

The State of the Judiciary  
Chief Justice Richard M. Givan, Indiana Supreme Court  
Message to the Legislature  
January 22, 1980

In the past year, two judges retired from the Court of Appeals. The Honorable Robert B. Lybrook resigned after a long and distinguished career as a lawyer, prosecuting attorney, trial judge and Court of Appeals judge. After serving for 12½ years as judge of the Johnson Circuit Court, he was appointed to the Court of Appeals by Governor Whitcomb in 1970. In 1972, he was again appointed by the Governor and continued to serve until his retirement.

The Honorable Joe W. Lowdermilk had an outstanding career as a lawyer, prosecuting attorney, trial judge and Court of Appeals Judge. After serving for 12 years as judge of the Sullivan Circuit Court, he was elected to the Court of Appeals in 1968 where he continued to serve until his retirement.

As a trial judge, he served as president of the Indiana Judges Association. As a member of the Court of Appeals, he served a term as Chief Judge.

Judge Lybrook was replaced by the Honorable Robert W. Neal, judge of the Clay Circuit Court. Judge Lowdermilk was replaced by the Honorable Wesley W. Ratliff, Jr., judge of the Henry Circuit Court. The smooth transition in the replacement of these two fine judges with men of outstanding character and ability once again demonstrates the efficiency of the selection process provided in the 1970 amendment to the Indiana Constitution.

Although there is always room for improvement, the state of the judiciary in Indiana remains good. The greatest problems continue to be funding and a rapidly growing caseload.

We again strongly recommend funding of the judiciary on a state-wide basis rather than at the local level.

Last year I gave you the figures showing the total cost of the Indiana Judiciary and what portion of that cost is borne by state and local governments. Those figures are so revealing they have been updated and are repeated in order that you may have a view of the fiscal side of the judiciary. The total cost of the entire court operation in 1978, including the Court of Appeals and the Supreme Court was \$34,058,338.00. Revenues generated through the operation of the trial courts was \$21,214,828.00. Thus the net cost of the operation of the court system in Indiana in 1978 was \$12,843,510.00. (This is a decrease of approximately one million dollars over the previous year.) This represents one-fourth of 1% of the total state expenditures for the same period of time.

Of the gross cost of \$34,058,338.00, local government units paid \$24,891,171, while the state paid \$9,167,167.00. Of the gross revenues of \$21,214,828.00, generated by the court systems, the state received \$13,914,019.00, and local governments received \$7,268,025.00. Thus, state government had a net income of \$4,746,852.00 from the operation of the court system.

In the past few years the legislature has responded to the increase in crime in several ways, not the least of which is the new Criminal Code. Also, there have been improvements in police training and equipment. An increase in the number of courts with criminal jurisdiction has helped in expediting criminal cases. The obvious purpose of these activities is to reduce the number of criminals on the streets and roads of this state. At the law enforcement and judicial end of the spectrum, this is being accomplished.

A study conducted by Dr. Norman J. Hunt, Director of Classification and Treatment with the Department of Correction reveals that in 1973, 1,308 male felons were received by the Department of Correction from the criminal courts. In 1976, the figure was 2,299. In 1979, the criminal courts sentenced 2,758 male felons to the Department of Correction. Similar percentage increases have been experienced by the Indiana Women's Prison and at both the Indiana Boys School and the Indiana Girls School.

Dr. Hunt points out that there was a 100% increase in the number of male felons admitted to the Reception-Diagnostic Center at Plainfield for the six-year period from 1973 to 1979. However, even more interesting, if not alarming, is the fact that in the one-year span from 1978 to 1979 there was a 21% increase in male felons admitted to the Reception-Diagnostic Center.

Dr. Hunt summarizes his study by stating: "In short, the Department is 'bursting at the seams; and, if the present trend continues, the Department of Correction will soon be faced with an extremely serious situation concerning availability of beds for offenders of all types:'

Dr. Hunt's prediction is indeed sobering when we realize that not only did last year produce a sharp increase in offenders sentenced within the state but that the Department received 600 more offenders than it discharged. Even a greater net increase is anticipated next year.

It must be presumed that this increase has been brought about in a large part by increased efficiency in the overall law enforcement and judicial functions of government.

This increased efficiency was, undoubtedly, aided considerably by a series of laws passed by this Legislature in recent years.

One thing, however, is obvious. The success in the apprehension and conviction of criminals is placing a strain on our already overcrowded institutions.

If the legislative goals are to be fully realized, attention must now be turned to the critical housing needs of the Department of Correction.

The continued efficiency of our police departments, of our prosecutors and of our courts can only produce the hoped-for results, if the convicted offenders are properly incarcerated for the anticipated terms. At the present rate of increase and with the given facilities, this represents an impossibility.

In Indiana, we have a good and dedicated group of men and women headed by Commissioner Gordon H. Faulkner comprising the Department of Correction. I sincerely hope we will not fail

to give them the necessary tools to do their work and then wrongfully blame them when performance becomes impossible.

In both civil and criminal litigation the trial courts are continuing to dispose of a remarkable number of cases, a total of 743,595 cases in 1978. This is an increase of 44,000 cases over 1977, and 130,000 cases over 1976. Even so, there are more cases being filed in the trial courts than are being disposed. In 1978, there were 70,000 more cases filed than disposed.

This building backlog is not occurring in felony cases or major civil litigation. Most courts are current in these fields.

The backlog is developing in small claims, traffic, juvenile matters and to a limited extent in probate matters. This is largely due to an insufficient number of judges assigned to this type of litigation.

The Court of Appeals has kept faith with the Legislature in not only making full use of the newly created Fourth District of that court, but overall has more than met the challenge of the increasing caseload. Last year for the first time in many years they were able to dispose of more cases than were filed in their court. They received 941 new cases and disposed of 1,142 cases.

These hard-working judges under the able leadership of Chief Judge Paul H. Buchanan, Jr., are to be congratulated on a job well done.

The Disciplinary Commission, largely financed by the practicing attorneys of Indiana, continues to do an outstanding job under its Executive Secretary, Sheldon A. Breskow.

Through the efforts of this Commission, the Supreme Court has been able to address itself to many problems of the practicing Bar. The action of the Commission and the Supreme Court has resulted in better service to the general public.

If at any time in the coming days of this session, any of you feel that you would like information from the Judiciary, feel free to contact Court of Appeals Chief Judge Paul H. Buchanan, Jr., the Honorable Robert R. Brown, Circuit Judge of Jackson County and President of the Indiana Judges Association or me. You may also contact the State Court Administrator, Bruce A. Kotzan, directly for any statistical data concerning the Judiciary.

All of us will be more than happy to assist you in obtaining information.

I thank you for the opportunity to present this report.