

UNITED STATES COURTS - SIXTH CIRCUIT

1986

ANNUAL REPORT

Presented to

Sixth Circuit Judicial Conference

May 14-16, 1986

Memphis, Tennessee

PIERCE LIVELY
Chief Judge

JAMES A. HIGGINS
Circuit Executive

JOHN P. HEHMAN
Clerk

FOREWORD

The attached report was prepared by James A. Higgins, Circuit Executive, and John P. Hehman, Clerk of the Court of Appeals, with input from other staff members. In addition to providing statistical summaries of the judicial work of the courts that comprise the circuit, this report seeks to inform the judges and delegates with respect to administration of the courts. There was a time when court administration consumed little time of the judges and required no specialized staff. That time is no more.

The courts have grown rapidly in size with the tremendous increase in litigation over the past twenty years. This growth has meant increased involvement by the courts in decisions related to the numbers of judges, the location and size of court facilities, and many other administrative details. At the same time, more difficult and complex cases have been filed in the federal courts, and this development has required programs of continuing education for the judges. Scheduling and arranging seminars and work shops involve additional administrative effort.

This report attempts to give a fairly complete picture of the activities of the Sixth Circuit, administrative as well as judicial, during the past year. It has been a very busy year in which record numbers of cases have been filed and terminated. There have been important personnel changes, particularly on the Court of Appeals, where four new judges have been added. A section of the report notes the personnel changes, including retirements and the loss by death of three outstanding judges.

It is my hope that the members of this Conference will become familiar with the contents of the report as the best means of informing themselves of the business of the courts and that it will provide a basis for "advising means of improving the administration of justice within [this] circuit." 28 U.S.C. 333.

Pierce Lively
Chief Circuit Judge

JUDICIAL ADMINISTRATION IN THE SIXTH CIRCUIT

Introduction

The Sixth Judicial Circuit of the United States consists of the states of Michigan, Ohio, Kentucky and Tennessee and is served by a total of 154 authorized full-time judicial officers. That number includes fifteen active and five senior circuit judges, fifty-six active and sixteen senior district judges, thirty-one bankruptcy judges and thirty-one magistrates who serve a population of over 28 million people in the four states of the circuit. The total supporting staff now numbers in excess of one thousand, and the total budget for the courts in the Sixth Circuit during FY 1985 was slightly over \$80 million.

Judicial Conference of the United States

Any discussion of the administration of the courts of the Sixth Circuit must begin with a brief review of the role of the Judicial Conference of the United States and its committee system.

The Conference originally was established in 1922 as the Conference of Senior Circuit Judges. Pursuant to 28 U.S.C. 331, the Conference is the chief policy-making body for the federal judiciary. In addition to its general oversight of the performance of the federal judiciary, which often results in recommendations for changes in policies or procedures of the courts, the Conference performs a number of responsibilities which have a direct impact on the day-to-day operations of the judiciary. Some of those responsibilities include:

- Formulation of the budget for the judicial branch and presentation of the budget to the Congress.
- Submission of recommendations to Congress for additional judgeships.
- Determination of the number, location and salary of magistrates.
- Submission to the Supreme Court, subject to Congressional approval, of amendments to the Federal Rules of Procedure and Evidence.
- Supervision of judicial ethics and discipline.

The Judicial Conference of the United States is convened in March and September by the Chief Justice. The Conference is composed of the Chief Judge of each of the twelve geographic circuits and the Chief Judge of the Federal Circuit, and a district judge representative from each of the twelve circuits. The district judge representative is elected by vote of the judges of the circuit he or she represents and serves for a term of three years. The current representative from the Sixth Circuit is Judge Robert M. McRae, Jr., Chief Judge of the Western District of Tennessee. Judge McRae's term extends through March, 1987.

The spring and fall meetings of the Conference are only a small part of the total work of the Conference. Most of the work of the Conference is done by a system of standing and ad hoc committees. Membership on the committees is by appointment by the Chief Justice and is not limited to members of the Conference. The following persons from the Sixth Circuit currently serve on committees of the Conference:

Hon. Charles M. Allen Western Kentucky	Committee on the Administration of the Criminal Law
Hon. Bailey Brown Sixth Circuit	Committee on Court Administration
Hon. G. William Brown Western Kentucky	Committee on the Administration of the Bankruptcy Law
Hon. James G. Carr Northern Ohio	Committee on the Administration of the Criminal Law
Hon. James P. Churchill Eastern Michigan	Subcommittee on Judicial Statistics
Hon. Robert M. DeMascio Eastern Michigan	Committee on the Administration of the Bankruptcy Law
Hon. Horace W. Gilmore Eastern Michigan	Committee on Judicial Ethics
Hon. James Harvey Eastern Michigan	Committee on the Judicial Branch
Hon. John D. Holschuh Southern Ohio	Advisory Committee on Codes of Conduct
Hon. Damon J. Keith Sixth Circuit	Subcommittee on Supporting Personnel
Hon. Ralph H. Kelly Eastern Tennessee	Committee on the Bicentennial of the Constitution
Hon. Paul J. Komives Eastern Michigan	Committee on the Budget
Hon. Thomas D. Lambros Northern Ohio	Committee on the Administration of the Magistrate System
Hon. Pierce Lively Sixth Circuit	Committee on the Operation of the Jury System
Prof. Wade H. McCree University of Michigan	Advisory Committee on Appellate Rules
Joseph Patchen, Esq. Cleveland, Ohio	Committee on Rules of Practice and Procedure
Hon. Robert L. Taylor Eastern Tennessee	Advisory Committee on Bankruptcy Rules
Hon. Nicholas J. Walinski Northern Ohio	Committee on Intercircuit Assignments
Hon. Thomas A. Wiseman Middle Tennessee	Subcommittee on Federal Jurisdiction
	Advisory Committee on Bankruptcy Rules

Judicial Council of the Sixth Circuit

The Judicial Council of the Sixth Circuit is, in many respects, the counterpart at the circuit level of the Judicial Conference of the United States at the national level. The council plays a major role in formulating the policies established by the Judicial Conference as well as in executing those policies. For example, the council reviews any proposals regarding additional judgeships or magistrate positions and submits recommendations to the Conference. The council also reviews a variety of matters involving the management of judicial resources for compliance with Conference established standards such as the plans for jury selection, criminal representation under the Criminal Justice Act, speedy trial, and the management of court reporters. The council also formulates circuit policy in a wide range of matters such as the allocation of personnel and approval of space and facilities matters, and it is authorized to issue orders for the division of business and the assignment of cases within a district court if the district judges are unable to agree.

The Judicial Council, which is established by 28 U.S.C. 332, is authorized to issue "all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit." It consists of all of the active judges of the court of appeals and five district judges. The Chief Judge of the Circuit presides over the council. Four of the district judge representative to the council are chief judges - the chief district judge from each of the four states of the circuit with the greatest seniority who has not served on the council. Those district judges serve for a term of three years. The fifth district judge member is elected annually by the District Judges Association of the Sixth Circuit. The district judges currently serving on the council are:

Hon. Philip Pratt
Chief Judge, Eastern District of Michigan

Hon. Carl B. Rubin
Chief Judge, Southern District of Ohio

Hon. Eugene E. Siler, Jr.
Chief Judge, Eastern District of Kentucky

Hon. Thomas A. Wiseman, Jr.
Chief Judge, Middle District of Tennessee

Hon. Thomas D. Lambros
Judge, Northern District of Ohio

Although not as extensive as the committee structure of the Judicial Conference of the United States, the council also operates through a committee structure. The committees of the council are as follows:

Investigating Committee

Honorable Pierce Lively, Chair
Honorable Albert J. Engel
Honorable Gilbert S. Merritt
Honorable Boyce F. Martin, Jr.
Honorable Douglas W. Hillman
Honorable William O. Bertelsman
Honorable Thomas A. Higgins
Honorable S. Arthur Spiegel

Jury Utilization Committee

Honorable Cornelia G. Kennedy, Chair
Honorable Robert B. Krupansky
Honorable Harry W. Wellford

Court Reporter Committee

Honorable Cornelia G. Kennedy, Chair
Honorable Robert B. Krupansky
Honorable Ralph B. Guy, Jr.

Local Rules Review Committee
Honorable Robert B. Krupansky, Chair
Honorable H. Ted Milburn
Honorable Thomas D. Lambros
Honorable Eugene E. Siler, Jr.

Ad Hoc Committee on the Appointment of Bankruptcy Judges
Honorable Harry W. Wellford, Chair
Honorable Albert J. Engel
Honorable Gilbert S. Merritt
Honorable Boyce F. Martin, Jr.
Honorable Nathaniel R. Jones
Honorable Ralph B. Guy, Jr.
Honorable Thomas D. Lambros
Honorable Philip Pratt
Honorable Carl B. Rubin
Honorable Eugene E. Siler, Jr.
Honorable Thomas A. Wiseman, Jr.

The council meets in regular session three times a year, including a meeting in conjunction with the circuit judicial conference. Special meetings are held as necessary, and much of the routine business of the council is transacted by mail votes. The circuit executive provides the staff and administrative support for the council.

Space does not permit a full description of all of the council's activities in the past year. A brief overview of the some of the most significant actions follows:

Appointment of Bankruptcy Judges

Pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353, the council becomes heavily involved in the appointment of bankruptcy judges. Under the new procedure bankruptcy judges are appointed by the Court of Appeals for a term of 14 years from a list of not more than three persons recommended by the council. Under the provisions of the Act, seventeen bankruptcy judge positions must be filled on October 1, 1986.

The council has chosen to make use of merit selection panels in each district made up of judges and lawyers who assist the council by screening and evaluating the applicants for appointment. The initial review of the recommendations of the merit selection panels will be performed by the Ad Hoc Committee on the Appointment of Bankruptcy Judges, but the full council will review the recommendations of the panels and the ad hoc committee. It is anticipated that the work of the council will be completed so that the final selections by the Court of Appeals may be made no later than the end of June.

Additional Judgeships

During the last year the council has reviewed workload statistics and other factors and made recommendations to the Judicial Conference of the United States for additional district and bankruptcy judges in the Sixth Circuit. The additional district judgeships which were recommended are as follows:

<u>District</u>	<u>Additional Judgeships</u>
Western Kentucky	1 ¹
Western Michigan	1
Northern Ohio	1
Southern Ohio	2
Eastern Tennessee	1
Middle Tennessee	1 (temporary)

The additional bankruptcy judgeships which were recommended by the council were as follows:

<u>District</u>	<u>Additional Judgeships</u>
Western Kentucky	1 ²
Western Michigan	1
Eastern Tennessee	1
Western Tennessee	1

Gramm-Rudman

In late December of last year the Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as "Gramm-Rudman." The Act's purpose is to eliminate the federal deficit by 1991. Maximum deficit amounts have been established for each fiscal year from 1986 through 1991. Automatic reductions in spending are required if the budget exceeds the deficit limit for any year.

¹The council recommended that Chief Judge Eugene E. Siler, Jr., who holds a commission for and regularly sits in both the Eastern and Western Districts of Kentucky, should be assigned to sit in the Eastern District of Kentucky only, and that one additional judgeship should be authorized for the Western District of Kentucky.

²The Council recommended one additional judgeship to be stationed in the Western District of Kentucky to assist also in the Eastern District of Kentucky.

Although the budget for the entire federal judiciary represents approximately one-tenth of one percent of the total federal budget, the courts are not exempt from the automatic spending reductions mandated by Gramm-Rudman. The first round of Gramm-Rudman spending reductions went into effect on March 1, 1986. Some of the more significant cuts which were imposed as a result of Gramm-Rudman were:

- A 6% reduction in the staffing level formula for clerks' offices, probation offices and pretrial services offices.
- Elimination of virtually all temporary personnel to assist judges and magistrates with heavy workload problems.
- A 10% reduction in the compensation paid to attorneys appointed under the Criminal Justice Act.
- Elimination of the payment of parking fees for jurors.
- Restrictions on travel by judges and staff.
- Severe curtailment of court facilities projects.

Since March 1st the Council has been significantly involved in reviewing spending and in establishing priorities for the allocation of the remaining scarce resources.

**Administrative Office
of the United States Courts
and the
Federal Judicial Center**

Two national organizations, the Administrative Office of the United States Courts and the Federal Judicial Center, also contribute in a significant way to the administration of the federal courts in the Sixth Circuit.

The Administrative Office of the United States Courts was created in 1939 to provide a centralized administrative agency for the federal courts in lieu of the Department of Justice which previously had performed the administrative functions for the judiciary. The Administrative Office provides the staff support to the Judicial Conference of the United States and serves as the principal agency through which the Conference executes its policy. Some of the key functions of the Administrative Office include the central administration of the judiciary's budget, personnel and statistical reporting systems.

The Federal Judicial Center was established in 1967 to serve the educational and research needs of the federal courts. In addition to conducting educational programs for judges and supporting staff, the Center publishes a variety of specialized research papers dealing with substantive law and case management issues.

Automation of the federal courts also continues to be a major undertaking of the Federal Judicial Center. The Center is responsible for developing a fully automated docketing and case management system for circuit, district and bankruptcy courts. The circuit court system, called New AIMS, is operating in three circuits now, and it is scheduled to be installed in the Sixth Circuit in September. The district and bankruptcy court systems, which build on the appellate system, will follow in a few years.

Office of the Circuit Executive

The Office of the Circuit Executive occupies a somewhat unique position within the administrative structure of the Sixth Circuit. Although appointed by the Sixth Circuit Judicial Council, the Circuit Executive is administratively attached to the Court of Appeals and performs a variety of administrative responsibilities relating to all of the courts of the circuit.

As secretary and executive officer of the Council, the Circuit Executive provides administrative and staff support to the Council and its committees. For example, the Circuit Executive's office provides staff support for each of the Bankruptcy Merit Selection Panels, and it administers the complaint procedure under the Judicial Councils Reform and Judicial Conduct and Disability Act.

For the Court of Appeals, the Office of the Circuit Executive exercises administrative control over all of the non-case management related functions of the court. The office administers the budget, personnel, procurement and facilities management for the Court of Appeals. In addition, the Office of the Circuit Executive, under the supervision of the Chief Judge, prepares the panel assignments for the Court of Appeals and makes arrangements for scheduling visiting judges to sit with the court.

The Office of the Circuit Executive also provides administrative staff support to the Chief Judge of the Circuit and to other circuit wide activities such as the Sixth Circuit Judicial Conference. Included is assistance with the liaison with other federal courts, state courts and various departments and agencies of the government, assistance with the review of requests for excess compensation under the Criminal Justice Act, and assistance with the intracircuit designation and assignment of circuit, district and bankruptcy judges.

Some of the principal activities of the Circuit Executive's office during the last year include:

- Administration of a multi-million dollar renovation project for the Court of Appeals headquarters facility in Cincinnati, including the construction of a new *en banc* appellate courtroom and a number of additional appellate chambers.
- Procurement of facilities for the four additional judges appointed to the Court of Appeals.
- Assistance with the design and implementation of a new court schedule and panel assignment system for the Court of Appeals.

- Administrative support for the Merit Selection Panels, the Judicial Council and the Court of Appeals in the appointment of bankruptcy judges.
- Implementation of a new system of reporting cases and motions under advisement by circuit, district and bankruptcy judges and magistrates.
- Assistance to the district and bankruptcy courts in the purchase and installation of computer equipment and new telephone systems.

Judicial Discipline

The Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. 372(c)) establishes a procedure whereby any person may file a complaint of misconduct or disability against any judicial officer of the circuit. A complaint is submitted first to the Chief Judge of the Circuit, who may dismiss a complaint which he finds to be directly related to the merits of a decision or procedural ruling of the judge complained against or which he finds to be frivolous. The Chief Judge also may close a complaint if he concludes that appropriate corrective action has been taken.

If the Chief Judge cannot dispose of the complaint, he must certify the complaint to the Investigating Committee of the Council. The Investigating Committee must conduct an investigation and prepare a report with recommendations for appropriate action by the Council. Sanctions which may be imposed by the Council, if necessary, include certification of disability, request that a judge voluntarily retire, temporary suspension of case assignments, or public or private censure or reprimand. The Sixth Circuit Judicial Council has published Rules for Processing Complaints of Judicial Misconduct which are available to any person upon request. The Council is participating in a national review of the rules based on the first three years' of experience with the Act. It is anticipated that the rules may be improved with a number of amendments during the upcoming year.

During the year ended June 30, 1985, twelve complaints were filed in the Sixth Circuit, and nineteen complaints were terminated. Ten of the complaints terminated were dismissed by the Chief Judge as directly related to the merits of a decision or procedural ruling. Three additional complaints were dismissed by the Chief Judge as not in conformity with the statute, and one complaint was dismissed as frivolous. Five complaints were dismissed by the Judicial Council following receipt of a report and recommendation from the Investigating Committee.

JUDICIAL PERSONNEL IN THE SIXTH CIRCUIT

In the past year there have been a number of changes in the judicial personnel of the Sixth Circuit. Three great judges were lost to death last year, and three former chief judges assumed senior status. A number of new circuit, district and bankruptcy judges were appointed.

Deaths

Potter Stewart. The Honorable Potter Stewart died on December 7, 1985 following a stroke. Justice Stewart served on the Sixth Circuit Court of Appeals from 1954 to 1958, when he was appointed to the Supreme Court. Justice Stewart was the circuit justice for the Sixth Circuit, and he retained close connections with his home circuit, including regular attendance at the Sixth Circuit Judicial Conference. He retired from active service as a justice in 1981, but he continued to sit as a judge in a number of circuits, including his home circuit until his sudden death.

Harry Phillips. The Honorable Harry Phillips died in London, England on August 3, 1985 from injuries which he suffered after being struck by an automobile shortly after his arrival in London to attend the meeting of the American Bar Association. Judge Phillips was appointed to the Sixth Circuit Court of Appeals in 1963. He became Chief Judge in 1969 and served in that capacity until he assumed senior status in 1979. He continued to participate actively in the hearing of cases and the writing of opinions until his untimely death.

Thomas P. Thornton. The Honorable Thomas P. Thornton died at the age of 87 on July 1, 1985. Judge Thornton was appointed to the United States District Court for the Eastern District of Michigan on February 2, 1949. He assumed senior status in 1966, but he continued a very active trial docket until his final illness.

Memorial resolutions which more fully detail the lives and contributions of Justice Stewart and Judges Phillips and Thornton are included in this report.

Senior Status

Charles M. Allen. The Honorable Charles M. Allen assumed senior status on October 1, 1985. Judge Allen was appointed to the United States District Court for the Western District of Kentucky in 1971. He became Chief Judge of that District in 1977.

John Feikens. The Honorable John Feikens assumed senior status on March 1, 1986. Judge Feikens served on the United States District Court for the Eastern District of Michigan from 1960 to 1961 and from 1970 to the present. He became Chief Judge of that District in 1979.

Wendell A. Miles. The Honorable Wendell A. Miles assumed senior status on May 9, 1986. Judge Miles was appointed to the United States District Court for the Western District of Michigan in 1974, and he served as Chief Judge of that district from 1979 until April 17, 1986.

Nicholas J. Walinski. The Honorable Nicholas J. Walinski assumed senior status on December 1, 1985. Judge Walinski was appointed to the United States District Court for the Northern District of Ohio in 1970.

New Appointments

Court of Appeals

Ralph B. Guy. The Honorable Ralph B. Guy of Michigan was appointed to the United States Court of Appeals for the Sixth Circuit in October, 1985 to one of the new judgeships authorized by P.L. 98-353. Prior to his appointment as circuit judge, Judge Guy served as United States District Judge for the Eastern District of Michigan from 1976 to 1985, and as United States Attorney for the Eastern District of Michigan from 1970 to 1976.

David A. Nelson. The Honorable David A. Nelson of Ohio was appointed to the United States Court of Appeals for the Sixth Circuit in October, 1985 to one of the new judgeships authorized by P.L. 98-353. Prior to his appointment, Judge Nelson engaged in the private practice of law in Cleveland, Ohio, and from 1969 until 1972, he served as General Counsel of the Post Office Department.

James L. Ryan. The Honorable James L. Ryan of Michigan was appointed to the United States Court of Appeals for the Sixth Circuit in October, 1985 to the position which was vacated by Judge George Edward's assumption of senior status. Prior to his appointment, Judge Ryan served as a Justice of the Supreme Court of Michigan from 1975 until 1985, and as a Judge of the Third Judicial Circuit of Michigan from 1966 to 1975.

Danny J. Boggs. The Honorable Danny J. Boggs of Kentucky was appointed to the United States Court of Appeals for the Sixth Circuit in February, 1986 to one of the new judgeships authorized by P.L. 98-353. Prior to his appointment Judge Boggs served as Deputy Secretary for the United States Department of Energy from 1983 to 1985. Judge Boggs also held a number of other positions throughout the government, as well as positions in private practice. From 1973 to 1975, he served in the Solicitor General's Office of the U.S. Department of Justice.

District Courts

James B. Todd. The Honorable James B. Todd was appointed to the United States District Court for the Western District of Tennessee at Jackson in July, 1985 to one of the new judgeships authorized by P.L. 98-353. Prior to his appointment, Judge Todd served as a state court Circuit Judge and engaged in private law practice in Jackson, Tennessee.

Barbara K. Hackett. The Honorable Barbara K. Hackett was appointed to the United States District Court for the Eastern District of Michigan at Detroit in March, 1986 to the position which was vacated by reason of the assumption of senior status of Judge Charles M. Joiner. Prior to her appointment, Judge Hackett served as a United States Magistrate for the Eastern District of Michigan from 1973 to 1984, served as an Assistant Prosecuting Attorney for Wayne County, Michigan, and engaged in private law practice in Detroit.

Bankruptcy Courts

Randolph Baxter. The Honorable Randolph Baxter was appointed United States Bankruptcy Judge for the Northern District of Ohio at Cleveland in December, 1985. Judge Baxter assumed the position vacated by Judge Alice Batchelder when she was appointed United States District Judge for the Northern District of Ohio. Prior to his appointment, Judge Baxter served as an Assistant United States Attorney for the Northern District of Ohio.

William T. Bodoh. The Honorable William T. Bodoh was appointed United States Bankruptcy Judge for the Northern District of Ohio at Youngstown in June, 1985 to the position which was vacated by the retirement of Bankruptcy Judge Joseph T. Molitoris. Prior to his appointment, Judge Bodoh engaged in private law practice in Youngstown.

Thomas F. Waldron. The Honorable Thomas F. Waldron was appointed United States Bankruptcy Judge for the Southern District of Ohio at Dayton in July, 1985 to the position which was vacated by the retirement of Bankruptcy Judge Ellis W. Kerr. Prior to his appointment, Judge Waldron engaged in private law practice in Cincinnati.

JUDICIAL WORKLOAD IN THE SIXTH CIRCUIT

Workload in the District Courts

The workload statistics for the district courts in the Sixth Circuit reflected some hopeful signs last year. Overall district court filings were slightly lower, while terminations were increased and pending cases were reduced. Some measure of the improvement can be traced to the decline in the filing of Social Security Act cases together with a significant increase in the disposition of those cases. Figure 1 depicts the filings in the district courts of the Sixth Circuit by type of case for 1984 and 1985. As shown in Figure 1, social security filings decreased from 24.6% of total filings in 1984 to 16% of total filings in 1985.

Filings. Collectively, the number of cases filed in the district courts of the Sixth Circuit decreased slightly during the reporting period which ended December 31, 1985. Only the Eastern District of Kentucky and the Eastern District of Tennessee reported sizable increases in filings. In Eastern Kentucky a large portion of the increase was due to increased filings of forfeiture and penalty cases related to coal mining regulation. The Eastern District of Michigan showed a significant decrease in filings due to a substantial reduction in social security cases.

Terminations. The number of cases terminated grew substantially in the Eastern District of Kentucky and the Southern District of Ohio, and overall, terminations increased by 7% during the reporting period.

Pending. The number of pending cases in the district courts of the Sixth Circuit declined by 7% during the reporting period. The Southern District of Ohio experienced the most substantial decrease in pending cases.

Figures 2, 3, and 4 show, respectively, the filings, terminations and pending cases per authorized judgeship for each of the district courts in the Sixth Circuit for calendar years 1984 and 1985.

Median Disposition Times. Median disposition times increased slightly in many of the districts in the Sixth Circuit during the past year, but the Eastern District of Kentucky and the Western District of Tennessee achieved a substantial reduction in median disposition times. Figure 5 shows the median disposition times for civil cases in each of the districts in the Sixth Circuit, and Figure 6 shows the civil actions three years old or older as a percentage of pending cases for 1985 for each of the district courts in the Sixth Circuit.

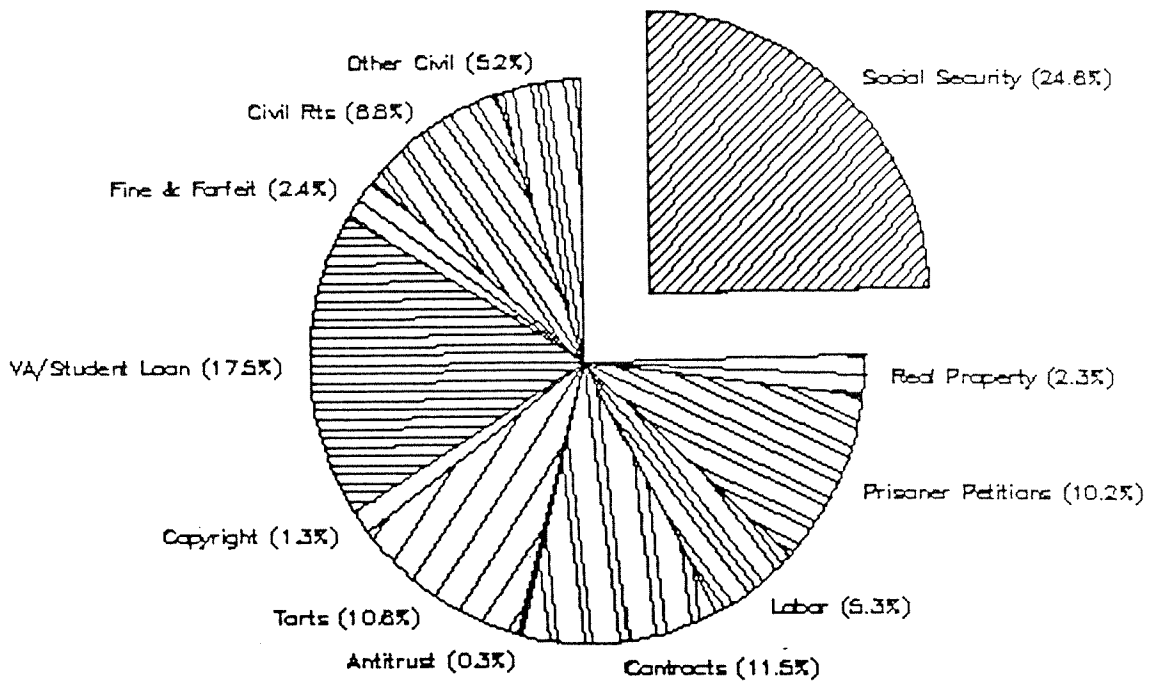
Juror Utilization. Juror utilization, measured as the percentage of jurors not selected, serving or challenged on the first day of service, improved in a number of districts, with the greatest improvement in the Eastern District of Kentucky and the Eastern and Western Districts of Michigan. Significant decreases in juror utilization occurred in the Western District of Kentucky and the Southern District of Ohio, and unfortunately, the Sixth Circuit average remained the highest in the nation. Figure 7 shows the percentage of jurors not selected, serving or challenged for each of the district courts in the Sixth Circuit.

Workload in the Bankruptcy Courts

Contrary to the situation in the district courts, the filings were up in every bankruptcy court in the Sixth Circuit. Chapter 7 filings showed an increase in every district, with the largest increases occurring in the Eastern and Western Districts of Kentucky and the Western District of Tennessee. Chapter 11 filings increased sharply in the Western District of Kentucky and the Middle District of Tennessee, and Chapter 13 filings increased in all three Tennessee districts, with the greatest increase in the Western District of Tennessee.

Figures 8, 9, 10, and 11 show, respectively, the Chapter 7 filings, the Chapter 11 filings, the Chapter 13 filings, and the Total filings per authorized judgeship for each of the bankruptcy courts in the Sixth Circuit for calendar years 1984 and 1985.

All Districts in Sixth Circuit
Source of Filings SY 1984



All Districts in Sixth Circuit
Source of Filings SY 1985

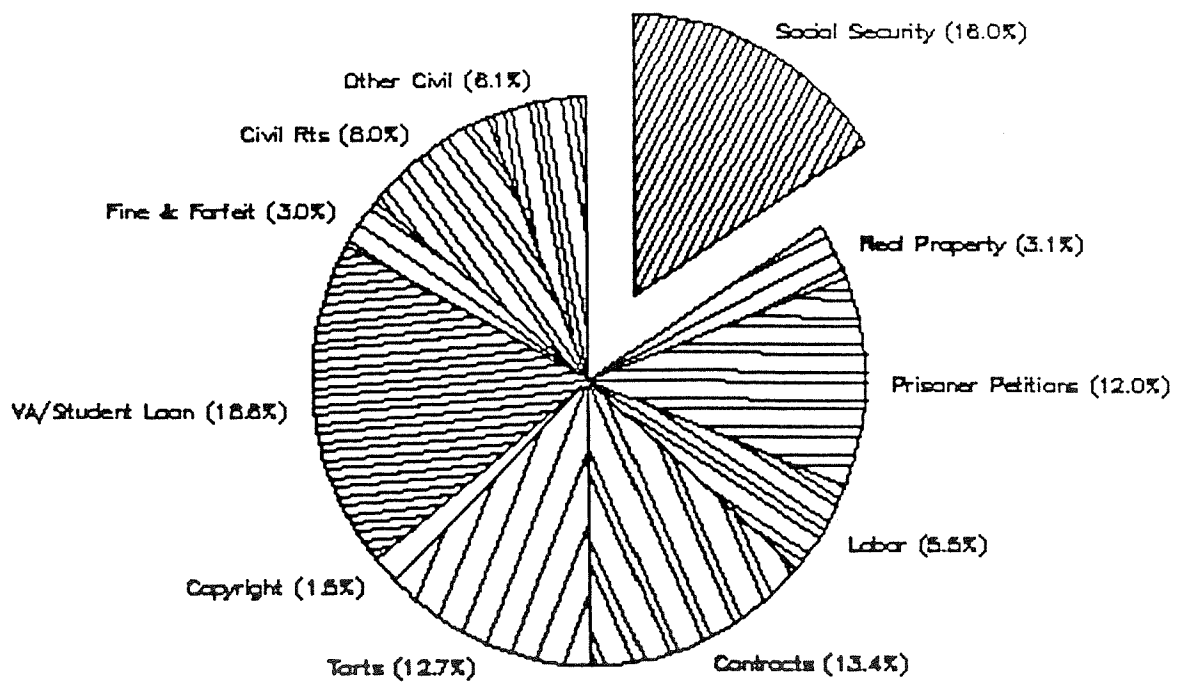


Figure 1

District Courts <> Sixth Circuit

Comparison 84 <> 85 Filings

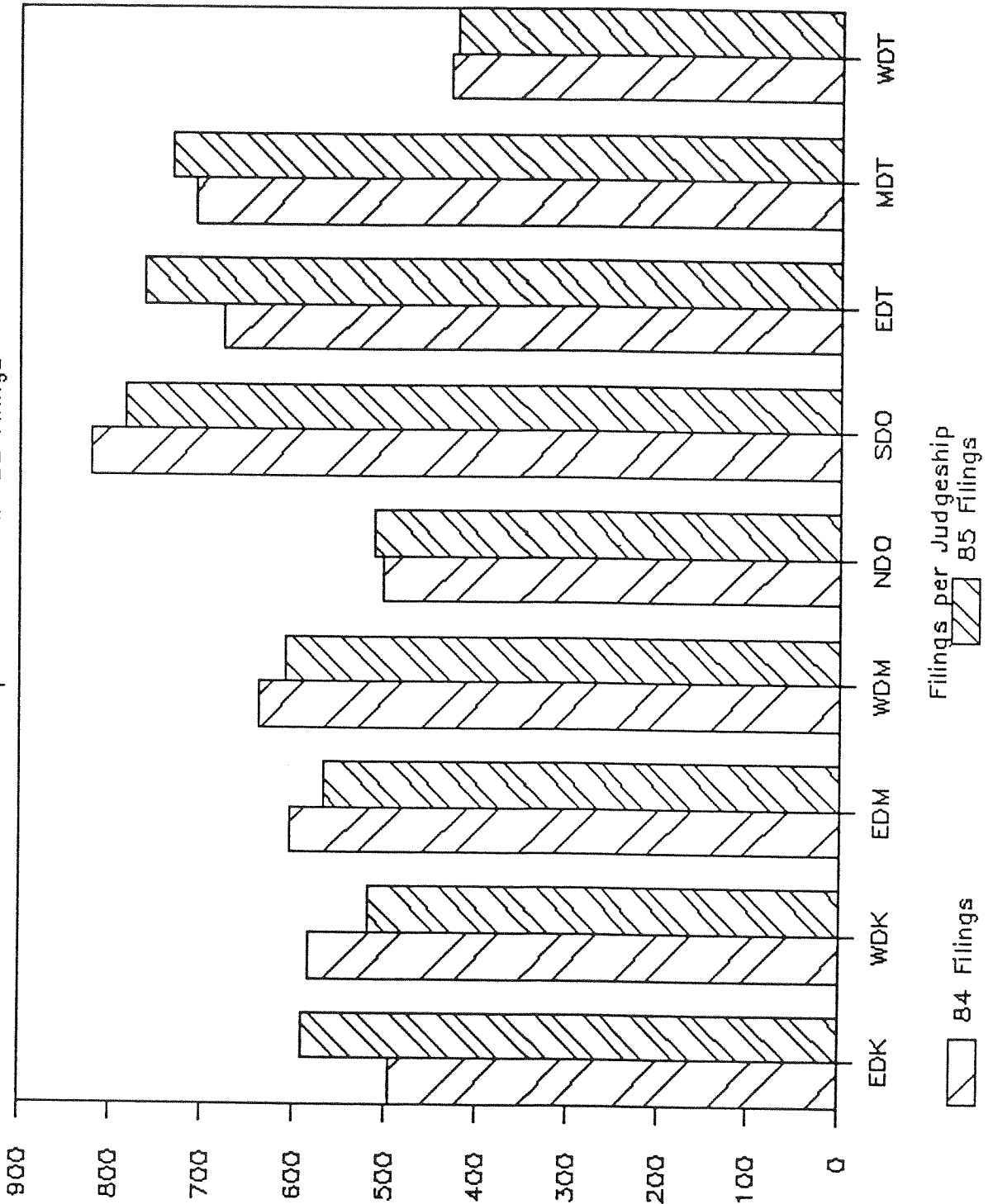
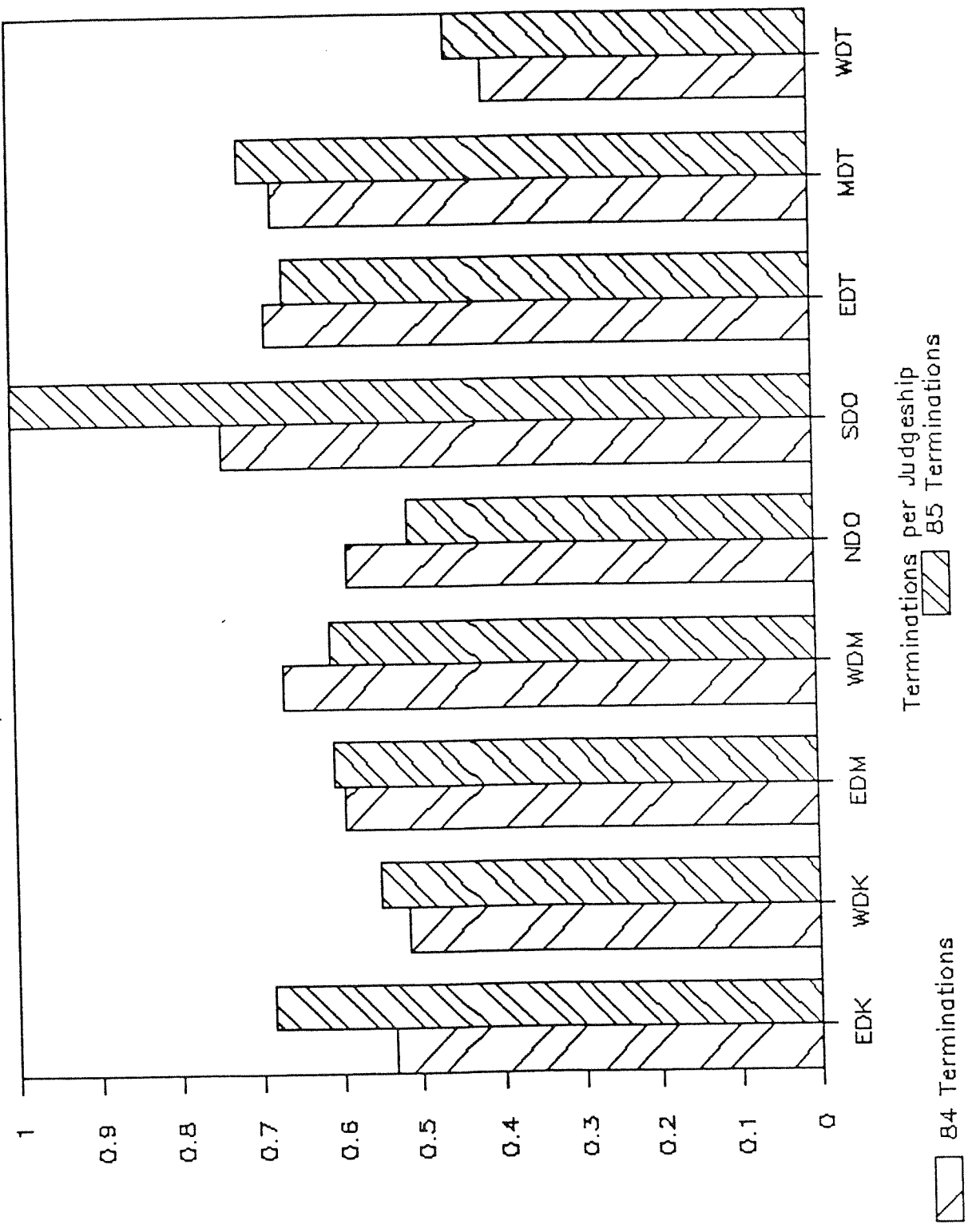


Figure 2

District Courts <> Sixth Circuit

Comparison 84 <> 85 Terminations



(Thousands)

Figure 3

District Courts <> Sixth Circuit

Comparison 84 <> 85 Pending

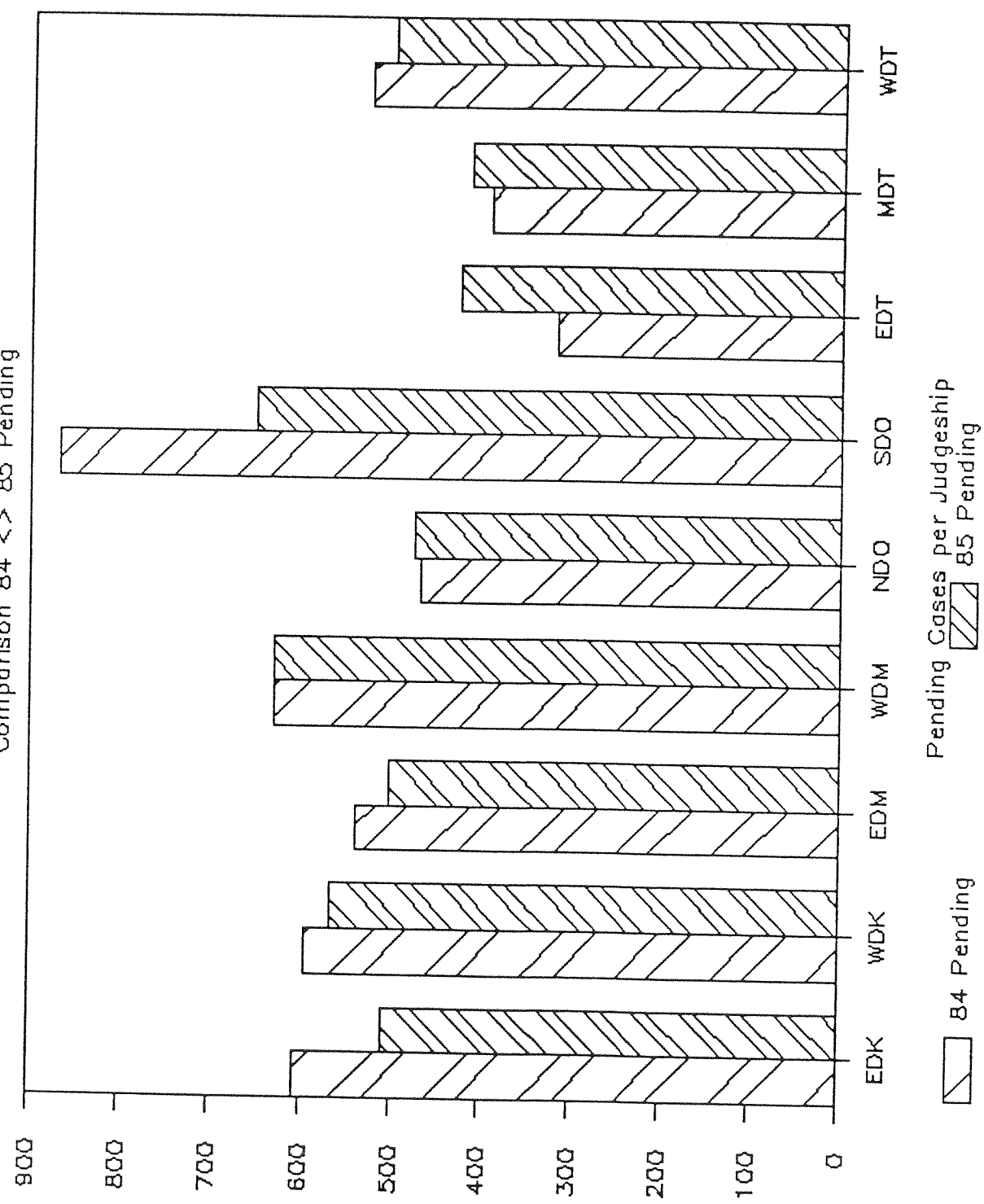


Figure 4

District Courts <> Sixth Circuit

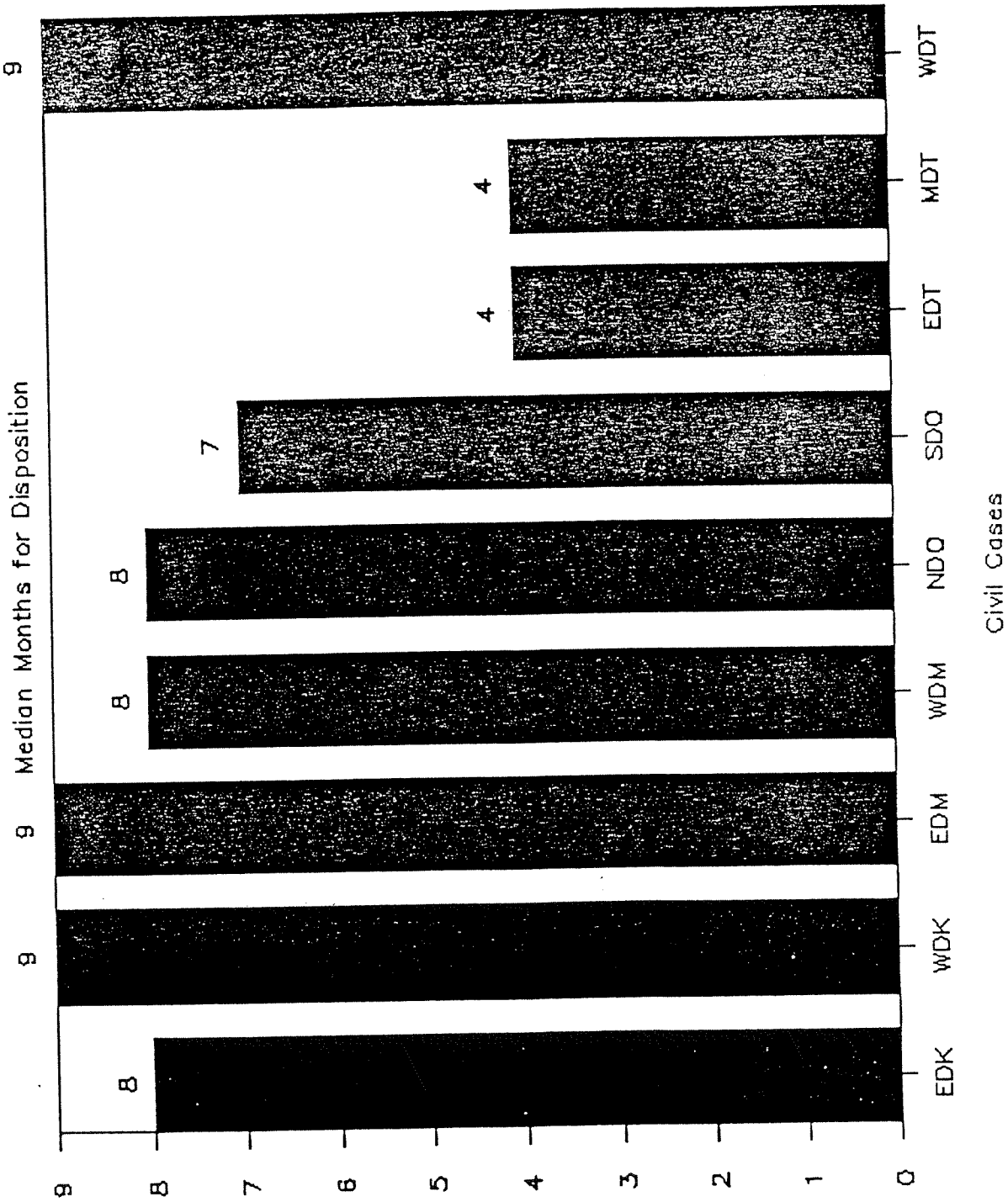


Figure 5

District Courts <> Sixth Circuit

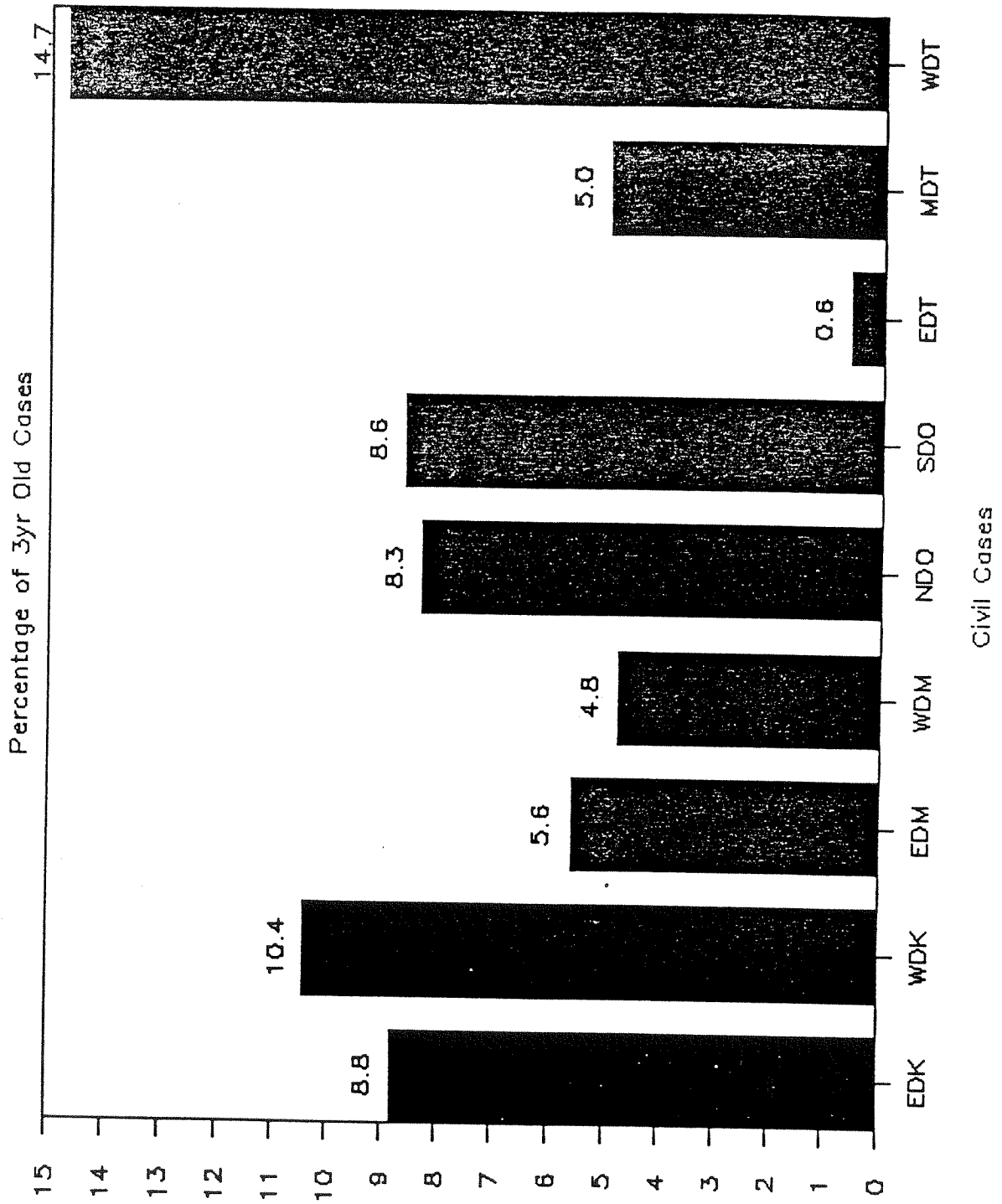


Figure 6

District Courts <-> Sixth Circuit

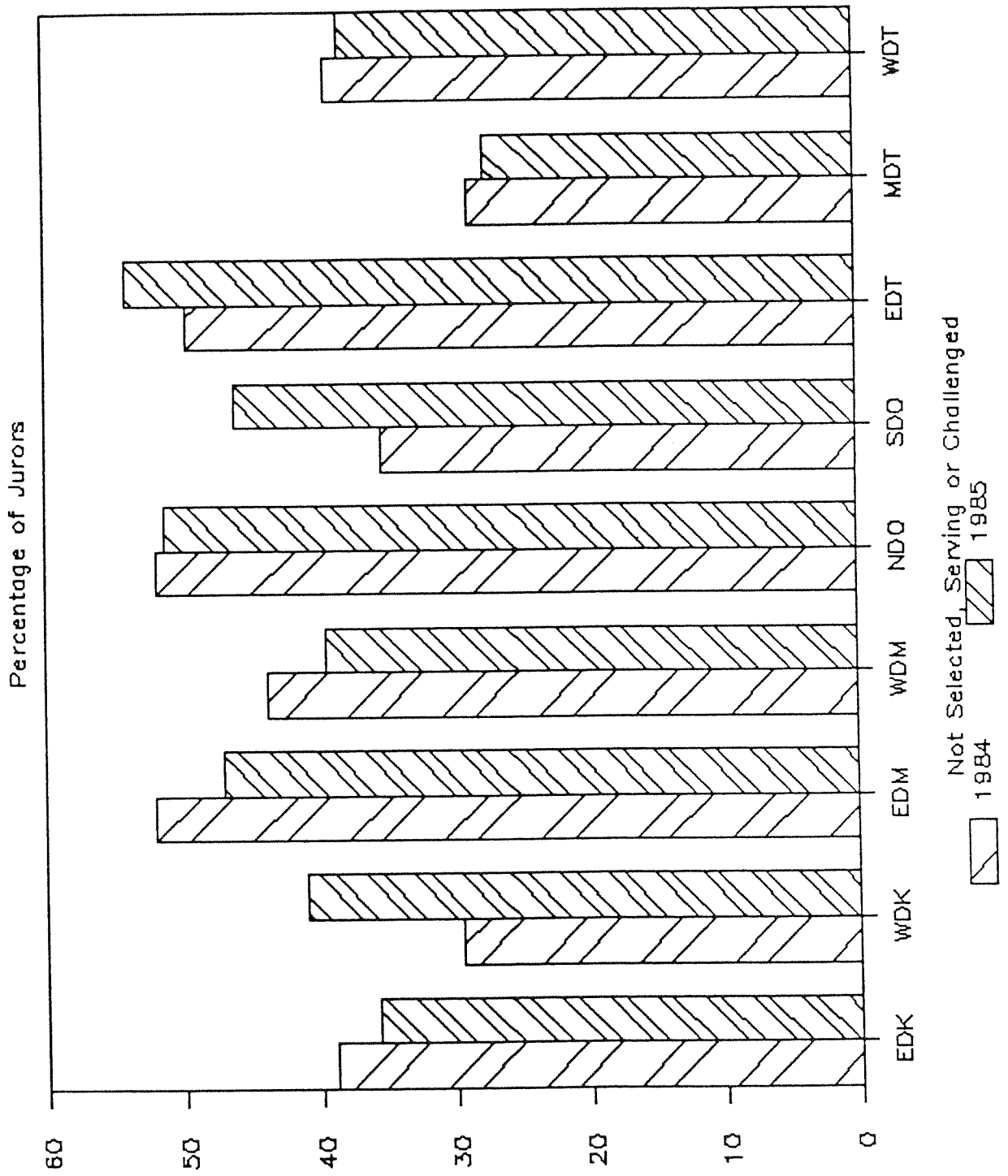


Figure 7

Bankruptcy Courts <-> Sixth Circuit

Comparison of Chapter 7 Filings

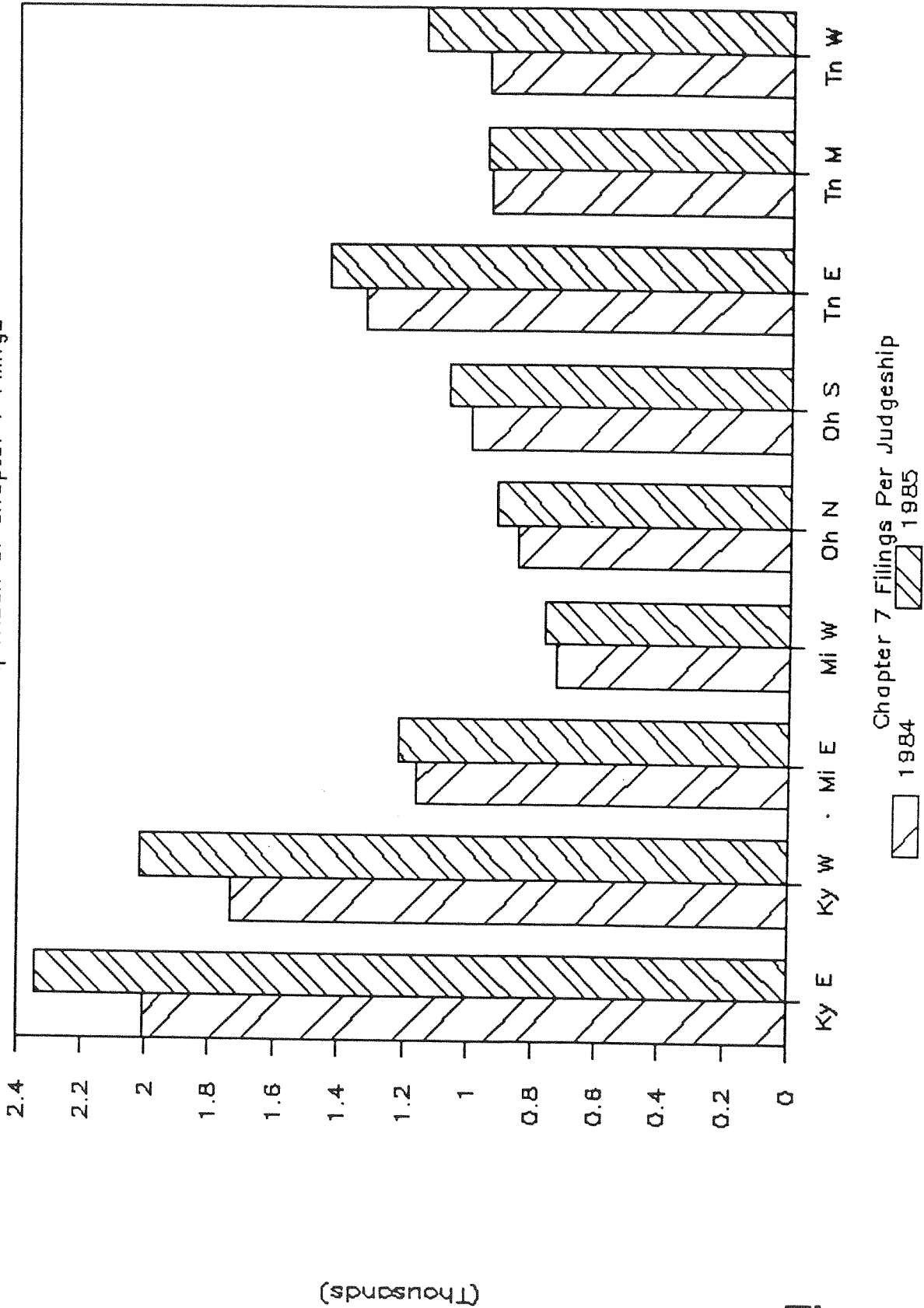


Figure 8

Bankruptcy Courts <> Sixth Circuit

Comparison of Chapter 11 Filings

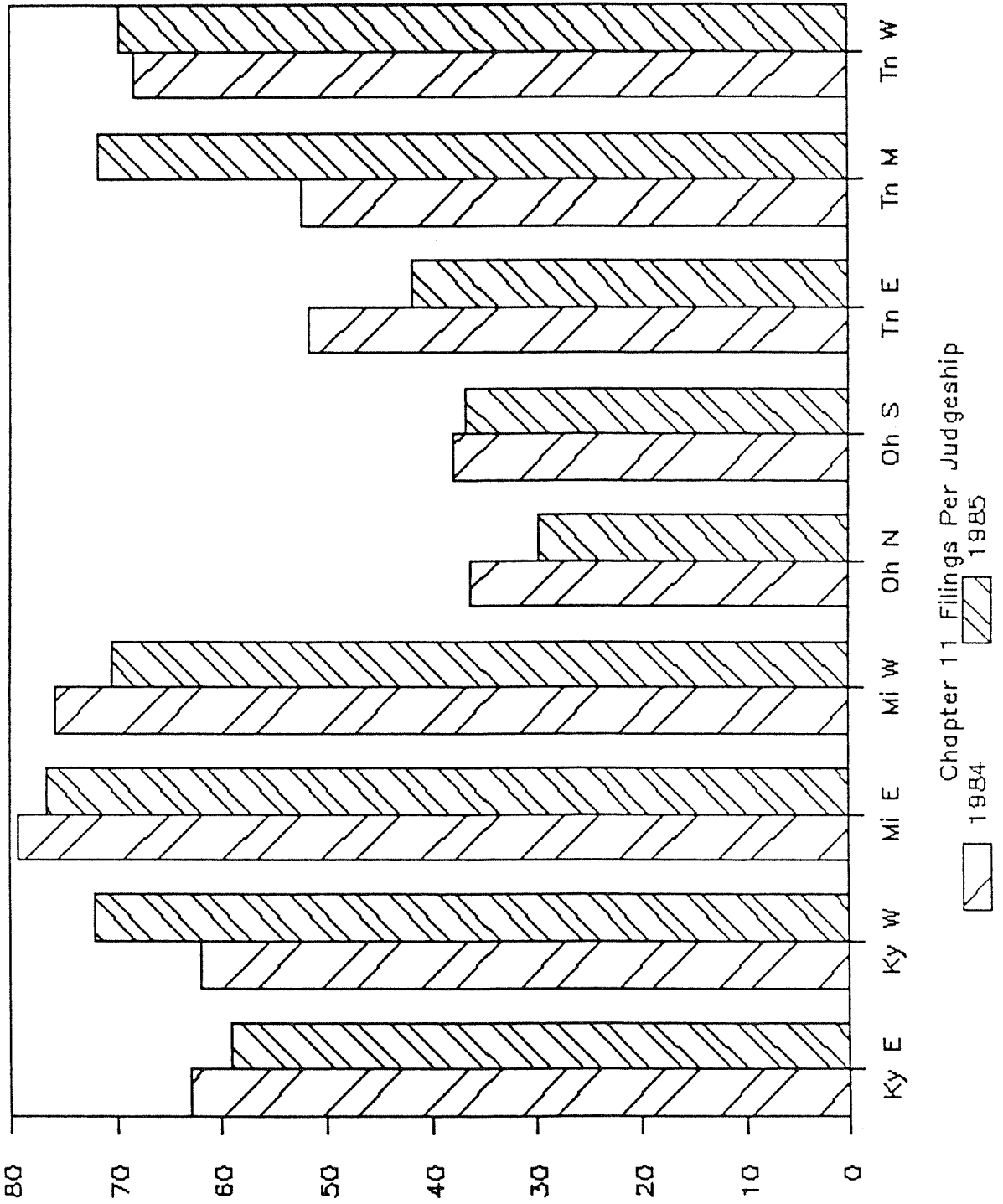
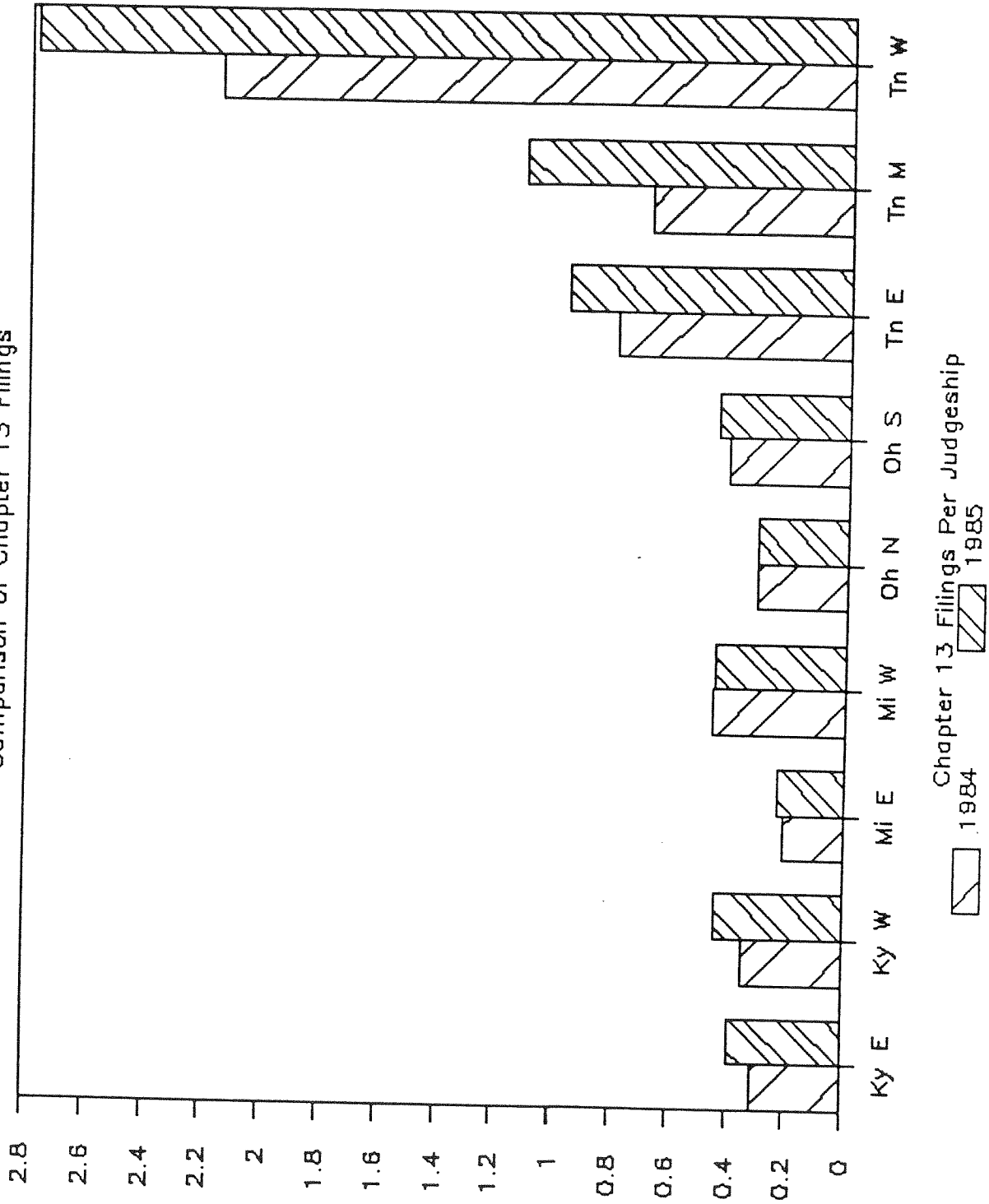


Figure 9

Bankruptcy Courts <> Sixth Circuit

Comparison of Chapter 13 Filings

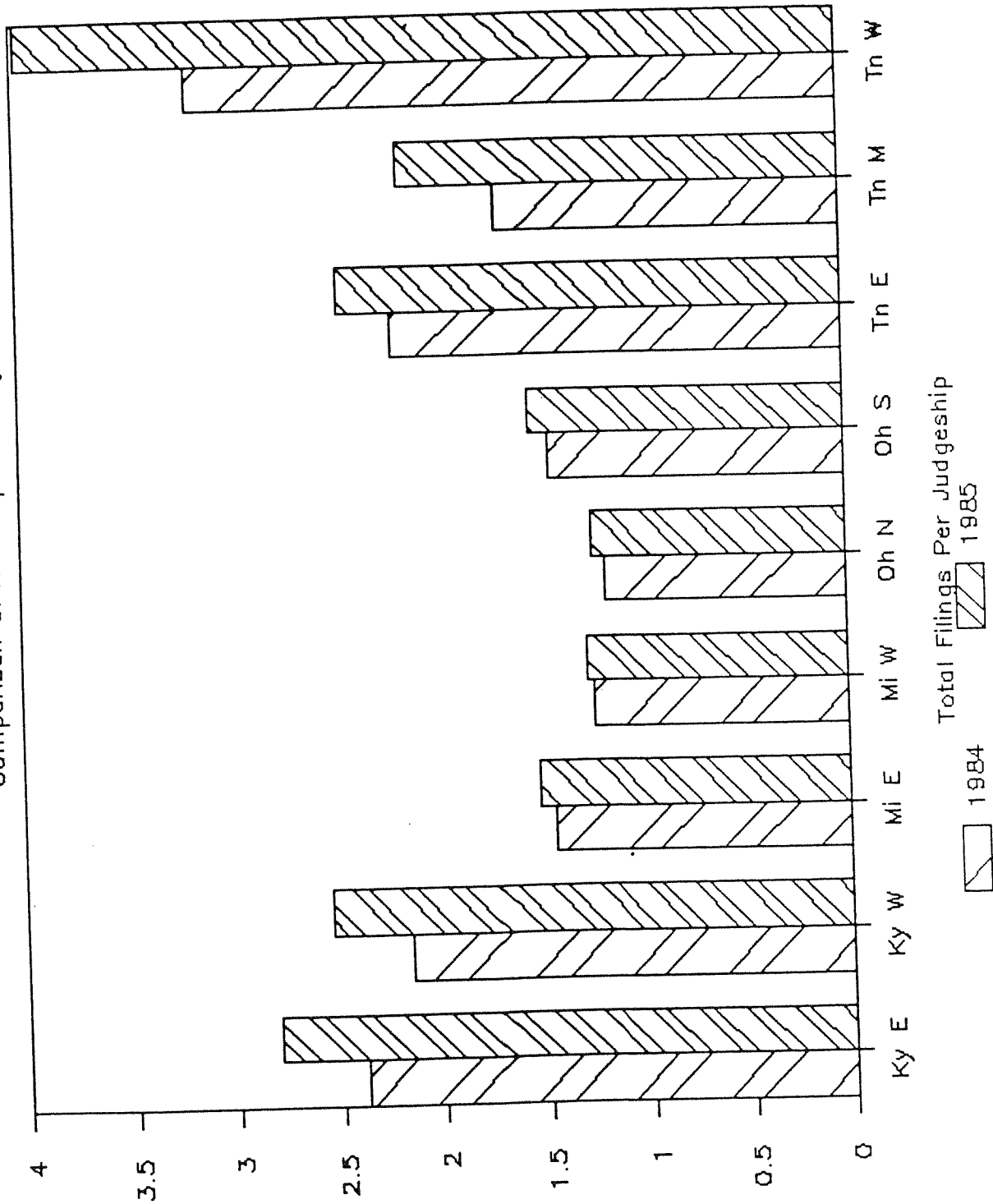


(Thousands)

Figure 10

Bankruptcy Courts <> Sixth Circuit

Comparison of All Chapter Filings



(Thousands)

Figure 11

REPORT OF THE U.S. COURT OF APPEALS

With the February 1986 appointment of Judge Danny J. Boggs of Kentucky, the U.S. Court of Appeals for the Sixth Circuit achieved its statutory complement of fifteen active judges, making it the third largest of the thirteen federal courts of appeals. Prior to his appointment, Judge Boggs was Deputy Secretary for the U.S. Department of Energy. In addition to Judge Boggs, there were three other appointments to the court in October 1985: Judge David A. Nelson, who prior to this appointment was engaged in the private practice of law in Cleveland; Judge Ralph B. Guy, Jr., who prior to his appointment was a U.S. District Judge in the Eastern District of Michigan; and Judge James L. Ryan, who prior to his appointment was an Associate Justice of the Michigan Supreme Court.

The court also enjoys the support of its five senior judges, all of whom continue to be dedicated and active participants in the court's work. Judge Leroy Contie of Akron has notified the President that he will assume senior status on July 1, 1986. Judge Alan E. Norris of the Ohio Court of Appeals in Columbus was nominated in late April for the vacancy.

In August of 1985 the court mourned the passing of one of its most esteemed colleagues, former Chief Judge Harry Phillips of Nashville. Judge Phillips died in London, England of injuries suffered when he was struck by an automobile.

Physical changes have been made to the federal courthouse in Cincinnati to accommodate the needs of the expanding court. Additional judges' chambers have been built and a new courtroom, similar to the main courtroom on the sixth floor of the courthouse, is almost completed. The new courtroom, which has a bench large enough to allow the en banc court to convene without crowding, is scheduled for regular use beginning in June.

To the surprise of no one, annual new filings continue to increase. 3,486 new appeals were filed in the twelve months ended March 31, 1986 -- a 9.9% increase over the previous year. Decisions by the court also increased. 3,368 decisions were filed in this same twelve month period, a 5.8% increase.

The court's schedule for conducting oral hearings was also amended in the last year to accommodate the needs of the expanding court. Regular hearings are now scheduled 36 weeks throughout the year in Cincinnati. During each hearing week, at least two panels will be scheduled to hear arguments on Monday, Tuesday, Thursday and Friday. On each argument day, each panel schedules five oral arguments and two cases to be submitted on briefs. Wednesdays are reserved for motions panels, meetings and, when necessary, en banc hearings.

In terms of workload, the Administrative Office of the U.S. Courts reports that each active judge of this court in 1985 participated in deciding an average of 334 cases on the merits and 90 cases on procedure. The report also indicated that each active judge was responsible for writing an average of 139 decisions in 1985 in cases decided on the merits.

In addition to each judge's decisional workload, each judge participates on the standing committees of the court.

RULES COMMITTEE

Judge Engel, Chair
Judge Kennedy
Judge Contie
Judge Guy
Judge Brown (Advisory)

DOCKET CONTROL COMMITTEE

Judge Merritt, Chair
Judge Martin
Judge Wellford
Judge Milburn
Judge Ryan
Judge Celebrezze (Advisory)

SPACE, FACILITIES AND SECURITY COMMITTEE

Judge Keith, Chair
Judge Martin
Judge Jones
Judge Nelson
Judge Edwards (Advisory)

COURT REPORTER COMMITTEE

Judge Kennedy, Chair
Judge Krupansky
Judge Guy

LIBRARY COMMITTEE

Judge Jones, Chair
Judge Contie
Judge Peck (Advisory)

MOTION REVIEW COMMITTEE

Judge Jones, Chair
Judge Contie
Judge Milburn

The growing caseload has made increasing demands upon the supporting staff as well as the court. The court's central legal staff provides assistance to the court in reviewing substantive motions and identifying cases for which oral argument may not be necessary. In addition, the court's conference attorneys continue to contact counsel in selected cases to explore settlement opportunities or to otherwise assist counsel. A study of this program is currently underway. Lawyers participating in conferences are receiving questionnaires soliciting their assessment of the program, and a written report is expected to be prepared next year.

The clerk's office, which is responsible for the day-to-day management of the court's docket and which has a tradition of quality service to the bar and litigants, continues to be resourceful. It has worked closely with the court's Advisory Committee in reviewing rules and procedures of the court. The members of the Advisory Committee are:

J. Vincent Aug, Chair
Cincinnati, Ohio

William Baughman, Jr.
Cleveland, Ohio

Paul Borman
Detroit, Michigan

Stephen C. Bransdorfer
Grand Rapids, Michigan

John H. Burlew
Cincinnati, Ohio

Robert R. Campbell
Knoxville, Tennessee

Maura D. Corrigan
Detroit, Michigan

Frank E. Haddad, Jr.
Louisville, Kentucky

Alfred H. Knight, III
Nashville, Tennessee

Katherine Randall
Lexington, Kentucky

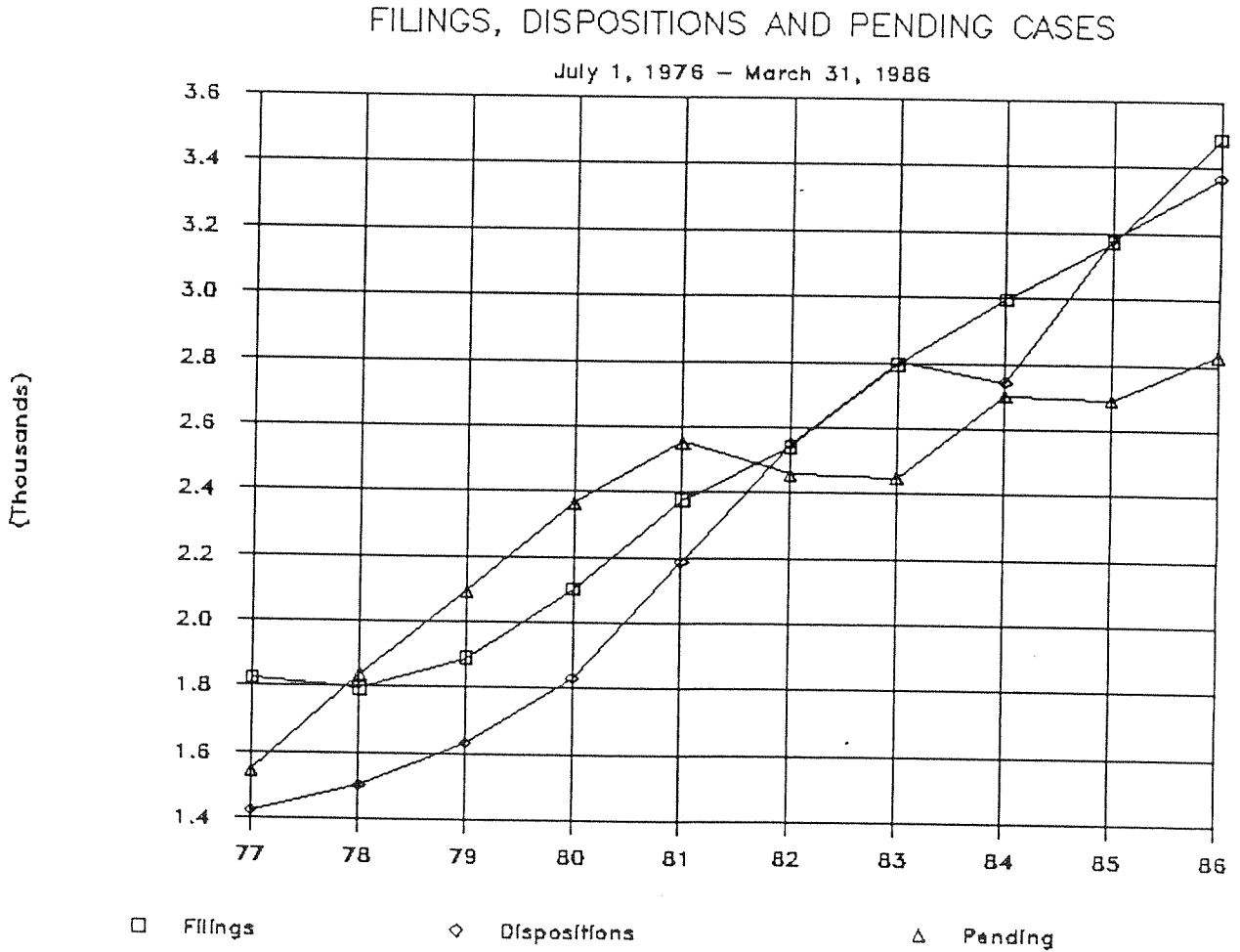
Edward Stopher
Louisville, Kentucky

Using a personal computer to monitor critical events in all pending cases, and particularly in newly-filed appeals, the clerk's office is able to more effectively manage the court's docket so that cases are processed with dispatch and are moved without unnecessary delay toward disposition on the merits. As part of a national program at the circuit court level, the clerk's office is scheduled to receive a larger capacity micro-computer later in the year and to begin conversion to full electronic dockets in 1987. It is anticipated that this will further enhance the ability of the clerk's office to keep abreast of the demands of a burgeoning docket.

Status of the Docket

Changes in the status of the Court of Appeals docket over the past ten years are represented in the graph below.

The table on the next page provides the actual number of filings, dispositions and pending cases in each year since 1977. The bar graph on that same page gives a different presentation of the filing and disposition data.

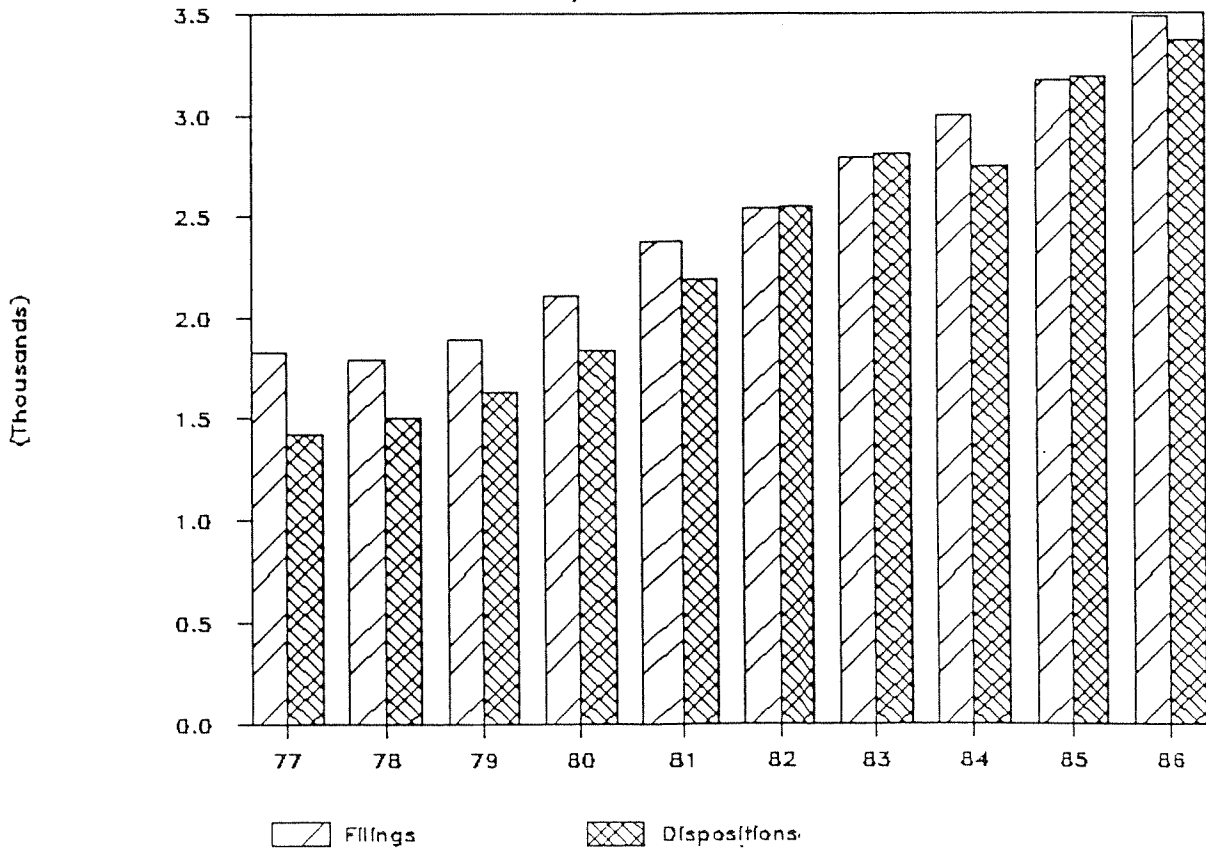


FILINGS, DISPOSITIONS AND PENDING CASES

	As of June 30th										12 Months Ending March 31, 1986
	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	
FILINGS	1827	1705	1889	2103	2376	2541	2795	2996	3172	3486	
Annual Increase	12.2%	-1.8%	5.2%	11.3%	13.0%	6.9%	10.0%	7.2%	5.9%	9.9%	
DISPOSITIONS	1425	1503	1633	1832	2189	2551	2803	2743	3183	3368	
Annual Increase	2.1%	5.5%	8.6%	12.2%	19.5%	16.5%	9.9%	-2.1%	16.0%	5.8%	
PENDING	1547	1839	2095	2366	2553	2457	2449	2702	2691	2829	
Annual Increase	35.1%	18.9%	13.9%	12.9%	7.9%	-3.8%	-0.3%	10.3%	-0.4%	5.1%	

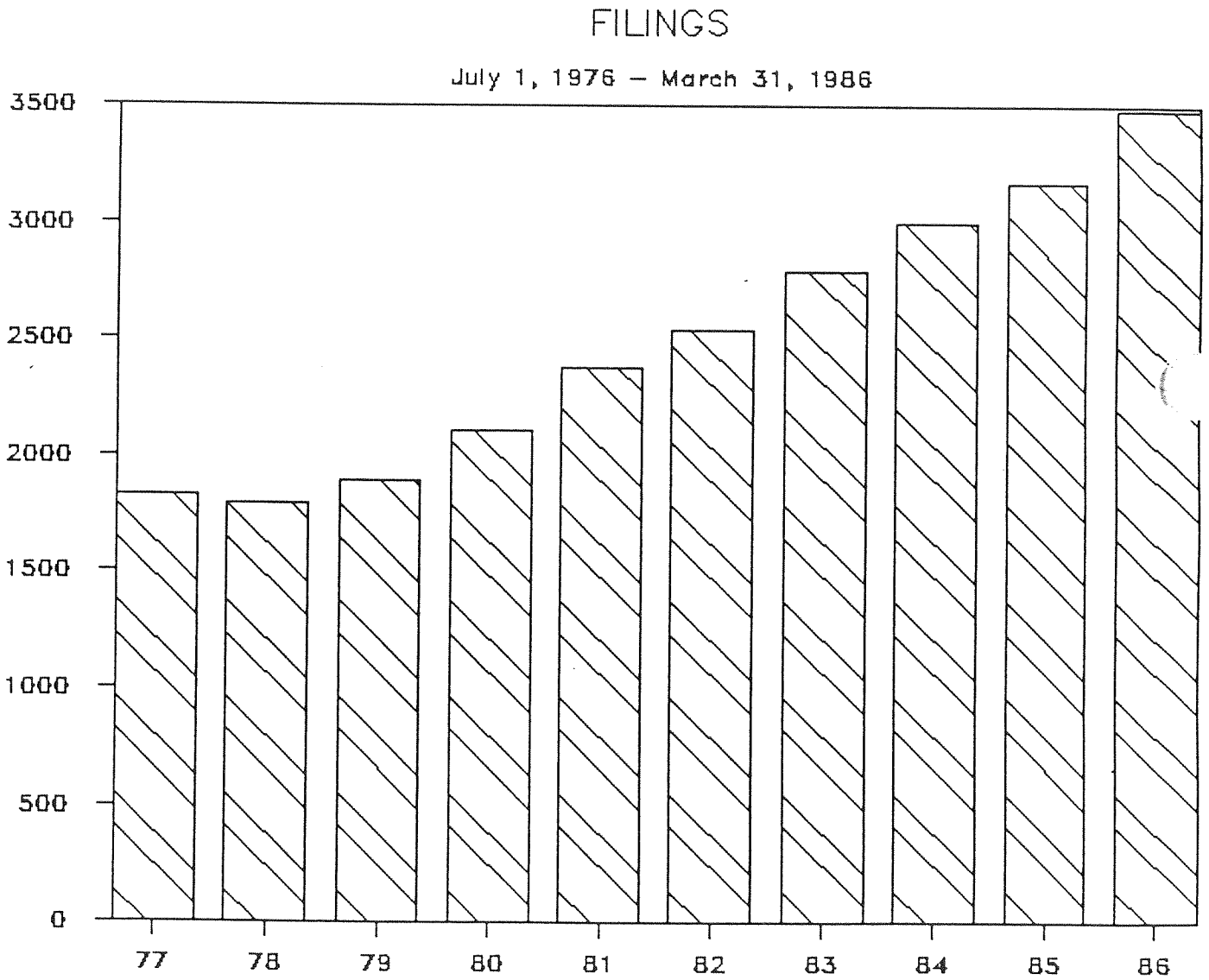
FILINGS AND DISPOSITIONS

July 1, 1976 - March 31, 1986



Filings

Since 1977, the number of cases filed in the U.S. Court of Appeals for the Sixth Circuit has nearly doubled. In 1986 there are over 1,600 more cases filed than ten years earlier. The chart below shows this rise in filings.



Filings (con't.)

The table on this page provides a summary of filings for the past ten years. This breakdown shows the types of cases that have made up the court's docket during the period. As has been the case in recent years, civil cases continue to comprise almost three-quarters of our docket.

Note that prisoner petitions, social security, and diversity cases have substantially increased this year.

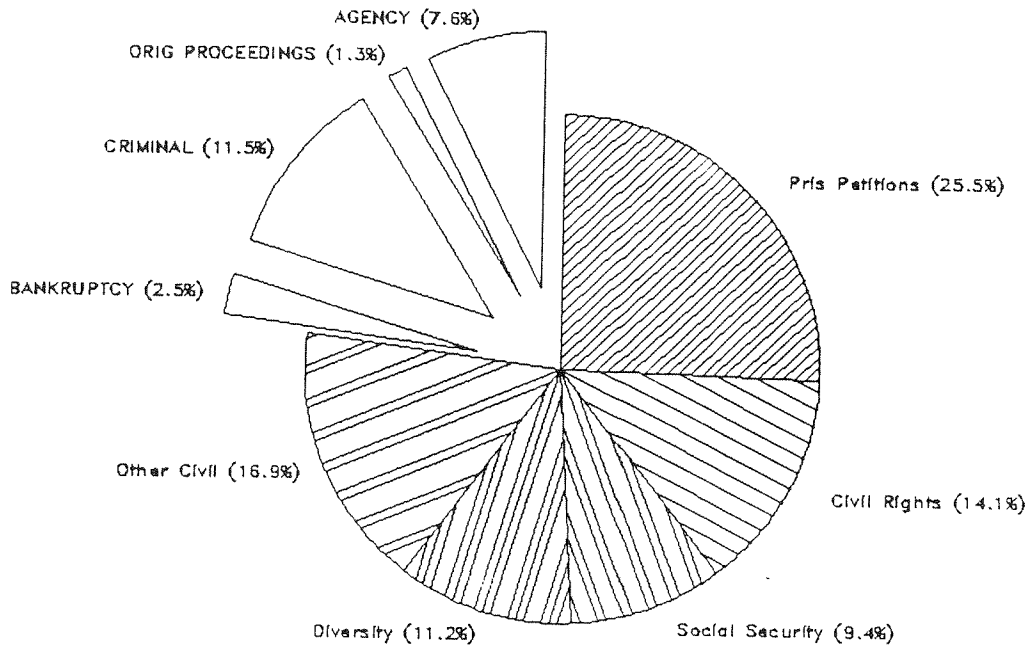
The two pie charts on the next page show how case filings for the twelve month period ending March 31, 1986 are divided. The first chart represents cases filed in the court of appeals by case type. The second chart represents filings for the same period broken down by the source of the appeals. The latter topic is described in more detail on the following pages.

FILINGS BY CASE TYPE

	As of June 30th									12 Months
	1977	1978	1979	1980	1981	1982	1983	1984	1985	Ending March 31, 1986
TOTAL CIVIL	1132	1112	1246	1476	1665	1866	2038	2198	2347	2689
Pris Petitions	235	279	417	420	546	517	568	551	731	890
Civil Rights	177	216	219	272	304	396	411	405	502	492
Social Security	161	89	143	142	150	165	197	284	240	329
Diversity	147	167	165	212	254	261	240	231	288	390
Other Civil	412	361	302	430	411	527	622	727	586	588
BANKRUPTCY	28	26	20	21	44	52	63	97	93	88
CRIMINAL	371	456	354	347	351	347	380	405	386	400
ORIG PROCEEDINGS	29	20	34	21	33	21	32	29	40	44
AGENCY	267	181	235	238	283	255	282	267	306	265
TOTAL CASES FILED	1827	1795	1889	2103	2376	2541	2795	2996	3172	3486

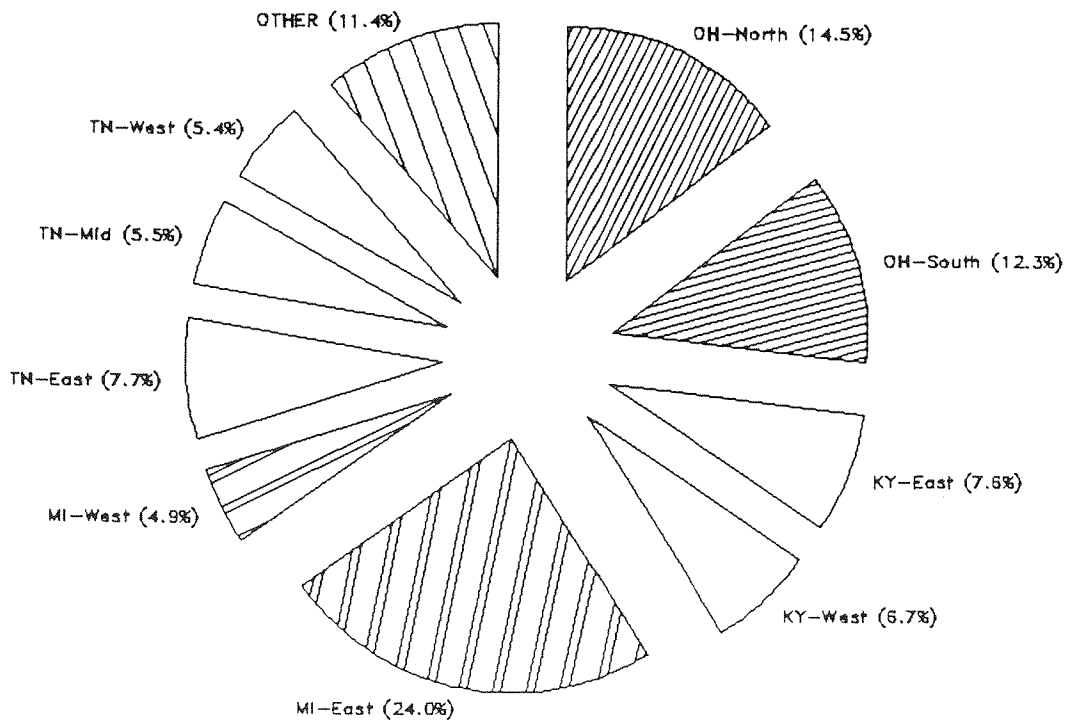
TOTAL FILINGS BY CASE TYPE

April 1, 1985 - March 31, 1986



SOURCES OF FILINGS

April 1, 1985 - March 31, 1986



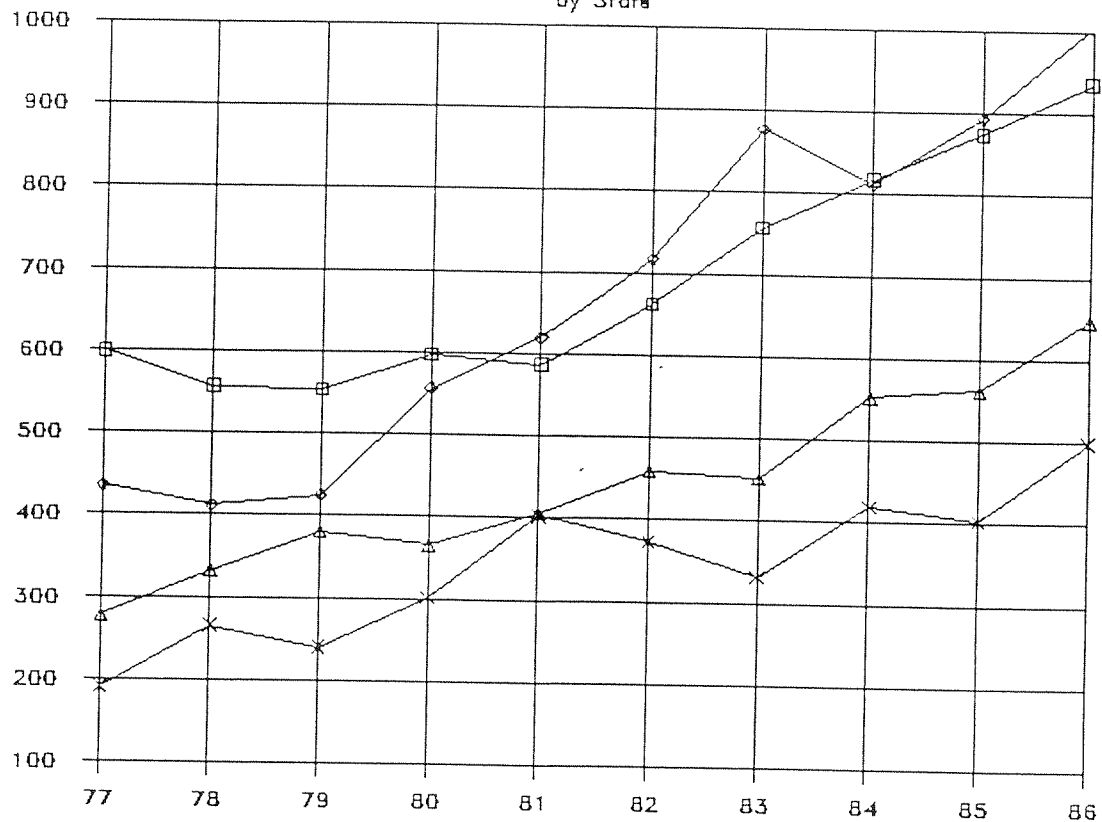
Filings by Source

This table and the graph on the next page show the source of cases filed during the past ten years. This year, cases from Kentucky experience the sharpest increase. Nearly 24% more Kentucky cases were filed this year over last year. Also, for the first time, the Court of Appeals received over 1,000 cases from Michigan. With 29% of the court's filings, Michigan remains the state with the most filings. The number of cases from Ohio and Tennessee also increased significantly-- an increase of 7% from Ohio over last year and 15% from the State of Tennessee.

		SOURCE OF FILINGS									
		As of June 30th								12 Months Ending March 31,	
		1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
OHIO	Northern	304	241	265	327	284	359	388	481	496	507
	Southern	295	316	289	271	303	303	369	337	378	429
	TOTAL	599	557	554	598	587	662	757	818	874	936
KENTUCKY	Eastern	107	138	107	118	190	174	166	239	213	266
	Western	84	128	133	184	213	200	166	181	191	233
	TOTAL	191	266	240	302	403	374	332	420	404	499
MICHIGAN	Eastern	383	364	378	482	496	578	704	683	722	836
	Western	52	48	47	75	124	139	173	129	171	170
	TOTAL	435	412	425	557	620	717	877	812	893	1006
TENNESSEE	Eastern	78	108	113	147	144	164	157	225	213	267
	Middle	97	90	118	78	113	152	135	162	184	193
	Western	103	135	150	141	149	144	160	166	165	188
TOTAL	278	333	381	366	406	460	452	553	562	648	
AGENCY		267	181	235	238	283	255	282	267	306	265
ORIG. PROCEEDINGS		29	20	34	21	33	21	32	29	40	44
BANKRUPTCY		28	26	20	21	44	52	63	97	93	88
TOTAL		1827	1795	1889	2103	2376	2541	2795	2996	3172	3486

SOURCE OF FILINGS

by State



□ Ohio

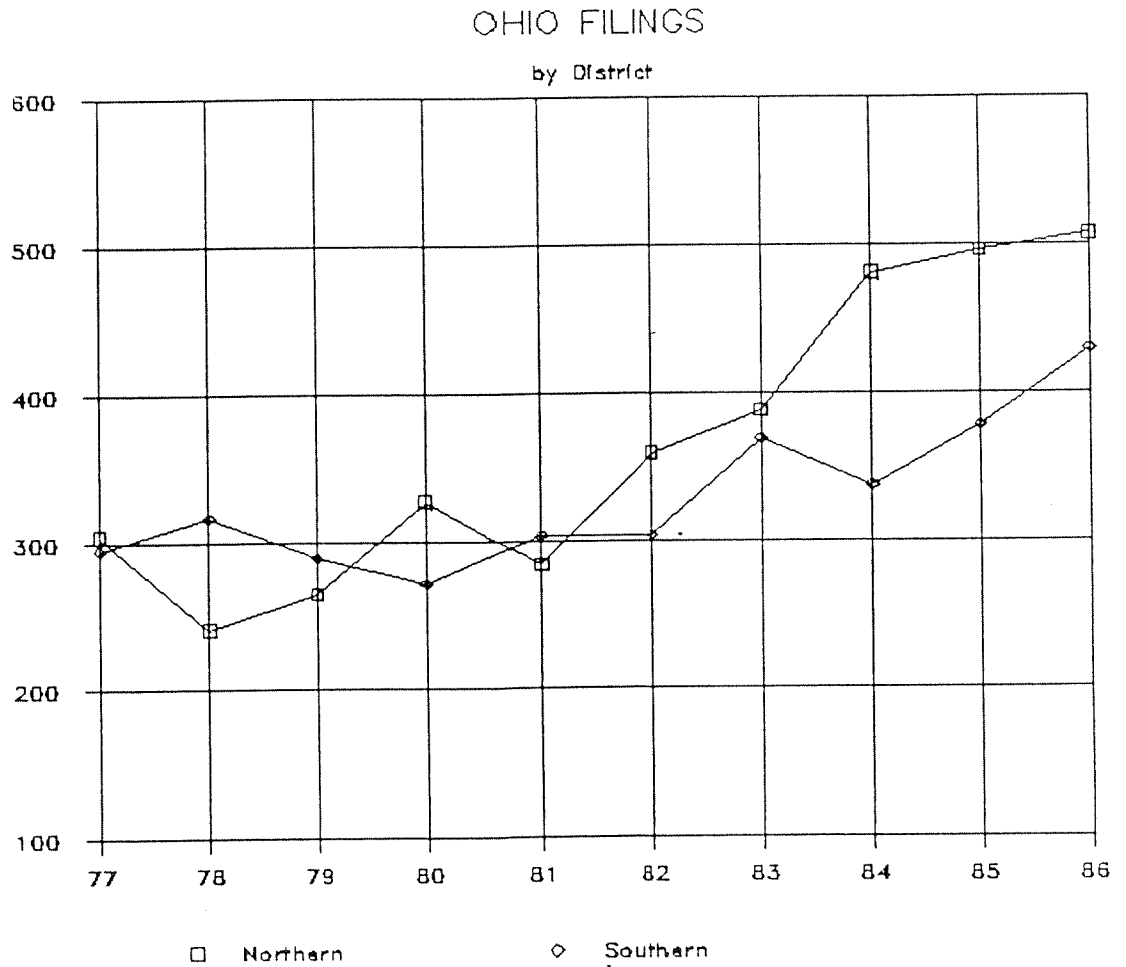
◇ Michigan

△ Tennessee

× Kentucky

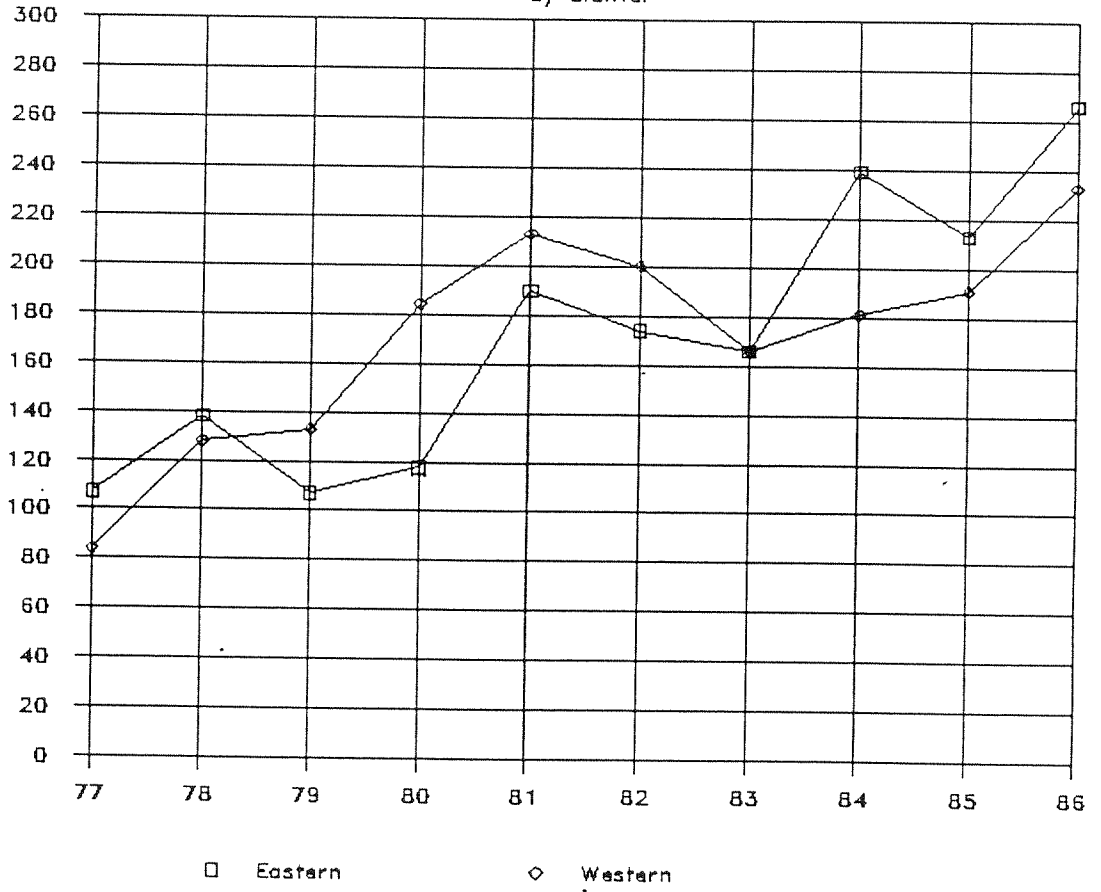
Filings by Source (cont.)

The graphs on the next four pages show filings from the district courts of each state. The last graph in this section shows changes in agency and bankruptcy case filings along with cases originating in the court of appeals. Note that both agency and bankruptcy cases have declined over last year.



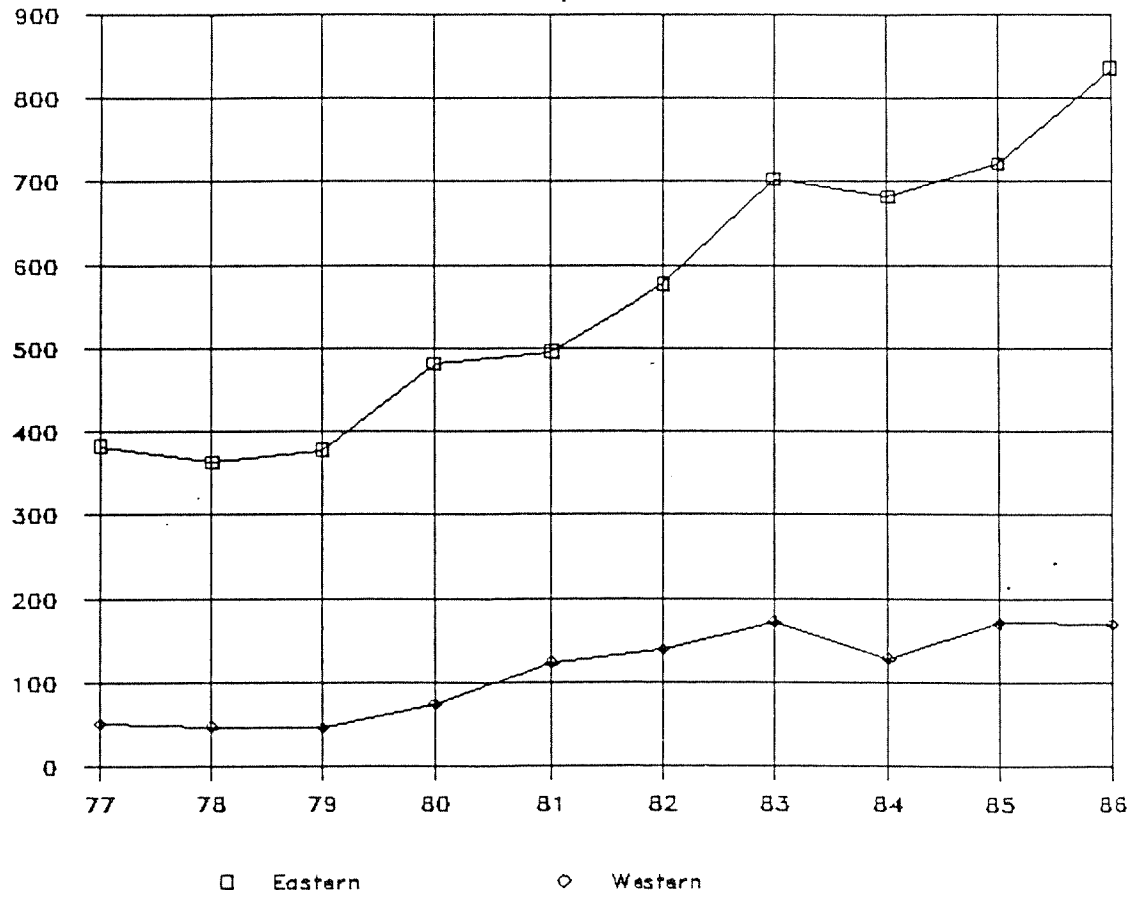
KENTUCKY FILINGS

by District



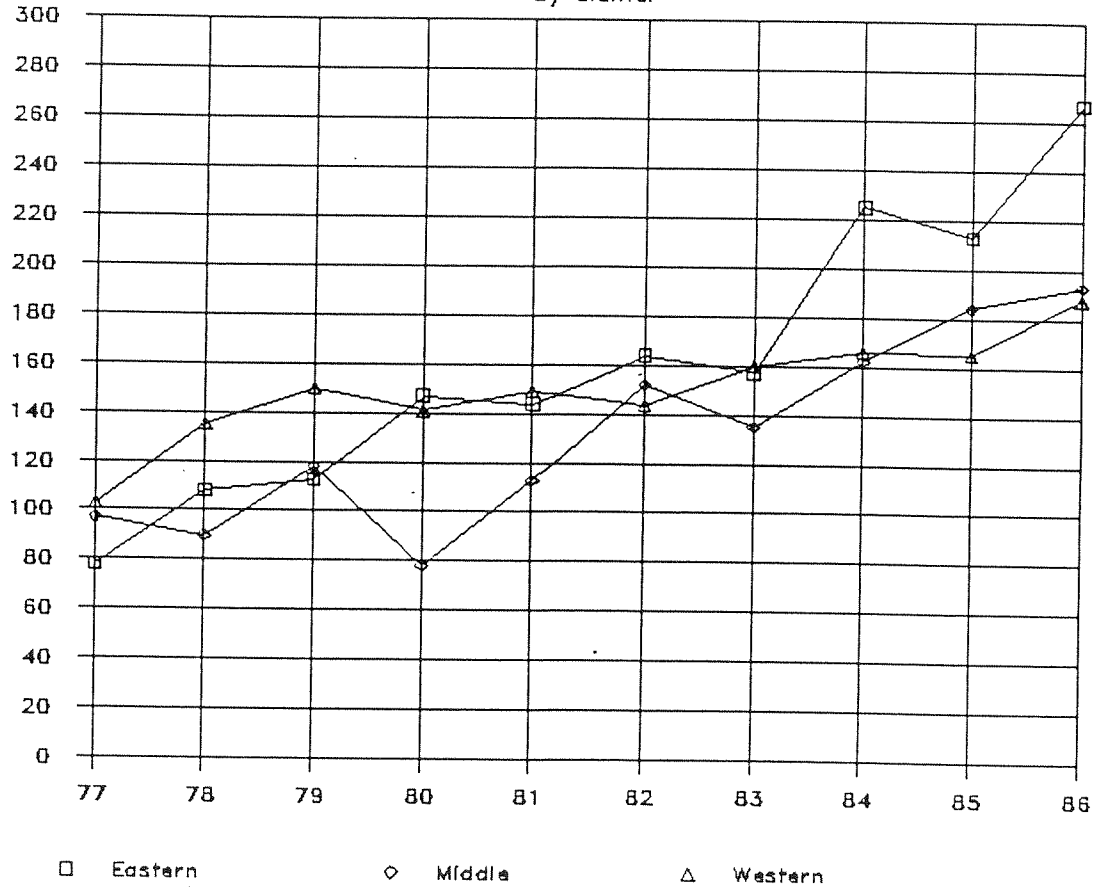
MICHIGAN FILINGS

by District

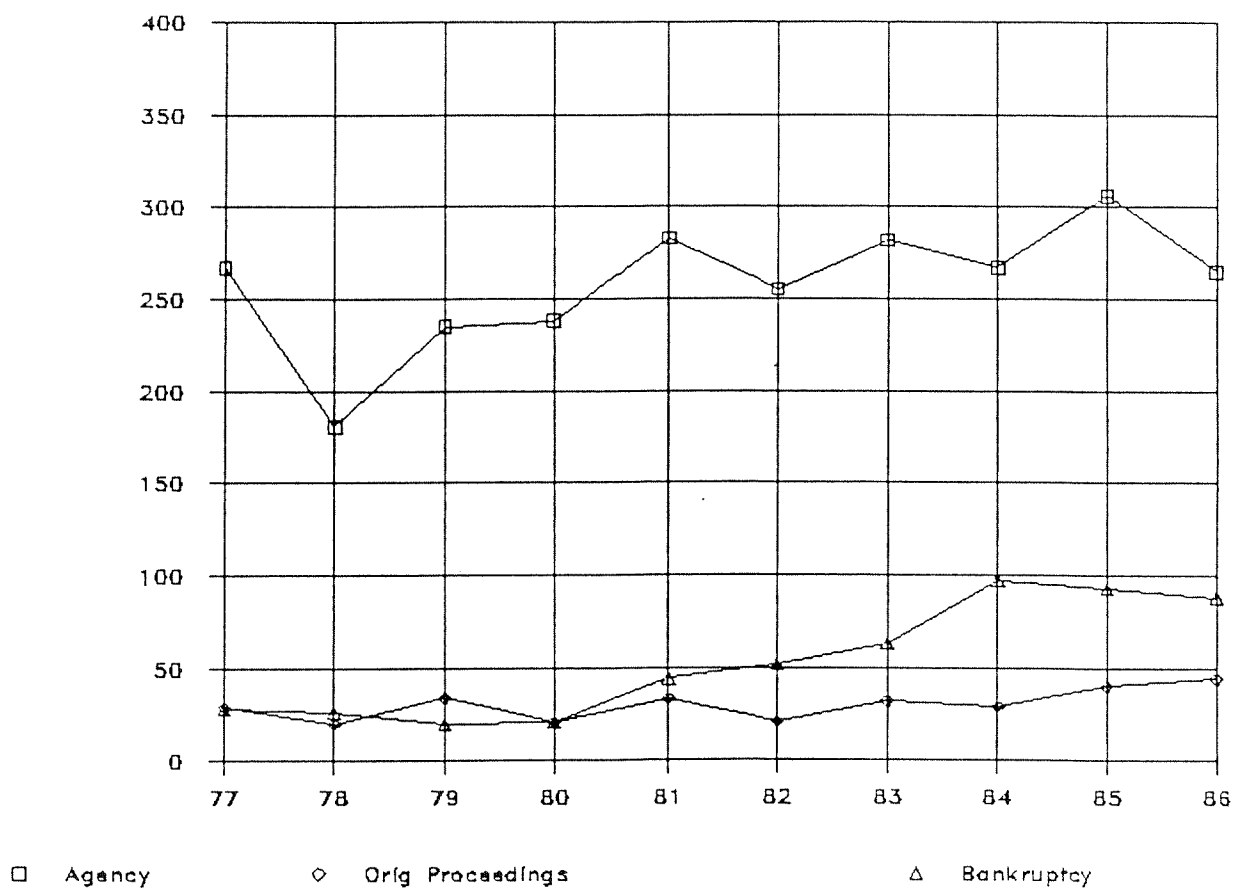


TENNESSEE FILINGS

by District

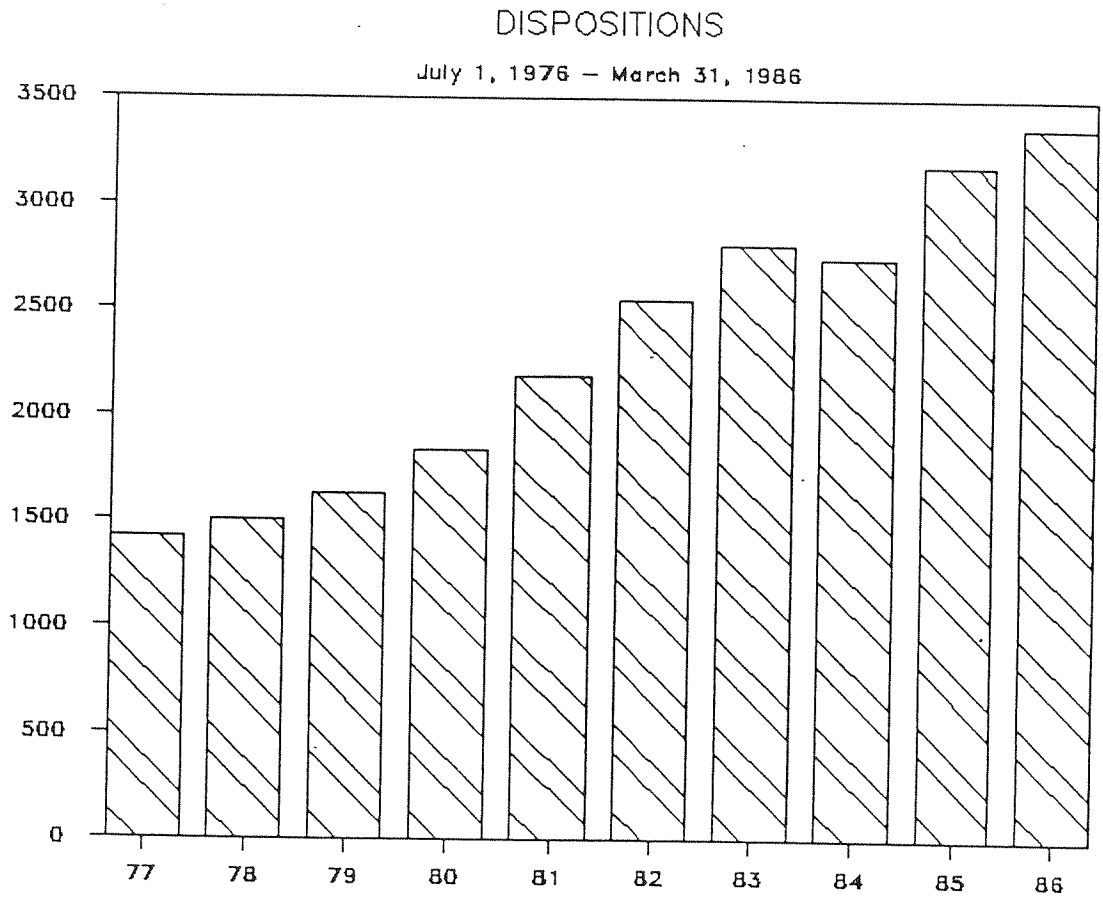


FILINGS FROM OTHER SOURCES



Dispositions

The bar graph below shows the case dispositions for each year since 1977. Dispositions have increased by over 135% during this period.



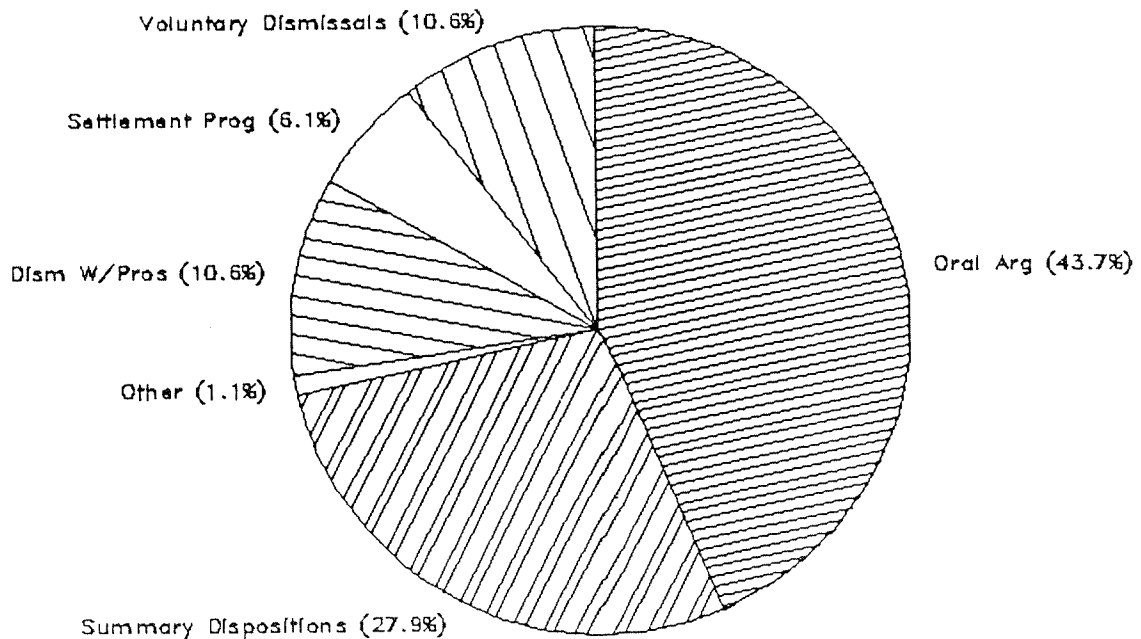
Dispositions (con't.)

The table below shows the categories of dispositions by the court. The pie chart more vividly illustrates the breakdown of dispositions for the current year.

SUMMARY OF DISPOSITIONS

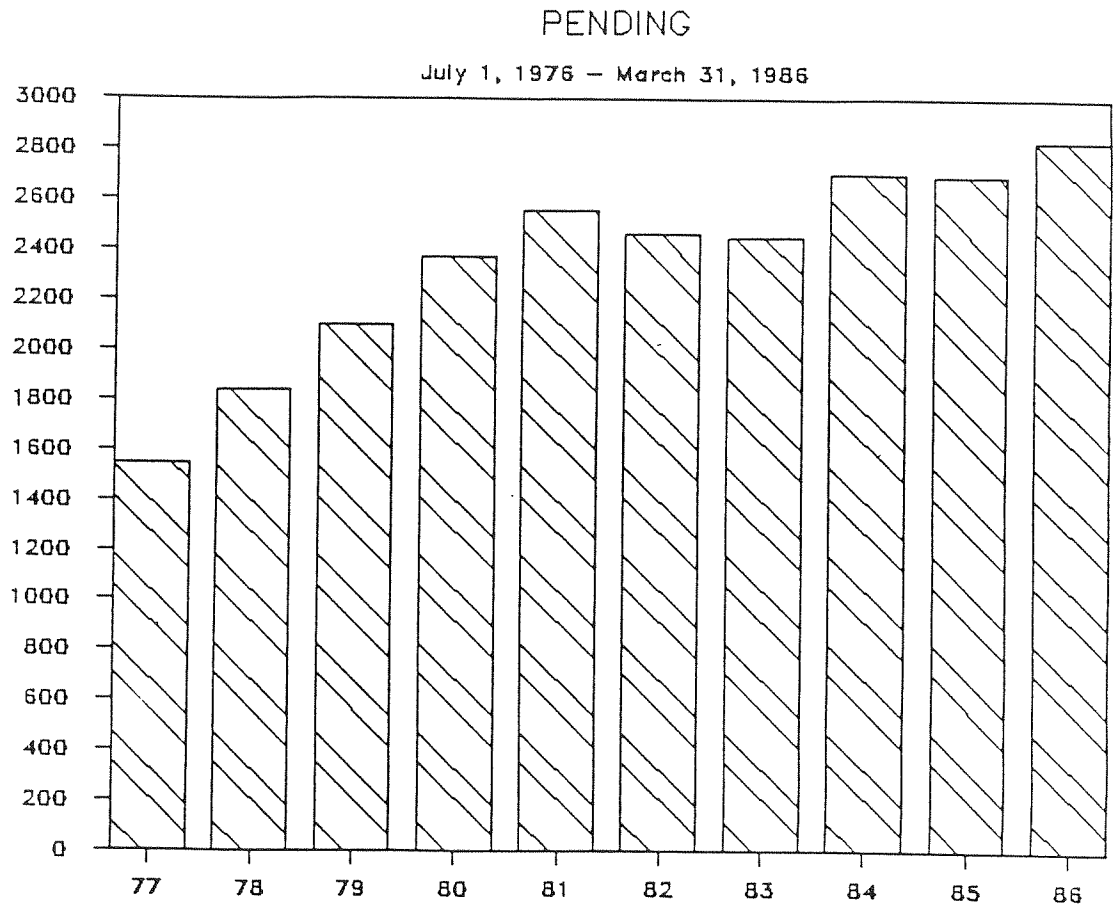
	As of June 30th						12 Months Ending March 31,
	1980	1981	1982	1983	1984	1985	1986
ORAL ARGUMENT (Bench Decisions)	1012	1327 (1)	1233 (66)	1354 (98)	1366 (73)	1461 (87)	1473 (120)
SUMMARY DISPOSITIONS (Rule 9)	406	444	574	646	618	817	939
VOLUNTARY DISMISSALS	289	344	445	382	353	375	356
DISMISSALS FOR WANT OF PROSECUTION	95	107	187	217	211	321	356
SETTLEMENT PROGRAM			14	101	132	164	207
OTHER	45	42	98	103	63	45	37
TOTAL	1847	2264	2551	2803	2743	3183	3368

SUMMARY OF DISPOSITIONS
1986



Pending Cases

Between 1977 and 1986 the pending case load has increased by 183%. The chart below depicts pending cases at the end of each of the last ten years.



In
Memoriam

RESOLUTION

FORTY-SEVENTH ANNUAL CONFERENCE OF THE SIXTH JUDICIAL CIRCUIT

"There is a tide in the affairs of men,
Which, taken at the flood, leads on to fortune;"

- Julius Caesar, Act. IV, Scene 3

A tall man in the law died suddenly in New Hampshire on December 7, 1985, following a stroke, less than two months shy of the 71st anniversary of his birth. He was Justice Potter Stewart, reared in Cincinnati, Ohio, a former Judge of the United States Court of Appeals for the Sixth Circuit, and for almost 23 years an active Justice of the Supreme Court of the United States and the Circuit Justice of this Circuit.

Potter Stewart was born on January 23, 1915 in Jackson, Michigan, where his parents were on vacation from their home in Cincinnati. His father was James Garfield Stewart, exciting trial lawyer and political figure, later Mayor of Cincinnati and Judge on the Supreme Court of Ohio. His mother was Harriet Potter Stewart, who carefully launched all three of their children on distinguished careers by insisting on rigorous, early educational training. His forebears included a great-grandfather who was a steamboat river pilot out of Cincinnati and a grandfather who volunteered for the Union Army at seventeen and fought at bloody Shiloh. This heritage left its mark on young Potter.

Potter attended the University School in Cincinnati and Hotchkiss School in Lakeville, Connecticut, in preparation for college and law school. He was a member of the Class of 1937 at Yale University and of the Class of 1941 at the Yale Law School. He spent a year abroad as a Henry Fellow at the University of Cambridge, England, in 1937-38.

His academic achievements with their emphasis on the historical heritage of this country and the appropriate use of the English language foretold what was almost destined to happen. At Hotchkiss he won highest academic honors and was voted by his classmates as the wittiest and the most likely to succeed. He entered Yale near the bottom of the depression on a scholarship and supported himself in part by waiting on table, became the Chairman of the Yale Daily News, was awarded Phi Beta Kappa, and graduated cum laude. At law school he was Comment Editor of the Yale Law Journal, was awarded the Order of the Coif, and again graduated cum laude at the top of his Class. Throughout those years, Potter never neglected situations that might tickle his sense of humor or allow him a spot of social ease. He took time to enjoy life's oddities, to join in a spoof, to laugh at ironies, and repeatedly to offer a hand to the less fortunate. He was an uncommonly friendly person. His goal was set then on a very high plateau--in the world of politics.

After a year with a fine law firm in New York City, he served three years as a Naval officer with the gun crew on oil tankers and supply ships during the second World War with their measure of harrowing experiences, modulated only by the beginning of a happy, married life with Mary Ann Bertles of New York at Williamsburg, Virginia, on April 24, 1943.

After the War he returned to his New York firm. There he compared his grim political future as a Republican with the prospect before him should he return to Cincinnati, where his ardently Republican father was Mayor. In 1947 he made the decision to return home, becoming associated with a leading law firm, to which he was admitted as a partner in 1951.

When his father was appointed in 1947 to fill an unexpired term on the Supreme Court, the way was opened for Potter to seek a seat on Cincinnati City Council. He was elected in 1949 after a colorful campaign and re-elected in 1951, serving his last year as Vice-Mayor of the city. He declined to run again for a third term as the rigors of law practice began to weigh more heavily. For Potter Stewart, the pride of being a good lawyer had come to rank high, even as politics beckoned. Moreover, the political road ahead in Ohio appeared to be blocked by incumbencies for an uncertain period.

In the meantime, a tide in his life was rising imperceptibly. A vacancy on the Sixth Circuit had existed since

late 1951 when Chief Judge Xenophon Hicks retired and the Democrats, then in power, could not agree on a successor. With the election of Dwight Eisenhower as President in November, 1952, the Democratic tide had ebbed and began to flow strongly in another direction. Unknowingly, Potter Stewart was then in its path. When Senator Taft died in July, 1953, he was Majority Leader of the Senate and had left his favorable imprimatur publicly on another Ohio lawyer for the vacancy, but no nomination was made prior to his death. The wind blew and a groundswell rose among Cincinnati lawyers for other candidates. Slowly over six months the powerful Taft hand was lifted by them (without Potter's participation) from the selection. As considerations for the seat re-opened, Potter turned for the first time toward the judiciary as a possible career, beginning to feel the tide that "when taken at the flood, leads on to fortune." It was not then long, as the year 1954 began to unfold, before his name was swept to the fore and on April 27, 1954 President Eisenhower, following clear calls, nominated Potter Stewart for the Sixth Circuit vacancy (then almost two and a half years old). Quickly confirmed, he took his seat on June 1 as the youngest judge in the federal judiciary.

Four years later, after an exemplary experience of hard work, good writing, and strong associations formed among the judiciary on the Sixth Circuit and elsewhere, the tide

returned again toward flood stage. In October, 1958, at almost the beginning of the Term, Justice Burton of Ohio announced his retirement from the Supreme Court. Congress was not in session and the Republicans were facing a stern test in the approaching mid-term elections. The Attorney General of the United States, William P. Rogers, knew his man. The appointment would be a refreshing contrast to a common Republican caricature. Judge Stewart was immediately called to Washington for a reason he did not initially know. Only after his arrival was he told by the Attorney General that he would be offered a recess appointment to the Supreme Court, which would entitle him temporarily to sit at once without prior confirmation by the Senate. There was little time to ponder, only to make a call home. A visit with the President at the White House sealed the occasion.

A new life opened on October 14, 1958 as he joined the Supreme Court as the 92nd Justice in its history and the second youngest since the Civil War. He was re-nominated by the President when the new Congress convened in January, 1959. There was a critical delay as opposition from southern Senators grew and every move of his on the Court was put under scrutiny. They asked him about his reaction to the case of Brown vs. Board of Education (1954) 347 U.S. 483. At his confirmation hearing, Judge Stewart responded to the question by saying, "I would not have you, sir, support my confirmation on the assumption that I

shall vote to overrule Brown vs. Board of Education." He was finally confirmed by a vote of 70-17 on May 5, 1959. All southern Senators but one voted against his confirmation.

Justice Stewart's career on the Supreme Court was characterized by unusual dedication and commitment to the Court as an historical institution, careful thought on each case as presented on the record, briefs, and oral arguments, and a responsible exposition of his thoughts and reasoning in each opinion that he wrote. "During a Court term [from October to July]"..., he said, "my daily life consisted almost entirely of reading, writing, and listening..." His weekly reading generally exceeded 2,500 pages. Ten to fifteen petitions for certiorari with their briefs were stacked on his desk almost every day. Few lawyers, if any, on a case before the Court, in reading an opinion written by him had to reach for why he had decided the case in the way that he did. No lawyer appearing in oral argument before the Court could afford to appear without being prepared to answer his pithy question going to the heart of the case. For Justice Stewart, oral argument was, in most cases, the chance to clear the air or to seize the jugular. It was as intellectually exciting for him as it was for the ablest advocate appearing before him.

Those who sought to "type" or to "classify" him prior to briefs or oral argument were repeatedly disappointed--unless they emphasized, first, the record of the case, the apparent

weaknesses of their own position if any there were, and finally, if they could, the strong validity under the law of that position. In that mold alone could Justice Stewart be safely cast by lawyers preparing to face him. Past that barrier, the lawyers could rest assured of judicial fairness at his hands, expounded concisely, pungently, and at times eloquently.

Justice Stewart and his wife Mary Ann attended many judicial conferences of the Sixth Circuit over the years. With good sense, warmth and humor he submitted his "annual report" to those assembled, occasionally in mock seriousness bearing reams of paper to support his presentation. Social occasions were rarely on his agenda; yet he enjoyed them as much as anyone, particularly those among lawyers. For he let it be known that his profound respect for the law and for lawyers was at the center of his life. He chose above all to be remembered as a good lawyer.

His retirement from the Court in 1981 at the age of 66 came as a surprise to many, but not to those who knew him well. He had served a long period and was aware of the risks of staying on beyond his appointed time. While on the Supreme Court he wrote 309 opinions for the Court, 149 concurring opinions, and 225 dissenting opinions. His retirement allowed him to divert his energy and attention to other channels, including more time with his wonderful wife and family. He also remained active out

of his chambers at the Court, sitting as a judge elsewhere in the federal judiciary, acting as an arbitrator, a lecturer at law schools, as a member of the Kissinger Commission on Central America in 1983 and more recently the President's Commission on Organized Crime. He enjoyed this period in his life perhaps as much as any, comparatively brief though it was. The tide that he had taken at the flood had happily carried him far, to the benefit of a grateful nation.

He is survived by his widow, by his children Potter, Jr., a lawyer, and Harriet Virkstis, both of Brattleboro, Vermont, David of Washington, D.C., a brother Zeph of Cambridge, Massachusetts, formerly Chairman of the Department of Classics at Harvard, a sister Irene Barnard of Cincinnati, and six grandchildren.

Now, therefore, BE IT RESOLVED that the Forty-Seventh Judicial Conference of the Sixth Circuit in session at Memphis, Tennessee, this Fourteenth day of May, 1986, pays tribute and appreciation to the memory of Justice Potter Stewart, also Circuit Justice of this Circuit, who served the nation and this Circuit faithfully and well.

Be it FURTHER RESOLVED that a copy of this resolution be preserved upon the records of this Conference and that copies be furnished to the family as a mark of sympathy and esteem.

/s/ Robert T. Keeler, Esq.

/s/ Honorable John W. Peck

/s/ Honorable Pierce Lively

HARRY PHILLIPS

Died: (August 3, 1985)

Born: July 28, 1909

In many ways Harry Phillips' tragic death was symbolic of his life. In a life dominated by his dedication to the law, he had just crossed an ocean to attend a professional event. And in a life characterized by a consuming curiosity and an avid interest in all things, within the hour of his arrival in a foreign city he was walking its streets to revel in new sights. The only ameliorating aspect of the tragedy that followed is that after stepping from that London curb, Judge Phillips literally never knew what hit him, and he passed from this life without pain or regret. He was thus spared the anguish which the intervening days imposed on those who loved him.

Born on July 28, 1909 in Watertown, Tennessee, Judge Phillips attained his AB degree from Cumberland University at Lebanon, Tennessee in 1932 and his LL.B. degree in 1933. Collegiate activities included the editorship of the Cumberland Collegian for three years and membership on the debating team.

Judge Phillips entered the practice of law in his home town and was elected to the House of Representatives of the Tennessee Legislature for two terms, serving from 1935 to 1939. He thereafter served as an Assistant State Attorney General of Tennessee until his entrance into the Navy in 1943. During the next three years of World War II he served in the Office of the Judge Advocate General, attaining the rank of lieutenant commander. Following another three years as an Assistant State Attorney General of Tennessee, he helped organize the law firm of White, Gullett, Farrell and Phillips in Nashville in 1950. He was with that firm, which by then had become Phillips, Gullett and Steele when appointed by President Kennedy to the United States Court of Appeals for the Sixth Circuit on July 3, 1963. He became Chief Judge in August of 1969 and served in that capacity until taking senior status nearly ten years later.

A prolific writer, Judge Phillips is particularly known as the author of the authoritative work on the law of wills and administration of estates in Tennessee.

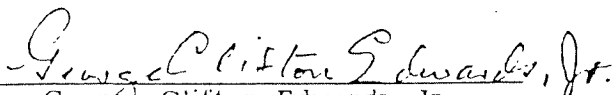
However, he was an ardent and enthusiastic history buff, and his other published writings deal primarily with history, particularly as it touched upon the courts. As is stated in its preface, his "History of the Sixth Circuit" brought "into existence [the] first comprehensive history of one of America's great judicial circuits." Largely in recognition of this great jurist's dedication to scholarship and his accomplishment as an author, a beautiful bronze plaque bearing his likeness is to be placed in the court library in Nashville next fall when it is dedicated "The Harry Phillips Memorial Library."

It was during Harry Phillips' decade as Chief Judge of the United States Court of Appeals for the Sixth Circuit that Judge Phillips attained commanding professional stature. Characterized by the perfect blend of humility and innate dignity, its Chief Judge presided over his great court with a corollary kindness and firmness which commanded love and respect. If he had a weakness, it was to be found in his inability to assign a task to another without imposing two upon himself. In like fashion, instead of asking others to undertake them, he accepted the most difficult opinions for himself.

This classic exemplar of the true southern gentleman was habitually kind and courteous to all. Equally characteristically, however, he possessed an inner steel which permitted no deviation from the straight and narrow path of propriety, and this courage of conviction was apparent in his opinions. A simple adjective, although not one to be used lightly, best characterizes Harry Phillips. He was a good man. That term encompasses the fact that he was a man of total, bedrock honesty in all that he did and believed. Other adjectives come tumbling. Harry was industrious, conscientious, decent, kind, humble, compassionate, understanding, courteous, a man who treasured friendships, and whose friendship was a gem unblemished. Without exception, all of the judges in the Sixth Circuit, both at the trial and appellate levels, consider themselves to have led enriched lives because they were privileged to serve with Harry Phillips. His partners and associates during the days of his Nashville practice echo that sentiment, as does, we are sure, every member of this Conference.

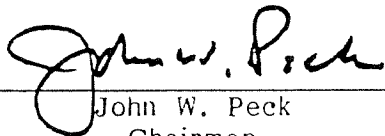
A devoted family man, Judge Phillips married his college sweetheart soon after his admission to the bar, and the gracious Virginia regularly accompanied him to Bar functions. Their four daughters are all married to promising young men, and his seven grandchildren had been a source of special delight to him in recent years. Judge Phillips was a devout member of the Southern Baptist Church and adhered to its teachings, while according high respect to the teachings and practices of other denominations.

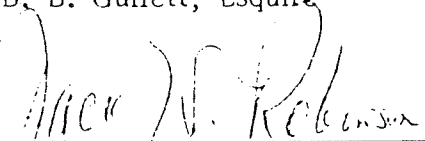
Always active in bar association affairs, he was an Honorary Member of the American Bar Association Foundation. Judge Phillips particularly contributed to the activities of the Cincinnati Chapter of the Federal Bar Association, the Tennessee Bar Association and the American Bar Association. It was, of course, attendance at a meeting of the latter in London which provided the setting of his tragic death, which we so deeply mourn.


George Clifton Edwards, Jr.


S. Shepherd Tate, Esquire


B. B. Gullett, Esquire


John W. Peck
Chairman


Jack W. Robinson, Esquire

IN MEMORIAM
HONORABLE THOMAS P. THORNTON

May it please your Honors and Delegates of this Conference,

Whereas death has taken from us a beloved and a truly remarkable friend, Thomas P. Thornton, our distinguished Senior Judge of the Eastern District of Michigan, let the following resolution be duly recorded in the minutes and record of this Honorable Conference.

Thomas P. Thornton was born in Somerville, Massachusetts, before the turn of the century and received his bachelor of arts education at various educational institutions, namely, Tufts University, Syracuse University and Fordham University, where he also played for their varsity football teams before moving west to enter the University of Detroit on a football scholarship. Prior to entering the University of Detroit, he served with distinction in the United States Navy during World War I. While pursuing his law school education at the University of Detroit, he excelled in varsity football as a fullback and a quarterback leading its great teams against Army, Michigan State, Fordham, Boston College, Tulane and many others. On the Titan gridiron, he earned the nickname "Tiger" because of his tenacity and aggressiveness. Tom Thornton also won numerous awards and citations as a swimmer and diver, and because of his athletic abilities he was inducted into the University of Detroit Hall of Fame and was named to their all-time football team.

After graduation from the University of Detroit Law School in 1926, he became a partner in the law firm of Herlehy & Thornton with offices in the Hammond Building in Detroit.

In 1937, Tom Thornton became an Assistant United States Attorney for the Eastern District of Michigan and in 1944 was named Chief Assistant. In 1947, President Harry S. Truman appointed him United States Attorney for the Eastern District of Michigan.

During his tenure as assistant and later United States Attorney, he made his mark as one of Michigan's most effective and successful trial lawyers. He tried many of the important and notorious cases — achieving almost 100% success. His nickname "Tiger" again surfaced because of the thorough, aggressive and strong manner in which he tried cases.

In 1949, President Harry S. Truman appointed him United States District Judge for the Eastern District of Michigan where he served with distinction, honor and immense loyalty until his sudden and untimely passing July 1, 1985. Although he took senior status in 1966, he continued to devote full time to judicial duties.

Tom Thornton possessed an extraordinary talent for quickly zeroing in on and analyzing issues. He had a remarkable sense of humor along with an outstanding gift of Irish wit, which he frequently used to make many a dull trial or conference humorous and bearable.

Tom was always available to young lawyers and new judges who constantly sought out and received his counselling, advice and good example.

He brought to the bench that very clear air of honesty and integrity, not in any way or at any time compromising his principles. Public press and pressure never swayed or influenced his decisions. He was a wise and great judge.

His friends included people from all walks of life; from all creeds and colors; these people poured out their sorrow openly at the time of his death.

He was a loyal and dedicated husband to his first wife, Margaret "Honey" Thornton, to whom he was happily married for 30 years until her death in 1976. He was also a loyal and dedicated husband and provided much humor and happiness to his lovely wife, Rose, whom he married April 12, 1980, and who also became his constant and loving companion at all events public and private.

Tom was a very religious man, always loyal and generous to his church. For over 40 years he attended St. Paul's on the Lake, a Roman Catholic church whose beauty and setting he deeply loved.

Tom also possessed the outstanding quality of humility, never bragging or boasting of past or present accomplishments, accomplishments that spoke well of all of his attributes.

Over his lifetime he enjoyed a deep love of the sea, the Great Lakes and boats —owning many of various sizes and vintages, and with them he ventured to and through every port on the Great Lakes. Mackinac Island was his favorite port, where he served for many years as the Commodore of the Mackinac Island Yacht Club.

Tom was a charter member and founder of the Detroit Chapter of the Federal Bar Association, the president and founder of the Incorporated Society of Irish American Lawyers, a member of the American Judicature Society, the Knights of Columbus, the Detroit Bar Association, the Most Holy Trinity Sharing of the Green Society and many, many other organizations dedicated to charitable work.

Tom truly loved his country, his religion, Rose, "Honey", the United States District Court bench, his friends, his colleagues, his Irish heritage, the University of Detroit, the Great Lakes, and many, many other loves.

Tom, we salute you and commend you, our friend and colleague, for a life too full of accomplishments and happiness to list here. We thank you for your loyalty, friendship and counselling.

In words spoken at the eulogy of the funeral mass, "if you were to find a word that meant humility, loyalty, honesty, integrity, humor and tenacity, you would spell it T-H-O-R-N-T-O-N.

Now, therefore, be it resolved by the Forty-seventh Annual Conference of the Sixth Judicial Circuit, at a session held on May 14, 1986 at Memphis, Tennessee, that this tribute of admiration, love and remembrance for the Honorable Thomas P. Thornton be spread upon the record of this Conference and that a copy thereof be forwarded to his family.

Respectfully submitted,

Circuit Judge Cornelia G. Kennedy
Senior District Judge John Feikens
District Judge Robert E. DeMascio
Vincent J. Brennan

