

LAW DIGEST

MARYLAND COURT OF APPEALS

Agency, Breach of fiduciary duty: *Insurance Company of North America v. Miller*, No. 50, September Term, 2000. An insurance agent who collects premiums for the benefit of a principal and uses those premiums for his own benefit breaches the fiduciary duty he owes to the principal. RecordFax No. 1-0111-20, 31 pages. **Page 7C**

Constitutional, Description necessary to stop suspect: *Stokes v. State*, No. 107, September Term, 1998. Drugs recovered in a search incident to the defendant's arrest should have been suppressed since the police officer who stopped defendant, within thirty minutes of a robbery, based on a lookout description for a black male wearing a black tee shirt did not have the requisite reasonable articulable suspicion sufficient to detain and search him. RecordFax No. 1-0112-21, 23 pages. **Page 7C**

Criminal, Calculating criminal sentences: *Maryland Correctional Institution - Women v. Lee*, No. 115, September Term 1998. Although *habeas corpus* is the appropriate way to raise a defendant's right to be released from custody, and the correctional institution had the right to appeal the *habeas* court's ruling, the *habeas* court erred in interpreting the defendant's original sentence. RecordFax No. 1-0112-20, 24 pages. **Page 7C**

Criminal, Voluntariness of confession: *Winder v. State*, No. 51, September Term, 1999. A confession made after 12 hours of interrogation in reliance on promises by the of-

Bell hits hot buttons in addressing Assembly on State of the Judiciary

Senate president calls request for 21 new judgeships 'excessive'; Chief judge also announces hearing on access to court records

BY EARL KELLY

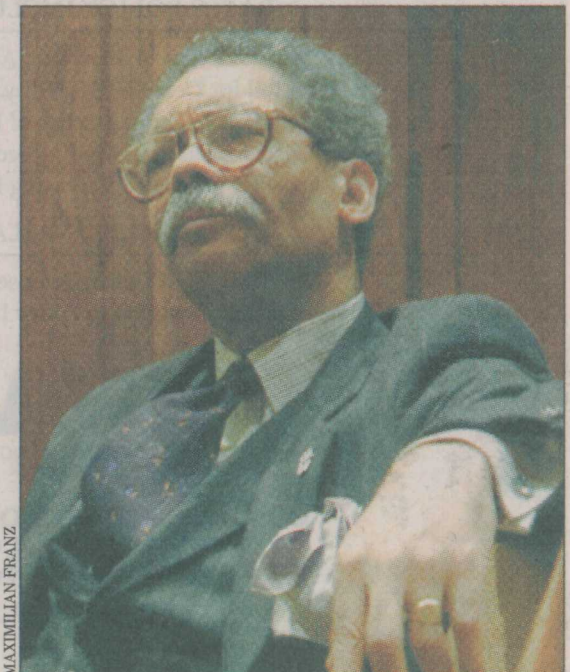
Daily Record Legal Affairs Writer

Old tensions surfaced yesterday when the state's chief judge called on the General Assembly to keep the judiciary a strong, independent branch of government and make the courts more accessible to the public.

In his fourth State of the Judiciary address in five years, Chief Judge Robert M. Bell told the packed House chamber that the legislature should create 21 new judgeships. Senate President Thomas V. Mike Miller Jr., D-Prince George's, Anne Arundel and Calvert, called the request "excessive."

Bell told the joint session that his plan provides for two family judges to be added in each of the Circuit Courts for Anne Arundel, Baltimore, Montgomery and Prince George's counties and Baltimore City. He also asked for two new judges to create family divisions in Calvert and Worcester counties.

Additionally, Bell called for creation of four new Circuit Court judgeships for Montgomery County, where the Juvenile Court is being transferred from the District to the Circuit Court. (Mont-



MAXIMILIAN FRANZ

Chief Judge Robert M. Bell, shown here in an earlier meeting with legislators, laid out his plans yesterday in his fourth State of the Judiciary address.

Address

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gomery County is the only jurisdiction where the Juvenile Court is part of the District Court.)

Five District Court judgeships would be created, also, Bell said: one each in Baltimore City, Montgomery, Prince George's, St. Mary's and Worcester counties.

Miller told reporters after Bell's speech that the numbers don't add up for him.

"I don't see anybody taking away any [Montgomery County] District Court judges" even though transferring the juvenile court to the Circuit Court should cut the demands being made on the lower court.

"If you're going to spend money, you should find a way to save money," Miller said.

Miller went on to say that Calvert County doesn't have the facilities to house another District Court judge, and Prince George's County doesn't need another judge on its Circuit Court.

The disagreement is reminiscent of one from last session, when Miller and Bell feuded over the creation of judgeships. Miller broke from tradition and called for the addition of a District Court judge to St. Mary's County even though Bell didn't request the new judgeship.

The upshot was that the General Assembly added no new judgeships last session. Bell's request for 21 this year actually covers a two-year period.

Records flap

Disharmony between Miller and Bell threatened to rear up this session in another area, too.

Last year, Bell appointed the Ad Hoc Committee on Public Access to Court

Records, which drafted a plan to reduce access to civil and criminal court records for many users.

About 60 irritated witnesses testified against the measure in December and several state leaders, including House Speaker Casper R. Taylor Jr., D-Allegany, said that Bell's plan likely would stir opposition in the legislature.

Bell responded by repeating his commitment to limiting access to court records but announced that he would enlarge the committee and look at different plans.

Bell announced yesterday that the committee would conduct a hearing on Jan. 31.

"The public has a right to know," Miller said of court records. "I think maybe [the enlarged committee] is a more realistic assessment by the chief judge that the public has a right to know."

Bell introduced to the General Assembly the court's new legislative liaison, Kelley O'Connor, and later said that he had been considering creating the position for several years. The timing had nothing to do with the recent tiff with Miller, Bell said.

O'Connor said that she isn't an attorney but worked in the Montgomery County State's Attorney's Office on domestic violence cases and previously was a congressional lobbyist for the florist industry.

Among the substantive changes that Bell requested is a constitutional amendment to permit District Court commissioners to issue civil *ex parte* domestic violence orders when District Courts are closed.

Commissioners currently are restricted to handling only criminal cases, but District Court Chief Judge Martha F. Rasin said that the expanded duties are logical.

"You already have a judicial officer sitting at a desk 24 hours a day," Rasin said. "I think there'll be a lot of support for it."