

1988

ANNUAL
REPORT

UNITED STATES COURTS - SIXTH CIRCUIT

PRESENTED TO

SIXTH CIRCUIT JUDICIAL CONFERENCE

JULY 6-9, 1988

THE HOMESTEAD

HOT SPRINGS, VIRGINIA

ALBERT J. ENGEL
CHIEF JUDGE

JAMES A. HIGGINS
CIRCUIT EXECUTIVE

LEONARD GREEN
CLERK

JUDICIAL ADMINISTRATION IN THE SIXTH CIRCUIT

Introduction

The early months of 1988 witnessed two important changes in leadership in the Sixth Circuit. On March 31, 1988, Judge Pierce Lively of Danville, Kentucky, relinquished the office of Chief Judge of the Sixth Circuit while remaining an active judge of the Court of Appeals. Judge Lively was appointed to the Court of Appeals in 1972, and he became Chief Judge on October 1, 1983. During his tenure as Chief Judge he provided the leadership which was necessary for the Court to evolve from a court of eleven active judges to a court of fifteen active judges with six senior judges. While he was Chief Judge the Court also undertook the steps necessary for the full automation of the clerk's record keeping systems, and the Court substantially completed a major renovation of its headquarters facilities in Cincinnati, including a beautiful new *en banc* courtroom.

On April 1, 1988, Judge Albert J. Engel of Grand Rapids, Michigan became chief judge of the Sixth Circuit. Judge Engel was appointed to the Court of Appeals in 1974. Prior to his appointment to the Court of Appeals, Judge Engel served as a District Judge for the Western District of Michigan, from 1971 to 1974, and as a State Circuit Judge of the 14th Judicial Circuit of Michigan.

In January, 1988, John P. Hehman resigned as Clerk of the Court of Appeals to accept an appointment as Circuit Executive of the Third Circuit. Mr. Hehman served as Clerk of the Court of Appeals from 1974 until 1988. Mr. Hehman was succeeded as Clerk by Chief Deputy Clerk Leonard Green. Mr. Green joined the Court of Appeals as a staff attorney in 1976. In 1980 he became the Case Manager in the Clerk's Office, and in 1981 he became Chief Deputy Clerk.

The Sixth Circuit is served by a total of 162 authorized full-time judicial officers. That number includes fifteen active and six senior circuit judges, fifty-seven active and seventeen senior district judges, thirty-four active and recalled retired bankruptcy judges and thirty-three magistrates. The total supporting staff numbers in excess of one thousand, and the total budget for the courts in the Sixth Circuit during FY 1987 was over \$81 million. During 1987 there were over 27,000 civil and criminal cases filed in the district courts of the Sixth Circuit and over 76,000 bankruptcy petitions filed in the bankruptcy courts of the Sixth Circuit. The Sixth Circuit Court of Appeals experienced another year of growth, albeit at a somewhat slower rate, during 1987, with a total of 3,817 new appeals filed.

JUDICIAL CONFERENCE OF THE UNITED STATES

The Judicial Conference of the United States is the chief policy-making body for the federal judiciary. Established in 1922 as the Conference of Senior Circuit Judges, the Conference oversees the general performance of the federal judiciary and makes various policy recommendations for changes in policies or procedures of the courts. The Conference also 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.

Shortly after assuming the office of Chief Justice, Justice Rehnquist appointed a Committee to Study the Judicial Conference of the United States. The Committee was charged with the responsibility to review the operation of the Conference and its committees and to recommend improvements which would permit the Conference and committees to better respond to the increased challenges resulting from the growth of the judiciary. The members of the Committee were, in addition to the Chief Justice, Chief Judge Levin H. Campbell of the First Circuit, Chief Judge Wilfred Feinberg of the Second Circuit, Chief Judge Charles Clark of the Fifth Circuit, Chief Judge James R. Browning of the Ninth Circuit, Chief Judge Aubrey E. Robinson, Jr. of the District Court for the District of Columbia, Chief Judge John F. Nangle of the Eastern District of Missouri, Chief Judge Barbara B. Crabb of the Western District of Wisconsin, and James A. Higgins, Circuit Executive of the Sixth Circuit.

The Committee submitted its report to the September 1987 meeting of the Judicial Conference. In its report the Committee found that the Conference and its committee system were fundamentally sound, but that certain structural and procedural changes were necessary. Among the changes recommended by the Committee were revisions designed to:

- Improve the communications to all judges concerning matters under consideration by the Conference or its committees and provide greater opportunity for judges to have a voice in the development of administrative policy governing the courts.
- Ensure greater knowledge of, and to allow greater participation in, the formulation of the policies affecting the judiciary by personnel throughout the judicial system.
- Strengthen the authority of the Executive Committee to implement Conference policies between sessions, to act on matters requiring timely consideration between sessions, and to oversee the development of the Conference agenda and the work of the Conference committees.
- Revise the Conference committee structure to reflect current circumstances, with emphasis on enabling the judicial system to deal more effectively with budget and resource allocation matters.

The Report of the Committee to Study the Judicial Conference was adopted without significant change by the Conference at its September, 1987 session. Immediately thereafter, the Chief Justice appointed the members of the newly-constituted Executive Committee consisting of four circuit judges and three district judges¹. In the following months, the Executive Committee has published procedures for developing the Conference and committee agendas, refined the Conference agenda to include consent

¹The members of the newly-constituted Executive Committee are: Wilfred Feinberg, Chief Judge, Second Circuit, Chairman; Chief Judge Levin H. Campbell, First Circuit; Chief Judge Charles Clark, Fifth Circuit; Chief Judge Paul H. Roney, Eleventh Circuit; Chief Judge John F. Nangle, Eastern District of Missouri; Chief Judge Robert F. Peckham, Northern District of California; Chief Judge Aubrey E. Robinson, District of Columbia; and L. Ralph Mecham, Director of the Administrative Office of the U.S. Courts, Ex Officio.

and discussion calendars, and established priorities for the allocation of funds among competing programs following a reduction in appropriations.

Pursuant to the Report, the Judicial Conference will continue to meet twice each year - in March and September. The Conference is composed of the Chief Justice, the Chief Judge of each of the twelve geographic circuits, the Chief Judge of the Federal Circuit, the Chief Judge of the Court of International Trade, 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. Chief District Judge Philip Pratt of the Eastern District of Michigan began a three year term in September 1987.

The spring and fall meetings of the Conference are only a small part of the total work of the Conference. Much of the work of the Conference is done by 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. In accordance with the recommendations of the Study Committee, the Chief Justice established an *ad hoc* advisory committee on committee appointments which recommended judges and magistrates for various committee appointments after soliciting all judges to determine potential areas of interest in committee work.

The following persons from the Sixth Circuit currently serve on committees of the Conference:

Hon. G. William Brown Western Kentucky	Committee on the Administration of the Bankruptcy Law
Hon. James G. Carr Northern Ohio	Committee on Criminal Law and Probation Administration
Hon. Julian Able Cook Eastern Michigan	Committee on Judicial Ethics
Hon. Avern L. Cohn Eastern Michigan	Committee on the Administration of the Magistrate System
Hon. Benjamin F. Gibson Western Michigan	Committee on Judicial Improvements
Hon. Horace W. Gilmore Eastern Michigan	Committee on Judicial Ethics
Hon. Ralph B. Guy Sixth Circuit	Committee on the Judicial Branch
Hon. John D. Holschuh Southern Ohio	Advisory Committee on Codes of Conduct
Hon. Odell Horton Western Tennessee	Committee on Defender Services
Hon. Charles W. Joiner Eastern Michigan	Committee to Review Conduct and Disability Orders
Hon. Damon J. Keith Sixth Circuit	Committee on the Bicentennial of the Constitution
Hon. Ralph H. Kelley Eastern Tennessee	Committee on the Budget
Hon. Pierce Lively Sixth Circuit	Committee on Rules of Practice and Procedure
Edward F. Marek, Esq. Northern Ohio	Advisory Committee on Criminal Rules
Hon. Boyce F. Martin, Jr. Sixth Circuit	Committee on Federal-State Jurisdiction

Hon. Gilbert S. Merritt Sixth Circuit	Committee on Judicial Resources
Joseph Patchen, Esq. Cleveland, Ohio	Advisory Committee on Bankruptcy Rules
Hon. James L. Ryan Sixth Circuit	Committee on Space and Facilities
Hon. Robert F. Stephens Chief Justice of Kentucky	Committee on Federal-State Jurisdiction
Hon. Harry W. Wellford Sixth Circuit	Committee on Criminal Law and Probation Administration
Hon. Thomas A. Wiseman Middle Tennessee	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. 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. Phillip Pratt
Chief Judge, Eastern District of Michigan
Hon. Thomas D. Lambros
Northern 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. Odell Horton
Chief Judge, Western District of Tennessee

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 Albert J. Engel, Chair
 Honorable Gilbert S. Merritt
 Honorable Boyce F. Martin, Jr.
 Honorable Cornelia G. Kennedy
 Honorable Nathaniel R. Jones
 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.
 Honorable Leroy J. Contle, Jr. (Advisory)

LOCAL RULES REVIEW COMMITTEE

Honorable Robert B. Krupansky, Chair
 Honorable H. Ted Milburn
 Honorable Odell Horton
 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 Philip Pratt
 Honorable Thomas D. Lambros
 Honorable Eugene E. Siler, Jr.
 Honorable Thomas A. Wiseman, Jr.

The council meets in regular session twice each 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.

The following is a brief overview of the some of the more significant actions of the Council in the past year:

Appointment of Bankruptcy Judges

The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353, provides for the appointment of bankruptcy judges by the Court of Appeals for a term of 14 years from a list of not more than three persons recommended by the judicial council. In the appointment process 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 is performed by the Ad Hoc Committee on the Appointment of Bankruptcy Judges, but the full council reviews the recommendations of the panels and the ad hoc committee.

The council was involved in the screening and recommendation of persons to fill three vacancies caused by expiration of term of office, death, resignation or retirement. In addition, the Council reviewed the recommendations of screening committees for four additional bankruptcy judgeships which were authorized by the Bankruptcy Judges, U.S. Trustees and Family Farmer Bankruptcy Act of 1986.

Additional Judgeships

Every two years the Judicial Conference of the United States, through its Committee on Judicial Resources (formerly the Subcommittee on Judicial Statistics), conducts a survey of circuit and district judgeship needs. The council's review of the workload statistics and other factors and its recommendations are a critical part in the development of the final recommendations of the Judicial Conference. The 1988 survey has been completed, and it will be submitted to the Judicial Conference session in September. The council's recommendations for additional judgeships were as follows:

<u>District</u>	<u>Additional Judgeships</u>
Eastern Kentucky	1 ²
Western Kentucky	1
Eastern Michigan	0
Western Michigan	1 (temporary)
Northern Ohio	1 ³
Southern Ohio	2
Eastern Tennessee	1
Middle Tennessee	1 (temporary)
Western Tennessee	0

²The 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 Eastern District of Kentucky.

³The Council recommended that an existing temporary judgeship be made permanent and that one additional temporary judgeship be authorized.

The Court of Appeals requested no additional judgeships, and the council recommended no additional judgeships for the Court of Appeals. No Congressional action on the additional judgeship requests is expected before 1989.

Judicial Vacancies

Vacancies in the office of United States District Judge currently exist in Eastern Michigan, Eastern Tennessee and Eastern Kentucky. The vacancy in Michigan has existed since March 1, 1986 when District Judge John Feikens retired. The vacancy in Eastern Tennessee has existed since District Judge Robert L. Taylor (now deceased) retired on January 15, 1985. These unfilled vacancies and the adverse impact upon those districts in which they have occurred has prompted the Judicial Conference of the United States to designate both Eastern Michigan and Eastern Tennessee as having "judicial emergencies."

Judicial Budget

The Balanced Budget and Emergency Deficit Control Act of 1985, commonly referred to as "Gramm-Rudman" continues to have a major impact on the funding for the operation of the federal courts. During the current fiscal year (FY 1988) the judiciary again has experienced a shortfall in its appropriations. That shortfall has resulted in the continuation of the 6% reduction in the staffing level formula for clerks' offices, probation offices and pretrial services offices, as well as a reduction in funding for the implementation of automation in the federal courts. The effective operation of the courts continue to suffer in many areas because of the lack of sufficient funding for the construction and remodeling of court facilities.

At this writing, the prospect for supplemental funding for 1988, as well as the outlook for funding for Fiscal Year 1989 is not encouraging. An increase of nearly 30% over 1988 spending levels will be necessary to restore staffing levels to 100%, to provide for additional positions related to caseload increases and new responsibilities such as guideline sentencing, to provide for adequate funding for jurors and public defenders, and to provide for the new construction and renovation requirements related to the growth in the judiciary. Preliminary indications, however, are that new funding for 1989 will be limited to 2-3% over 1988 spending levels, based on the "budget summit agreement" reached last year between the Congress and the White House. Some of the anticipated impact on the judiciary of not approving the increases requested for 1989 include:

- Reduction of staffing of clerks offices to 86% of normal level, resulting in reduced office hours and limited access by the public and the bar.
- Reduction of staffing of probation and pretrial services to 78% of the normal level, which will result in a curtailment of services, especially those related to the implementation of the new sentencing guidelines.
- Suspension of jury trials because of the unavailability of funds to pay jurors, and the suspension of appointment of counsel for indigent defendants in criminal cases, both of which would raise serious Constitutional issues.
- Delay in the appointment of new magistrate or bankruptcy judge positions.
- Reduction in the number of places of holding court in order to reduce travel and space rental charges.

OTHER CIRCUIT-WIDE ACTIVITIES OR ISSUES OF INTEREST TO THE BENCH AND BAR

Bicentennial Committee

As part of the judiciary's participation in the celebration of the Bicentennial of the Constitution, the Judicial Conference of the United States created a special committee on the Bicentennial made up of one representative of each circuit. The Conference also requested that each circuit establish its own Bicentennial Committee. The Honorable Damon J. Keith serves as the Chairman of the Bicentennial Committee of the Judicial Conference of the United States and as the Chairman of the Sixth Circuit Bicentennial Committee.

On September 17, 1987, the entire country witnessed the gathering of top lawmakers and judges in Philadelphia to celebrate the drafting of the Constitution two hundred years ago. Several impressive celebrations have been held throughout the Bicentennial Year in the Sixth Circuit. A special concert sponsored by the Sixth Circuit Bicentennial Committee was given by the Detroit Symphony Orchestra on September 17th. The concert was held in Detroit at Ford Auditorium and featured as its centerpiece Beethoven's Ninth Symphony, one of the most powerful musical expressions of freedom ever written. In addition to the concert, the lobby of Ford Auditorium featured an exhibit co-sponsored by the Sixth Circuit Bicentennial Committee and the United States District Court for the Eastern District of Michigan which detailed two hundred years of Constitutional development and equal justice under law.

In addition to the special activities of September 17th, the Committee has been very active in spreading the message of the Bicentennial of the Constitution to the legal and academic communities in the Sixth Circuit through several moot court competitions focused on the significant Constitutional cases originating from the Sixth Circuit as well as the other key cases which played an important role in the development of the Constitution.

The Committee also sponsored an essay contest on the Constitution in which hundreds of Detroit area high school students wrote on the topic "We the People - What the Constitution Means to Me." The eight winners of the competition were sent to Philadelphia to watch the historic Congressional Session commemorating the opening of the Constitutional Convention. A delegation of students from Tennessee also was sponsored by the Committee in a similar visit to Philadelphia where the students presented songs, dances and crafts highlighting their state and its history. The Honorable Harry Wellford was responsible for this group's trip.

On September 10, 1987, the United States District Courts for the Eastern District of Kentucky and the Western District of Kentucky and the Kentucky Supreme Court held a joint Naturalization Ceremony which focused on the importance of the Constitution in our nation's history.

The celebration of the Bicentennial of the Constitution continues until 1991, the two hundredth anniversary of the ratification of the Constitution, and the Sixth Circuit and national committees will continue to plan several programs designed to assure that the Constitution will remain a living, vital document.

Sentencing Guidelines

The Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, established the United States Sentencing Commission as an independent agency within the judicial branch. The Act required the Commission to promulgate detailed guidelines prescribing the appropriate form and severity of punishment for offenders convicted of federal crimes and to establish sentencing policies and practices for the federal criminal justice system.

The new sentencing guidelines became effective November 1, 1987; they apply to offenses committed on and after that date. The arrival of guideline sentencing creates an entirely new set of procedures for the district courts and the courts of appeals. For the district courts, the imposition of a sentence under the guidelines requires specific findings of fact on several aspects of the conduct of the defendant and on the defendant's criminal history. Unless the trial judge departs from the guidelines for reasons stated on the record, the sentence imposed must conform to the guideline range promulgated by the Sentencing Commission for the type of conduct and criminal history involved. Under the sentencing reform provisions of the Act, parole and the control over the duration of incarceration by the Parole Commission are terminated. Instead, the entire sentence imposed, less good time, must be served. Both defendants and the government may appeal from sentences which are outside the guidelines, and defendants may appeal on the grounds of improper application of the guidelines.

The sentencing process at the district court level will be more lengthy and complex. A major portion of the burden of obtaining, documenting, and resolving, if possible, the factual questions relating to the offense and the defendant's criminal history will fall upon the federal probation officers.

A large scale educational effort has been launched to train judges and probation officers in the implementation of the sentencing guidelines. With the assistance of materials supplied by the Federal Judicial Center and the cooperation of the judges and probation staff of several courts, similar training programs have been offered to members of the criminal defense bar.

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 first published Rules for Processing Complaints of Judicial Misconduct in 1981. Upon the recommendation of the Conference of Chief Circuit Judges that some degree of uniformity among the circuits was desirable in the handling of conduct or disability matters, the Sixth Circuit Judicial Council has adopted the illustrative rules proposed by the Conference of Chief Judges, with slight modifications. Copies of

the new rules are available from the circuit executive's office or from any clerk's office in the Sixth Circuit.

During the year ended June 30, 1987, fifteen complaints were filed in the Sixth Circuit, and fourteen complaints were terminated. Eleven of the complaints terminated were dismissed by the Chief Judge as directly related to the merits of a decision or procedural ruling. One additional complaint was dismissed by the Chief Judge as not in conformity with the statute, one complaint was dismissed as frivolous, and one complaint was withdrawn by the complainant before the Chief Judge could take action. No complaints were referred to a special investigative committee, and no complaints required action by the Judicial Council.

Death Penalty Task Forces

As reported last year, death penalty task forces have been established in the states of Ohio, Kentucky and Tennessee, the three states of the Sixth Circuit that have reinstated the death penalty, to evaluate the potential problems and to plan for the resources, particularly the availability of counsel to represent the petitioners. Each of the task forces include district judges, magistrates, federal and state public defender organizations, attorneys general, representatives of the private defense bar, and state bar associations.

The task forces have had a busy and productive year. As a result of the recommendations of the task forces, each district in Ohio, Kentucky and Tennessee have been authorized to increase the hourly rate paid to court appointed attorneys in death penalty habeas corpus cases to \$75.00 per hour for both in-court and out-of-court time. In Tennessee, the cooperative efforts of the task force, members of the bar, and the state legislature have led to the establishment of a death penalty resource center at Vanderbilt University. The purpose of the resource center will be to provide training, assistance and support for attorneys appointed to represent petitioners in death penalty habeas corpus cases. Circuit Judge Nathaniel R. Jones has been coordinating the work of the task forces for the Sixth Circuit; Judge Jones has represented the Sixth Circuit at the National Conference on Death Penalty Resource Planning sponsored by the American Bar Association and in proposals submitted to the Committee on Defender Services of the Judicial Conference of the United States.

Pattern Criminal Jury Instructions

In 1986 the Sixth Circuit Pattern Criminal Jury Instruction Committee was formed to explore the feasibility of drafting pattern criminal jury instructions for suggested use throughout the Circuit. The Committee consists of six district judges and is chaired by Judge Julian Abele Cook, Jr. of the Eastern District of Michigan. The other members of the Committee are: Chief Judge Carl B. Rubin of the Southern District of Ohio; Chief Judge Thomas A. Wiseman, Jr. of the Middle District of Tennessee; Judge Ann Aldrich of the Northern District of Ohio; Judge William O. Bertelsman of the Eastern District of Kentucky; and Judge Walter H. Rice of the Southern District of Ohio. The Committee's goal is to draft approximately 60 instructions covering general principles such as reasonable doubt, the most commonly litigated crimes and defenses and problem instructions such as *Allen* charges that generate a great deal of appellate litigation.

There are several key elements of the Committee's approach which are designed to insure the ultimate acceptance and utility of the pattern instructions. First, the Committee has appointed a task force of eight distinguished prosecutors and defense attorneys to assist the Committee in the drafting process. Second, eight additional district judges and eight additional practitioners have agreed to review the proposed instructions drafted by

the Committee and to react with critical comment. Third the Committee has obtained the assistance of an expert on federal criminal law and of an expert on the use of plain English. It is hoped that this large and diverse group of participants will produce instructions which will reduce the amount of time and effort practitioners and judges now spend in drafting instructions, reduce litigation at both the trial and appellate level, and, by emphasizing plain English, accurately state the law in a way that is easily understandable by lay jurors.

Funding for this project has been obtained from a variety of sources. Particularly noteworthy are the contributions of several bar groups and law schools. The State Bar Foundations of Michigan, Ohio and Kentucky generously have agreed to contribute \$3,125 apiece to provide stipends for the Committee's two reporters. The Tennessee Bar Foundation is in the process of considering a similar request. The Federal Bar Association for the Eastern District of Michigan has provided a grant of \$300 to provide a stipend for the Committee's plain English expert, and the Ohio Northern College of Law and the Thomas M. Cooley Law School each have agreed to contribute \$7,000 in student research assistance and administrative support.

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 non-judicial functions of the court. The Circuit Executive serves as chief of staff of the Court of Appeals senior staff, and his office administers the budget, personnel, procurement and facilities management policies 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:

- Execution of phase three of the multi-million dollar renovation project for the Court of Appeals headquarters facility in Cincinnati, will include the relocation of the Sixth Circuit Library into newer larger quarters.

- Issuance of Internal Financial Controls Guidelines for the guidance of the district and bankruptcy courts of the Sixth Circuit and handling funds and accountable resources.
- Coordination of training of judges and staff in the new sentencing guidelines procedures.
- Administrative support for the Merit Selection Panels, the Judicial Council and the Court of Appeals in the appointment of bankruptcy judges.
- Administration of circuit-wide funding of facilities construction and renovation projects.
- Administration of circuit-wide funding of temporary personnel in support of judicial officers.
- Recruitment and selection of a new clerk of the Court of Appeals.

JUDICIAL PERSONNEL IN THE SIXTH CIRCUIT

The past year witnessed several changes in the judicial personnel of the Sixth Circuit. A distinguished former Circuit Judge and Solicitor General of the United States and several other judges were lost to death last year. One district judge assumed senior status. In addition, several new district and bankruptcy judges and magistrates were appointed.

Deaths

Wade H. McCree, Jr. The Honorable Wade H. McCree, Jr. died on August 30, 1987 following a short illness. Judge McCree served as judge on the United States District Court for the Eastern District of Michigan from 1961 until his appointment to the Sixth Circuit Court of Appeals in 1966. He served on that Court until his appointment as Solicitor General of the United States in 1977. After leaving the bench Judge McCree continued to attend circuit conferences and many times took part in conference programs. At the time of his death, he was the Lewis M. Simes Professor of Law at the University of Michigan Law School.

Noel P. Fox. The Honorable Noel P. Fox, United States District Judge for the Western District of Michigan at Grand Rapids, Retired, died on June 3, 1987. Judge Fox was appointed to the District Court on August 9, 1962. He was Chief Judge of the District from January 1, 1971 until he assumed senior status on December 31, 1979. He continued to work until his retirement on January 7, 1985.

Robert L. Taylor. The Honorable Robert L. Taylor died on July 11, 1987 following a long illness. He was appointed United States District Judge for the Eastern District of Tennessee on March 9, 1950 and served as an active Judge of that District until January 15, 1985 when he assumed senior status. At the time of his assumption of senior status Judge Taylor had one of the most senior commissions of any United States Judge in active service. He was Chief Judge of the District from March 16, 1961 until December 20, 1969 and from September 29, 1982 to June 24, 1984.

John F. Ray, Jr. The Honorable John F. Ray, Jr., Chief Judge of the United States Bankruptcy Court for the Northern District of Ohio, died suddenly on October 1, 1987. Judge Ray was appointed to the bankruptcy bench on July 1, 1975 and was appointed to a new 14-year term on September 11, 1986. Prior to his appointment to the Bankruptcy Court, Judge Ray practiced law in Cleveland.

Senior Status

Robert E. DeMascio. The Honorable Robert E. DeMascio assumed senior status on January 15, 1988. Judge DeMascio was appointed to the United States District Court for the Eastern District of Michigan on July 22, 1971.

George Brody. The Honorable George Brody retired from the United States Bankruptcy Court for the Eastern District of Michigan on April 13, 1988. On that date he completed 28 years service to the bankruptcy court having been appointed a referee in bankruptcy on April 14, 1960. Pursuant to the provisions of the 1984 bankruptcy amendments, Judge Brody served as a recalled bankruptcy judge until July 1, 1988.

*New Appointments**District Courts*

Robert Holmes Bell. The Honorable Robert Holmes Bell was sworn in as United States District Judge for the Western District of Michigan on August 6, 1987 to the position which was vacated by Chief Judge Wendell A Miles' assumption of senior status. Judge Bell is the first United States District Judge for the Western District of Michigan to have his permanent headquarters location in Lansing in the first federal courthouse in Lansing. Prior to his appointment, Judge Bell served as a judge of the Circuit Court of Ingham County, Michigan.

Bernard A. Friedman. The Honorable Bernard A. Friedman was sworn in as United States District Judge for the Eastern District of Michigan on June 1, 1988 to the position which was vacated by Judge Robert E. DeMascio's assumption of senior status. Prior to his appointment, Judge Friedman served as a District Judge in the 48th Judicial District of Michigan.

George C. Smith. The Honorable George C. Smith was sworn in as United States District Judge for the Southern District of Ohio at Columbus on December 1, 1987 to the position which was vacated by reason of the assumption of senior status by Judge Joseph P. Kinneary. Prior to his appointment, he was Judge of the Court of Common Pleas in Franklin County, Ohio.

Jerome Turner. The Honorable Jerome Turner was sworn in as United States District Judge for the Western District of Tennessee at Memphis on January 19, 1988 to the position which was vacated by the assumption of senior status by Chief Judge Robert M. McRae. Before his appointment to the District Court, Judge Turner was engaged in private practice in Memphis.

Bankruptcy Courts

William Houston Brown. The Honorable William Houston Brown was appointed United States Bankruptcy Judge for the Western District of Tennessee at Memphis on October 9, 1987 to fill the vacancy created by the death of Chief Bankruptcy Judge William B. Leffler of Memphis. Prior to his appointment to the bench, Judge Brown was Associate Professor of Law at the University of Mississippi Law School with a limited law practice in Jackson, Tennessee.

John Charles Cook. The Honorable John Charles Cook was appointed United States Bankruptcy Judge for the Eastern District of Tennessee on September 18, 1987. Judge Cook was appointed to a new bankruptcy judge position established by the passage of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, P.L. 99-554. Prior to his appointment to the bench he was Assistant United States Attorney for the Eastern District of Tennessee at Chattanooga serving as attorney in charge of that office.

Henry Holman Dickinson. The Honorable Henry Holman Dickinson was appointed United States Bankruptcy Judge for the Western District of Kentucky at Louisville on November 16, 1987. Judge Dickinson was appointed to fill the vacancy created by the resignation of United States Bankruptcy Judge Merritt S. Deitz, Jr. Prior to his appointment to the bench, he was engaged in private practice in Glasgow, Kentucky and was a bankruptcy trustee for the Western District of Kentucky.

Bernice Bouie Donald. The Honorable Bernice Bouie Donald was appointed United States Bankruptcy Judge for the Western District of Tennessee at Memphis in June, 1988. Judge Donald was appointed to a new bankruptcy judge position established by the passage of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, P.L. 99-554. Prior to her appointment, she was a General Sessions Criminal Court Judge in Shelby County, Tennessee.

J. Wendell Roberts. The Honorable J. Wendell Roberts was appointed United States Bankruptcy Judge for the Western District of Kentucky at Louisville on October 16, 1987. Judge Roberts was appointed to a new bankruptcy judge position established by the passage of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, P.L. 99-554. Prior to his appointment to the bench, he was engaged in private practice in Marion, Kentucky.

Walter Shapero. The Honorable Walter Shapero was appointed United States Bankruptcy Judge for the Eastern District of Michigan at Detroit in June, 1988. Judge Shapero was appointed to the vacancy created by the retirement of Chief Bankruptcy Judge George Brody of Detroit. Prior to his appointment to the bench, he was engaged in private practice in Detroit.

David F. Snow. The Honorable David F. Snow was appointed United States Bankruptcy Judge for the Northern District of Ohio at Cleveland in July, 1988 to fill the vacancy created by the death of Chief United States Bankruptcy Judge John F. Ray, Jr. of Cleveland. Prior to his appointment to the bench, Judge Snow was engaged in the private practice of law in Cleveland.

Jo Ann C. Stevenson. The Honorable Jo Ann C. Stevenson was appointed United States Bankruptcy Judge in the Western District of Michigan at Grand Rapids on December 23, 1987. Judge Stevenson was appointed to a new position created by the passage of the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986, P.L. 99-554. Prior to her appointment to the bench, Judge Stevenson was engaged in the private practice of law in Detroit.

United States Magistrates

Joseph W. Bartunek. The Honorable Joseph W. Bartunek was appointed United States Magistrate in the Northern District of Ohio at Cleveland on April 25, 1986. Prior to his appointment, he was engaged in the private practice of law in Cleveland.

Terence P. Kemp. The Honorable Terence P. Kemp was appointed United States Magistrate for the Southern District of Ohio at Columbus on September 18, 1987. Prior to his appointment, he was engaged in the private practice of law in Columbus.

Joseph G. Scoville. The Honorable Joseph G. Scoville was appointed United States Magistrate in the Western District of Michigan at Grand Rapids on January 28, 1988. He was appointed to the vacancy created by the retirement of United States Magistrate Stephen W. Karr. Prior to his appointment, he was engaged in the private practice of law in Grand Rapids.

JUDICIAL WORKLOAD IN THE SIXTH CIRCUIT

Workload in the District Courts

The filings in the district courts in the Sixth Circuit continued to decline last year. Civil filings decreased by 13%, while criminal filings increased by only 3%, leading to an overall decline in total filings of approximately 11% for the twelve month period ending December 31, 1987. Civil terminations declined by 9%, but criminal terminations increased by 16%. Accordingly, the number of cases pending in the District Courts of the Sixth Circuit was reduced by about 6.5%. After two years of declining social security filings, the number of Social Security Act cases remained steady; prisoner cases, on the other hand, which have been increasing steadily over the last several years, again reflected an increase for 1987. **Figure 1** depicts the filings in the district courts of the Sixth Circuit by type of case for 1986 and 1987.

All Districts in Sixth Circuit Source of Filings SY 1986 and 1987

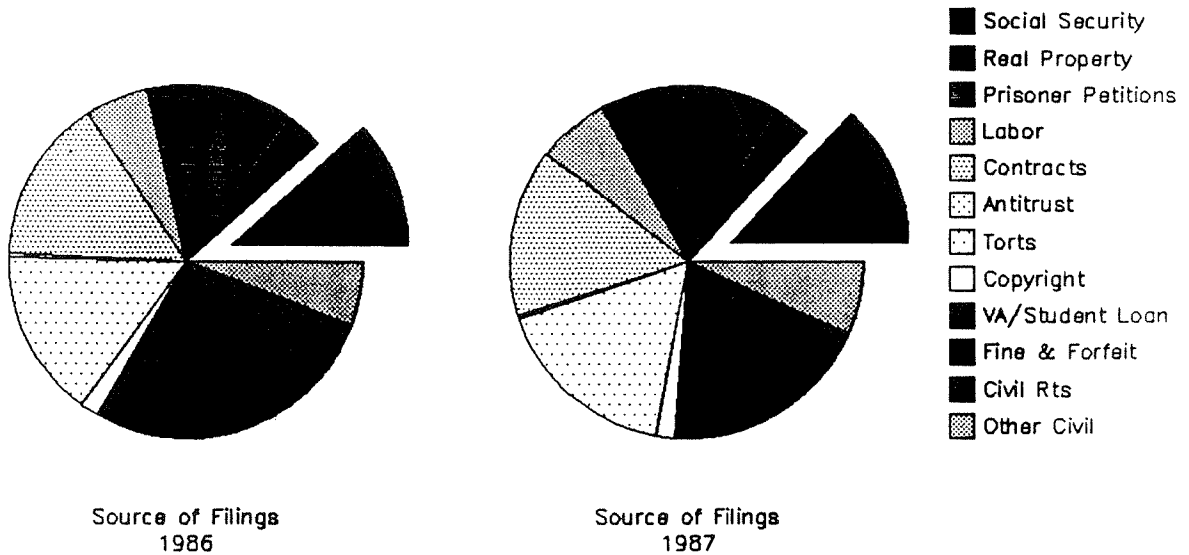


FIGURE 1

Filings. The number of cases filed decreased in all of the district courts of the Sixth Circuit during the reporting period which ended December 31, 1987, with the exception of the Eastern District of Kentucky which experienced a 9% increase in filings. The Northern District of Ohio experienced the largest decrease in filings, primarily due to a sharp drop in VA and student loan cases. (Figure 2)

Terminations. The total number of terminations also decreased in the Sixth Circuit last year, although the Eastern and Western Districts of Kentucky, the Eastern and Western Districts of Michigan and the Middle District of Tennessee experienced increases in terminations during 1987. (Figure 3)

Pending. The total number of pending cases in the district courts of the Sixth Circuit also declined during 1987. The Western District of Michigan, the Northern District of Ohio, and the Eastern District of Tennessee experienced increases, while the Eastern District of Michigan had the largest decline in pending cases. (Figure 4)

District Courts ◊ Sixth Circuit
Comparison 84 ◊ 87 Filings

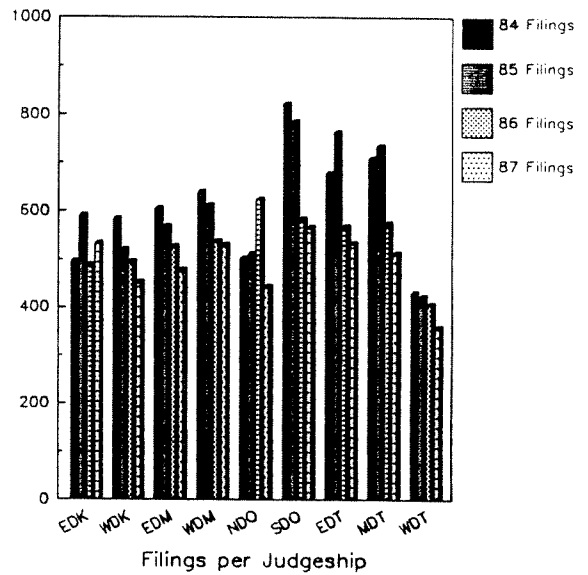


FIGURE 2

Comparison 84 ◊ 87 Terminations

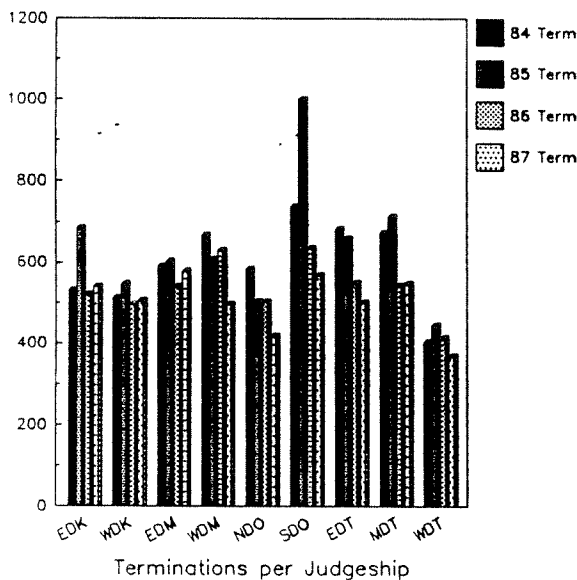


FIGURE 3

Comparison 84 ◊ 87 Pending

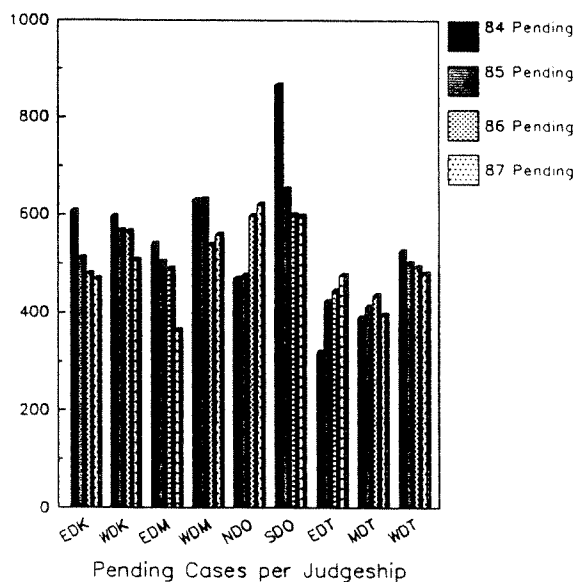


FIGURE 4

Median Disposition Times. The median number of months from filing to disposition of civil cases increased substantially from 10 to nearly 16 months in the Western District of Tennessee. Median disposition times also increased in the Western District of Kentucky and the Southern District of Ohio. The Eastern District of Michigan, the Western District of Michigan and the Eastern District of Tennessee all achieved a substantial reduction in the median disposition time. The Eastern District of Kentucky, the Eastern and Western Districts of Michigan, the Northern District of Ohio, and the Eastern and Middle Districts of Tennessee equal or better the national average for the time for disposition of civil cases. Figure 5 shows the median disposition times for civil cases in each of the districts in the Sixth Circuit during 1986 and 1987, and Figure 6 shows the civil actions three years old or older as a percentage of pending cases for 1987 for each of the district courts in the Sixth Circuit.

District Courts ◊ Sixth Circuit
Median Months for Dispositions

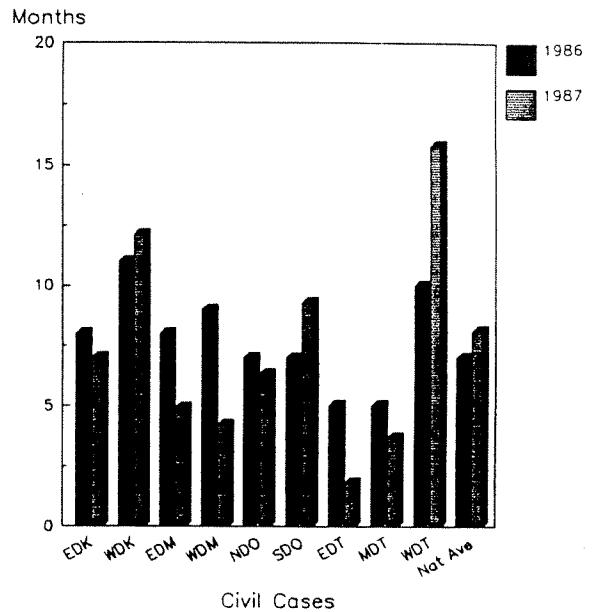


FIGURE 5

District Courts ◊ Sixth Circuit
Percentage of 3yr Old Cases

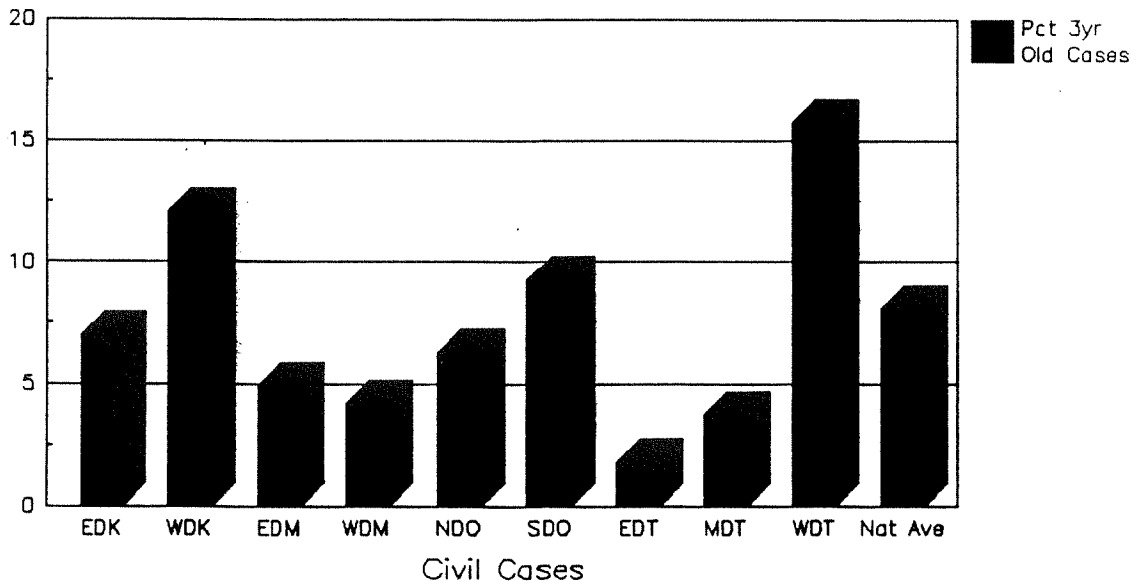


FIGURE 6

Juror Utilization. Figure 7 depicts the juror utilization trends (measured as the percentage of jurors not selected, serving or challenged on the first day of service) for each of the districts in the Sixth Circuit compared to the national average over the last five reporting years. Again in 1987 the district courts in the Sixth Circuit do not compare favorably with the national average. The Sixth Circuit average remains one of the highest in the nation, and only the Eastern District of Kentucky and the Western District of Tennessee had a jury utilization record in 1987 that compared favorably with the national average.

Jurors Not Selected Serving Challenged Jury Utilization Trends 1983-1987

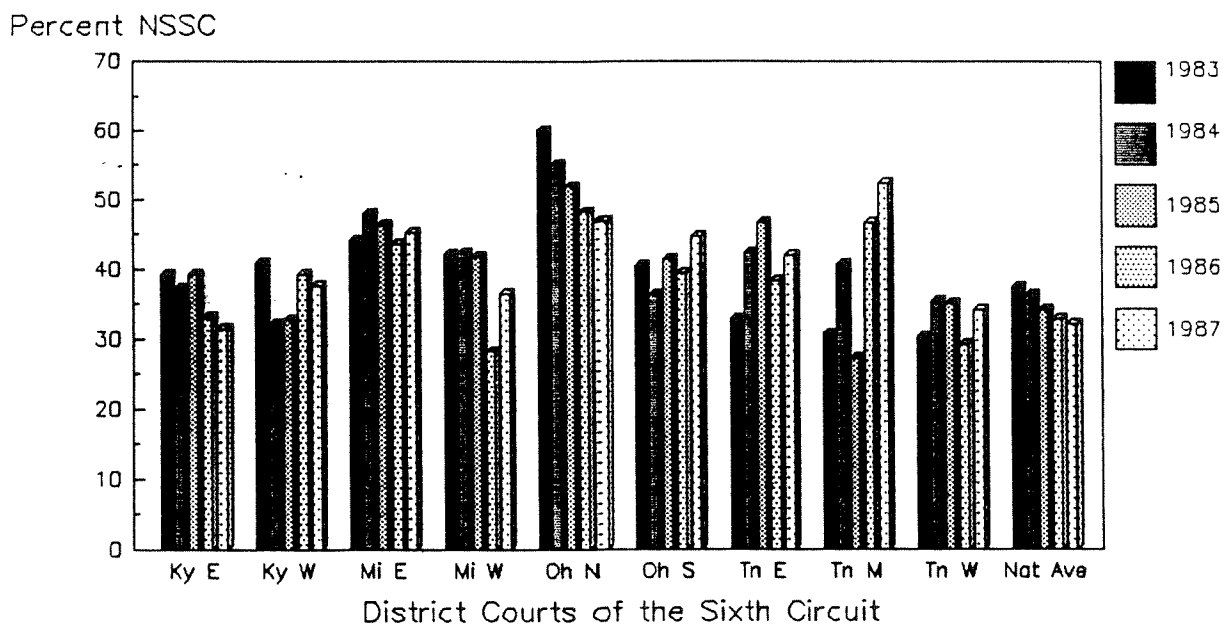


FIGURE 7

Workload in the Bankruptcy Courts

For the second straight year bankruptcy filings increased in the Sixth Circuit, with the total filings (Figure 8) up by 12% circuit-wide. Chapter 7 (Figure 9) and Chapter 13 (Figure 10) cases increased by approximately 12%, but Chapter 11 (Figure 11) filings decreased by 22%. The Eastern District of Michigan experienced the largest increase in Chapter 7 filings, while the Middle District of Tennessee had the greatest increase in Chapter 11 filings.

Bankruptcy Courts ◊ Sixth Circuit
Comparison of All Chapter Filings

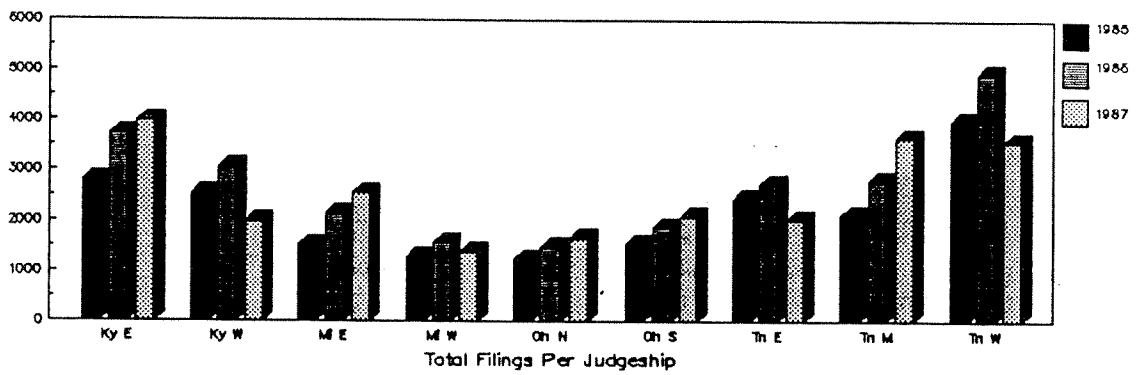


FIGURE 8

Bankruptcy Courts ◊ Sixth Circuit
Comparison of Chapter 7 Filings

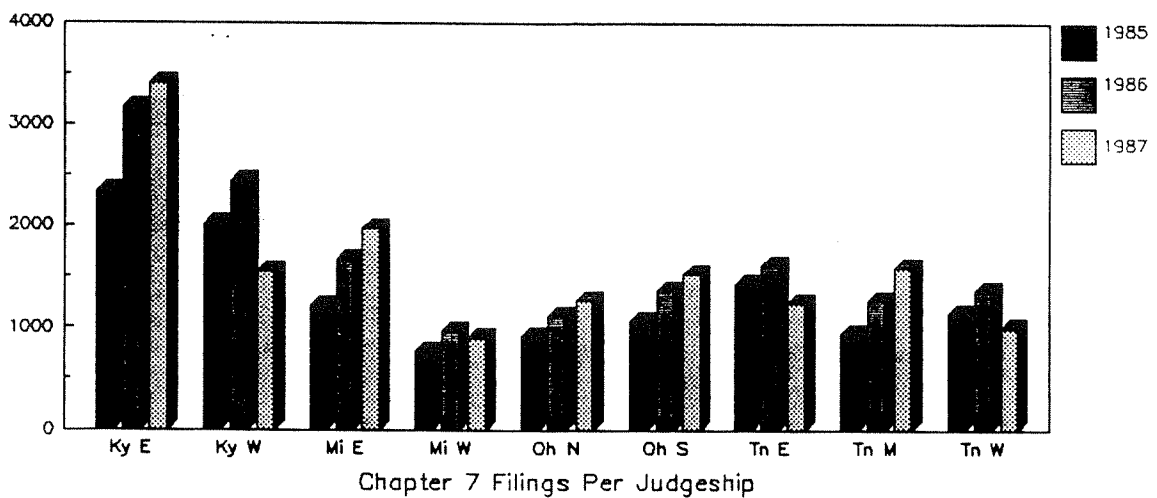


FIGURE 9

Bankruptcy Courts <> Sixth Circuit Comparison of Chapter 11 Filings

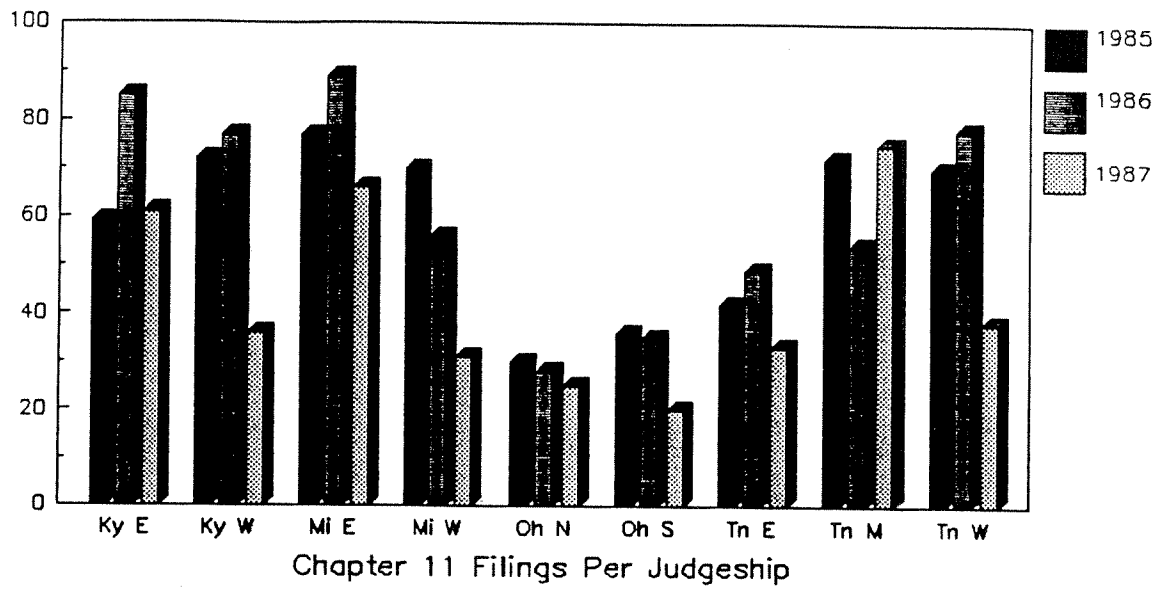


FIGURE 10

Bankruptcy Courts <> Sixth Circuit Comparison of Chapter 13 Filings

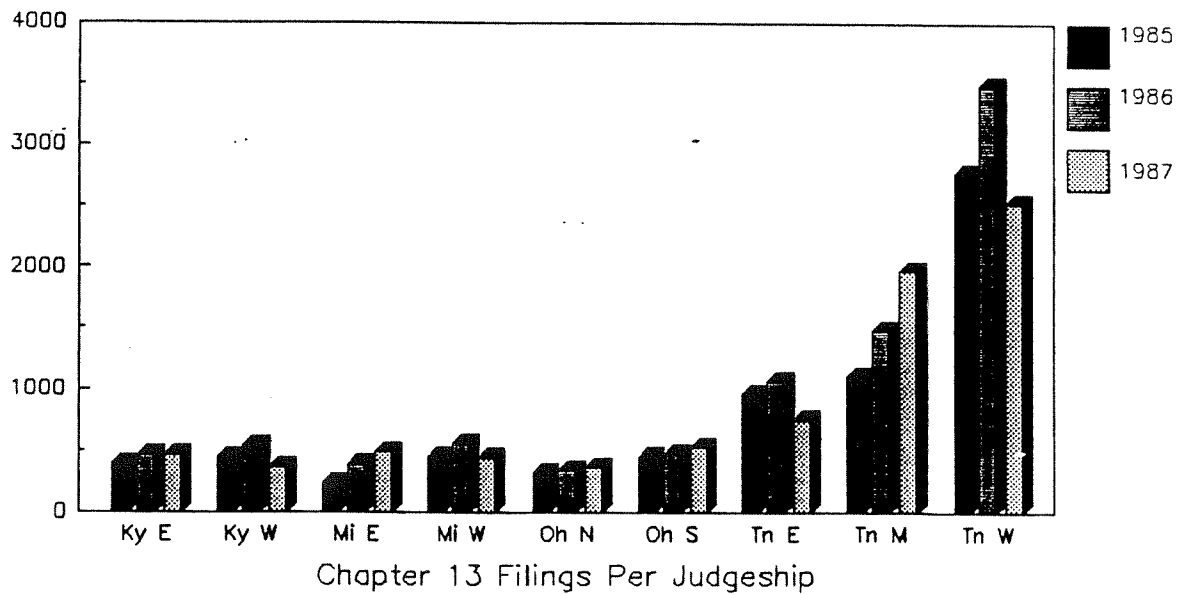


FIGURE 11

REPORT OF U.S. COURT OF APPEALS

For the first time in a decade, the court experienced a slight respite from the rising tide of appellate filings. In the twelve months ended April 30, 1988 some 3,804 new appeals were filed, compared with 3,810 in the preceding twelve months. Decisions, on the other hand, increased by 4.0% during the same period, totalling 3,913. As a consequence, the court was able to gain ground on its backlog of pending cases.

The increase in cases decided reflects the heavy workload borne by the judges. During the twelve months ended April 30, 1988 each Sixth Circuit active judge participated in deciding 405 cases on the merits and jurisdictional grounds. In addition, each active judge was responsible for writing over 135 decisions during the year in cases decided on the merits.

Just as the court gained new leadership with the elevation of Judge Albert J. Engel of Grand Rapids, Michigan to the chief judgeship, so too has the stewardship of the clerk's office changed. John P. Hehman, who became clerk of court on March 18, 1974, resigned to become circuit executive of the Third Circuit, based in Philadelphia. During his tenure of nearly a decade and a half, Mr. Hehman provided extraordinary foresight and leadership during a period of unprecedented growth in the court's docket and in the complexity of its administration.

With the recent filing of the first appeal of a district court's judgment denying habeas corpus relief to a death row litigant, the expected entry of the court of appeals into the death penalty arena is now a reality. Efforts continue apace in Kentucky, Ohio and Tennessee to establish resource centers to provide training and assistance to attorneys representing death-sentenced litigants. These ongoing efforts are an outgrowth of the work of a circuit-wide task force convened in early 1987 by the Chief Judge for the purpose of assisting the Judicial Conference of the United States in determining the level of funding necessary to ensure the proper and uninterrupted representation of such litigants under the Criminal Justice Act.

Another recent development presages the influx into the appellate system of substantial numbers of an entirely new type of appeal. The Sentencing Reform Acts of 1984 and 1987 provide for the sentencing of persons convicted of federal criminal offenses pursuant to guidelines promulgated by the United States Sentencing Commission. The guidelines change the focus of the sentencing process from the traditional approach to one in which the sentence is determined after a finding of the relevant facts, and the application to them of the offense and offender characteristics contained in the guidelines, so that an appropriate sentence as provided for in the guidelines can be established. Of particular importance to the court of appeals is the opportunity now provided for appellate review of sentencing decisions. Because the sentence guidelines apply only to criminal conduct occurring on or after November 1, 1987, and the lapse of time until prosecutions for such conduct have been brought and convictions obtained, it is only in the past two months that sentence appeals have begun to be brought to the court of appeals. Although the ultimate volume of such appeals can only be speculated upon at this early stage, it is anticipated that they will arise in sufficient numbers to represent a significant addition to the workload currently borne by the court.

This expected influx of sentence appeals will present the court not only with new areas of substantive law to be refined, but with new administrative demands as well. The complexities of properly preparing records, and seeing to the proper prosecution and timely submission of the cases, will call for special management attention.

In preparation for the demands which sentence appeals will make upon them, the judges of the court of appeals have availed themselves of training opportunities afforded by the Federal Judicial Center and presented by district court judges and representatives of the United States Probation Department. Key members of the court's support staff have undergone similar training to prepare themselves and their offices to accommodate the requirements of sentence appeals.

In addition to their adjudicative responsibilities, the judges lend their time and energies in participating on the various standing committees of the court. Listed below are the various committees and their current membership.

RULES COMMITTEE

Judge Kennedy, Chair
Judge Guy
Judge Boggs
Judge Norris
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
Judge Contie (Advisory)

LIBRARY COMMITTEE

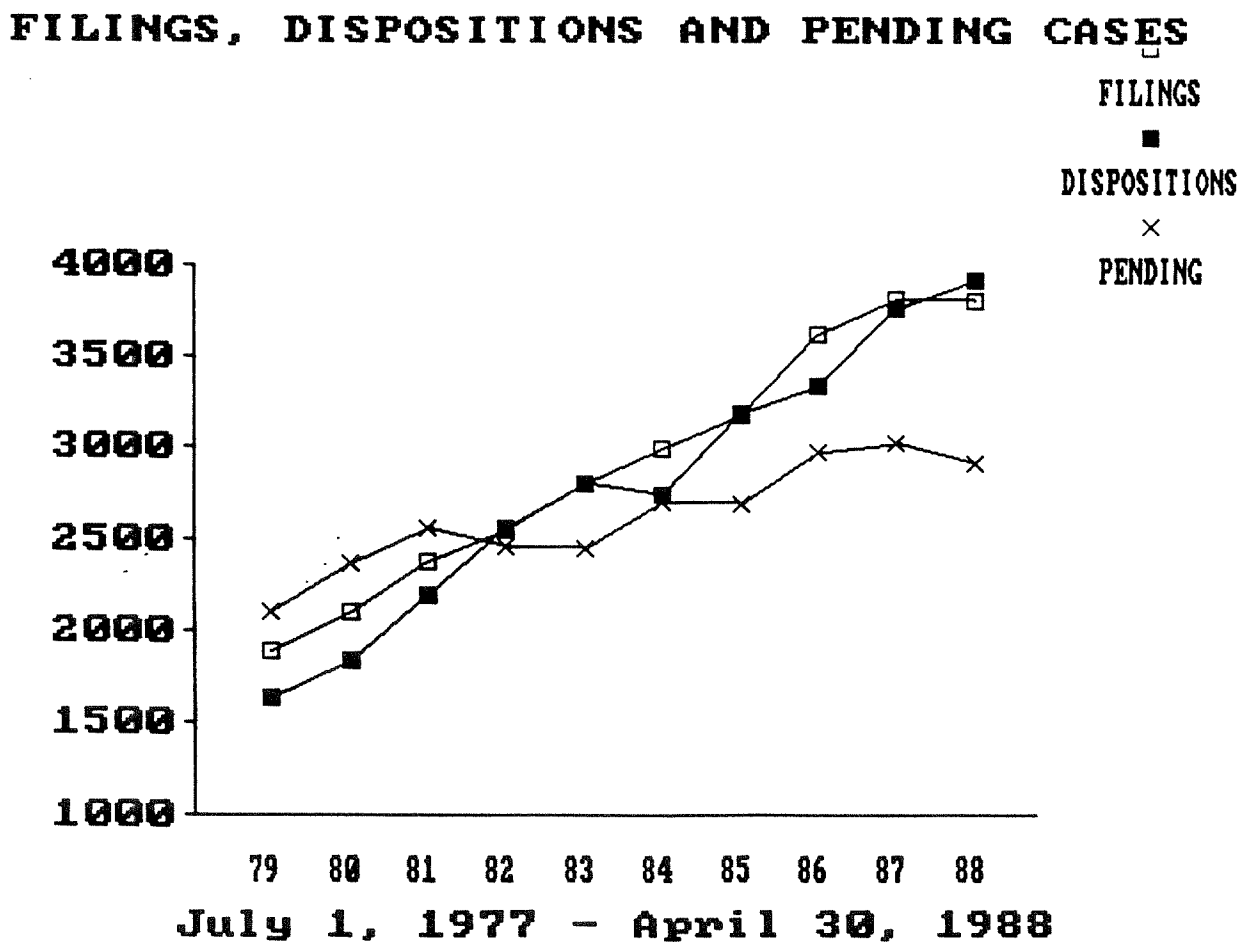
Judge Jones, Chair
Judge Nelson
Judge Peck (Advisory)

The clerk's office has continued to automate its operations to allow it to better serve the needs of the court, the bar, and the public. The office remains on schedule with its plans to establish a unified automated data base to provide the foundation for all case management activity and statistical and management reporting. Having gone on line at the beginning of January 1988, the experience thus far has met, and even exceeded, expectations. That it has is a tribute to a dedicated and talented staff.

STATUS OF THE DOCKET

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

The table on the next page provides the actual number of filings, dispositions and pending cases in each year since 1979. The bar graph presents the same filing and disposition data in an alternate format.



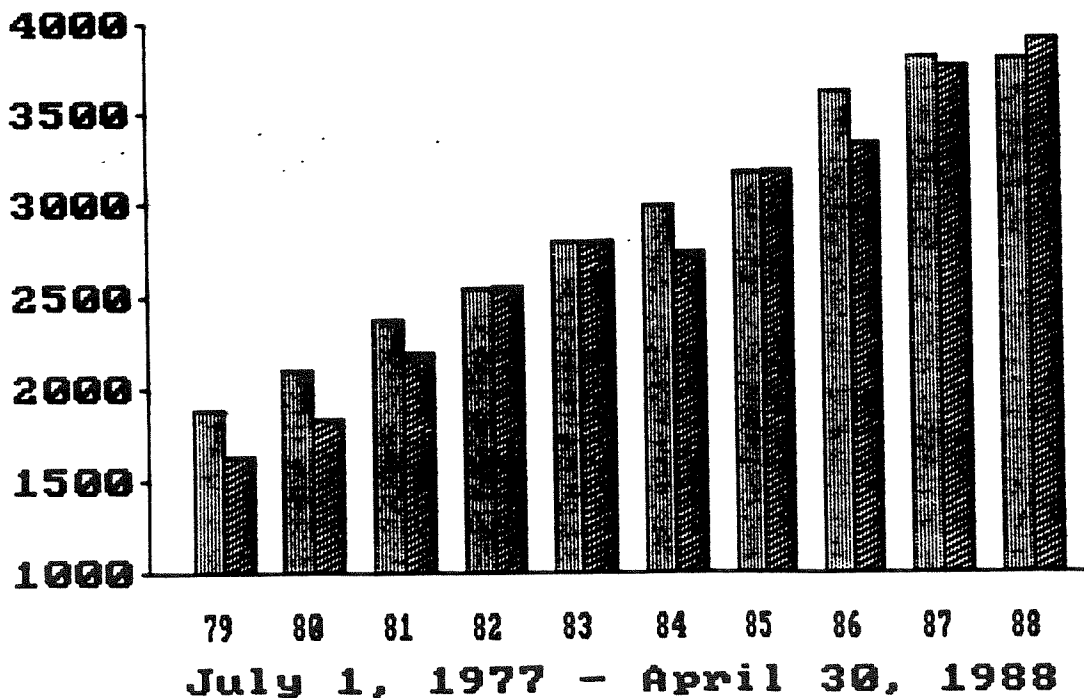
FILINGS, DISPOSITIONS AND PENDING CASES

	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988*
FILINGS	1889	2103	2376	2541	2795	2996	3172	3618	3810	3804
Annual Increase	5.2%	11.3%	13.0%	6.9%	10.0%	7.2%	5.9%	14.1%	5.3%	-.2%
DISPOSITIONS	1633	1832	2189	2551	2803	2743	3183	3337	3763	3913
Annual Increase	8.0%	12.2%	19.5%	16.5%	9.9%	-2.1%	16.0%	4.8%	12.8%	4.0%
PENDING	2095	2366	2553	2457	2449	2702	2691	2972	3019	2910
Annual Increase	12.2%	11.5%	7.3%	-3.9%	-.3%	9.4%	-.4%	9.5%	1.6%	-3.7%

*For 1979 thru 1987, the figures are based on the twelve month period July 1st - June 30th.
For 1988, figures are for the twelve month period ending April, 1988.

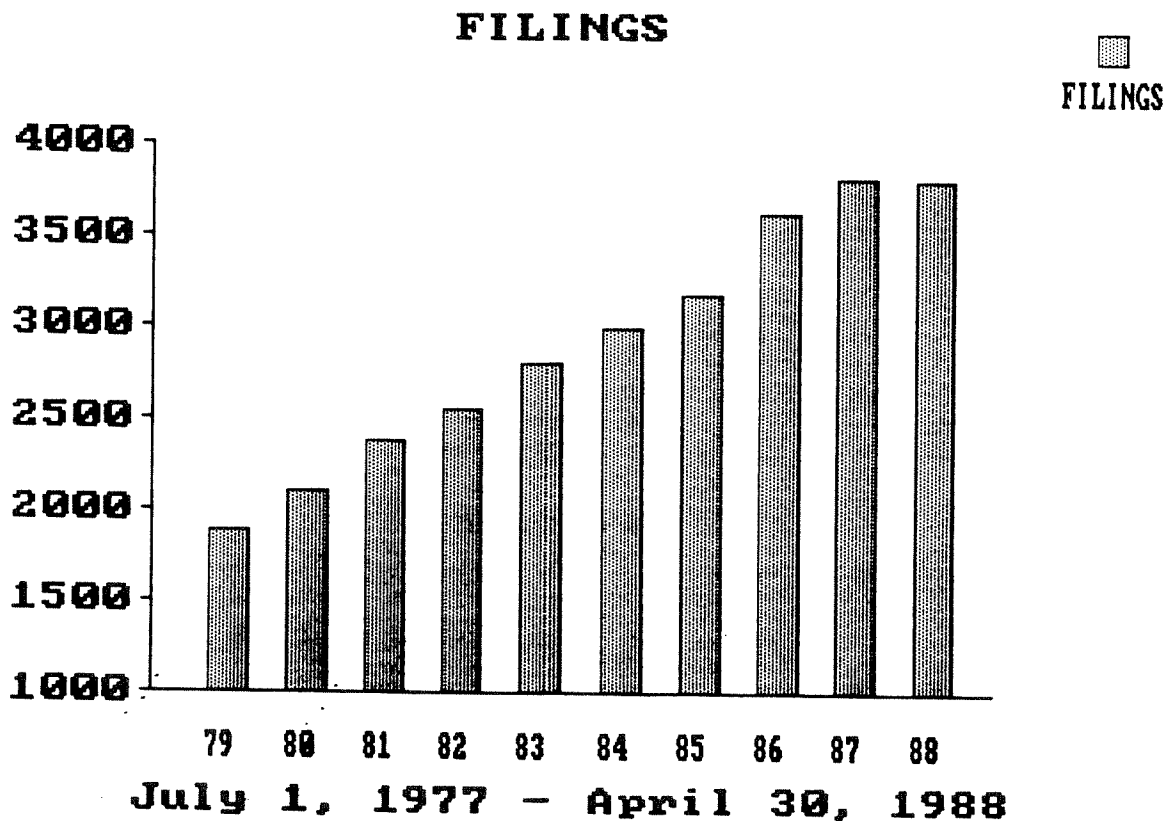
FILINGS AND DISPOSITIONS

FILINGS
DISPOSITIONS



FILINGS

After nine years of constantly rising levels of new filings, the past year saw a levelling off - in fact, a slight decrease - in filings, from 3810 to 3804.



FILINGS, (cont.)

The following table presents a summary of filings for the past ten years, and identifies the types of cases that have comprised the court's docket during that period. Civil cases comprise nearly 80% of our docket.

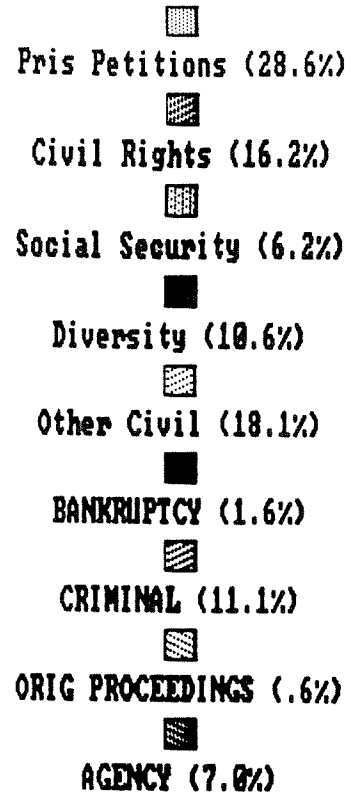
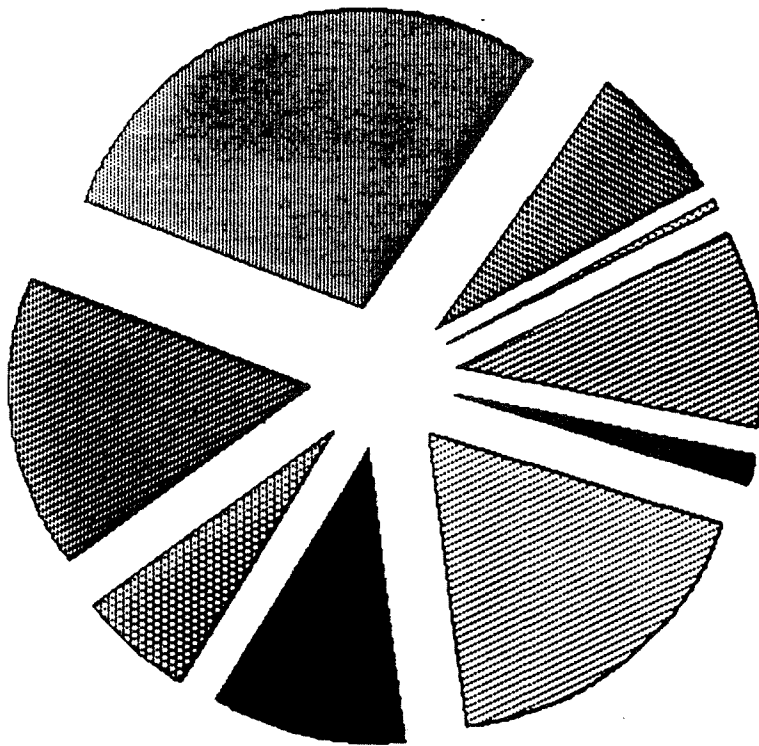
Significantly, the volume of prisoner petitions decreased slightly for the first time in several years; bankruptcy appeals returned to their level of five years ago. The civil rights and "other civil" sectors of the docket were the only ones to experience an increase in filings, the latter being some 15.0%.

The two pie charts on the next page show the proportions of filings by case type and by source of filing.

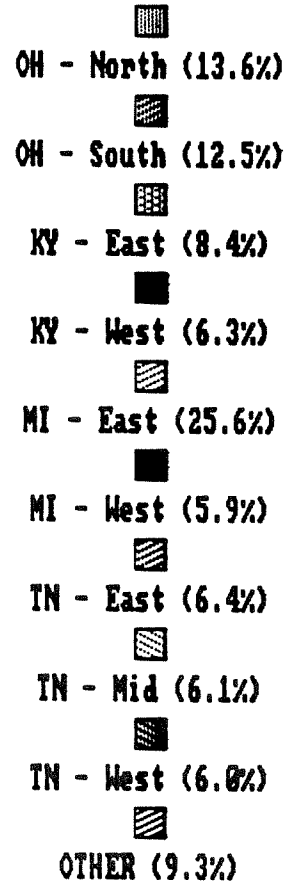
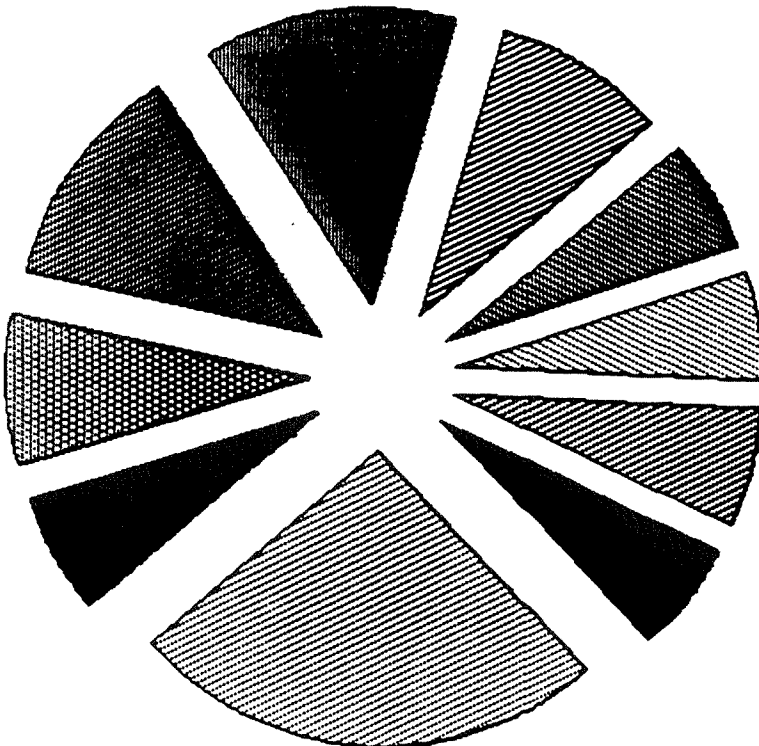
FILINGS BY CASE TYPE

	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
TOTAL CIVIL	1246	1476	1665	1866	2038	2198	2347	2843	2984	3029
Pris Petitions	417	420	546	517	568	551	731	953	1121	1088
Civil Rights	219	272	304	396	411	405	502	553	597	616
Social Security	143	142	150	165	197	284	240	321	251	234
Diversity	165	212	254	261	240	231	288	389	416	402
Other Civil	302	430	411	527	622	727	586	627	599	689
BANKRUPTCY	20	21	44	52	63	97	93	80	83	62
CRIMINAL	354	347	351	347	380	405	386	395	439	423
ORIG PROCEEDINGS	34	21	33	21	32	29	40	32	35	23
AGENCY	235	238	283	255	282	267	306	268	269	267
TOTAL CASES FILED	1889	2103	2376	2541	2795	2996	3172	3618	3810	3804

TOTAL FILINGS BY CASE TYPE



SOURCES OF FILINGS



May 1, 1988 - April 30, 1988

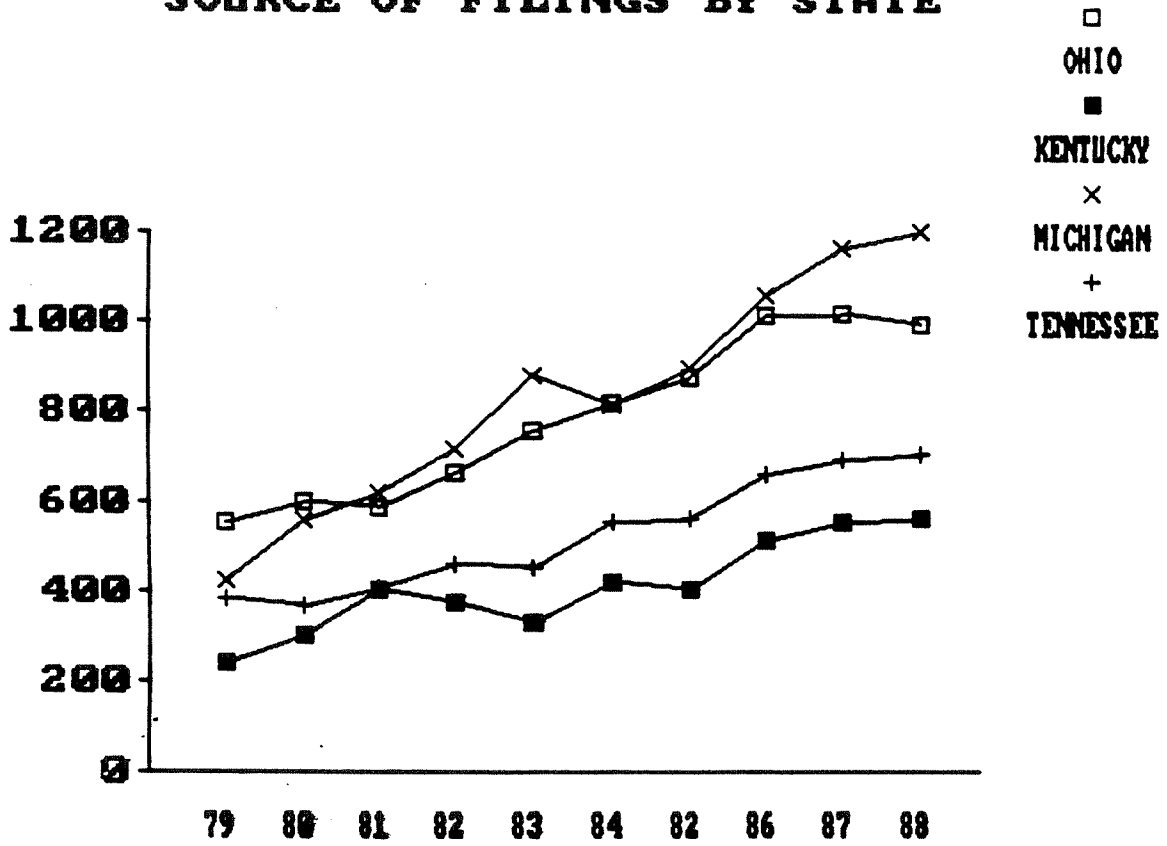
FILINGS BY SOURCE

The table below shows the sources of cases filed during the past ten years. Although the total number of new filings remained virtually the same, filings from several individual districts changed significantly over the preceding twelve months. New appeals from Eastern Kentucky, Western Michigan, and Middle Tennessee rose by 21.7%, 17.8%, and 12.1%, respectively, while new appeals from Western Kentucky decreased by 17.5%.

The graph on the next page tracks the filings since 1979 by state. Compared to last year filings from Ohio decreased by 3% but increased from the other three states within the Circuit. Kentucky's filings increased by 1%, Michigan 3% and Tennessee filings were up 2%. The graph on the next page shows the filing trend by state.

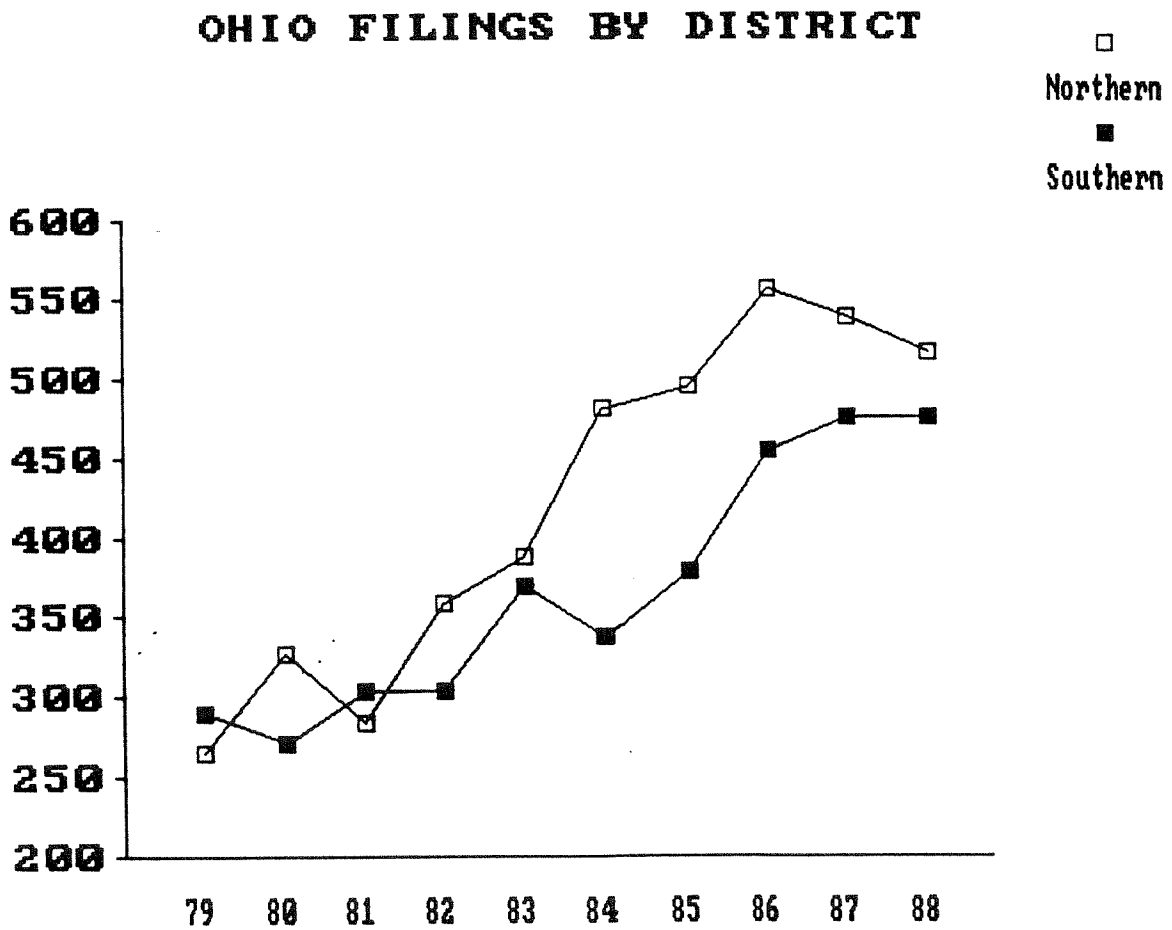
		SOURCE OF FILINGS									
		1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
OHIO	Northern	265	327	284	359	388	481	496	556	539	516
	Southern	289	271	303	303	369	337	378	455	476	475
	TOTAL	554	598	587	662	757	818	874	1011	1015	991
KENTUCKY	Eastern	107	118	190	174	166	239	213	252	263	320
	Western	133	184	213	200	166	181	191	260	292	241
	TOTAL	240	302	403	374	332	420	404	512	555	561
MICHIGAN	Eastern	378	482	496	578	704	683	722	887	970	972
	Western	47	75	124	139	173	129	171	171	191	225
	TOTAL	425	557	620	717	877	812	893	1058	1161	1197
TENNESSEE	Eastern	113	147	144	164	157	225	213	265	256	243
	Middle	118	78	113	152	135	162	184	183	206	231
	Western	150	141	149	144	160	166	165	209	230	229
TOTAL	381	366	406	460	452	553	562	657	692	703	
AGENCY		235	238	283	255	282	267	306	268	269	267
ORIG. PROCEEDINGS		34	21	33	21	32	29	40	32	35	23
BANKRUPTCY		20	21	44	52	63	97	93	80	83	62
TOTAL		1889	2103	2376	2541	2795	2996	3172	3618	3810	3804

SOURCE OF FILINGS BY STATE



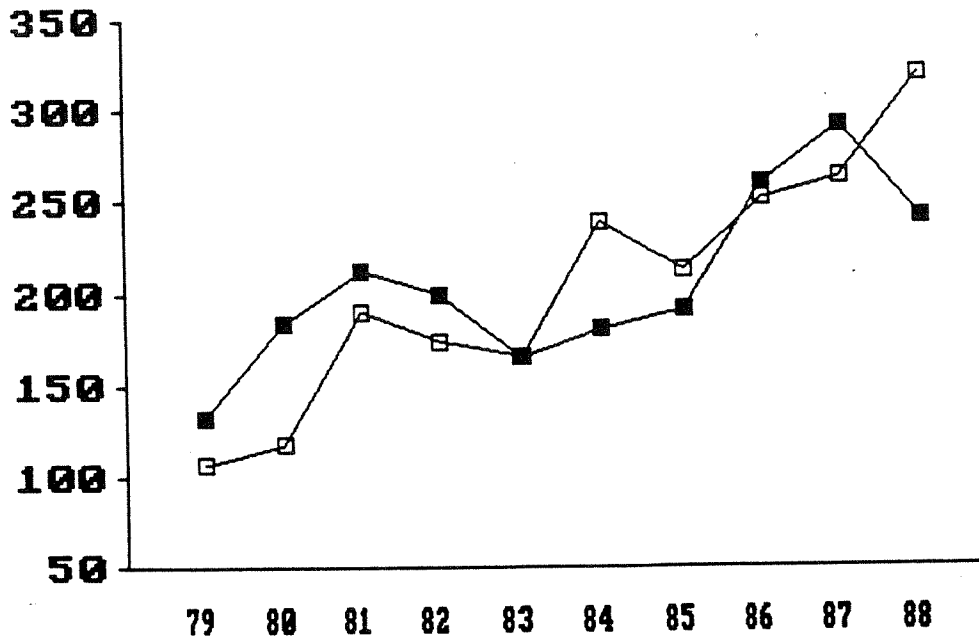
FILINGS BY SOURCE, cont.

The graphs on the following 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.



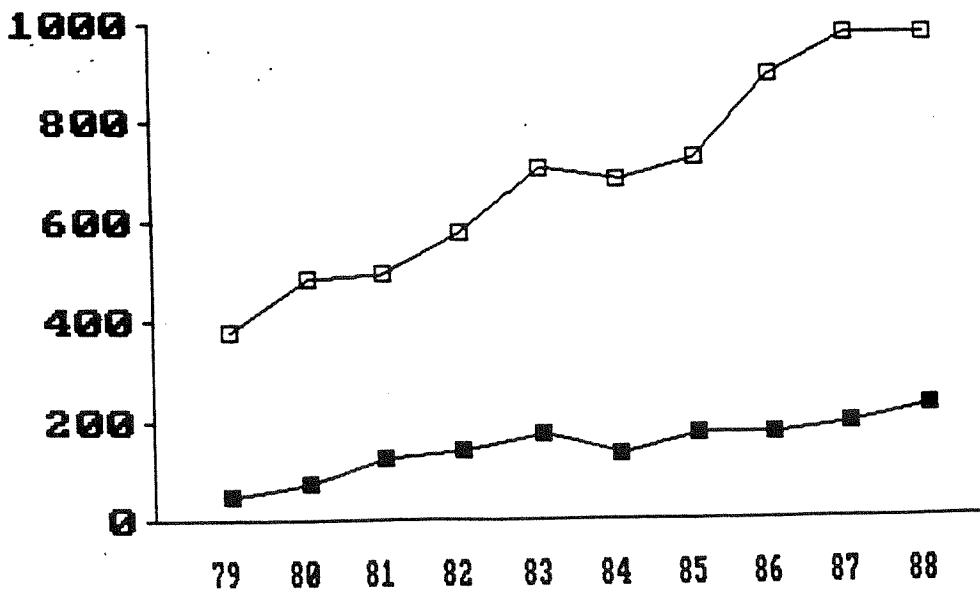
KENTUCKY FILINGS BY DISTRICT

□ Eastern
■ Western

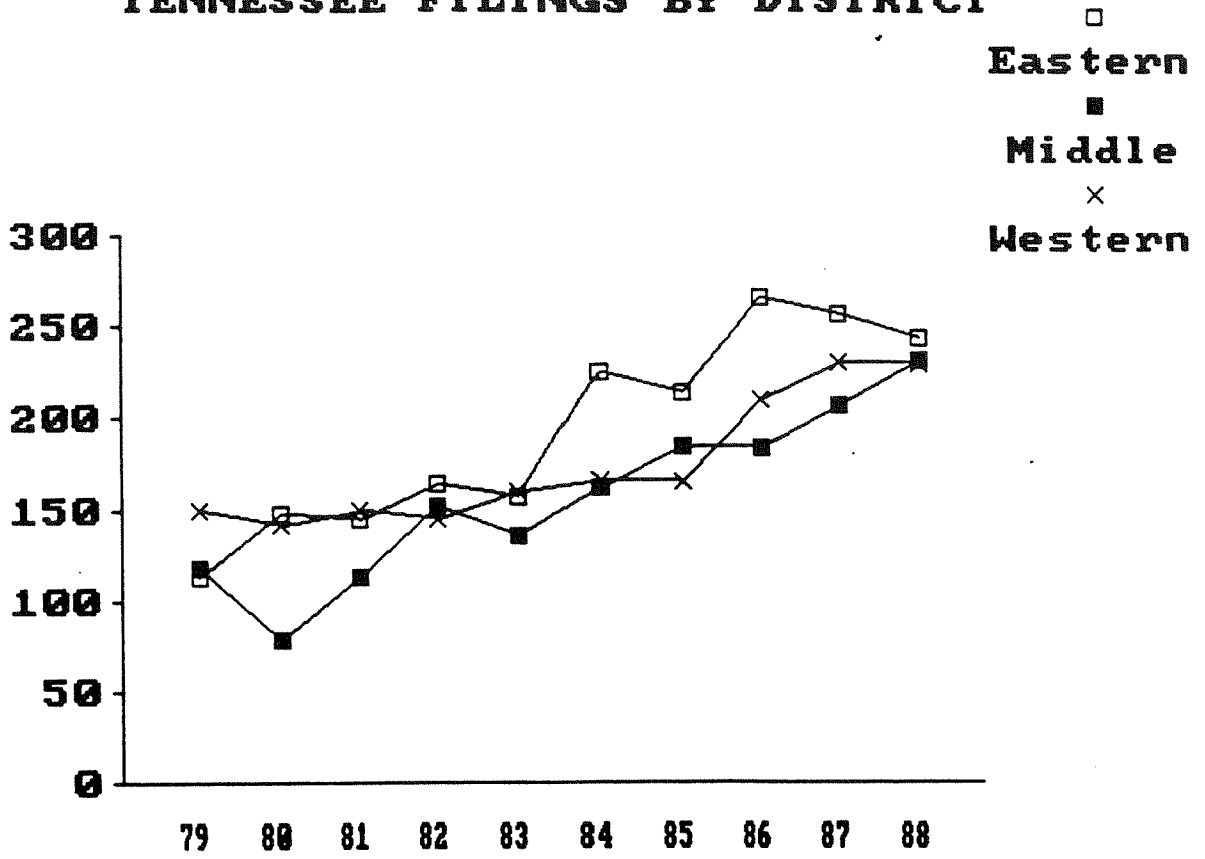


MICHIGAN FILINGS BY DISTRICT

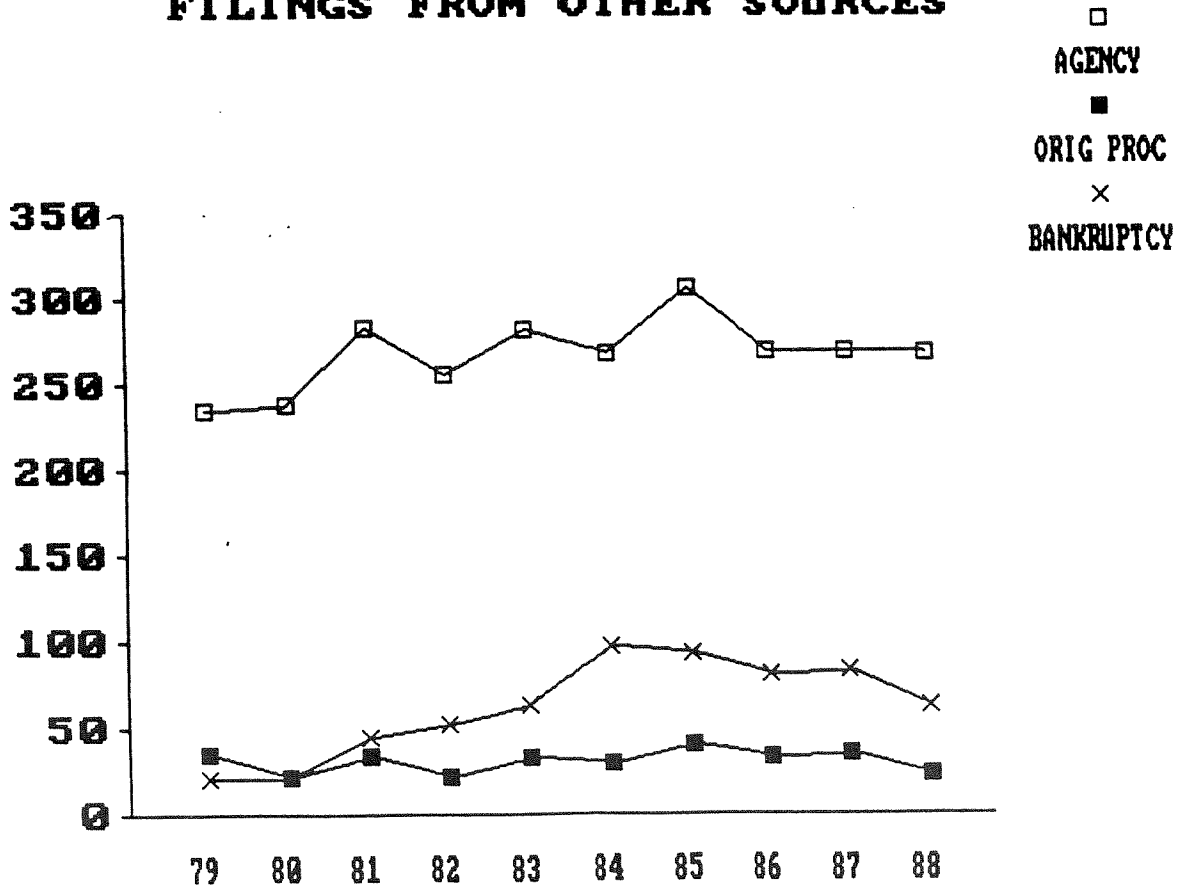
□ Eastern
■ Western



TENNESSEE FILINGS BY DISTRICT

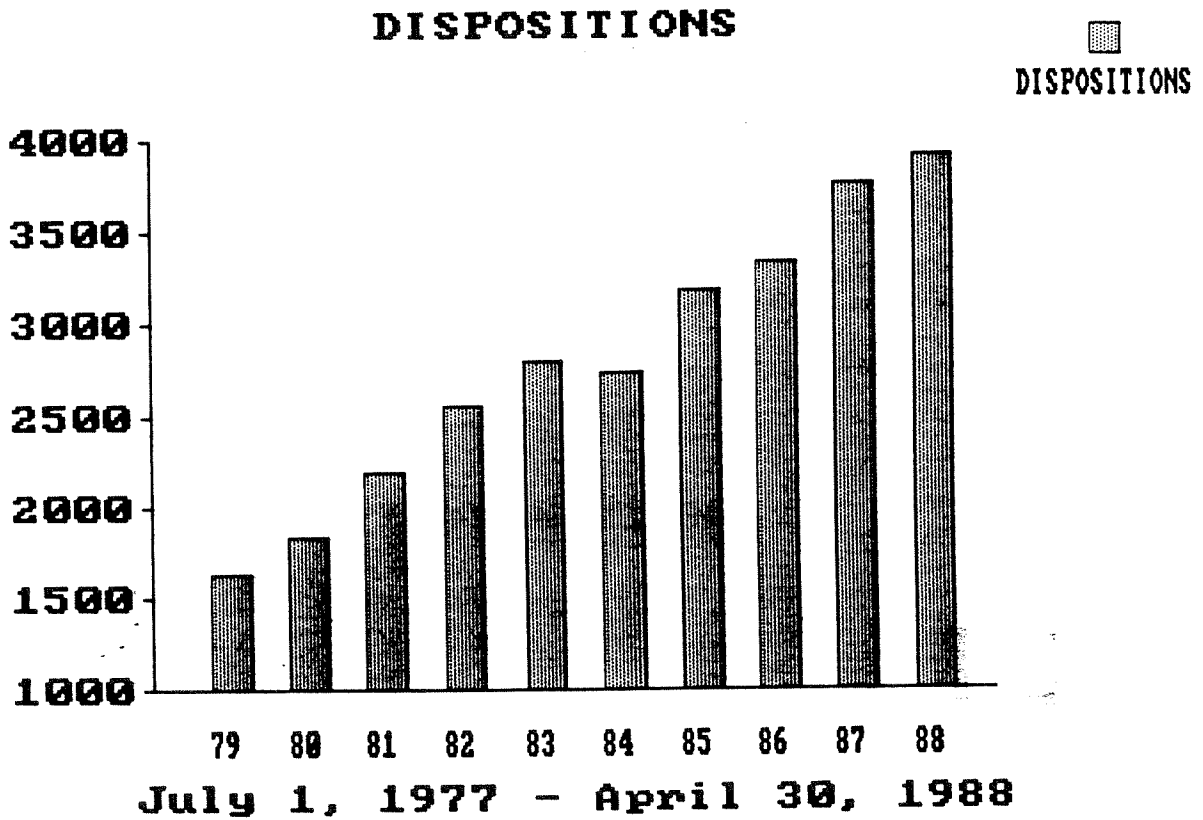


FILINGS FROM OTHER SOURCES

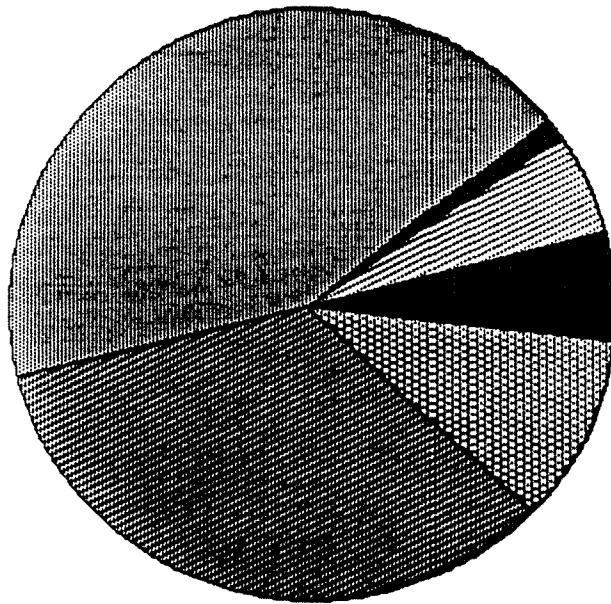


DISPOSITIONS

The bar graph below shows the case dispositions for each year since 1979. The pie chart on the following page identifies how cases were disposed in 1988 by category of disposition. The table below that chart provides a breakdown of dispositions by category for the past ten years.



SUMMARY OF DISPOSITIONS



- Oral Argument (43.1%)
- Summary Dispositions (33.9%)
- Voluntary Dismissals (10.3%)
- Want of Prosecution (6.2%)
- Settlement Program (5.5%)
- Other (1.0%)

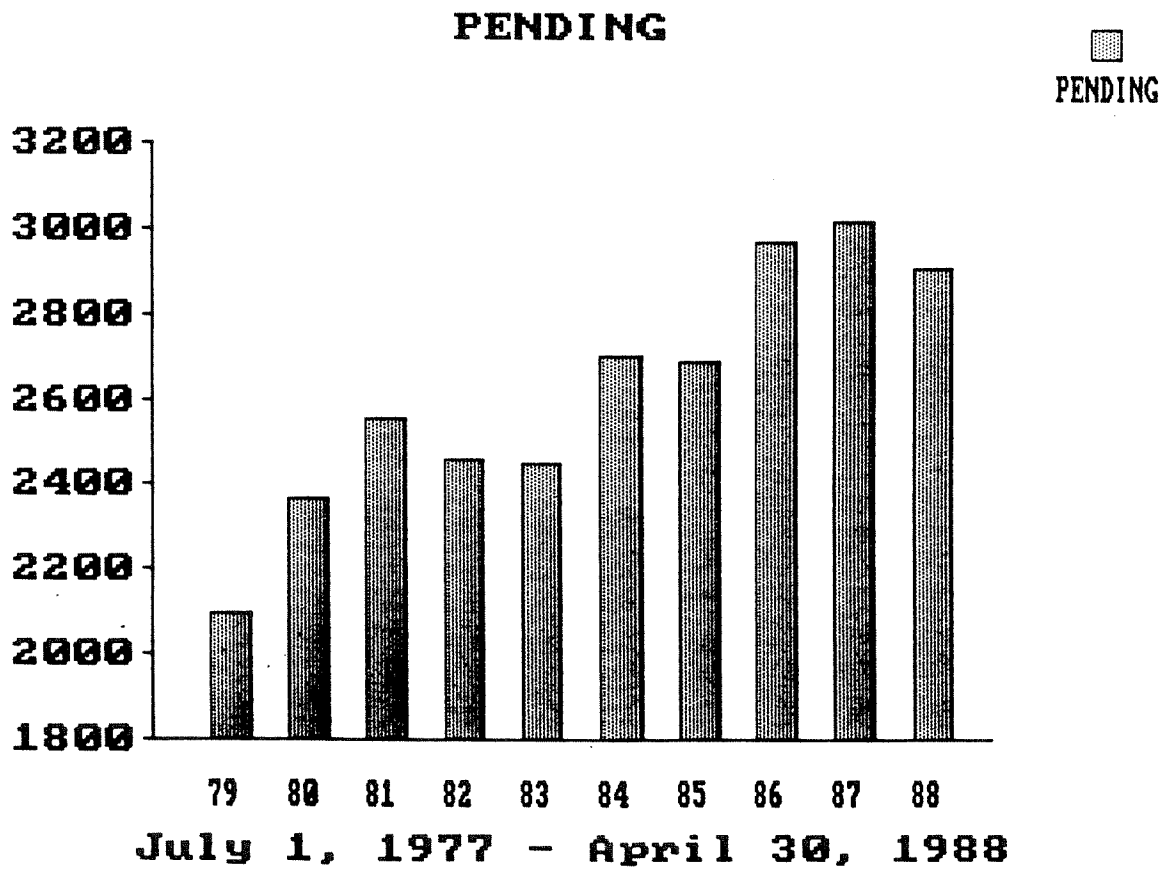
1988

SUMMARY OF DISPOSITIONS

	1981	1982	1983	1984	1985	1986	1987	1988
ORAL ARGUMENT	1327	1233	1354	1366	1461	1428	1611	1685
SUMMARY DISPOSITIONS (Rule 9)	444	574	646	618	817	989	1266	1325
VOLUNTARY DISMISSALS	344	445	382	353	375	340	389	403
DISMISSALS FOR WANT OF PROSECUTION	107	187	217	211	321	340	282	244
SETTLEMENT PROGRAM		14	101	132	164	211	169	217
OTHER	42	98	103	63	45	29	46	39
TOTAL	2264	2551	2803	2743	3183	3337	3763	3913

PENDING CASES

The chart below shows pending cases at the end of each of the last ten years. Note the decrease of over one hundred in the pending cases from last year, the result of the levelling off of filings combined with the court's continuing docket control efforts.





MEMORIAL RESOLUTIONS

RESOLUTION
IN MEMORY OF
WADE HAMPTON MCCREE, JR.

FORTY-NINTH ANNUAL CONFERENCE OF THE
SIXTH JUDICIAL CIRCUIT

The dedicated legions who had admiration and affection for Wade Hampton McCree, Jr. were centered within the Nation's judicial system, but extended far beyond its boundaries. Equally at home within the Halls of Justice and Academia, he was also entirely comfortable sharing thoughts in a panelled drawing room or over a cup of coffee in a humble kitchen. Otis Smith, former Justice of the Supreme Court of Michigan and General Counsel of General Motors, and one of Judge McCree's closest friends, offered this observation, "I've seen him operate in a room among the president, the attorney general and senators, and I've seen him among local truck drivers, taxi drivers and doormen, and he treated everybody with respect and deference."

To use the title he preferred even over "General," "Professor" or "Doctor," Judge McCree's early background did much to make him a man not only for all seasons, but for all points of the compass as well. Born in Des Moines, Iowa July 3, 1920, Wade attended public schools in Hilo, Hawaii, and Chicago, finishing in the famed Boston Latin School. He received his B.A. degree from Fisk University in 1941 and his LL.B. at Harvard Law School in 1948, where he finished twelfth in his class. It should be added that Honorary Doctor of Law degrees from Fisk and Harvard are among the more than thirty honorary LL.D.'s which were awarded to Judge McCree. During World War II he rose to the rank of Captain in the Army of the United States and he saw extended duty in the European Theater.

In addition to practicing law in Detroit, Judge McCree served as a member of the Workmen's Compensation Commission of Michigan from 1952 to 1954 and as a Circuit Judge for Wayne County, Michigan from 1954 to 1961. In 1961 he was appointed United States District Judge for the Eastern District of Michigan by President John F. Kennedy and elevated to the United States Court of Appeals for the Sixth Circuit in 1966 by President Lyndon B. Johnson. In the course of his professional life Judge McCree performed such a myriad of public services both individually and as a member of committees, boards and other groups that only a few of the more prestigious can be identified within reasonable space limitations. Indeed, as observed by President Carter under whom Judge McCree served as Solicitor General of the United States, "There is no way to enumerate his monumental accomplishments." However, listing a few of his affiliations will indicate their scope and breadth: Adjunct Faculty member of Wayne State University Law School and University of Detroit Law School; member of the Summer Faculty of the University of Indiana Law School; Fellow of the American Bar Foundation; member of the Board of Directors of the National Judicial College; Director of the American Judicature Society; member of the Board of the Federal Judicial Center; member of the Institute of Judicial Administration; member of the Editorial Advisory Board of the A.B.A. Journal; member of the A.B.A. Standing Committee on Judicial Selection, Tenure, and Compensation; member of the A.B.A. Long Range Planning Council and Lawyer's Conference Committee on Federal Courts and Judiciary; member of the A.B.A. Commission on Standards of Judicial Administration and Advisory Council on Appellate Justice. He later served on the Board of Directors of Unisys Corp. (formerly Burroughs) and of the National Bank of Detroit.

Second only to his dedication to the judicial system was Judge McCree's deep concern and involvement in the educational process. A founder of the Higher Education Opportunities Committee at Wayne State University and a founding trustee of Friends School in Detroit, he was a Trustee of Fisk University and a member of the Visiting

Committees of Harvard Law School and Mercer University Law School at the time of his death. He had served earlier as an Overseer of Harvard College, was on the board of the University of Pennsylvania Law School and on the Visiting Committee of the Law Schools at Wayne State University, the University of Chicago, Case Western Reserve University and the University of Miami. He was also a member of the law faculty and taught at the Salzburg Seminar in American Studies. He served as Solicitor General of the United States from 1977-1981. The Solicitor General is frequently referred to as the Tenth Member of the Supreme Court, a circumstance consistent with Judge McCree's appointment by that Court (after he left the Solicitor General's office) to hear and recommend resolution of three cases as a Special Master.

Concerning his teaching abilities, Dean Lee Bollinger of the University of Michigan Law School has observed that "many students . . . found Judge McCree to be the best professor they ever had." In the classroom, and elsewhere in scholarly discussion, Wade McCree's keen intellect, phenomenal memory, analytical approach, diplomatic style and patient understanding all came into focus. Indeed, it is likely that he was seldom happier than when engaged in spirited academic exchange. In the courtroom his persistent questioning of counsel often led down paths divergent from the main course of the litigation at hand, leading his colleagues to good naturedly inquire whether he knew the difference between a courtroom and a classroom. Eyebrows at hairline and a twinkle in his eye, Wade's invariable rejoinder was, "Is there a difference?"

Adjectives and admirable attributes, always accompanied by superlatives, come quickly to mind when remembering Wade McCree. However, perhaps the phrase which most comprehensively applies is simply that he was a caring person. His interest in and concern for the individual man or woman was genuine, heartfelt and universal. Most of us say, "How are you?", without really wanting or waiting for an answer. Wade not only listened to the answer, but, drawing on his amazing memory, asked follow-up questions, such as, "Did you get over your bout with pneumonia last winter?" or "Isn't

little Mary going to graduate from high school this spring?" His concern was, however, not only for the individual, but, also for the masses of down-trodden, the impoverished, the disenfranchised, the forgotten. Those of us who were privileged to sit on the bench with Judge McCree need no refresher course in this regard, but for others these characteristics become readily apparent upon a reading of his opinions or reviewing positions taken as Solicitor General representing the United States in the Supreme Court.

The observations of friends and colleagues following Judge McCree's death are illuminating. Judge Harry T. Edwards of the United States Court of Appeals for the District of Columbia Circuit wrote, "Judge McCree reflected excellence. He possessed great intellect, which he projected with enormous grace, dignity and charm. He was cautious, skeptical and probing in his work, never looking for easy answers and always willing to accept the challenge of contrary views." Judge Edwards continued with this interesting observation: "One of the reasons why Judge McCree was so effective in his dealings with people was because he was a marvelous raconteur. He had an extraordinary capacity to remember names, places, times and events; . . . he was always able to lighten an exchange with a clever anecdote or a pithy story." In this regard it should be added that he was a gifted poet, a lyricist who sang humorous ditties in a clear tenor voice as he composed and an on-the-spot/drop-of-the-hat creator of limericks. Typically, as a member of the Sixth Circuit panel called upon to decide whether endangerment of the three-inch snail darter required abandoning the all but completed \$127 million dollar Tennessee dam, he offered these lines:

Who can surpass the snail darter,
The fish who would not be a martyr?
He stymied the dam
Near the place where he swam.
Can you think of a fish any smarter?

A famed Dean of the Harvard Law School and Solicitor General of an earlier era, Erwin N. Griswold, commented that when Judge McCree joined the University of Michigan Law School faculty he brought to legal education "the fruits of his broad and

distinguished career," adding, "He was a great lawyer, a fine judge, an able public servant, and a tonic to all who knew him. But perhaps most of all he was a warm human being who received merited respect and affection from his many friends." Former Sixth Circuit Court of Appeals Chief Judge Pierce Lively made this cogent observation: "Litigants and lawyers who appeared before Judge McCree, colleagues and court personnel who had close daily contact with him, and many who had only casual encounters with him, were impressed by his fairness, his warmth and understanding, and the dignity with which he conducted himself. He was surely born to be a judge." (emphasis supplied)

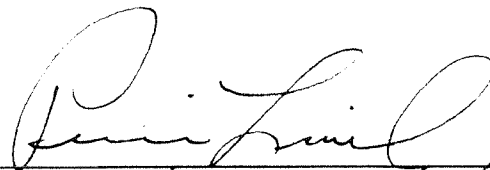
Judge Otis Smith emphasized his friend's idealism and dedication to public service this way: "When Wade had completed his tour of duty as Solicitor General in 1981, he was besieged with offers from a number of major law firms in Washington, New York, and elsewhere. He could have named his salary, but he chose to remain in the public service as a teacher in the law school of [a] great public university." The late G. Mennen Williams, formerly Governor of the State of Michigan and Chief Justice of its Supreme Court, said this: "Wade McCree was not only an outstanding jurist but was a superb human being who helped make the world a better place to live and helped make his fellow human beings better people."

Perhaps Judge Harry T. Edwards summed it all up best. He said, "Some people are renowned because they create great art, music or literature that endures beyond their lifetimes. Wade McCree's legacy is a model of excellence. It will endure not only because of the enormity of his successes, but because of the dignity, integrity, grace and sense of fairness that underscored every aspect of his life."

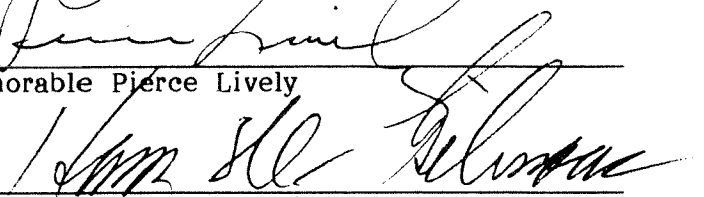
Judge McCree is survived by his widow, the former Dores M. McCrary, regarded with affection as a great lady by all who know her; two daughters, Kathleen (Mrs. David Baker Lewis) and Karen; a son, Wade; a sister and brother, Catherine Barthwell and James McCree; and two grandchildren, Aaron and Sarah Lewis.

Now, therefore, BE IT RESOLVED that the Forty-Ninth Judicial Conference of the Sixth Circuit in session at Hot Springs, Virginia, this Sixth day of July, 1988, pays tribute and appreciation to the memory of Wade H. McCree, Jr., who served the nation and this Circuit faithfully and well.

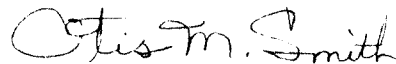
Be it FURTHER RESOLVED that a copy of this resolution be preserved upon the records of this Conference and that copies be furnished to the family as a mark of sympathy and esteem.



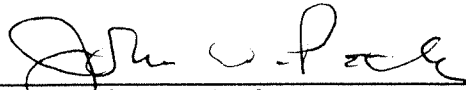
Honorable Pierce Lively



Honorable Horace W. Gilmore



Honorable Otis M. Smith



Honorable John W. Peck

MEMORIAL RESOLUTION
FOR
HONORABLE NOEL PETER FOX

The Judicial Conference of the Sixth Circuit takes official note of the death of its beloved colleague, Noel P. Fox, on June 3, 1987 in Grand Rapids, Michigan.

Judge Fox served with the highest distinction for more than 35 years, first as a Circuit Judge for Muskegon County, and subsequently for 24 years as a United States District Judge for the Western District of Michigan. Judge Fox retired in 1985 and died in 1987 at the age of 76.

Judge Noel P. Fox also served in the United States Navy during World War II, interrupting his private law practice to use his unique and considerable talents in the mediation of various labor disputes during that war.

Early in his career, Judge Fox served as Assistant Prosecuting Attorney for Muskegon County, Michigan.

The Judge also served for several years as Special Legal Counsel to Michigan Governor G. Mennen Williams. In that capacity, he studied and made recommendations for improvement of the penal correction system. Many of his recommendations were implemented by the Governor and state legislature.

Governor Williams appointed Judge Fox to serve as Chairman of the State's Labor Mediation Board where he served for three years prior to his appointment as a State Circuit Judge in 1951.

Our esteemed colleague was appointed to the federal bench in 1961 by President John F. Kennedy. He was Chief Judge of the District for seven years and served as senior judge from 1980 until his retirement in 1985.

Born in Kalamazoo, Michigan, the veteran jurist's family moved to Muskegon where he received his education at St. Mary's Parochial School. His parents were of modest circumstances and unable to assist him financially as he struggled through his studies during the Great Depression. He earned scholarships which enabled him to attend and graduate with highest honors from Marquette University and its law school.

Judge Fox loved his profession, and served it well as a practicing attorney, civil servant, and trial judge. He earned a reputation for honesty, integrity, and devotion to duty. He was recognized as a champion of human rights and equal opportunity. As a serious legal scholar, he was fond of citing and reciting the Federalist Papers, the Declaration of Independence, and the Bill of Rights.

Judge Fox, a devout Roman Catholic, attended Mass on a daily basis. His decisions and courtroom demeanor reflected his great tolerance of all people's beliefs.

His concern for the underprivileged was evidenced by perpetual endowment scholarships from his estate established at Aquinas College and the Marquette University School of Law. His gifts specified that the financial assistance be awarded to needy and worthy students. Each recipient will be charged to practice

law with the primary emphasis on assistance to the clients, rather than personal economic reward.

Judge Fox was indeed the "People's Judge." His integrity was never questioned. He had the courage to render fair decisions without fear or favor even though some of his decisions, especially those upholding civil liberties, were unpopular. He dealt with many difficult issues including school desegregation and Indian fishing rights.

In private Judge Fox enjoyed a simple, Walden Pond lifestyle. His neighbors, observing him tramping around his White Lake cottage or around the City of Whitehall clad in well-worn tennis shoes and a weather-beaten hat and jacket, often found it difficult to remember that this modest, quiet man was, in public life, a distinguished jurist.

Judge Fox was revered by his many law clerks. He remained close to them long after they left their clerk-ships, and followed them with great interest as they pursued their careers in private practice and public service.

He was a beloved colleague of those on the state and federal bench and members of the Judicial Conference.

The Judicial Conference conveys its deepest sympathy to Judge Fox's family and requests that this Resolution be sent to his family as a symbol of affection and respect for our colleague.

Respectfully submitted,

Douglas W. Hillman,
Chief District Judge
Jon F. DeWitt, Esquire
Harry J. Knudsen, Esquire

Memorial Resolution

Sixth Circuit Judicial Conference
Hot Springs, Virginia
July, 1988

With sorrow, the Judges of the Sixth Circuit note the death of Judge Robert Love Taylor on the 11th day of July, 1987, at Knoxville, Tennessee.

Bob Taylor was born at Embreeville, Tennessee, on December 20, 1899, one of 10 children of Governor and Mrs. Alfred A. Taylor. The Taylor family included prominent leaders in Tennessee's political life, and that circumstance influenced Bob Taylor's life and career from his earliest days. His uncle Robert, for whom Bob was named, served two terms as Governor after defeating his own brother Alf -- Bob's father -- in an 1886 campaign that carried the two brothers throughout the state in a series of celebrated debates. Bob's father, Alf Taylor, was a republican who was later elected Governor of Tennessee, but young Bob Taylor's politics were molded early by his uncle Robert, a democrat, who was elected to the United States Senate after his service as Governor. As a very young man, Bob Taylor promised his Senator uncle that he would be a democrat, and he was throughout his life.

Bob Taylor earned the Bachelor degree in Philosophy from Milligan College in 1921, after service in the U. S. Army during World War I. He studied law at Vanderbilt University in 1922 and 1923, where he was elected to the

Order of the Coif. He finished his legal education at Yale University, which awarded him the LL.B. degree in 1924. He was both scholar and athlete, and helped pay his education costs by playing professional baseball in the summers. He was fond of recalling that his monthly pay as a baseball player was greater than his father's, who was then Tennessee's Governor.

Bob returned to Tennessee from Yale in 1924, was admitted to practice in the State, and commenced the practice of law at Johnson City. There he met, courted, and, in 1933 married Florence Fairfax McCain. There were two children of the marriage, Ann and Robert, Jr. Bob's years in Johnson City were devoted to his family, his practice at Cox, Taylor, Epps and Miller, and -- faithful to his pledge to his uncle Robert -- democratic politics. Bob Taylor managed the 1948 democratic primary campaign of Gordon Browning for Governor, and later, as chairman of the party's state Executive Committee, the successful general campaigns of Browning and of Senator Estes Kefauver.

President Harry S. Truman appointed Bob Taylor to the federal bench on November 25, 1949. Bob came at once to Knoxville, took residence in a hotel, and began work on a docket seriously lengthened by his predecessor's long illness. His family joined him 10 months later, after his unremitting work had begun to bring order to the docket. He would later say that it took him five years of long days and evenings to bring the court's calendar to a fully current

condition, and he never again allowed the docket of his court to slip beyond his control. Though his extraordinary tenure made him, by the mid-1980's, the Nation's seniormost federal judge in active service, he was justly renowned throughout his career for the efficiency with which he ran his court and his firm and constant guidance of the staff of the court and the bar toward the end that justice not be delayed.

In the course of his remarkably long service, he earned the respect of all for his abilities on the bench. In 1957, early in his tenure, he was called on to try, for contempt of court, some who had violently resisted the court's order desegregating the public schools in Clinton, Tennessee. His trial and sentencing of the contemnors established, at an early date in the Nation's struggle to enforce the federal civil rights laws, that violent opposition could only fail. In the course of that trial, and its aftermath, however, Judge Taylor and his family bore the burden that other federal judges in the South were soon to feel, the burden of isolation, and even ostracism, from portions of their community.

The respect of Judge Taylor's peers for his abilities is probably best exemplified by the decision of Chief Justice Warren Burger to designate Judge Taylor to preside over two of the most difficult criminal trials of the 1970's. In 1973, Judge Taylor was appointed to conduct the trial of a former Illinois governor for mail fraud and

income tax evasion. The task was made more difficult by the fact that the defendant, when indicted, was a sitting federal appellate judge. According to a former law clerk, Judge Taylor "often referred to this case as his 'toughest.'" In 1977, the Chief Justice appointed Judge Taylor to conduct the trial of a former Maryland governor for mail fraud. He was the third judge to whom the case had been assigned. Though he found the matter in considerable disarray, and the lawyers unusually fractious, he took his customary firm control of the case and tried it with his customary fairness and dispatch.

Judge Taylor valued dispatch and brevity. He would surely have insisted that this resolution, brief as it is, be revised and shortened to "just get to the point." By this resolution, we commemorate and memorialize the distinguished service of an exemplary judge and colleague. He had two profound commitments in his life: to his beloved wife Florence and their family and to the work of his court. He saw himself as only an instrument of the law and often said, as he worried with decisions, that he was "just here to try to do justice between man and man." For his unceasing effort to do justice to all who came before him, let him be remembered.

BE IT RESOLVED that this summation of the life and work of Judge Robert Love Taylor be adopted by the Sixth Circuit Judicial Conference as an expression of its pride in, and

regard for, its departed member. His dedication to the work of the court became an example to us all.

It is moved that this resolution be adopted and spread on the records of the court.

Submitted by

Gilbert S. Merritt, Judge
Sixth Circuit Court of Appeals

Thomas G. Hull, Judge
United States District Court
Eastern District of Tennessee

Robert Campbell, Attorney
Knoxville, Tennessee

Patrick Hardin
Professor of Law
University of Tennessee