

Chief Justice Roy Noble Lee
State of the Judiciary Address
Delivered to Joint Session of Mississippi Legislature
February 25, 1992

As participants in today's joint session of the Mississippi Legislature, you and I join to make history. We mark at this moment the first address of a Chief Justice to report on the condition of the state's judicial branch of government, an event which is a landmark in Mississippi's 175 year history as a state.

As governmental leaders, we are the proud standard bearers of the inalienable rights enjoyed by our fellow citizens. But in this important role, we must be ever mindful of the teachings of our forefathers, ... that "government is a trust, and the officers of the government are trustees. Both the trust and the trustees are created for the benefit of the people."

Fundamental to our government is the concept of separation of powers. In their collective wisdom, the drafters of our State Constitution followed tradition in the creation of three branches of government... This solid partnership of the executive, legislative, and judicial branches has served our state well, protecting the ability of each branch to perform to its greatest capacity. To be sure, checks and balances of the three branches of government are not exercised without occasional tension. Despite periodic productive conflict, however, Mississippi's three branches of government today stand in respectful and supportive co-existence. The challenges facing our state require not less of us.

My purpose today is two-fold: to report to you on the state of Mississippi's courts and to exhort your leadership in assuring their continued viability as we approach the 21st century.

It has been said that "justice is the end of government." If that be true, then the business of the judiciary is the administration of that justice through the interpretation of laws. Within this state's 320 courts (from municipal through the Supreme Court), this role is performed daily. Our judges address questions which affect the most intimate parts of a person's life. As noted by the great jurist Oliver Wendell Holmes, the law indeed "does come home to every man's fireside... to touch his life, his property, his all." From the support and welfare of our state's children to the preservation of our wealth of natural resources, from the rights of every individual to the very limits of our government-the courts resolve questions interwoven throughout the fabric of our lives.

It is with pride that I report on the past performance of Mississippi's courts. Supported by the zealous and innovative efforts of judges and staff, our courts have achieved unparalleled accomplishments over the past several years. From a state whose agrarian nature produced little litigation in our first century of statehood, Mississippi saw over 100,000 cases pass through its trial courts in 1990. In addition, over 1000 appeals were received by a Supreme Court which in its first year of existence handled 12 cases. Such a rapidly growing caseload has strained every fiber of our system of justice. Faced with caseloads which have swelled by over 35% in the past four years, all of our state's courts are running at full throttle.

At the appellate level, efforts to contain the dramatic demand for court access have centered in the development of modern management systems. We know that the "business" of administering justice requires the full embrace of every modern management technique available. In the past five years, the Supreme Court has undergone revolutionary change in these areas. Through the responsive funding by the legislative branch, the appellate court now maintains a full scale automated operation, one which was recognized as the best of its type in the nation in 1988.

This system, perhaps the single most important change in the court's support platform, was created in primary part through the overwhelming work of Sue Gordon, our beloved clerk who passed away in 1989.

Aggressive case management, a unique appellate magistrate system, reorganization of judicial branch support agencies-all of these accomplishments have supported this state's Supreme Court in increasing appellate court production by over 25% in the past four years. In short, the same number of Justices (9) who in 1953 produced under 200 cases, today produce over five times that number. For the first time in modern history, in 1991 the average time to decide an appeal was reduced by almost 100 days. These successes have not been accidental. They are the direct product of hard work and sacrifice by the justices of the Supreme Court and the 63 staff members who support the appellate system.

In our trial courts, recent years have also brought tremendous change. Long a "sleeping giant," the judicial branch has recently awakened to begin to form itself into a cohesive and more accountable government partner.

Two of the most gratifying events of my tenure as Chief Justice occurred this year. One was the merger of the Supreme Court and trial court budgets, an event which has for the first time in our history placed management of all state monies earmarked for the courts under the auspices of the Supreme Court. This merger has brought strength and agility to the judiciary, and will enhance our ability to be effective stewards of our judicial resources.

The second event, of national importance, involved the mid-winter conference of State Chief Justices of the entire United States. The Conference was held here in Jackson last month The Chief Justices and their guests were taken to Vicksburg, Natchez and Jackson areas and were royally entertained. They were astounded at what they saw and learned in and about Mississippi. Their compliments were sincere and profuse. The Mississippi Judiciary and the Supreme Court staff made believers of them about the good things and hospitality of Mississippi. I can assure you that our state's image was enhanced during those five days in January. Other accomplishments of note in the trial courts include the development of an automated trial court management system, already operating in two pilot counties, functional reorganization of the Mississippi Judicial College, electronic communication between the trial courts and the Supreme Court, and a judicial branch travel and expenditure control policy. We stand ready this year, with your help, to initiate a certification process for court reporters, which will assure statewide licensure by July 1, 1992.

These successes have come primarily through the leadership and tireless work of dedicated trial judges, men and women who have continually come forth with ways to make our courts better. It has been an honor for me to serve in the judiciary with these extraordinary judges and Justices.

Despite our accomplishments we know full well that the past is but prologue to the future. As valiantly as courts struggle to sustain their constitutional mandate, we face a growing crisis in the delivery of justice in this state, an emergency which can only be averted by swift and sweeping improvements in the system.

Our problem is well defined, even though its ingredients might ebb and flow in severity from day to day. Mississippi citizens know what's wrong with the courts. They take too long and they cost too much. Lawyers have their stories which tell us much about the growing inaccessibility of courts, the grand frustration caused by hours spent in achieving "minutes" worth of results, and the combat mentality of today's litigators. Judges and court staff are becoming overwhelmed by the increasing difficulty in doing the jobs they have been given.

The saddest aspect of these observations lies in its result. The people for whom the courts exist are not getting swift justice and are losing faith in the legal system along the way. Their disillusionment is understandable.

These problems are not unique to our state. In recent years, states across the country have begun to arm themselves for challenges of the 21st century. Demographic trends suggest that the impact of the future on state court systems will be especially dramatic. The "aging" of America, the move toward abolition of federal diversity jurisdiction, projections of increased criminal prosecution, the "information explosion" brought on by technology, the onslaught of "mass tort" litigation -all will be presented to state courts struggling to manage the present much less harness the future. For instance, six cases pending in our state's trial courts include a total of over 35,000 plaintiffs. In addition, our states handle over 95% of the litigation in this country, while the federal courts handle only 2%.

Over the past two years, momentum for significant improvement in the system of justice in Mississippi has increased dramatically. Inspired by the leadership of judges, legislators and lawyers, several groups have surfaced to consider very real reforms in Mississippi's court system and the administration of justice. In today's society, facing today's challenges, we must reform our courts into a strong, agile system-one able to bend and flex to the multitude of questions which will face our state's citizens. We can and must provide our citizens with consistent and meaningful access to their courts. This is their right and it depends on central and statewide management of certain critical court functions.

In the severity of our challenge lies great opportunity. The growing dissatisfaction with the courts creates a deep pool of energy to promote their healing. Citizens are crying out for court reform and their voices are growing more desperate. The question is no longer whether we should reform the courts but in what way, how soon, and under whose leadership. ... Real court reform is on our threshold and could come, if we persevere, as early as 1993. As Chief Justice, I pledge to take the first step in this effort. I will submit to the Legislature for consideration in 1993 a plan for creation of an intermediate appellate court.

Having fully established the need for change, our next step is for an accurate plan. I propose that the next and best move for Mississippi's justice system is the creation of an umbrella organization with the express mission of recommending the future course for our courts.

Today I call upon the energies of this powerful assembly to join with the judicial branch to provide this necessary leadership. Drawing on the collective wisdom of other states, I urge you to commission a task force to study our court system and to recommend reforms. In sum, I propose formation of a steering body of diverse membership, bringing together the talents of the public and private sectors. I am certain that several of the changes needed will become readily apparent.

I pledge my unwavering support of court reform and offer the full resources of the judicial branch in undertaking this task in partnership with you. With diligence, we CAN provide a realistic plan for improving our courts. With creativity, we CAN find answers to the problems occasioned by overcrowded court dockets, dual court management, inadequate resources, and antiquated systems. With enthusiasm, we CAN move swiftly. As Ralph Waldo Emerson noted, "What lies behind us and what lies before us are small matters compared to what lies within us."

I say to you, my friends, that, as long as we maintain the integrity of our democratic form of government and adhere to the principles upon which this country was founded-Old Glory, with her beautiful stars and stripes, and the beautiful Mississippi flag-long will they wave-over the land and state of the free and the home of the brave!