

#### **(iv) - Information on the Election of 1906 and formation of the Court:**

NB: Get more information on the actual election - some gossip, etc from newspaper

December 17, 1906 - Supreme Court ordered 155 cases to be transferred to docket of newly formed Court of Appeals

January 12, 1907 - an additional 24 criminal cases and 1 more civil case were transferred

West publishing agreed to add courts opinions to Southeastern Reporter - May 1907

At the time of the 1906 election Georgia was still using the County Rule system to elect most state officials. Similar to the modern electoral college, each county was given a number of votes and they cast them for the candidate receiving the most support within that county. However, in the Court of Appeals election, for reasons unknown, the election of the Judge was to be from popular vote throughout the state of Georgia. So the results took longer to reach Atlanta and be tabulated than the other contests in the election.

Richard B. Russell was the forerunner and the only man who was sure to have gained a seat; it was thought highly probable that Arthur Powell had won a seat, but the third seat was still an unknown. It was days before the three Judges were officially announced, and the newspapers had even gone as far as to publish Henry C. Peeples as the winner of Ben Hill's seat.

Arthur Grey Powell was given the charge of creating a draft for the first rules of the court when the 3 Judges met in Atlanta "soon" after the election, on January 2nd.

There was a great debate over which man would have the honor of being the first chief Judge.

Who would serve as the very first Chief Judge was an issue of contention among the founding three jurists. The general election of 1906 did not allow the voters to specify who they would choose as the first chief Judge. Since all three men had served the same and equal tenure (nothing) and elected upon the same day, there was no obvious choice. Hill thought that he should serve first, based on his age, while Russell thought that he should be based on his experience and that he won the largest percentage of votes in the popular election. B.H. Hill wanted to be the first man, yet he was aware of the indelicacy of voting for himself. So Powell agreed to support Hill if Hill would support Powell's choice for the clerk, Bleckley. Since Powell was charged with drawing up the first set of Court Rules, the draft he produced borrowed the applicable provision from the Supreme Court. This particular clause allowed that the Chief Judge

be selected upon age when there was a tie based upon the day the Judges were given their commissions and Hill, the man with the lowest popular vote and most senior in age, was made the first chief Judge.

The Rules of the Court were adopted January 7, 1906.

The three men elected all had different choices of who to appoint for clerk. Powell wanted Bleckley, so he and Hill struck a deal that Hill would support Logan if Powell supported picking the chief judge based on age - so Bleckley was the clerk and Hill the first Chief Judge of the Court of Appeals.

Logan Bleckley, the son of the legendary Georgia Jurist, was appointed the first clerk.

In yet another compromise, Sheriff Pittman was elected to serve a 10 month term after which Mr. Derrick would immediately begin serving his four year term.

Powell was the only one of the three who did not ever serve as chief Judge

Hill remains the only man to serve on the court twice - and elected both times

Richard B. Russell was the first man to serve on both the Court of Appeals and Supreme court of Georgia, and to date is the only made to be both Chief Judge and Chief Justice during his career.

The Russell family also boasts the only Grandfather-Grandson combination on the court when Robert Lee Russell became appointed by Governor Vandiver in 1962

Judge Hill was elected to be sworn in as the first Chief Judge, and since the constitution provided for the commissions to be staggered the men drew straws as to who would serve which of the six year staggered terms. On January 1, 1906 in the Governors Office, Hill drew 2 years, Powell 4 and Russell 6, And on that day they were sworn into their positions by governor ?Hoke Smith?

At only 34 years old, Powell is the youngest person to have served on the bench.

The Court had two dissents on record before ever hearing a single case, once from Judge Russell on the method of appointing Hill as chief Judge and one from Judge Powell in opposition to the courts decision to hire Marion Bloodworth because she is a woman, and his mind therefore unable to hold civil office.

The Courts first female employee was Marion Bloodworth, Judge Russell's stenographer. Judge Powell objected to her become an officer of the court because he believed the language in the statute limited such positions to males. His objection was the court's first dissent.

The other stenographers were: Hill = Edward C. Hill, Powell = W. A. Cameron.

George W. Stephens was the first reporter for the court

The first case that was handed down by the Court was published three days after hearing the oral arguments.

The first case heard was Hunter v. Lissner from Glenn Superior Court. Justice Hill wrote the opinion for the Court and Mr. Max Issac signed in and represented the defendant.

The first case call of cases heard was on Tuesday January 8<sup>th</sup> - they called cases 1 through 53

Gainesville Midland Railway v. Judah Jackson was the first true appeal, from Hall County city court

When the Court, having heard its first arguments on January 8<sup>th</sup> handed down its first set of opinion on January 11<sup>th</sup>, they had already decided eleven cases. One case, Southern Railway Company v. Crawford, came down the day after hearing oral arguments for it.

The final opinion for the January session, *Bailey Company v. West Lumber Company*, was issued March 2<sup>nd</sup> – just in time to begin the March session with a backlog of undecided cases from the January term.

During that first session the court decided 126 cases, and heard countless more.

Chief Judge Hill, January 7<sup>th</sup> 1907 - Atlanta Constitution:

"With strict fidelity, without fear and without favor, with clean hands, and with a pure purpose, we will strive to serve all the people in an impartial, and patient, execution of the high trust committed to us. 'To administer justice without respect to persons, and to do equal right to the poor and rich.' Reverently we repeat the words of our sheriff on opening the court - 'God bless the people of Georgia and the Court of Appeals.'"

"I think it is unfortunate that it has been termed a movement for 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." (Justice Andrew Cobb, 23 Ga. Bar Assoc. 36,37; 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....."

At the Courts founding the Georgia jurisprudence tradition was to base a large weight of the case on oral arguments. Compared to the modern rules, in which granting oral arguments in many cases is a discretionary privilege, the older rules base much importance on oral arguments. Each side was given 2 hours, with the options to appeal for more time if it was deemed necessary.

The Court of Appeals initially met in the State Capitol, sharing a courtroom with the Supreme Court. The room is now the appropriations room - 230?

The court would remain largely unchanged for the next 5 years

On Monday the 7<sup>th</sup>, 1907 there were 38 attorneys admitted to practice before the bar:

George W. Stephens	T. A. Hammond
John M. Graham	Alex W. Smith
John S. Candler	James E. Warren
Clifford L. Anderson	W. E. Talley
R. R. Arnold	Z. D. Harrison
Samuel N. Evins	Sam S. Bennett
Eugene R. Black	Eugene Cox
John M. Slaton	H. H. Perry
Henry A. Alexander	H. H. Dean
E. A. Hawkins	Henry C. Peeples
Robert C. Alston	H. B. Spooner
\Charles T. Hopkins	W. M. Harrell
Harold Hirsch	W. D. Sheffield
John L. Tye	Albert H. Russell
Sanders McDaniel	Spencer R. Atkinson
L. C. Hopkins	James W. Austin
Phillip Alston	John S. Gleaton
Walter McElreath	W. D. Thomson

Morris Brandon

Walter R. Brown