



# Honors to Her Honor: Chief Justice Jean Hoefler Toal

By Selma Moidel Smith

Chief Justice Toal and her husband, Bill, cheer on the University of South Carolina Gamecocks basketball team.

Photo by Todd Bennett, *The (Columbia) State*, 2003.  
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“Jean Toal has to be recognized as the most important female in the last century in the State of South Carolina,” wrote U.S. Circuit Judge Karen J. Williams of the Fourth Circuit in support of Toal’s nomination for a Margaret Brent Award from the ABA Commission on Women in the Profession. These words serve to summarize the significance of the career and life of the Chief Justice of the Supreme Court of South Carolina.

She became the first woman to sit on the state supreme court when she was elected an associate justice in 1988. Toal then became the first woman to serve as chief justice of South Carolina when she was elected to complete the remaining four years of the term of her predecessor, Chief Justice Ernest Finney, Jr., who retired in 2000. She has now been re-elected to a 10-year term of her own, commencing August 1, 2004.

The road to the state supreme court was an eventful one. It began in her senior year as a philosophy major at Agnes Scott College in Atlanta. “When I was home for Thanksgiving, an old friend of my family’s, Judge Louis Rosen, encouraged me to attend law school and become a lawyer.” He had researched the course offerings at her college and found a constitutional law class at reciprocal neighbor Emory

University that was offered the following quarter. When Toal told her guidance counselor about her potential interest in law school and the course at Emory, “she discouraged me from the legal profession, stating that the profession was not open to women. I enrolled in the law course that winter, and the rest is history.”

In college, Toal was a member of the Judicial Council (honor court) in her last two years. She earned the Hayes Debate Trophy, capping her victory in high school as the state’s first woman debate champion. She is a member of the Beta of Georgia chapter of Phi Beta Kappa.

Toal attended law school at the University of South Carolina where she was one of four women in a class of two hundred. “I enjoyed the intellectual and analytical challenge of the study of law, and by my third year, I was the managing editor of the *South Carolina Law Review*.” It was in law school that she met and married her husband, Bill Toal, where they became the only couple to serve as managing editor and editor of the law review. She describes Bill, who graduated first in their class, as “the brightest lawyer I’ve ever known” and credits him for being the most important influence in her career as a lawyer. He is a long-time partner in the Columbia law firm of Johnson Toal and Battiste.



Toal graduated in 1968 and was admitted to practice the same year. She is a member of the University of South Carolina Law School chapter of Order of the Coif. Toal became an associate at Haynsworth, Perry, Bryant, Marion & Johnstone in Greenville, S.C., for the next two years. This was the largest law firm in the state when she began her practice there as the 16th lawyer in the firm. At that time, women were still not permitted to serve on juries in South Carolina state courts.

In 1970, she became an associate at the firm of Belser, Baker, Barwick, Ravenel, Toal & Bender, and three years later achieved the status of their first woman partner. The firm handled a variety of litigation and criminal defense work. "In those days, before public defenders, most litigators did criminal work. As a young lawyer, about 30 percent of my work the first years with the Belser firm was criminal trial and appellate work. I was privileged to appear on a frequent basis in all levels of trial and appellate courts in this state, with one appearance as co-counsel before the Supreme Court of the United States." Toal's 20 years of experience as a practicing lawyer before her election to the state supreme court included an even mix of plaintiff and defense work, criminal trial work, and complex constitutional litigation.

### **In the Legislature**

Toal's public service began in 1975 with her election to the South Carolina House of Representatives, where she served for 13 years and was re-elected six times. She became the first woman to head a standing committee as chair of the House Rules Committee, and the first woman to serve on the Judiciary Committee as chair of its Constitutional Laws Subcommittee.

"In many instances I had a primary role in drafting legislation and presenting it to subcommittee, full committee, and House membership. I was generally regarded as an expert on constitutional law and state finances." Her years in the legislature also included floor leadership of complex legislation in areas including criminal law, corporate law, tort claims, workers' compensation, structure of the judicial system,

environmental law, and utilities regulation. "I floor-led many rules changes which modernized the operation of the House, eliminated the filibuster, and shortened the legislative session during my six-year tenure as chair of the House Rules Committee."

She also had a leading role in major pieces of legislation as chair of the Constitutional Laws Subcommittee. These included restructuring the court system in South Carolina and reform of the Public Service Commission, Probate Code, and Ethics Law.

### **Supreme Court Service**

"I believe I have been a productive member of our court. I have written over 900 opinions for our court in the 16 years of my tenure. Of that number, approximately 69 are dissenting opinions." She points out that the opinions she has written for the court have addressed virtually every area of the law, including certified questions from Federal District Courts, cases where the death penalty was at issue for appellants, and cases in which appellants have contested the constitutionality of state laws. "I have written opinions that have become important precedents regarding the admissibility of certain evidence and regarding both civil and criminal procedures."

Toal's clerks consider the extent of her preparation remarkable. They note that she reads every page of a case prior to oral argument, and they find she has already left a trail of yellow note-stickers when they begin their research.

In her first years on the court, Toal carried out a number of special projects assigned to her by the incumbent chief justices. From 1989 to 1991 she supervised the Supreme Court Building Renovation Project, for which she made presentations to obtain funding by the legislature, attended construction team meetings with the contractors and architect, and made daily site inspections for 13 months. From 1992 to 1994 she chaired the state Juvenile Justice Task Force, and from 1993 to 1994 chaired the state task force on rules of evidence that resulted in South Carolina's becoming the 36th state to adopt a form of the Federal Rules of Evidence.

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As chief justice, Toal became active in the Conference of Chief Justices and was elected to its board of directors. Since 2003 she has represented the Conference as a member of the ABA House of Delegates.

#### **Technology**

An outstanding element of Toal's work as chief justice has been her drive to modernize the court system through the use of technology. "I have chosen to highlight the use of technology to improve the delivery of justice, especially in rural South Carolina."

Commencing while she was still an associate justice, she served for many years as court supervisor of the newly formed Information Technology Unit, which has computerized the judges' offices statewide and established high-speed Internet connectivity in nearly all 46 counties. Toal has emphasized the training of all active judges and court personnel in the use of technology. "Electronic communication, research, and management are now used extensively as a result of my efforts." This has resulted in the elimination of a two-year backlog of cases in the state court system despite a reduction in funding and personnel.

She was recognized for her leadership in technology by the Center for Digital Government in 2002, and was named one of the "Top 25 Doers, Dreamers and Drivers" for the same year by *Government Technology* magazine for the same year. In October 2003, she gave the keynote address for the Court Technology Conference held by the National Center for State Courts, in Kansas City, Missouri. "In my one-hour presentation, I told the South Carolina story with great pride as a model for other states." Among the special benefits to South Carolina was her decision to convert

older data as well as ongoing information to digital format.

#### **Sports**

Sports have always played an important role in the activities of this chief justice. Commencing with her high school years, Toal played varsity tennis, and in all four college years she was the varsity field hockey team goalie, as well as a member of intramural hockey, basketball, and tennis teams. Her enthusiasm for sports brought her to the front page of the sports section of *The State*, the largest newspaper in South Carolina.

A feature story of January 17, 2003, by Sports Editor Bob Spear, detailed the many sports interests of the chief justice and her family. "To call her enthusiastic sells her short. Basketball, baseball, tennis, softball, golf, football, field hockey . . . name a sport and she embraces it." She is a loyal fan of South Carolina home basketball games, and follows the Bombers and Braves in baseball. Ideal vacations include trips to major league games and spring training camps.

Not only do she and Bill play together on a church softball team (she catches and he pitches), continues Spear, "their older daughter, Jean Eisen, organizes and pitches for Hollings Heroes, the softball team for [U.S.] Sen. Fritz Hollings's office," where she is employed. Spear adds that (at that time), "Lilla Toal, their other daughter, heads the sports operation for the Stanford University student radio station and calls the play-by-play for the women's basketball team."

#### **Women's Advocate**

Toal was recognized for her accomplishments on the occasion of receiving a Margaret Brent Women Lawyers of Achievement Award from the ABA Commission on Women at the Annual Meeting in Atlanta on August 8, 2004. In addition to serving as a role model for women lawyers, she has taken an active role in supporting women colleagues. She has always advised them "to leave the ladder down" for the aspiring women who would follow them. Toal is known for personally escorting South Carolina women lawyers for their admission to the bar of the Supreme Court of the United States.

In her early years of practice, she championed the cause of a woman law student who was appointed a page by her state senator but was denied employment by the clerk of the South Carolina Senate on account of her sex. In *Eslinger v. Thomas*, the Fourth Circuit held the practice to be unconstitutional and established the right of women to serve as Senate pages.

Several years later, as a member of the State House of Representatives, "I floorled and sponsored various bills and resolutions to improve the conditions for women in South Carolina including a Joint Resolution to ratify the Equal Rights Amendment to the U.S. Constitution, which after an intensely divisive six-year debate, was never approved."

Many of Toal's past and present clerks joined together to support her nomination for the Margaret Brent Award. "As her clerks, we have been amazed and inspired by her energy and dedication, at her willingness to drive across the state to speak to a group of school children, a local rotary club, or a girl scout troop. We are not exaggerating when we say that it is impossible to know how many future

women lawyers the Chief Justice has encouraged through these selfless efforts."

### **Senior Lawyers**

When asked if she had special thoughts to share with members of the Senior Lawyers Division based on her years of experience in practice and on the bench, Toal focused on two major themes.

**Technology:** "The biggest challenge facing senior lawyers is technology and access to the information environment." Just as she has required judges and court personnel to be trained in the uses of technology, she emphasizes that effective communication and research are no longer possible without the necessary skills in technology.

**Mentoring:** "When I think back over all the years, what I have been most grateful for is all the mentoring I received. It made all the difference for me. That is the most important contribution senior lawyers can make to the newer lawyers, starting with the youngest members of the profession. This is how we ensure the passing on of our most basic professional principles and the rule of law." ■