

State of the Judiciary: "A New Indiana Judiciary"
Chief Justice Randall T. Shepard, Indiana Supreme Court
Message to the Legislature
February 16, 1989

Clearly, if I left the podium today without saying anything about the events of the last few months, everybody would think I had left out the most important part. And so, I begin by answering the question about the Supreme Court I suspect is on everyone's mind: what's it really like down there?

The short answer is: better than many might think.

We are accustomed to the idea that courts are quiet places, heard from only occasionally and then usually in writing and almost never at election time. And yet, courts are made up of judges, mere men and women with their own particular strengths and weaknesses. They usually work together very well, but they are not superhuman. Some say that trying to lead a group of judges is like trying to drive a herd of cats.

Anyone who watched this particular herd at work, closely, would have to reach the conclusion that the rumors of civil strife are much exaggerated. Each day the members of the Supreme Court and their staff go about the business of reading the tons of paper that come our way, we research caselaw and statutes, we debate legal issues and issue opinions deciding cases. It is all done in an atmosphere of civility and attentiveness and the public record discloses that the members of the Court disposed of 518 cases last year--the most productive year in the history of the Court. The public record also shows that we reduced our backlog for the third year in a row--a feat which has not been accomplished since the beginning of our present recording system.

Capital Cases

Speaking of waiting, the crisis which has developed in this country concerning the death penalty is one which requires attention here in Indiana. Whatever deterrent value the death penalty may have is much depreciated when appeals last a decade after the crime. It took the State of Florida ten years to carry out the judgment of judge and jury on Ted Bundy. Under present circumstances, it will take Indiana at least that long.

This delay is a terrible burden on victims, police, prosecutors, public defenders, prison officials, and defendants. It imposes a dreadful cost on public confidence in the ability of the system of justice to function.

While these cases present the most awesome decisions we make, the time required to get them through the system now is intolerable. The Supreme Court will undertake during 1989 a review of the present methods by which these cases are appealed and seek ways to move these cases more promptly.

The Indiana Court of Appeals

As for moving cases more promptly, the Indiana Court of Appeals has recorded a spectacular pace this year, all the more remarkable because it was one judge short for most of 1988.

Nevertheless, the average time required to dispose of an appeal was just 100 days. This record is the envy of much of the country and those judges deserve our thanks.

The future of the Court of Appeals, too, is on the table as you consider S.B. 356, authored by Senators Soards, Pease, Hellmann, and Monk. This bill proposes adding judges to the Court of Appeals during 1990. The number of appeals in that court will continue to grow, and the ability of the present judges and their staffs to maintain speedy justice will come under increasing compensation needs to be such that we can attract and retain the kind of people that quality justice demands.

The bill containing those four basic ideas is S.B. 12, authored by Senators Pease and Monk. Although it is not the precise plan they proposed, the Indiana Judges Association supports its passage. The various parts of the plan are favored by the great majority of the state's judges, who were consulted on its development and polled individually about the major components. The Indiana State Bar Association also supports this reform.

The Senate Judiciary Committee has now passed out the bill, the result of over three years of discussion inside the profession, in these two houses, and before the public. That such things take a long time is not surprising. As Chief Justice Arthur Vanderbilt said, "Judicial reform is not a sport for the short-winded."

My own view is that Indiana's trial courts work well but can work better. Financially, it is a system which the state operates at a profit. Because the counties are mandated to make up the difference, the quality of justice and the level of service can depend on whether one lives in a rich county or a poor county. The system contains too many competing fiefdoms, and there are wide variations in workloads from one court to another. The system is plagued by high turnover, caused in part by a pay scale which cannot compete with private practice.

The trial court judges of our state and the lawyers who practice in these courts have painted a vision of the future and put it before you in the form of S.B. 12. I hope you will decide that as Indiana begins to ready itself for the 21st Century, it is time to say good-bye to the 19th.

The Supreme Court has already adopted one of the key elements of this plan by requiring graduation from an-A.B.A. accredited law school as a condition for seeking admission to the bar. All four Indiana law schools meet this high standard, but we have been one of only three states where individuals who did not meet it could be licensed to the public. Indiana will no longer serve as a last refuge for those without an accredited legal education.

The Bar's exhaustive 18-point program to build the professionalism of Indiana's lawyers is a fine blueprint for the direction which Indiana's best want to go. The Bar is sufficiently dedicated that it has voted a substantial dues increase to support the effort. It is important work reaffirming the best values of our profession. We look forward to building this fine new future with Indiana lawyers.

In short, on many fronts Indiana's courts and Indiana's lawyers enter 1989 with an eye on the future. There is a vision of what that future can be. These are tough agendas but worthwhile ones. As best we can bring them to pass, we will all have reason for pride.

And that, ladies and gentlemen, is the state of the judiciary.