 | Thomas O. Marshall |
| 1976 | George T. Smith |
| 1991 | Gary Blaylock Andrews |
| 1993 | G. Alan Blackburn |
| 1999 | Anne Elizabeth Barnes |
| 2005 | Debra Bernes |

Elected First Term



Hill
1907



Russell
1907



Powell
1907



Broyles
1914



George
1917



Luke
1917



Jenkins
1917



Stephens
1918



Hill
1920



Guerry
1933



Felton
1937



Marshall
1974



Smith
1976



Andrews
1991



Blackburn
1993



Barnes
1999



Barnes
2005

Clerks of The Court of Appeals



Logan Bleckley
1907-1938



**William G.
England**
1938-1957



**Morgan
Thomas**
1957-1980



Alton Hawk
1981--1986



**Vistoria
McLaughlin**
1987-1993



**William L.
Martin, III**
1994-present