

State of the Judiciary  
Chief Justice Ernest A. Finney Jr., South Carolina Supreme Court  
Message to the Legislature  
March 14, 1995, in Columbia, South Carolina

Thank you ladies and gentlemen, I hope that the reception will be as warm after I conclude my remarks on the state of the Judiciary as it is now... Mr. President, Mr. Speaker, Members of the General Assembly of South Carolina, Justices of the Supreme Court, Judges of the Court of Appeals, other officials, honored guests, ladies and gentlemen... I stand before you today, not as a former legislator - though I draw upon the experience gained from my service in this chamber. The last time that I had the privilege of speaking here was probably 18 years ago and we were debating the tax measure and talking about beer and whether Coors beer was an imported beer or not because it went over the border and came back. So, I understand fully your problems and I understand the problems with which you are constantly confronted. Neither do I voice the alarm of a concerned citizen - though I am gravely apprehensive about the plight of my fellow South Carolinians. But I address this Assembly as the Constitutional head of and on behalf of the Judiciary, a separate and co-equal, integral branch of the government which you and I have sworn to preserve, protect and defend. Despite criticism, factual distortions, and waning support for your judiciary, your justice system has remained viable. As you are aware, your courts are overextended, understaffed, and overwhelmed by the sheer volume of the caseload. You may or may not be aware of the fact that the judicial branch of South Carolina government is severely underfunded. But despite the longstanding existence of these conditions, judges, attorneys, law clerks, court reporters, court officials, administrators, and a legion of support personnel continue to discharge their duties in the highest and best tradition of American jurisprudence. Because of their belief that our system of justice is the best defense against anarchy and is worthy of their allegiance, year after year dedicated legislators devote endless hours in this chamber and tireless efforts across the hall to provide the funding, legislation, and overall backing that is the underpinning of the system's strength. I take this opportunity to express our appreciation for your loyalty. Because of your diligence, the task we face at this juncture is one of shoring-up the justice system instead of salvaging the remnants of a government devastated due to benign neglect. Like everywhere in society, the changing tides of time have swept in upon the judicial system the resource-eroding forces of crime, violence, and litigation mania that affects, either directly or indirectly, all segments of the population. Your judicial system has effected fiscal austerity and extended itself to combat the explosive growth of its workload. We have realigned resources for maximum efficiency. Wherever feasible, we have implemented cutbacks, freezes, and shifted court terms to reduce expenditures. Judges have been restricted in their rotation to conserve travel funds. We are currently integrating automated technology into the branch's operations to increase productivity without hiring additional personnel. Likewise, we are attempting to increase our efficiency. I have been your Chief Justice since December 17, 1994, and in December, the Supreme Court conducted a survey of judges, solicitors and public defenders. Their responses were insightful, enlightening and will be helpful in formulating goals for the improvement of our court system. In January, we initiated an in-house study of job descriptions and employee performance as part of a structure, efficiency and compensation review. Hopefully, this will have the immediate effect of improving employee morale and retaining experienced employees. Presently under consideration is a plan to broaden the scope of the commission created for review of judicial compensation. Under the proposed plan, the

judicial compensation commission would be revamped as a judicial study commission composed of a broad cross section of citizens. These commissioners would be authorized to conduct a comprehensive study of the judicial branch and make recommendations pursuant to their findings. However, these steps are in the preliminary stages and they cannot quell the cumulative effect of years of financial deficiencies. Unlike the executive and legislative branches, the diverse components of the judicial system - and particularly the court structure - are driven by outside forces that will not readily adapt to revenue fluctuations and calls for downsizing. Despite our best efforts, the problems continue to mushroom. A recent study by the South Carolina Bar Task Force on Justice for All found that for each day that court was in operation in 1994, on average, 560 criminal cases were filed. An average of 263 civil cases were filed daily. Four thousand eight hundred twenty five was the average daily filing in our Summary Court. Considering the fact that a guilty plea can take from 30 minutes to several hours, and a trial from 3/4 of a day to several weeks, and we are not in California, it would be virtually impossible to dispose of such a volume of cases. Just to keep up with new filings, the major trial courts would have had to dispose of a case every 23 seconds. Adding to the existing backlog in General Sessions, during 1994 alone, 102,705 new cases were filed. This figure reflects in 1994 a decline in general sessions filings that is attributable to the Sentencing Guidelines Commission's classification bill. Still at year's end 63,757 cases were pending in General Sessions Court - for disposition by 40 circuit judges. Fifty-one percent of these pending criminal cases were more than six months old. The consequence: justice delayed for accused and justice denied to victims. The sad state of too many of South Carolina's families is reflected in the case load of our Family Courts, which received 100,000 new cases in 1994. On December 31st, approximately 46 Family Court judges were facing 35,208 cases with which to begin the new year. Equally disturbing is the fact that in this court, which adjudicates such sensitive and emotionally charged issues as child custody, divorce, division of marital property, and juvenile offenders, a record number of these cases had been pending for more than six months. Probate, Magistrate and Municipal Courts complete the schematic: every court at all levels of the system experienced greater activity and larger backlogs during 1994; a trend expected to become more pronounced as new legislation is implemented. For instance, the 1994 Crime Bill is expected to generate an additional 2,500 post conviction relief applications within the next year. The ensuing groundswell of appeals from the trial courts combine with appeals from administrative decisions to form a bottleneck at the appellate level. On December 31, 1994, there were 190 cases ending (475 disposed of) in the six-judge Court of Appeals, which has provided significant relief in speeding up the appellate process by hearing appeals that would have been decided by the Supreme Court. The Supreme Court has continued to hear the appellate cases not transferred to the Court of Appeals. In addition, we perform the administrative duties of the judicial branch, hear motions (4,346 in 1994; 138 pending as of December 31, 1994), attorney discipline matters (received 75; disposed of 73; 2 pending at year's end), judicial grievances (received 9; disposed of 7; 2 pending at end of 1994), petitions for certiorari in post conviction relief (acted on 308; 206 pending at year's end), and original jurisdiction cases, certified questions of law from federal courts (received 6; heard 2; 4 pending at end of 1994), certiorari from Court of Appeals (acted on 140; 71 pending as of December 31, 1994), as well as petitions for mandamus and certiorari. There was a backlog of 1,185 cases pending on the Supreme Court docket at the end of 1994. The onus of this dilemma rests upon judges and other court personnel who are charged with the responsibility of managing the system. But there is also a substantial negative impact upon the lives of litigants and citizens whose cases are held hostage by a court system in crisis. A two-year study of the task force on justice and detailed research by other experts on crime, violence, and the courts support the

empirical data advanced by those who work within the court system on a daily basis. Today, there is a consensus that the success of the current initiative requires a three-prong approach. First: funding in amounts and in a manner adequate to meet the current level of operations; Second: appropriating additional revenue specifically to rectify the effects of past budgetary constraints upon the courts; Third: fostering a better understanding of the vital role that the justice system performs in addressing problems in society. With regard to the first prong of maintenance level funding, threshold funding should be balanced and ought to be allocated on a recurring basis for fixed expenditures. Overcrowded dockets, outdated facilities, obsolete equipment, and insufficient personnel require balanced funding to simultaneously upgrade all segments of the system. With regard to recurring appropriations: salaries, lease obligations and other fixed expenses should be allocated on a recurring basis. Addressing the adequacy of allocations, the system has actually regressed in some aspects due to lack of funds. One such area is scheduling adequate court time. After being forced to restrict judicial assignments to reduce travel expenses, we now find a direct correlation between the availability of travel funds, the age of cases, and the size of case backlogs. Clearly, adequate travel funds for judges, court reporters, and law clerks is essential for the state's 46 counties and is the only means by which to place judges in counties where the caseloads are heaviest. Second: appropriating revenue to rectify the effects of past budgetary constraints upon the judicial system. The court system has long functioned in excess of maximum operating capacity. Once sufficient funds are budgeted to maintain constitutionally mandated court functions, it is vital that the effects of prolonged years of underfunding be rectified. One startling example of underfunding is that for fiscal year 1984-85, the judicial share of the state budget was .82%. Today - ten years later - our share has declined to .74% for fiscal year 1994-95. Net decreases in appropriations from fiscal years 1986-87 through 1993-94, inclusive, have continued to the point where the allocation for judicial travel for the current year is 25% less than in fiscal year 1986-87. So with full funding for current operations only, the judicial branch will still be burdened throughout by the effects of past underfunding. I am fully aware of fiscal constraints on other vital areas of state government, but I am equally aware of the degree to which the plethora of social ills that emanate from malfunctions within the court system pervades society. I am, therefore, compelled to request that this 111th General Assembly provide for the citizens of South Carolina nine (9) judges and corresponding funding for support personnel and facilities as follows: an additional panel of three (3) judges for the Court of Appeals; three (3) additional Circuit Court judges; and three (3) more Family Court judges. These judges would enable us to work on the backlogs systemwide and help manage the current caseload. Third, and equally important: promote a better understanding of the fundamental role of the justice system in addressing the problems of society. In theory and in practice, the justice system is interwoven with the entire fabric of life. From infancy, Family Courts are called upon for orders of protection and asked to decide with whom and under what conditions a child may live. During adolescence, courts are required to pick up where parents leave off in providing guidance, correction and detention for troubled teens. Probate Courts safeguard the rights of minors and adults unable to direct their own lives or business affairs. The Civil Court is the one forum in which citizens may civilly and lawfully settle controversies and seek redress for wrongs committed against them. The criminal courts strive to protect society while punishing offenders. This becomes virtually impossible when the numbers overwhelm our ability to dispose of cases within a reasonable period of time. Swift and sure punishment should be the rule, not the exception. On the criminal side, society looks to the Judiciary to dispense justice in the form of punishment and restoration; retribution and restitution; incarceration and rehabilitation - and that is our constitutional function. But in order

to effectively discharge that duty, the Judiciary must be knowledgeable and adequately equipped. I believe that our common goal is to see that the impediments to an effective justice system are removed. Such a goal requires cooperation among - and leadership from - the legislative, executive and judicial branches. The present state of your Judiciary is but a culmination of past events; and absent courageous, insightful, bipartisan leadership, the present will represent a microcosm of the future state of our Judiciary. It is imperative that these bodies receive data that is sufficiently current, accurate, and comprehensive to allow each of you to make informed decisions on the amounts and classifications of appropriations needed to pull your judicial system out of its present quagmire. I, and the other members of the Supreme Court, stand ready to supplement our submitted budget with whatever data, explanations, or other material you deem necessary for further clarification of our budget request. Additionally, I have had placed on your desks this morning a schedule of dates and times that I am available to meet with legislators in groups or individually to answer questions or address any concerns about our judicial system. We feel that your knowledge and personal experiences in the areas of crime, violence, and the court system, together with the need that we are prepared to demonstrate, will show fully the necessity of budgetary appropriations adequate to enable the judicial system to function effectively. We, as state officials, can ill afford to withhold the resources that are necessary to earn for our court system the trust and confidence of the South Carolinians whom we are sworn to serve. I call upon you, the legislative branch, to join hands with us, the judicial branch, in a concerted effort to give to the figure of the lady justice new meaning and substance in the eyes of our fellow South Carolinians. Again, thank you for allowing me to be here with you today.

*Compiler's note: Long paragraph present in source material.*