

# [1987] S. C. R. Statistical Analysis

John H. Kim

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# [1987] S.C.R. STATISTICAL ANALYSIS®

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TABLE I<sup>1</sup>  
VOLUME OF WORK

			TOTAL <sup>2</sup>
Reported Judgments <sup>3</sup>			
Private	Public		
18	76		93
Reported Motions			
Granted	Refused	Other	
0	1	0	1
Unreported Motions			
Granted	Refused	Other	
78	328	42	448

<sup>1</sup> All data considered in this table derive from the [1987] *Supreme Court Reports* and the [1987] *Bulletin of proceedings taken in the Supreme Court of Canada*.

<sup>2</sup> The following case has been included under both "Private" and "Public" categories but only once under "Total": *Quebec (A.G.) v. Healey*, [1987] 1 S.C.R. 158, ("II Property" and "Statutory Interpretation").

<sup>3</sup> Appellate decisions and references are included under this heading; motions are not. A decision involving one or more appeals (including cross-appeals) or references is considered to be one case for the purpose of this category. Procedural cases are classified according to their underlying subject matter. If a case is classified under both "Private" and "Public," it is entered under each of these headings, but only once under "Total."

TABLE II<sup>1</sup>  
BREAKDOWN BY SOURCE

	PRIVATE <sup>2</sup>			PUBLIC			Total from Source
	Affirmed	Reversed <sup>3</sup>	Other <sup>4</sup>	Affirmed	Reversed	Other	
Alberta	1	1	0	3	1	1	7
British Columbia	1	0	0	5	2	3	11
Manitoba	0	1	0	5	3	0	9
New Brunswick	0	0	0	1	2	0	3
Newfoundland & Labrador	0	0	0	1	0	0	1
Northwest Territories	0	0	0	0	0	0	0
Nova Scotia	1	0	0	2	1	1	5
Ontario	5	1	1	15	1	0	22
Prince Edward Island	0	0	0	0	0	1	1
Quebec	2	2	0	4	7	3	17
Saskatchewan	0	1	0	4	0	0	5
Yukon Territory	1	0	0	1	0	0	2
Court Martial Appeal Ct	0	0	0	0	0	0	0
Federal Board	0	0	0	0	0	0	0
Federal Court	1	0	0	4	5	1	10
<b>TOTAL</b>	<b>12</b>	<b>6</b>	<b>1</b>	<b>20</b>	<b>47</b>	<b>10</b>	<b>93</b>

<sup>1</sup> Only appellate decisions (including references on appeal from the decision of a lower court) are included in this table. Decisions may be classified under both "Private" and "Public" due to multiple subject matters. A decision involving one or more appeals (including cross-appeals) is entered once under "Affirmed," "Reversed," or "Other" unless the lower court was both affirmed and reversed, in which case the decision is entered once under two or more of "Affirmed," "Reversed," or "Other." A decision is entered only once under "Total From Source" unless it involves multiple appeals having different origins. Procedural decisions are classified according to their underlying subject matter.

<sup>2</sup> The following case has been included under both "Private" and "Public" categories but only once under "Total From Source": *Quebec (A.G.) v. Healey*, [1987] 1 S.C.R. 158 ("II Property" and "Statutory Interpretation").

<sup>3</sup> In the following cases, the Court affirmed in part and reversed in part the decision of the lower Court: *Wotherspoon v. Canadian Pacific Ltd.*, [1987] 1 S.C.R. 952, ("Ontario - Private"); and *Canadian National Railway Co. v. Canada (Canadian Human Rights Commission)*, [1987] 1 S.C.R. 1114, ("Federal Court - Public").

<sup>4</sup> The following cases have been classified as "Other": *R. v. Wigman*, [1987] 1 S.C.R. 246, (the appeal was dismissed but the conviction at trial for attempted murder should be substituted by a conviction for the included offence of causing bodily harm with intent to endanger life); *R. v. Collins*, [1987] 1 S.C.R. 265, (the appeal was allowed and a new trial was ordered); *R. v. Limoges*, [1987] 1 S.C.R. 497, (the appeal was allowed and a new trial was ordered); *Argentina v. Mellino*, [1987] 1 S.C.R. 536 and *United States v. Allard*, [1987] 1 S.C.R. 564, (the two separate appeals were allowed and the matters were remitted to the extradition judge to continue the proceedings in accordance with the law); *R. v. Rahey*, [1987] 1 S.C.R. 588, (the appeal was allowed and a stay of proceedings was ordered); *R. v. Bulmer*, [1987] 1 S.C.R. 782, (the appeal was allowed and a new trial was ordered); *R. v. Vaillancourt*, [1987] 2 S.C.R. 636, (the appeal was allowed and a new trial was ordered); *R. v. Laviolette*, [1987] 2 S.C.R. 667, (the appeal was allowed and a new trial was ordered); and *Howard v. Stony Mountain Institution Inmate Disciplinary Court*, [1987] 2 S.C.R. 687, (the appeal was held to be moot and the appeal was quashed).

**TABLE III<sup>1</sup>**  
**SUBJECT MATTER OF LITIGATION<sup>2</sup>**

This table indicates, first, the breakdown by subject matter of the reported cases; second, the number of cases decided by a given majority/dissent ratio within a given subject matter; and third, the number of "Appellate" cases in which the Supreme Court affirmed, reversed, or took other action with respect to the decision of the court immediately below.

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
<b>ORIGINAL JURISDICTION</b>					
References					
Reported Motions	1	1-6:0			1 <sup>3</sup>
<b>APPELLATE</b>					
<b>(a) PRIVATE (Common Law &amp; Civil Law)</b>					
<b>(i) Administration &amp; Succession</b>					
Dependent's Relief					
Devolution					
Executors & Administrators					
Wills					
<b>(ii) Commercial</b>					
Accounts					
Agency & Partnership					
Assignments					
Bankruptcy					
Banks & Banking	2	1-6:0 1-4:0	0 1	1 0	0 0
Bills & Notes	1	1-6:0	0	1	0
Companies	2	2-6:0 <sup>4</sup>	2	0	1 <sup>4</sup>
Contract	2	2-5:0	2	0	0
Debtor & Creditor	1	2-6:0 <sup>4</sup>	1	0	1 <sup>4</sup>
Guarantees & Sureties					
Insurance	1	1-6:0	1	0	0
Interest					
Sale of Goods					
<b>(iii) Family Law</b>					
Adoption					
Child Welfare, Custody & Access	2	1-5:1 1-5:0	1 0	0 1	0 0

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Divorce					
Judicial Separation					
Maintenance & Support	3	2-6:0 1-5:1	2 0	0 1	0 0
Matrimonial Property					
Family Law - Other					
(iv) <i>Intellectual Property</i>					
Copyrights					
Industrial Designs					
Patents					
Trademarks					
Intellectual Property - Other					
(v) <i>Land</i>					
Hypothecs & Mortgages					
Landlord & Tenant	1	2-6:0 <sup>4</sup>	1	0	1 <sup>4</sup>
Construction & Mechanics' Liens					
Real Property	1	1-9:0	1	0	0
(vi) <i>Torts</i>					
Assault & Battery					
Bailment					
Conspiracy & Intimidation					
Conversion & Detinue					
False Imprisonment					
Libel & Slander					
Negligence					
Nuisance	1	1-7:0	1	0	0
Occupiers' Liability					
Trespass					
Vicarious Liability					
(vii) <i>Other</i>					
Associations					
Barristers & Solicitors					
Charities					
Choses in Action					
Conflict of Laws					
Damages	1	1-5:0	1	0	0
Maritime, Admiralty & Shipping					
Master & Servant					
Natural Resources					
Pensions					
Privilege					
Trusts & Trustees					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Unjust Enrichment & Restitution					
(b) PRIVATE (Civil Law)					
Preliminary Title					
I Persons & Moral Persons	1	1-5:0	0	1	0
I Marriage, Separation & Divorce					
II Property	1	1-9:0	1	0	0
II Dismemberments of Property					
III Succession & Liberalities					
III Obligations	1	1-4:0	1	0	0
III Proof					
III Sale, Exchange & Lease					
III Mandate, Partnerships & Suretyships					
III Pledges, Privileges & Hypothecs					
III Registration & Prescription					
III Minor Nominate Contracts					
IV Commercial Law & Insurance					
Civil Law - Other					
(c) PUBLIC					
Aboriginal Rights					
Administrative Boards	6	1-6:0	1	0	0
		5-5:0	2	3	0
Assessment					
<i>Certiorari</i>					
<i>Charter</i>	25	3-8:0	1	0	25,6
		7-7:0	6	1	0
		2-6:0	2	0	0
		2-5:0	1	1	0
		1-7:1	0	0	17
		3-6:1	1	0	28,9
		3-5:1	1	1	110
		2-5:2	2	0	0
		2-4:2	2	0	0
Civil Rights	3	2-8:0 <sup>11</sup>	1	1	0
		1-7:0	0	1	0
		1-4:2	1	0	0
Combines					
Communications					



	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Constitutional	6	5-7:0 1-8:1	5 1	0 0	0 0
Criminal	36	2-8:0 12-7:0 4-6:0 10-5:0 2-4:0 1-7:1 1-6:1 4-5:2	0 10 1 7 2 0 1 2	1 2 1 2 0 0 0 2	16 0 212,13 14 0 17 0 0
Crown & Sovereign Immunity					
Elections					
Environmental					
Expropriation	1	1-4:0	1	0	0
Extradition	3	1-7:0 2-6:1	1 0	0 0	0 28,9
Habeas Corpus					
Human Rights					
Immigration					
International					
Judicial Review					
Labour	4	2-5:0 2-4:0	1 0	1 2	0 0
Mandamus					
Municipal & Planning	1	1-5:0	0	1	0
Prohibition					
Public Utilities					
Securities					
Statutory Interpretation	2	1-9:0 2-8:0 <sup>11</sup>	1 1	0 1	0 0
Taxation	2	2-5:0	0	2	0
Transportation	1	1-6:0	0	1	0
Unemployment					
(d) PROCEDURAL					
Appeal	5	1-9:0 1-7:0 1-5:0 2-6:1	0 1 0 0	0 0 1 0	115 0 0 28,9
Costs					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Declaratory Action					
Evidence	10	1-8:0	0	1	0
		4-7:0	3	1	0
		2-6:0	2	0	0
		1-5:0	1	0	0
		2-5:2	0	2	0
Injunctions					
Jurisdictions	3	2-6:0	2	0	0
		1-4:0	1	0	0
Limitation Period	1	1-7:0	1	0	0
Procedural - Other	3	1-7:0	1	0	0
		1-6:0	0	1	0
		1-4:1	1	0	0
Procedure	6	5-5:0	1	4	0
		1-5:1	1	0	0
Res Judicata	1	1-5:0	0	1	0
Standing					

<sup>1</sup> A decision involving one or more appeals (including cross-appeals), motions, or references is considered to be one case for the purposes of this table unless the results differ with respect to affirmation or reversal, or the vote or composition of majority or minority varies among the appeals, motions, or references.

Multiple entries are made if a case involves more than one subject matter of importance. Appeals from decisions on references brought before lower courts are classified according to subject matter under "Appellate."

<sup>2</sup> The following cases have been included under two or more subject categories: *Kosmopoulos v. Constitution Insurance Co.*, [1987] 1 S.C.R. 2, ("Insurance" and "Companies"); *Bank of Nova Scotia v. Angelica-Whitewear Ltd.*, [1987] 1 S.C.R. 59, ("Banks & Banking" and "III Obligations"); *Manitoba (A.G.) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110, ("Procedure" and "Charter"); *Quebec (A.G.) v. Healey*, [1987] 1 S.C.R. 158, ("II Property," "Statutory Interpretation," and "Real Property"); *Quebec (Office de la Construction) v. Larochelle*, [1987] 1 S.C.R. 241, ("Labour" and "Administrative Boards"); *R. v. Lacroix*, [1987] 1 S.C.R. 244, ("Criminal" and "Procedure"); *R. v. Sieben*, [1987] 1 S.C.R. 295, ("Charter" and "Evidence"); *R. v. Hamill*, [1987] 1 S.C.R. 301, ("Charter" and "Evidence"); *P.S.A.C. v. Canada*, [1987] 1 S.C.R. 424, ("Charter" and "Civil Rights"); *R. v. Gould*, [1987] 1 S.C.R. 499, ("Criminal" and "Procedure"); *Canada v. Schmidt*, [1987] 1 S.C.R. 500, ("Appeal," "Charter," and "Extradition"); *Argentina v. Mellino*, [1987] 1 S.C.R. 536, ("Appeal," "Charter," and "Extradition"); *United States v. Allard*, [1987] 1 S.C.R. 564, ("Appeal," "Charter," and "Extradition"); *R. v. Vermette*, [1987] 1 S.C.R. 577, ("Criminal" and "Jurisdictions"); *R. v. Thatcher*, [1987] 1 S.C.R. 652, ("Criminal" and "Procedural - Other"); *Restaurant Le Clémenceau Inc. v. Drouin*, [1987] 1 S.C.R. 706, ("Administrative Boards" and "Taxation"); *Canadian Pacific Hotels Ltd. v. Bank of Montreal*, [1987] 1 S.C.R. 711, ("Banks & Banking" and "Bills & Notes"); *Pelech v. Pelech*, [1987] 1 S.C.R. 801, ("Maintenance & Support" and "Jurisdictions"); *Caron v. Caron*, [1987]

1 S.C.R. 892, ("Maintenance & Support" and "Jurisdictions"); *R. v. Robertson*, [1987] 1 S.C.R. 918, ("Criminal" and "Evidence"); *R. v. Pohoretsky*, [1987] 1 S.C.R. 945, ("Charter" and "Evidence"); *Wotherspoon v. Canadian Pacific Ltd.*, [1987] 1 S.C.R. 952, ("Landlord & Tenant," "Debtor & Creditor," and "Companies"); *Canadian National Railway Co. v. Canada (Canadian Human Rights Commission)*, [1987] 1 S.C.R. 1114, ("Civil Rights" and "Statutory Interpretation"); *Reference Re Bill 30, An Act to amend the Education Act (Ont.)*, [1987] 1 S.C.R. 1148, ("Constitutional" and "Charter"); *R. v. Manninen*, [1987] 1 S.C.R. 1233, ("Charter," "Evidence," and "Criminal"); *R. v. Lapointe*, [1987] 1 S.C.R. 1253, ("Criminal" and "Evidence"); *Frame v. Smith*, [1987] 2 S.C.R. 99, ("Child Welfare, Custody & Access" and "Procedure"); *R. v. Monteleone*, [1987] 2 S.C.R. 154, ("Criminal" and "Evidence"); *Supermarchés Jean Labrecque Inc. v. Flamand*, [1987] 2 S.C.R. 219, ("Administrative Boards" and "Labour"); *C.(G.) v. V.-F.(T.)*, [1987] 2 S.C.R. 244, ("Child Welfare, Custody & Access," "Res Judicata," and "I Persons & Moral Persons"); *Schenck v. Ontario (Minister of Transportation and Communications)*; *Rokeby v. Ontario*, [1987] 2 S.C.R. 289, ("Nuisance" and "Limitation Period"); *R. v. Lyons*, [1987] 2 S.C.R. 309, ("Charter" and "Criminal"); *R. v. Albright*, [1987] 2 S.C.R. 383, ("Criminal," "Evidence," and "Charter"); *R. v. Béland*, [1987] 2 S.C.R. 398, ("Criminal" and "Evidence"); *R. v. Tremblay*, [1987] 2 S.C.R. 435, ("Charter" and "Evidence"); *Keneric Tractor Sales Ltd. v. Langille*, [1987] 2 S.C.R. 440, ("Contract" and "Damages"); *R. v. Milne*, [1987] 2 S.C.R. 512, ("Criminal" and "Charter"); *R. v. Wigglesworth*, [1987] 2 S.C.R. 541, ("Charter" and "Criminal"); *R. v. Vaillancourt*, [1987] 2 S.C.R. 636, ("Charter" and "Criminal"); *R. v. Lavolette*, [1987] 2 S.C.R. 667, ("Charter" and "Criminal"); and *R. v. Barrow*, [1987] 2 S.C.R. 694, ("Criminal" and "Evidence").

<sup>3</sup> In *R. v. Trask*, [1987] 2 S.C.R. 304, the motion to rehear the appeal on the issue of costs was refused.

<sup>4</sup> In *Wotherspoon v. Canadian Pacific Ltd.*, [1987] 1 S.C.R. 952, the appeal was dismissed and the cross-appeal was allowed in part.

<sup>5</sup> In *R. v. Rahey*, [1987] 1 S.C.R. 588, the appeal was allowed and a stay of proceedings was ordered.

<sup>6</sup> In *R. v. Lavolette*, [1987] 2 S.C.R. 667, the appeal was allowed and a new trial was ordered.

<sup>7</sup> In *R. v. Vaillancourt*, [1987] 2 S.C.R. 636, the appeal was allowed and a new trial was ordered.

<sup>8</sup> In *Argentina v. Mellino*, [1987] 1 S.C.R. 536, the appeal was allowed and the matter was remitted to the extradition judge to continue the proceedings in accordance with the law.

<sup>9</sup> In *United States v. Allard*, [1987] 1 S.C.R. 564, the appeal was allowed and the matter was remitted to the extradition judge to continue the proceedings in accordance with the law.

<sup>10</sup> In *R. v. Collins*, [1987] 1 S.C.R. 265, the appeal was allowed and a new trial was ordered.

<sup>11</sup> In *Canadian National Railway Co. v. Canada (Canadian Human Rights Commission)*, [1987] 1 S.C.R. 1114, the appeal was allowed and the cross-appeal was dismissed.

<sup>12</sup> In *R. v. Wigman*, [1987] 1 S.C.R. 246, the appeal was dismissed but the conviction at trial for attempted murder should be substituted by a conviction for the included offence of causing bodily harm with intent to endanger life.

<sup>13</sup> In *R. v. Bulmer*, [1987] 1 S.C.R. 782, the appeal was allowed and a new trial was ordered.

<sup>14</sup> In *R. v. Limoges*, [1987] 1 S.C.R. 497, the appeal was allowed and a new trial was ordered.

<sup>15</sup> In *Howard v. Stony Mountain Institution Inmate Disciplinary Court*, [1987] 2 S.C.R. 687, the appeal was held to be moot and the appeal was quashed.

**TABLE IV<sup>1</sup>**  
**MAJORITY/DISSENT RATIO**

Total Number of Cases Reported .....				94			
Unanimous Decisions .....				77			
Split Decisions .....				17			
9:0 .....	2	8:0 .....	5	7:0 .....	23	6:0 .....	17
8:1 .....	1	7:1 .....	1	6:1 .....	3	5:1 .....	5
7:2 .....	0	6:2 .....	0	5:2 .....	4	4:2 .....	2
6:3 .....	0	5:3 .....	0	4:3 .....	0	3:3 .....	0
5:4 .....	0	4:4 .....	0				
5:0 .....	24	4:0 .....	6	3:0 .....	0	1:0 .....	0
4:1 .....	1	3:1 .....	0	2:1 .....	0		
3:2 .....	0	2:2 .....	0				

<sup>1</sup> Both "Original Jurisdiction" and "Appellate" decisions are included in this table. A decision involving one or more appeals (including cross-appeals), motions, or references is considered to be one case for the purposes of this table unless the composition of majority and minority varies among the appeals, motions, or references. If the ratios differ, they will be included in this table but not in the "Total Number of Cases Reported." Dissenting judgments include dissents in part.

TABLE VI  
TYPE OF WORK

	Common Law	Civil Law	Constitutional	Criminal	Other Public Law	Reported Motions
Beetz	5	3	23	24	16	1
Chouinard	0	1	0	0	1	0
Dickson	7	2	28	24	9	1
Estey	5	2	15	18	5	0
La Forest	9	3	27	29	14	0
Lamer	8	1	26	30	18	1
Le Dain	6	3	24	27	17	1
L'Heureux-Dubé	2	0	3	14	3	0
McIntyre	11	1	30	29	14	1
Wilson	10	2	28	30	13	1

<sup>1</sup> Both "Original Jurisdiction" and "Appellate" decisions are included in this table. A decision involving one or more appeals (including cross-appeals), motions, or references is considered to be one case for the purposes of this table. Procedural cases and references are classified according to their underlying subject matter. Cases involving multiple subject matters may be classified under one or more of "Common Law," "Civil Law," "Constitutional," "Criminal," or "Other Public Law."

**TABLE VI**  
**ACTION OF THE JUSTICES**

This table indicates, first, the number of cases on which a justice sat; second, the number of cases in which a justice wrote a judgment (whether "Majority" or "Dissent"); and third, the number of cases in which a justice did not write a judgment and concurred with the judgment of another justice. For example, Dickson C.J. sat on sixty-two cases and wrote seventeen majority judgments and two dissenting judgments. He concurred with the majority judgment of another justice in thirty-nine cases. Further, he participated in four unattributed judgments of "The Court," and concurred with the majority judgment of Beetz J. once, Estey J. once, La Forest J. seven times, and so on.

	Number of Cases	Judgments	Concurrences	The Court	Concurrences with Another Justice															
					Beetz	Chouinard	Dickson	Estey	La Forest	Lamer	Le Dain	L'Heureux-Dubé	McIntyre	Wilson						
Beetz	62																			
Majority		13	39	10	0	0	11	3	0	4	10	0	0	0	3	8				
Dissent		0	0				0	0	0	0	0	0	0	0	0	0	0			
Chouinard	1																			
Majority		0	0	1			0	0	0	0	0	0	0	0	0	0				
Dissent		0	0				0	0	0	0	0	0	0	0	0	0				
Dickson	62																			
Majority		17	39	4			1	7	11	0	0	0	0	0	7	12				
Dissent		2	0				0	0	0	0	0	0	0	0	0	0				
Estey	43																			
Majority		4	30	6			2	1	4	2	0	0	0	0	3	6				
Dissent		3	0				0	0	0	0	0	0	0	0	0	0				

Concurrences with Another Justice

	Number of Cases	Judgments	Concurrences	The Court	Beetz	Chouinard	Dickson	Estey	La Forest	Lamer	Le Dain	L'Heureux-Dubé	McIntyre	Wilson
La Forest Majority Dissent	74	17 1	47 0	9	7 0	0 0	12 0	1 0	3 0	6 0	7 0	1 0	5 0	8 0
Lamer Majority Dissent	77	18 4	43 1	11	7 0	0 0	5 0	3 0	3 0	5 0	5 0	1 0	9 0	10 1
Le Dain Majority Dissent	72	14 0	48 1	9	11 0	0 0	9 0	2 0	5 0	6 0	0 0	1 0	8 1	6 0
L'Heureux-Dubé Majority Dissent	24	1 0	18 0	5	5 0	0 0	8 0	0 0	1 0	0 0	0 0	0 0	3 0	1 0
McIntyre Majority Dissent	78	21 3	46 0	8	5 0	0 0	11 0	2 0	8 0	5 0	3 0	0 0	0 0	12 0
Wilson Majority Dissent	78	19 6	43 1	9	5 0	0 0	14 1	0 0	1 0	9 0	4 0	0 0	10 0	0 0

**TABLE VII<sup>1</sup>**  
**SUCCESS RATE OF CHARTER CLAIMANTS**

	Number	Per cent
<i>Charter</i> Claimant Wins	7	26.9
<i>Charter</i> Claimant Loses	17	65.4
Other <sup>2</sup>	2	7.7
Total	26	100.0

<sup>1</sup> "Claimant Wins" includes cases in which both the *Charter* claim and the disposition are successful. "Claimant Loses" includes cases in which both the *Charter* claim and the disposition are unsuccessful. "Other" includes cases in which the claimant wins the *Charter* argument but loses the disposition on other grounds, or the claimant loses the *Charter* argument but wins on other grounds.

<sup>2</sup> In *Manitoba (A.G.) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110, the Court ruled for the claimant on the *Charter* issue but the claimant lost the case to the appellant for other reasons. In *R. v. Hamill*, [1987] 1 S.C.R. 301, a new trial was ordered.



**TABLE VIII**  
**OBJECT OF CHARTER LITIGATION<sup>1</sup>**

		Number	Per cent	Success Rate (%)
Legislation: <sup>2</sup>	Federal	8	34.8	42.9
	Provincial	5	19.2	0
	Territorial			
	Municipal			
Administrative: Decisions <sup>3</sup>		1	3.8	0
Rules				
Conduct or Decisions of Public Officials		12	46.2	33.3
Common Law <sup>4</sup>		1	3.8	0

<sup>1</sup> *R. v. Hamill*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2, has been included under both "Federal Legislation" and "Conduct or Decisions of Public Officials."

<sup>2</sup> "Legislation" includes subordinate legislation, orders in council, and regulations. If the legislation expressly or by necessary implication authorizes the limitation of the *Charter* right or freedom, it will fall under "Legislation." If the legislation confers a broad discretion, it will be classified as an "Administrative Decision" or "Administrative Rule."

<sup>3</sup> In *Burnham v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 572, the designated presiding officer under the *Police Act* ruled against the objection that the tribunal was not "independent and impartial" as required by section 11(d) of the *Charter*. This has been included under "Administrative Decision."

<sup>4</sup> In *Manitoba (A.G.) v. Metropolitan Stores Ltd.*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2, the Court considered the issue of whether a presumption of constitutionality existed when legislation was challenged under the *Charter*. This has been included under "Common Law" for the purposes of this table.

TABLE IX  
CHARTER LITIGATION BY SOURCE

Source	# of Cases	% of Cases	Lower Decisions			Claimant		
			Affirmed	Reversed	Other	Wins	Losses	Other
Alberta	2	7.7	1		1 <sup>1</sup>	2		
British Columbia	5	19.2	3	1	1 <sup>2</sup>	2	2	1 <sup>3</sup>
Manitoba	2	7.7		2		1		1 <sup>3</sup>
New Brunswick								
Newfoundland								
Nova Scotia	2	7.7	1		1 <sup>4</sup>	1	1	
Ontario	8	30.8	8			1	7	
P.E.I.	1	3.8			1 <sup>5</sup>	1		
Quebec	2	7.7			2 <sup>6</sup>	1	1	
Saskatchewan	2	7.7	1	1			2	
N.W.T. & Yukon	1	3.8	1				1	
Federal Court	1	3.8	1				1	
Federal Reference								
<b>Total</b>	<b>26</b>	<b>100.0</b>	<b>16</b>	<b>4</b>	<b>6</b>	<b>7</b>	<b>17</b>	<b>2</b>

<sup>1</sup> In *Argentina v. Mellino*, [1987] 1 S.C.R. 536, the appeal was allowed, and the matter was remitted to the extradition judge to continue the proceedings in accordance with the law.

<sup>2</sup> In *R. v. Smith*, [1987] 1 S.C.R. 1045, the sentence was remitted to the British Columbia Court of Appeal for reconsideration.

<sup>3</sup> See *supra* Table VII ([1987] S.C.R. Charter Tables), note 2.

<sup>4</sup> In *R. v. Rahey*, [1987] 1 S.C.R. 588, a stay of proceedings was ordered.

<sup>5</sup> In *R. v. Laviolette*, [1987] 2 S.C.R. 667, a new trial was ordered.

<sup>6</sup> In *United States v. Allard*, [1987] 1 S.C.R. 564, the appeal was allowed, and the matter was remitted to the extradition judge to continue the proceedings in accordance with the law. In *R. v. Vaillancourt*, [1987] 2 S.C.R. 636, a new trial was ordered.

**TABLE XI<sup>1</sup>**  
**SUBJECT OF CHARTER LITIGATION<sup>2</sup>**

Section	# of Cases	Claimant			Right or Freedom		Section 1		
		Wins	Loses	Other	Limited	Not Ltd	Saves Limit	Doesn't Save	Other
<b>2. Fundamental Freedoms</b>									
<b>(a) Conscience</b>									
Religion	1		1			1			
<b>(b) Thought, Belief &amp; opinion</b>									
Expression, Press & other									
<b>(c) Peaceful assembly</b>									
<b>(d) Association</b>									
s. 2 SUBTOTAL	4		4			4			
<b>3. - 5. Democratic Rights</b>									
<b>6. Mobility Rights</b>									
Legal Rights									
7. General (non-distinguished)	1	1				1			1
Life	1		1				1		
Liberty	5		5				5		
Security of person	3	1	2			1	2		
Principles of fund. justice	4	1	3			1	3		1
s. 7 SUBTOTAL	9	3	6			3	6		2
8. Search or seizure	4	2	1	1 <sup>3</sup>		4			2 <sup>4</sup>
9. Detention or imprisonment	2		2				2		
<b>10. Arrest or Detention</b>									
<b>(a) Informed promptly of reasons</b>									
<b>(b) Retain &amp; instruct counsel</b>									
(c) <i>Habeas corpus</i>	2	1	1			1	1		
<b>11. Criminal &amp; Penal Matters</b>									
<b>(a) Informed of offence</b>									
<b>(b) Tried within reasonable time</b>									
(c) Compelled to be a witness	3	1	2			1	2		
<b>(d) Presumption of innocence,</b>									
Fair public hearing,									
Independent impartial tribunal	3		3				3		
s. 11(d) SUBTOTAL	5	2	3			2	3		2
<b>(e) Reasonable bail</b>									
<b>(f) Trial by jury</b>									
(g) Time of act or omission	1		1				1		

Section	# of Cases	Claimant			Right or Freedom		Section 1 Saves Doesn't		
		Wins	Loses	Other	Limited	Not Ltd	Limit	Save	Other
(h) Double jeopardy	2		2			2			
(i) Benefit of lesser punishment	1		1			1			
12. Treatment or Punishment	3	1	2		1	2		1	
13. Self-incrimination									
14. Interpreter									
15. Equality Rights									
(1) Race									
National or ethnic origin									
Colour									
Religion	1		1			1			
Sex									
Age									
Mental or physical disability									
Aboriginal peoples									
Other									
s. 15(1) SUBTOTAL									
(2) Affirmative action									
16. - 22. Official Languages									
23. Minority Language									
Educational Rights									
24(1) Enforcement <sup>5</sup>	3		3			3			
(2) Exclusion of Evidence									
25. Aboriginal Rights									
26. Other Rights & Freedoms									
27. Multicultural Heritage									
28. Rights Guaranteed Equally									
29. Rights Respecting Schools	1		1			1			
30. Application to Territories									
31. Legislative Powers									
32. Application of <i>Charter</i>									
33. Exception									

<sup>1</sup> The categories of analysis in this table are as follows: the number of times a particular section or subsection was considered; the number of cases in which the claimant wins or loses; the number of cases decided otherwise; the number of decisions in which the *Charter* right or freedom was found to be limited or not limited; and the number of decisions in which the limit was saved or not saved by section 1, or was decided on another basis.

<sup>2</sup> In *Manitoba (A.G.) v. Metropolitan Stores Ltd.*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2, no specific section was examined. See *supra* Table VIII ([1987] S.C.R. Charter Tables), note 4.

<sup>3</sup> See *R. v. Hamill*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2.

<sup>4</sup> In *R. v. Hamill*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2 and *R. v. Sieben*, [1987] 1 S.C.R. 295, the Crown did not seek to uphold the validity of the sections in question.

<sup>5</sup> In *R. v. Dawson*, [1987] 2 S.C.R. 461, section 24(1) was considered independently of any right or freedom.

TABLE XI  
ACTION OF THE JUSTICES

Justice	# of Cases	Judgments Written for the		Judgments Co-Written for the		Concurrences with the Court Maj Diss	Concurrences with Another Justice									
		Court Maj	Diss	Court Maj	Diss		Beetz	Dickson	Estey	La Forest	Lamer	Le Dain	L'Heureux-Dubé	McIntyre	Wilson	
Beetz	18	1	2	1		4	11		1	1	3	2	4			4
Dickson	24	1	1	2		5	13				5	10				5
Estey	12	1	2	1		3	6		1	1	3					4
La Forest	24		9			6	9		1	1		5	3			5
Lamer	21	4	8	3	1	2	4	1		1						4
Le Dain	19		6		1	5	8	3	1	5	4					
L'Heureux-Dubé	2				1	1			1							
McIntyre <sup>1</sup>	25	5	3	1		6	10	1	1	6	3					5
Wilson	24	1	9	4	1	5	4	1	2	8						

<sup>1</sup> In *R. v. Hamill*, *supra* Table VII ([1987] S.C.R. Charter Tables), note 2, McIntyre J. wrote an unqualified judgment concurring with Lamer J. For the purposes of this table and *infra* Table XII ([1987] S.C.R. Charter Tables), note 2, McIntyre J. is considered to have concurred with Lamer J. and not to have written his own judgment.

TABLE XIII<sup>1</sup>  
VOTING BEHAVIOUR OF JUSTICES<sup>2</sup>

Justice	Majority			Minority			Support			Section 1								
	Judgment For			Concurs With			Judgment For			Concurs With			Support For					
	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Saves Limit	Doesn't Save	Other
Beetz	2	1	1	3	12					5	13	1				2		
Dickson		2		7	12	1	2			9	14	1				1	5	2
Estey		2		3	6		2			5	8						2	
La Forest	4	5		3	10	2				7	15	2				3	2	
Lamer	6	5	1		5	1	3			9	10	5				4	2	
Le Dain	3	4		4	7	2				7	11	2				3	2	
L'Heureux-Dubé		1			1								2					
McIntyre	1	7		3	12	2		2		4	19	2				1	2	
Wilson	2	9		5	3	1	4		1	12	12	1				6	3	

<sup>1</sup> "Support for Claimant" is the sum of those judgments and concurrences decided in favour of the claimant's *Charter* argument, regardless of the disposition. "Support for Government" is the sum of those judgments and concurrences decided in favour of the government's *Charter* arguments, regardless of the disposition. "Section 1" notes the number of times a justice pronounces on section 1 for each constitutional issue. Therefore, a case can be counted twice if there are multiple issues.

<sup>2</sup> See *R. v. Hamill*, *supra* Table VII ([1987] S.C.R. *Charter Tables*), note 2; and *R. v. Sieben*, *supra* Table X, ([1987] S.C.R. *Charter Tables*) note 4. In *R. v. Lyons*, [1987] 2 S.C.R. 309, Wilson J. held that section 7 was limited and allowed the appeal, but did not conduct a section 1 analysis.

**TABLE XIII**  
**TYPE OF CHARTER CLAIMANTS**

	Claimant			Interveners Present		
	# of Cases	% of Cases	Wins Loses Other	For Claimant # of Cases	For Gov't # of Cases	For Both # of Cases
Business Corporations	1	4	1			1
Individuals	22	85	7 14 2		7 5	1
Interest Groups	1	4	1			1
Unions	3	12	3			3
Other						



**TABLE XIV**  
**MAJORITY/DISSENT RATIO**

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Unanimous Decisions .....	15
Split Decisions .....	11

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9:0 .....	0	8:0 .....	3	7:0 .....	8	6:0 .....	2
8:1 .....	0	7:1 .....	1	6:1 .....	3	5:1 .....	3
7:2 .....	0	6:2 .....	0	5:2 .....	2	4:2 .....	2
6:3 .....	0	5:3 .....	0	4:3 .....	0	3:3 .....	0
5:4 .....	0	4:4 .....	0				
5:0 .....	2	4:0 .....	0	3:0 .....	0	1:0 .....	0
4:1 .....	0	3:1 .....	0	2:1 .....	0		
3:2 .....	0	2:2 .....	0				

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