

[1967] S. C. R. Statistical Analysis

Rene Mastin

Harvey Strosberg

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>
Article

Citation Information

Mastin, Rene and Strosberg, Harvey. "[1967] S. C. R. Statistical Analysis." *Osgoode Hall Law Journal* 6.1 (1968) : 87-91.
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol6/iss1/3>

This Article is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

STATISTICAL ANALYSIS OF [1967] S.C.R.*

TABLES

- I. Subject Matter of Litigation
- II. Provincial Breakdown
- III. Action of Individual Judges
Type of Work
- IV. Cases and Majority Ratio
- V. Action of the Justices

| TABLE I | SUBJECT MATTER OF LITIGATION | | | No. of Judges Sitting |
|--|----------------------------------|---|---|--------------------------|
| | | | | |
| ORIGINAL JURIS. | | | | |
| | Habeas Corpus | | | |
| | References | 1 | 1 | 1.8 ; 1 |
| APPELLATE | | | | |
| (a) Private | | | | |
| (i) Administration & Succession | | | | |
| | Devolution | | | |
| | Executors & Administrators | | | |
| | Wills | 2 | 2 | 2.5 ; 0 |
| (ii) Commercial | | | | |
| | Accounts | | | |
| | Agency | | | |
| | Assignments | | | |
| | Banks & Banking | 1 | 1 | 1.5 ; 0 |
| | Bankruptcy | 1 | 1 | 1.5 ; 0 |
| | Companies | | | |
| | Contracts | 4 | 3 | 1 4.5 ; 0 |
| | Debtor & Creditor | | | |
| | Interest | 2 | 2 | 2.5 ; 0 |
| | Partnerships | | | |
| | Sale of Goods | 2 | 2 | 2.5 ; 0 |
| | Subrogation | | | |
| | Suretyship | 1 | 1 | 1.5 ; 0 |
| (iii) Domestic Relations | | | | |
| | Adoption | | | |
| | Annulments | | | |
| | Breach of Promise | | | |
| | Divorce | | | |
| | Husband & Wife | | | |
| | Judicial Separation | | | |

* Statistics compiled by Rene Mastin and Harvey Strosberg, II year students at Osgoode Hall Law School.

| | No. of Cases Reported | Exchequer Court or Court of Appeal | | No. of Judges Sitting |
|---------------------------------|--------------------------|---------------------------------------|----------|--------------------------|
| | | Affirmed | Reversed | |
| <i>(iv) Industrial Property</i> | | | | |
| Copyrights | | | | |
| Industrial Design | | | | |
| Patents | 3 | 1 | 2 | 3.5 ; 0 |
| Trademarks | | | | |
| <i>(v) Land</i> | | | | |
| Landlord and Tenant | | | | |
| Mechanics Liens | 1 | 1 | | 1.5 ; 0 |
| Mortgages | | | | |
| Real Property | | | | |
| <i>(vi) Natural Resources</i> | | | | |
| Mines & Minerals | 1 | 1 | | 1.5 ; 0 |
| Petroleum & Natural Gas | | | | |
| <i>(vii) Tort</i> | | | | |
| Libel & Slander | 1 | | 1 | 1.4 ; 0 |
| Negligence | 5 | 1 | 4 | 2.5 ; 0 |
| | | | | 2.4 ; 1 |
| | | | | 1.3 ; 2 |
| Occupier's Liability | | | | |
| <i>(viii) Other</i> | | | | |
| Animals | | | | |
| Associations | | | | |
| Charities | | | | |
| Choses in Action | | | | |
| Conflicts | 1 | 1 | | 1.5 ; 0 |
| Damages | 1 | 1 | | 1.5 ; 0 |
| Privilege | | | | |
| Shipping | 2 | 2 | | 2.5 ; 0 |
| Usufruct | | | | |
| Water courses | | | | |
| <i>(b) Public</i> | | | | |
| Administrative Boards ... | | | | |
| Certiorari | | | | |
| Combines | | | | |
| Constitutional | 3 | 1 | 2 | { 1.7 ; 0 |
| | | | | { 2.4 ; 1 |
| Criminal Law | 11 | 7 | 4 | { 10.5 ; 0 |
| | | | | { 1.5 ; 0 |
| Crown | 1 | 1 | | 1.3 ; 0 |
| Habeas Corpus | | | | |
| Immigration | | | | |
| Labour | 2 | 2 | | 2.5 ; 0 |
| Mandamus | | | | |
| Municipal Corporations ... | 4 | 1 | 3 | { 3.3 ; 2 |
| | | | | { 1.5 ; 0 |
| Prohibition | | | | |
| Public Utilities | | | | |
| Taxation | 10 | 5 | 5 | { 8.5 ; 0 |
| | | | | { 1.4 ; 1 |
| | | | | { 1.3 ; 2 |
| Expropriation | 4 | 1 | 3 | { 3.5 ; 0 |
| | | | | { 1.3 ; 2 |

| | No. of Cases Reported | Exchequer Court or Court of Appeal | | No. of Judges Sitting |
|--------------------------|--------------------------|---------------------------------------|----------|--------------------------|
| | | Affirmed | Reversed | |
| PROCEDURAL | | | | |
| Appeal | | | | |
| Costs | | | | |
| Declaratory Action | | | | |
| Evidence | | | | |
| Injunction | | | | |
| Judgments & Orders | | | | |
| Jurisdiction | | | | |
| Procedure | 1 | 1 | | 14 ; 1 |

KEY

As an example of how this table operates look to the criminal classification and note:

- (1) 11 criminal cases reported.
- (2) The Courts of Appeal were affirmed 7 times and reversed 4 times.
- (3) One case was decided by a 3 to 0 majority, ten cases by a 5 to 0 majority.

TABLE II PROVINCIAL BREAKDOWN

| | Reported | | Total |
|------------------------------|----------|---------|-------|
| | Public | Private | |
| NEWFOUNDLAND | | | |
| NOVA SCOTIA | | | |
| PRINCE EDWARD ISLAND | | | |
| NEW BRUNSWICK | | | |
| QUEBEC | 1 | 1 | 2 |
| ONTARIO | 8 | 6 | 14 |
| MANITOBA | 2 | 3 | 5 |
| SASKATCHEWAN | 2 | | 2 |
| ALBERTA | 1 | 6 | 7 |
| BRITISH COLUMBIA | 9 | 6 | 15 |
| YUKON | | | |
| NORTH WEST TERRITORIES | | | |
| EXCHEQUER COURT | 13 | 5 | 18 |
| FEDERAL BOARDS | | | |
| ORIGINAL | | | |
| TOTAL | 36 | 27 | 63 |

TABLE III ACTION OF INDIVIDUAL JUDGES

| | Majority | | | Dissent | | | Total |
|------------------|----------|----|----|---------|---|---|-------|
| | J* | C | T | J | C | T | |
| Taschereau | 0 | 21 | 21 | 3 | 0 | 3 | 24 |
| Cartwright | 9 | 23 | 32 | 2 | 0 | 2 | 34 |
| Fauteux | 5 | 22 | 27 | 0 | 0 | 0 | 27 |
| Abbott | 6 | 21 | 27 | 1 | 3 | 4 | 31 |
| Martland | 7 | 38 | 45 | 3 | 0 | 3 | 48 |
| Judson | 15 | 22 | 37 | 3 | 2 | 5 | 42 |
| Ritchie | 12 | 33 | 45 | 0 | 0 | 0 | 45 |
| Hall | 10 | 17 | 27 | 0 | 3 | 3 | 30 |
| Spence | 6 | 39 | 45 | 2 | 0 | 2 | 47 |

J—Leading judgment or leading dissenting judgment.

C—Concurred.

T—Total.

* —In a few cases, 2 or more judges gave leading opinions.

TYPE OF WORK

| | Common Law | Civil Law | Criminal Law | Constitutional Law | Other Public Law |
|------------------|------------|-----------|--------------|--------------------|------------------|
| Taschereau | 3 | 4 | 10 | 1 | 17 |
| Cartwright | 14 | 1 | 4 | 1 | 14 |
| Fauteux | 6 | 4 | 9 | 2 | 5 |
| Abbott | 11 | 4 | 5 | 1 | 8 |
| Martland | 15 | 2 | 8 | 1 | 19 |
| Judson | 12 | 0 | 7 | 1 | 20 |
| Ritchie | 15 | 1 | 9 | 2 | 16 |
| Hall | 7 | 1 | 7 | 2 | 13 |
| Spence | 16 | 3 | 5 | 1 | 18 |

TABLE IV CASES AND MAJORITY RATIO

| | | | |
|--------------------------------------|-----|----|-----|
| Total Number of Cases Reported | | 66 | |
| Unanimous decisions | | 51 | |
| 9x0 | 7x0 | 2 | 5x0 |
| 8x1 | 1 | 48 | 4x1 |
| | | 7 | 3x0 |
| | | 7 | 2x0 |
| | | | 1 |

TABLE V ACTION OF THE JUSTICES

| | Spence | Hall | Ritchie | Judson | Martland | Abbott | Fauteux | Cartwright | Taschereau |
|------------|--------|------|---------|--------|----------|--------|---------|------------|------------|
| Taschereau | | | | | | | | | |
| MO | | | | | | | | | |
| C | 1 | 3 | 4 | 6 | 1 | 2 | 3 | 1 | 3 |
| DO | | | | | | | | | |
| C | | | | | | | | | |
| Cartwright | | | | | | | | | |
| MO | | | | | | | | 9 | |
| C | 3 | 3 | 5 | 7 | 3 | 1 | 0 | 2 | 0 |
| DO | | | | | | | | | |
| C | | | | | | | | | |
| Fauteux | | | | | | | | | |
| MO | | | | | | | 5 | | |
| C | 0 | 3 | 6 | 4 | 1 | 4 | | 5 | 0 |
| DO | | | | | | | | | |
| C | | | | | | | | | |
| Abbott | | | | | | | | | |
| MO | | | | | | 6 | | | |
| C | 2 | 3 | 4 | 3 | 2 | | 3 | 5 | 0 |
| DO | | | | | | 1 | | 1 | |
| C | | | | 1 | | | | 1 | |
| Martland | | | | | | | | | |
| MO | | | | | 7 | | | | |
| C | 4 | 8 | 10 | 6 | | 3 | 1 | 6 | |
| DO | | | | | | | | | |
| C | | | | | 3 | | | | |

| | Spence | Hall | Ritchie | Judson | Martland | Abbott | Fauteux | Cartwright | Taschereau |
|---------|--------|------|---------|--------|----------|--------|---------|------------|------------|
| Judson | | | | 15 | | | | | |
| MO | | | | | | | | | |
| C | 1 | 5 | 2 | | 6 | 0 | 3 | 5 | |
| DO | | | | 3 | | | | | |
| C | | | | | 3 | | | 2 | |
| Ritchie | | | 12 | | | | | | |
| MO | | | | | | | | | |
| C | 5 | 6 | | 7 | 5 | 3 | 2 | 4 | |
| DO | | | | | | | | | |
| C | | | | | | | | | |
| Hall | | | | | | | | | |
| MO | | 9 | | | | 1 | | | |
| C | | | 3 | 5 | 2 | 2 | 1 | 4 | |
| DO | | 1 | | | | | | | |
| C | | | | | 3 | | | | |
| Spence | | | | | | | | | |
| MO | 6 | | | | | | | | |
| C | | 5 | 7 | 12 | 4 | 2 | 4 | 6 | |
| DO | | | | | | | | | |
| C | | | | | | | | | |

KEY

- M—Majority
- D—Dissent
- O—Wrote Judgment
- C—Concurred

As an example of how this table works look to Hall J. and one sees:

- (1) He delivered 9 majority judgments.
- (2) He concurred with Abbott J. once but wrote a substantial separate opinion.
- (3) He did not concur in any judgments delivered by Spence J. but did concur in 3 judgments of Ritchie J. etc.
- (4) He (dissented once) delivered one dissenting opinion.
- (5) He concurred in 3 dissenting opinions of Martland J.