State of the Judiciary
Chief Justice Malcolm M. Lucas, California Supreme Court
Message to the California Bar Association Meeting
September 30, 1995, in San Francisco, California

Good morning. It is a pleasure to be here. Let me begin by thanking Don Fishbach and the outgoing board of governors for their fine service and cooperation over the past year. Congratulations to James Towery, and the new board members. I know there will be many opportunities for you to work with the court over the next year.

This has been a year of reflection for me. Fifty years ago, I was 18 years old and serving on the aircraft carrier franklin Delano Roosevelt as the second world war drew to a close. Our country had fought for the second, and we hoped the last, time in less than half a century to preserve our freedom.

As I entered law school over 45 years ago, little did I know or expect what the future held for me. But I was proud to be joining a profession dedicated to advocacy, equity and democracy, and I remain proud of that today.

I have been blessed with a career of service, which was what first attracted me to the legal profession. I have been a judge since 1967, first on a Superior Court in Los Angeles, then on the federal district bench. Since 1984, it has been my honor to be a member of the California Supreme Court.

Through it all, advocacy, equity and democracy are the constants that have guided our country and my life on paths unimaginable to that 18 year old on an aircraft carrier. Almost nine years ago, when I became chief justice, the court was in disarray. In November 1986, the electorate refused to confirm three sitting justices, including Chief Justice Rose Bird. Justices Mosk, Broussard, Panelli and I held the fort for three months until three new members joined us in March.

Not only the Supreme Court was under pressure. A litigation explosion in criminal cases, fueled in large part by the scourge of crack cocaine, threatened to overwhelm the courts. Delays in civil litigation were almost unmanageable. Litigants often waited five years for a courtroom.

The legislature gave courts a push in 1986, enacting the trial court delay reduction act. Long urged by bar and bench alike, delay reduction became a reality.

Trial court delay reduction boils down to judges taking control of courts back from lawyers and litigants. Instead of waiting for an at issue memorandum that may be filed years after the case first began, a case is managed from the start by the court.

The results speak for themselves. The time to get to trial decreased significantly. For example, in Los Angeles, the average time went from 60 to 20 months. Although not everyone enjoyed it, the trial court delay reduction program was a great success.

Unfortunately, our progress has been compromised recently. Pressure from three strikes cases and other initiatives, combined with persistently inadequate resources are pushing civil cases out of some superior courts.

Nevertheless, experience with delay reduction reinforced a basic theme: courts must take responsibility for shaping their future. This message underscored the move toward increased state funding. We need a solid, reliable funding structure in place to provide the highest quality of justice in every court in our state. Only with a firm base can we best plan for the overall needs of all California courts.

Four years after enactment of a measure providing for substantial state funding of trial courts, however, we are far from reaching that goal. Instead of the 70 percent state funding promised by the legislature in 1991 for this fiscal year, the state is providing less than 35 percent of needed support.

No matter what kind of law you practice, you will feel the effects of this shortfall. They go beyond inconvenience or delay. The public courtroom is the most potent symbol of our justice system. There have been no new judgeships since 1987. Resources generally have not kept pace. The result, a system that spends too much time trying to cope.

But we must and will continue the battle. Because when people feel they have no reasonable access to public justice, confidence in our system diminishes. A solid justice system must not only do justice h the people must believe it is doing so.

We in the judicial branch can't do much directly about the fiscal recovery of all California. But that doesn't relieve us of the obligation to do what we can to keep courts accessible. And to keep the absolutely vital needs of our justice system in the forefront of public awareness.

So, how have courts responded? We have first acted to put our own house in order. I've mentioned delay reduction. We have also promoted merging municipal and superior court administrative functions in the interest of efficiency.

In addition, through cross assignments, municipal and superior court judges can now be used more flexibly where they are needed. And I have used my assignment power to place retired judges where sorely needed to help keep courts afloat.

This year, the Judicial Council adopted comprehensive rules on coordination. They lay out specific steps, time frames and expectations for courts to abide by in jointly managing administrative and judicial resources. Coordination is a must. It offers a sensible way to put unwieldy pieces of our system together to save money and be more efficient.

In response to the promise of more state funding, courts also worked hard to create a mechanism that enables them to seek necessary resources --and holds them accountable for what they get. We will continue to work with state and county officials to find funding alternatives to meet court needs. And we stand ready to incorporate them once we succeed.

The next few years are key. If the state does not honor its commitment to provide the bulk of court funding, I fear some of our efforts to promote uniformity and coordination in the courts may fall by the wayside. What will that mean?

If courts must once again rely almost completely on local largess, with no hope of substantial state support, it will ensure two things. First, justice will not be equally administered across the state. Second, it will become more and more difficult to implement successful statewide reforms. The basic quality of justice in our state will be threatened.

We have not let the fiscal crisis freeze us into inaction. We tackled the task of creating a permanent planning process so courts can address new demands. In 1992, we reorganized the Judicial Council, creating a more responsive selection and committee system that engages a larger part of the legal community.

Over the past few years, the council has increasingly assumed the role of central planner and advocate for the courts. The more unified our voice, the more effective we will be. And we have been more successful on many fronts than we otherwise would have been had we not worked hard to speak cohesively. Each of our voices must be heard in the chorus of support for our court system.

We have done more than attack the fundamental task of making sure our system is structurally able to respond vigorously to challenges. We have taken important steps in a wide range of substantive areas. For example: we received and are implementing the report of the council's committee on gender bias.

We created the Race and Ethnic Bias Committee which will report next year.

Our Standing Advisory Committee on Fairness and Access is now holding hearings on access for the disabled.

These go to fundamental issues of fairness and accessibility in our system. And I am proud we have done this self-examination, a self examination that we knew would highlight some deficiencies in our court system.

In another arena in which I naturally have a great deal of interest, the Supreme Court, we've also made important changes. Our court now reviews over 5000 petitions each year. When Justice Mosk joined the court 30 years ago, there were 626 petitions. The burden keeps growing.

Soon after becoming chief, I appointed a blue ribbon commission on the Supreme Court. I asked it to recommend improvements in the internal procedures of the Supreme Court. The court adopted almost all of the commission's suggestions, from increasing central staff to changing how cases circulate internally.

The court also now issues opinions within 90 days after oral argument. Once a case is argued, litigants know when to expect a decision.

We have taken our share of financial cuts without compromising productivity. And we successfully dealt with the major disruption of the 1989 earthquake.

On the legal side, the Supreme Court has issued landmark decisions on reapportionment, insurance law, employment law, legislative term limits, and habeas corpus, to name but a few.

The court is an exciting place to work. The level of debate and engagement is high. No result is ever assured. Every judge's vote must be won in every case. There are no lockstep marches or foregone conclusions.

I am also very proud to have participated in numerous programs on the international and national level. They have allowed me to convey the message of California's successes to others. And in turn, what I learned I brought home and implemented to benefit our state.

After 45 years in the law, I view us all as part of a continuum that began long before us and will survive long after we are gone. But survival is not automatic. Nor is mere survival enough. A healthy judicial system requires constant care and attention. It demands vision and a willingness to take risks.

My experience with judicial systems across the world demonstrated repeatedly how essential to freedom an independent judicial branch is. Our fight for adequate resources is not about individual courts. It is a fight for a justice system that lives up to the expectations of the people we serve.

We do not make widgets. We are not purveyors of products. We are fundamentally a human endeavor dealing with real human hopes, dreams, failure and lives.

To live up to our duties to the individuals who rely on the promise of fairness and justice, we must collectively and individually live up to the standards of our profession. And they must be higher for us than for all others.

The bedrock on which I started my legal career remains strong: advocacy, equity, and democracy. My tenure as chief justice has been one with challenges to be sure, but it has been more one of blessings.

To have served with so many extraordinary people, both at the Supreme Court and in the entire bench and bar. To have had the assistance and counsel of my fellow justices, the Judicial Council, and the court and AOC staffs, as well as my personal staff, seems more good fortune than any one human should receive. And in addition to all that, I have had a loving and supportive family and friends.

But a point comes when it is time to relinquish a role and contribute. In other ways. I have decided that for me the time is here. I will retire as chief justice on May 1, 1996. I have not made this decision lightly. But since my remarriage two years ago, I have taken a fresh look at my future. May seemed a good time to make the move and allow for an orderly transition period.

And, I wanted to announce my decision here, to you, the assembled representatives of the great bar of this state. It is with you and the fine members of our bench that the future of our justice system rests.

We have come far together. We have strengthened our house and built a solid foundation under it to support the changes that must be made to accommodate the future. And we have worked to keep it a strong and welcoming place for those who must seek its shelter. I hope I have left the system a better place than when I entered it. I hope each of you will aspire to do the same.

The boy of 18 standing on the aircraft carrier would have been astonished, grateful and proud had he been given foreknowledge of where his life would lead. I know that the man who stands before you who has lived that life shares those sentiments. I have indeed been fortunate and very blessed.

Thank you.