



[1991] S. C. R. Statistical Analysis

John H. Kim

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Citation Information

Kim, John H.. "[1991] S. C. R. Statistical Analysis." *Osgoode Hall Law Journal* 32.1 (1994) : 171-196.
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[1991] S.C.R. STATISTICAL ANALYSIS[©]

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*This statistical review is part of a continuing project of the Osgoode Hall Law Journal, which began in 1964 with "Supreme Court Review (Statistics)" (1964) 3 Osgoode Hall L.J. 180. The format for the tables in this volume follow our most recent publication (a ten-year review of Supreme Court decisions between 1980 and 1990 in (1992) 30 Osgoode Hall L.J. 807)). An explanatory note for the General and *Charter* tables is available in J. Kim, "An Introduction to the 1981-1990 S.C.R. Statistical Analyses" *ibid.* at 797. All data in these tables derive from the [1991] *Supreme Court Reports*.

TABLE I
VOLUME OF WORK

			TOTAL ¹
Reported Judgments ²			
Private	Public ³		
19	89		107
Reported Motions ⁴			
Granted	Refused	Other	
1	2	0	3

¹ The following case has been included under both "Private" and "Public" categories but only once under "Total": *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869.

² 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.

³ *Reference Re Ng Extradition (Can.)*, [1991] 2 S.C.R. 858, was an original reference to the Supreme Court and is included under this category.

⁴ In *Bhatnager v. Canada (Minister of Employment and Immigration)*, [1991] 3 S.C.R. 317, an application to review the taxation of costs by the registrar was dismissed. In *R. v. Reddick*, [1991] 1 S.C.R. 297, a motion by the *Crown* for an order of reversal of judgment pursuant to s. 70 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 was dismissed. In *R. v. Reddick*, [1991] 1 S.C.R. 1105, a motion by the *defendant* for an order of reversal of judgment pursuant to s. 70 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 was granted.

TABLE II¹
BREAKDOWN BY SOURCE

	PRIVATE ²			PUBLIC			Total From Source ²
	Affirmed	Reversed	Other	Affirmed	Reversed	Other	
Alberta	1	1	0	4	3	0	9
British Columbia ³	2	1	0	6	7	0	15
Manitoba ²	3	1	0	5	0	0	8
New Brunswick	0	0	0	1	1	0	2
Newfoundland & Labrador	0	0	0	0	1	0	1
Northwest Territories	0	0	0	0	0	0	0
Nova Scotia	0	0	0	5	1	0	6
Ontario	3	1	0	19	5	0	28
Prince Edward Island	0	0	0	2	0	0	2
Quebec	1	3	0	9	9	0	22
Saskatchewan	0	0	0	2	2	0	4
Yukon Territory	0	0	0	0	0	0	0
Court Martial Appeal Ct.	0	0	0	0	0	0	0
Federal Board	0	0	0	0	0	0	0
Federal Court ³	1	2	0	6	1	0	9
TOTAL	11	9	0	59	30	0	106

¹ Only appellate decisions (including references on appeal from the decision of a lower court but not original references) 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.

² The following case has been included under both "Private" and "Public" categories but only once under "Total From Source": *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869.

³ In the following cases, the Court affirmed in part and reversed in part the decision of the lower court: *Sunrise Co. v. Lake Winnipeg (The)*, [1991] 1 S.C.R. 3, ("Federal Court - Private"); and *R. v. Sullivan*, [1991] 1 S.C.R. 489, ("British Columbia - Public").

TABLE III¹
SUBJECT MATTER OF LITIGATION²

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
ORIGINAL JURISDICTION					
References ³	1	1-4:3			
Reported Motions ⁴	3	3-1:0	1	2	0
APPELLATE					
(a) PRIVATE (Common Law & Civil Law)					
(i) Administration & Succession					
Dependant's Relief					
Devolution					
Executors & Administrators					
Wills					
(ii) Commercial					
Accounts					
Agency & Partnership					
Assignments					
Bankruptcy					
Banks & Banking	2	2-5:0	0	2	0
Bills & Notes					
Companies					
Contract					
Debtor & Creditor					
Guarantees & Sureties					
Insurance	4	4-7:0	1	3	0
Interest					
Sale of Goods					
(iii) Family Law					
Adoption					
Child Welfare, Custody & Access					
Divorce					
Judicial Separation					
Maintenance & Support					
Matrimonial Property					
Family Law - Other					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
(iv) <i>Intellectual Property</i>					
Copyrights					
Industrial Designs					
Patents					
Trademarks					
Intellectual Property - Other					
(v) <i>Land</i>					
Hypothecs & Mortgages					
Landlord & Tenant					
Construction & Mechanics' Liens					
Real Property					
(vi) <i>Torts</i>					
Assault & Battery					
Bailment					
Conspiracy & Intimidation					
Conversion & Detinue					
False Imprisonment					
Libel & Slander					
Negligence ⁵	4	1-8:0 2-6:1 2-5:2	1 1 1	0 1 1	0 0 0
Nuisance					
Occupiers' Liability	1	1-7:0	1	0	0
Trespass					
Vicarious Liability					
(vii) <i>Other</i>					
Associations					
Barristers & Solicitors	3	1-9:0 1-8:0 1-5:0	1 1 1	0 0 0	0 0 0
Charities					
Choses in Action					
Conflict of Laws					
Damages	2	1-8:0 1-7:0	1 1	0 0	0 0
Maritime, Admiralty & Shipping ⁵	2	1-8:1 2-5:2	0 1	1 1	0 0
Master & Servant					
Natural Resources	1	1-5:2	1	0	0
Pensions					
Privilege					
Trusts & Trustees	1	1-5:0	1	0	0
Unjust Enrichment & Restitution	2	2-7:0	2	0	0

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Criminal ⁶	39	1-9:0	1	0	0
		9-7:0	7	2	0
		17-5:0	9	8	0
		2-8:1	1	1	0
		1-6:1	0	1	0
		3-4:1	3	0	0
		3-5:2	2	1	0
		1-7:2	1	0	0
		1-3:2	1	0	0
		2-4:3	0	2	0
Crown & Sovereign Immunity					
Elections					
Environmental					
Expropriation	4	1-7:0	0	1	0
		1-5:0	1	0	0
		1-5:2	0	1	0
		1-4:3	1	0	0
Extradition	3	1-7:0	1	0	0
		2-4:3	1	0	1 ³
Habeas Corpus	1	1-7:0	1	0	0
Human Rights	1	1-7:0	1	0	0
Immigration					
International					
Judicial Review	3	1-5:0	1	0	0
		1-6:1	1	0	0
		1-4:3	1	0	0
Labour	1	1-6:1	1	0	0
Mandamus					
Municipal & Planning	2	1-7:0	0	1	0
		1-5:0	1	0	0
Prohibition					
Public Utilities					
Securities					
Statutory Interpretation					
Taxation	1	1-5:0	1	0	0
Transportation					
Unemployment	1	1-5:2	1	0	0
(d) PROCEDURAL					
Appeal ⁶	3	1-5:0	1	0	0
		2-8:1	1	1	0
		1-7:2	1	0	0
Costs					
Declaratory Action					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Evidence	19	2-9:0	2	0	0
		5-7:0	3	2	0
		8-5:0	5	3	0
		2-6:1	0	2	0
		2-5:2	1	1	0
Injunctions	1	1-7:0	1	0	0
Jurisdictions	3	1-9:0	0	1	0
		1-7:0	0	1	0
		1-8:1	0	1	0
Limitation Period	2	2-7:0	1	1	0
Procedural - Other	5	1-7:0	1	0	0
		3-5:0	1	2	0
		1-6:1	1	0	0
Procedure					
Res Judicata	2	2-7:0	2	0	0
Standing	1	1-5:0	0	1	0

¹ A decision involving one or more appeals (including cross-appeals), motions, or references is considered to be one case for the purpose 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 reference, brought before lower courts are classified according to subject matter under "Appellate."

² The following cases have been included under two or more subject categories: *Sunrise Co. v. Lake Winnipeg (The)*, [1991] 1 S.C.R. 3, ("Maritime, Admiralty & Shipping" and "Negligence"); *Wale v. British Columbia (A.G.)*, [1991] 1 S.C.R. 62, ("Injunctions," "Procedural - Other," and "Aboriginal Rights"); *R. v. B. (J.N.)*, [1991] 1 S.C.R. 66, ("Criminal" and "Evidence"); *R. v. Ratti*, [1991] 1 S.C.R. 68, ("Criminal" and "Evidence"); *R. v. Romeo*, [1991] 1 S.C.R. 86, ("Charter," "Criminal," and "Evidence"); *R. v. Landry*, [1991] 1 S.C.R. 99, ("Criminal" and "Charter"); *R. v. Henley*, [1991] 1 S.C.R. 116, ("Criminal" and "Charter"); *Immeubles Port Louis Ltée v. Lafontaine (Village)*, [1991] 1 S.C.R. 326, ("Municipal Law" and "Procedural - Other"); *Roberge v. Bolduc*, [1991] 1 S.C.R. 374, ("Barristers & Solicitors," "Evidence," "Costs," and "Appeal"); *R. v. Barnes*, [1991] 1 S.C.R. 449, ("Criminal" and "Appeal"); *R. v. Sullivan*, [1991] 1 S.C.R. 489, ("Criminal" and "Appeal"); *Laferrière v. Lawson*, [1991] 1 S.C.R. 541, ("Negligence" and "Civil Law - Other"); *Canada (Attorney General) v. Public Service Alliance of Canada*, [1991] 1 S.C.R. 614, ("Labour" and "Judicial Review"); *R. v. M. (D.B.)*, [1991] 1 S.C.R. 669, ("Criminal" and "Evidence"); *R. v. Smith*, [1991] 1 S.C.R. 714, ("Charter," "Criminal," and "Evidence"); *R. v. C. (M.H.)*, [1991] 1 S.C.R. 763, ("Criminal" and "Evidence"); *Monk Corp. v. Island Fertilizers Ltd.*, [1991] 1 S.C.R. 779, ("Maritime, Admiralty & Shipping" and "Jurisdictions"); *United States v. Allard*, [1991] 1 S.C.R. 861 ("Criminal" and "Extradition"); *R. v. Evans*, [1991] 1 S.C.R. 869, ("Charter," "Criminal," and "Evidence"); *R. v. Swain*, [1991] 1 S.C.R. 933, ("Charter," "Constitutional Law," and "Criminal"); *National Bank of*

Canada v. Atomic Slipper Co., [1991] 1 S.C.R. 1059, ("Banks & Banking" and "TV Commercial Law & Insurance"); *R. v. L. (W.K.)*, [1991] 1 S.C.R. 1091, ("Procedural - Other" and "Charter"); *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, ("Administrative Boards," "Charter," and "Constitutional"); *Tétreault-Gauduory v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, ("Administrative Boards," "Charter," and "Jurisdictions"); *Maracle v. Travellers Indemnity Co. of Canada*, [1991] 2 S.C.R. 50, ("Insurance" and "Limitation Period"); *Osborne v. Canada (Treasury Board)*, [1991] 2 S.C.R. 70, ("Charter" and "Constitutional"); *R. v. Lippé*, [1991] 2 S.C.R. 114, ("Charter" and "Civil Rights"); *R. v. Seaboyer*; *R. v. Gayme*, [1991] 2 S.C.R. 577, ("Criminal Law," "Evidence," and "Charter"); *Kindler v. Canada (Minister of Justice)*, [1991] 2 S.C.R. 779, ("Charter," "Extradition," and "Judicial Review"); *Reference Re Ng Extradition (Can.)*, [1991] 2 S.C.R. 858, ("Charter" and "Extradition"); *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869, ("Charter" and "Barristers & Solicitors"); *Rainbow Industrial Caterers Ltd. v. Canadian National Railway Co.*, [1991] 3 S.C.R. 3, ("Negligence" and "Procedural - Other"); *R. v. Elshaw*, [1991] 3 S.C.R. 24, ("Charter" and "Evidence"); *R. v. Furtney*, [1991] 3 S.C.R. 89, ("Criminal" and "Charter"); *R. v. Jones*, [1991] 3 S.C.R. 110, ("Constitutional," "Criminal," and "Charter"); *Ontario (Human Rights Commission) v. National Dental Examining Board of Canada*, [1991] 3 S.C.R. 121, ("Constitutional" and "Res Judicata"); *R. v. Sit*, [1991] 3 S.C.R. 124, ("Constitutional," "Criminal," and "Charter"); *Altobelli v. Pilot Insurance Co.*, [1991] 3 S.C.R. 132, ("Insurance," "Res Judicata," and "Damages"); *R. v. Grant*, [1991] 3 S.C.R. 139, ("Charter" and "Criminal"); *R. v. Gruenke*, [1991] 3 S.C.R. 263, ("Charter" and "Evidence"); *R. v. Stewart*, [1991] 3 S.C.R. 324, ("Habeas Corpus" and "Certiorari"); *R. v. Hick*, [1991] 3 S.C.R. 383, ("Criminal" and "Procedural - Other"); *R. v. Grover*, [1991] 3 S.C.R. 387, ("Criminal" and "Procedural - Other"); *Canson Enterprises Ltd. v. Broughton & Co.*, [1991] 3 S.C.R. 534, ("Negligence," "Barristers & Solicitors," and "Damages"); *R. v. Broyles*, [1991] 3 S.C.R. 595, ("Charter" and "Evidence"); *R. v. Salturo*, [1991] 3 S.C.R. 654, ("Charter" and "Evidence"); and *Canada (Human Rights Commission) v. Sun Life Assurance Co. of Canada*, [1991] 3 S.C.R. 689, ("Constitutional" and "Human Rights").

³ *Reference Re Ng Extradition (Can.)*, [1991] 2 S.C.R. 858, was an original reference to the Supreme Court.

⁴ Motions were disposed of in the following manner: *Bhatnager v. Canada (Minister of Employment and Immigration)*, [1991] 3 S.C.R. 317, (an application to review the taxation of costs by the registrar was dismissed); *R. v. Reddick*, [1991] 1 S.C.R. 297, (a motion by the Crown for an order of reversal of judgment pursuant to s. 70 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 was dismissed); and *R. v. Reddick*, [1991] 1 S.C.R. 1105, (a motion by the defendant for an order of reversal of judgment pursuant to s. 70 of the *Supreme Court Act*, R.S.C. 1985, c. S-26 was granted).

⁵ In *Sunrise Co. v. Lake Winnipeg (The)*, [1991] 1 S.C.R. 3, the appeal was allowed (5:2) and the cross-appeal was dismissed (5:2). It is included only once under "Number of Cases Reported."

⁶ In *R. v. Sullivan*, [1991] 1 S.C.R. 489, the appeal was allowed (8:1) and the cross-appeal was dismissed (8:1). It is included only once under "Number of Cases Reported."

TABLE IV¹
MAJORITY/DISSENT RATIO

Total Number of Cases Reported		110	
Unanimous Decisions		79 ²	
Split Decisions		31	
9:0	5	8:0	1
8:1	2	7:0	38
7:2	2	6:0	0
6:3	3	7:1	0
5:4	1	6:1	7
		5:2	6
		4:2	0
		6:2	0
		5:3	0
		4:3	6
		3:3	0
		4:4	0
5:0	32	4:0	0
4:1	3	3:0	0
3:2	1	2:1	0
		1:0	3
		3:1	0
		2:2	0

¹ 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 the 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.

² The following motions, which were disposed of by a single justice, are included under this category: *Bhatnager v. Canada (Minister of Employment and Immigration)*, [1991] 3 S.C.R. 317; *R. v. Reddick*, [1991] 1 S.C.R. 297; and *R. v. Reddick*, [1991] 1 S.C.R. 1105.

TABLE VI¹
TYPE OF WORK

	Common Law	Civil Law	Constitutional	Criminal	Other Public Law	Reported Motions
Cory	19	3	36	40	17	0
Gonthier	17	4	33	32	22	0
Iacobucci	11	1	19	26	5	0
La Forest	18	3	33	27	21	0
Lamer	7	3	29	21	18	0
L'Heureux-Dubé	15	3	36	31	20	0
McLachlin	16	1	34	33	15	0
Sopinka	18	3	35	38	20	3
Stevenson	11	1	21	28	9	0
Wilson	3	0	10	7	2	0

¹ 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"); third, the number of cases in which a justice did not write a judgment and concurred with the judgment of another justice. For example, Cory J. sat on fifty-nine cases and wrote seven majority judgments and three dissenting judgments. He concurred with the majority judgment of another justice in forty-seven cases and with a dissenting judgment of another justice once. Further, he participated in one unattributed judgment of "The Court," and concurred with the majority judgment of Gonthier J. three times, Iacobucci J. three times, La Forest J. eight times, and so on. He concurred with the dissenting judgment of La Forest J. once.

	Number of Cases	The Court		Concurrences with Another Justice													
		Judgments	Concurrences	Cory	Gonthier	Iacobucci	La Forest	Lamer	L'Heureux-Dubé	McLachlin	Sopinka	Stevenson	Wilson				
Cory	59																
Majority		7	47	1	3	3	8 ¹	16	6 ¹	2	7	2	1				
Dissent		3	1		0	0	1	0	0	0	0	0	0				
Gonthier	63																
Majority		6	50	2	3	3	9 ¹	19	5 ¹	3	3	3	0				
Dissent		0	2		1	0	0	0	0	1	0	0	0				
Iacobucci	35																
Majority		3	31	1	6	1	4	9	1	2	6	1	1				
Dissent		0	0		0	0	0	0	0	0	0	0	0				
La Forest	57																
Majority		14	41	2	4	4	3	17	2	1	8	2	0				
Dissent		2	1		0	0	0	0	1	0	0	0	0				

TABLE VII
SUCCESS RATE OF CHARTER CLAIMANTS

	Number	Per cent
<i>Charter</i> Claimant Wins	10	30.3
<i>Charter</i> Claimant Loses	19	57.6
Other ²	4	12.1
Total	33	100.0

¹ "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.

² In *R. v. Romeo*, [1991] 1 S.C.R. 86 and *R. v. Landry*, [1991] 1 S.C.R. 99, the *Charter* claimant lost the *Charter* argument but won on other grounds. In *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, the decision concerned the jurisdiction of a tribunal to address a *Charter* issue and did not turn on an interpretation of a particular *Charter* guarantee. In *Tétrault-Gauduoy v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, the claimant won the *Charter* argument but lost in the result, on procedural grounds, for improperly reaching the Federal Court of Appeal.

TABLE VIII
OBJECT OF CHARTER LITIGATION¹

		Number	Per cent	Success Rate (%)
Legislation ²	Federal	25	75.8	40
	Provincial	5	15.2	0
	Territorial	0	0	0
	Municipal	0	0	0
Administrative: Decisions		2	6.1	0
	Rules	0	0	0
Conduct or Decisions of Public Officials		4	12.1	25
Common Law		2	6.1	50

¹ The following cases have been included under more than one category: *Committee for the Commonwealth of Canada v. Canada*, [1991] 1 S.C.R. 139, (“Federal Legislation” and “Conduct or Decisions of Public Officials”); *R. v. Swain*, [1991] 1 S.C.R. 933, (“Federal Legislation” and “Common Law”); *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, (“Federal Legislation” and “Administrative Decisions”); *Tétreault-Gauduory v. Canada (Employment and Immigration)*, [1991] 2 S.C.R. 22, (“Federal Legislation” and “Administrative Decisions”); and *Reference Re Ng Extradition*, [1991] 2 S.C.R. 858, (“Federal Legislation” and “Administrative Decisions”). Consequently, total “Per Cent” will exceed 100.

² “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, the exercise of which is attacked, it will be classified as an “Administrative Decision” or “Administrative Rule.”

TABLE IX
CHARTER LITIGATION BY SOURCE

Source	# of Cases	% of Cases	Lower Decisions			Claimant		
			Affirmed	Reversed	Other	Wins	Loses	Other
Alberta	1	3.0	0	1	0	1	0	0
British Columbia	4	12.1	1	3	0	2	2	0
Manitoba	2	6.1	2	0	0	0	2	0
New Brunswick	2	6.1	1	1	0	0	1	1 ¹
Newfoundland	0	0	0	0	0	0	0	0
Nova Scotia	1	3.0	1	0	0	0	1	0
Ontario	11	33.3	8	3	0	3	7	1 ²
P.E.I.	1	3.0	1	0	0	1	0	0
Quebec	5	15.2	2	3	0	1	3	1 ³
Saskatchewan	1	3.0	0	1	0	0	1	0
N.W.T. & Yukon	0	0	0	0	0	0	0	0
Federal Court	4	12.1	3	0	1 ⁴	2	1	1 ⁴
Federal Reference	1	3.0	0	0	1 ⁵	0	1	0
Total	33	100.0	19	12	2	10	19	4

¹ In *R. v. Romeo*, [1991] 1 S.C.R. 86, the claimant lost the *Charter* argument but won on other grounds.

² In *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, the decision concerned the jurisdiction of a tribunal to address a *Charter* issue and did not turn on an interpretation of a particular *Charter* guarantee.

³ In *R. v. Landry*, [1991] 1 S.C.R. 99, the claimant lost the *Charter* argument but won on other grounds.

⁴ In *Tétrault-Gauduory v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, the claimant won the *Charter* argument but lost in the result, on procedural grounds, for improperly reaching the Federal Court of Appeal.

⁵ *Reference Re Ng Extradition*, [1991] 2 S.C.R. 858, was an original reference to the Supreme Court.

TABLE X¹
SUBJECT OF CHARTER LITIGATION²

Section	# of Cases	Claimant			Right or Freedom		Section 1		
		Wins	Loses	Other	Limited	Not Ltd	Saves Limit	Doesn't Save	Other
2. Fundamental Freedoms									
(a) Conscience									
Religion	1	0	1	0	0	1	0	0	0
(b) Thought, Belief & Opinion									
Expression, Press & Other	5	2	3	0	2	3	0	2	0
(c) Peaceful Assembly									
(d) Association	2	0	2	0	1	1	1	0	0
s. 2 SUBTOTAL	8	2	6	0	3	5	1	2	0
3.- 5. Democratic Rights	2	0	2	0	0	2	0	0	0
6. Mobility Rights	1	0	1	0	0	1	0	0	0
Legal Rights									
7. General (non-distinguished)	4	1	2	1 ³	1	3	0	1	0
Life									
Liberty									
Security of Person									
Principles of Fund. Justice	4	3	1	0	3	1	0	3	0
s. 7 SUBTOTAL	8	4	3	1	4	4	0	4	0
8. Search or Seizure	1	0	1	0	1	0	0	0	1 ⁴
9. Detention or Imprisonment									
10. Arrest or Detention									
(a) Informed Promptly of Reasons	1	0	1	0	1	0	0	0	1 ⁵
(b) Retain & Instruct Counsel	3	3	0	0	3	0	0	1	2 ⁶
(c) <i>Habeas Corpus</i>									
11. Criminal & Penal Matters									
(a) Informed of Offence									
(b) Tried Within Reasonable Time	1	0	1 ⁷	0	0	1	0	0	0
(c) Compelled To Be a Witness									
(d) Presumption of Innocence,	5	2 ⁸	1	2 ⁹	5	0	3	2	0
Fair Public Hearing,	1	1	0	0	1	0	0	1	0
Independent Impartial Tribunal	1	0	1	0	0	1	0	0	0
s. 11(d) SUBTOTAL	7	3	2	2	6	1	3	3	0
(e) Reasonable Bail									
(f) Trial by Jury									
(g) Time of Act or Omission	2	0	2	0	0	2	0	0	0
(h) Double Jeopardy									
(i) Benefit of Lesser Punishment									
12. Treatment or Punishment	3	0	3	0	0	3	0	0	0

Section	# of Cases	Claimant			Right or Freedom		Section 1		
		Wins	Loses	Other	Limited	Not Ltd	Limit Saved	Doesn't Save	Other
13. Self-Incrimination									
14. Interpreter									
15. Equality Rights	1	0	1	0	0	1	0	0	0
(1) Race									
National or Ethnic Origin									
Colour									
Religion									
Sex									
Age	1	0	0	1 ¹⁰	1	0	0	1	0
Mental or Physical Disability	1	0	1	0	0	1	0	0	0
Aboriginal Peoples									
Other									
s. 15(1) SUBTOTAL	3	0	2	1	1	2	0	1	0
(2) Affirmative Action									
16. - 22. Official Languages									
23. Minority Language	1	0	1	0	0	1	0	0	0
Educational Rights									
24(1) Enforcement	2	0	0	2 ¹¹	0	0	0	0	0
(2) Exclusion of Evidence	4	3	1	0	0	0	0	0	0
25. Aboriginal Rights									
26. Other Rights & Freedoms	1	0	1	0	0	1	0	0	0
27. Multicultural Heritage									
28. Rights Guaranteed Equally									
29. Rights Respecting Schools									
30. Application to Territories									
31. Legislative Powers									
32. Application of <i>Charter</i>									
33. Exception									
34. General <i>Charter</i> Values	1 ¹²	0	1	0	0	1	0	0	0

¹ 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 other grounds.

² The following cases have been included under more than one category: *R. v. Smith*, [1991] 1 S.C.R. 714, ("Section 10(a)" and "Section 24(2)"); *R. v. Evans*, [1991] 1 S.C.R. 869, ("Section 10(b)" and "Section 24(2)"); *R. v. Swain*, [1991] 1 S.C.R. 933, ("Section 7" and "Section 15(1)"); *Lavigne v. Ontario Public Service Employees Union*, [1991] 2 S.C.R. 211, ("Section 2(b)" and "Section 2(d)"); *R. v. Seaboyer*; *R. v. Gayme*, [1991] 2 S.C.R. 577, ("Section 7" and "Section 11(d)"); *R. v. Elshaw*, [1991] 3 S.C.R. 24, ("Section 10(b)" and "Section 24(2)"); *R. v. Sit*, [1991] 3 S.C.R. 124, ("Section 7" and

"Section 11(d)"); *Sinclair v. Quebec (A.G.)*, [1991] 3 S.C.R. 134, ("Section 2(d)," "Section 3," "Section 6," "Section 7," "Section 15," "Section 23," and "Section 26"); *R. v. Broyles*, [1991] 3 S.C.R. 595, ("Section 7" and "Section 24(2)"); and *R. v. Tessier*, [1991] 3 S.C.R. 687, ("Section 8" and "Section 24(2)").

³ In *R. v. Landry*, [1991] 1 S.C.R. 99, the claimant won the *Charter* argument (the Court holding that the Federal Court of Appeal had incorrectly applied section 7) but lost on other grounds.

⁴ In *R. v. Tessier*, [1991] 3 S.C.R. 687, the Court did not consider whether the infringement of section 8 could be saved under section 1.

⁵ In *R. v. Evans*, [1991] 1 S.C.R. 869, the Court did not consider whether the infringement of section 10(a) could be saved under section 1.

⁶ In *R. v. Smith*, [1991] 1 S.C.R. 714 and *R. v. Elshaw*, [1991] 3 S.C.R. 24, the Court did not consider whether the infringement of section 10(b) could be saved under section 1.

⁷ In *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869, the Court held that section 11(b) did not apply because it involved a disciplinary matter of a regulatory nature without true penal consequences.

⁸ In *R. v. Henley*, [1991] 1 S.C.R. 116, with the consent of the Crown the appeal was allowed and a new trial was ordered.

⁹ In *R. v. Ratti*, [1991] 1 S.C.R. 68 and *R. v. Romeo*, [1991] 1 S.C.R. 86, the claimant lost the *Charter* argument but won on other grounds.

¹⁰ In *Tétrault-Gauduory v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, the claimant won the *Charter* argument but lost in the result, on procedural grounds, for improperly reaching the Federal Court of Appeal.

¹¹ In *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, the decision concerned the jurisdiction of a tribunal to address a *Charter* issue and did not turn on an interpretation of section 24(1). However, the majority held that an administrative tribunal need not be a court of competent jurisdiction within the meaning of section 24(1) to have its enabling legislation subject to *Charter* scrutiny. In *R. v. L.(W.K.)*, [1991] 1 S.C.R. 1091, the Court held that a section 24(1) remedy was not appropriate.

¹² In *R. v. Salituro*, [1991] 3 S.C.R. 654, the Court considered the general underlying values of the *Charter*.

TABLE XI - ACTION OF THE JUSTICES

Justice	# of Cases	Judgments Written for the		Judgments Co-Written for the		Concurrences with the		Concurrences with Another Justice												
		Court	Maj Diss	Court	Maj Diss	Court	Maj Diss	La Forest	Lamer	L'Heureux-Dubé	McLachlin	Sopinka	Stevenson	Wilson						
Cory	30	0	4	3	0	0	0	10	13	0	1	3	3 ¹	9	0	0	3	1	3	1 ¹
Gonthier	26	0	2	1	0	0	0	9	13	1	2	5	4 ²	4	3	5 ²	0	1	0	0
Iacobucci	17	3	2	0	0	0	0	7	5	0	0	1	1	5	0	2	0	0	3	0
La Forest	25	0	5	2	0	0	0	7	11	1	0	2	2	8	0	4	1	2	0	0
Lamer	25	5	7	2	0	0	0	3	4	4	2	0	3	2	0	3	1	0	0	0
L'Heureux-Dubé	29	0	5	4	0	0	0	9	7	4	2	2	2	12	3	5 ²	0	3	3	3
McLachlin	29	1	7	6	0	0	0	8	7	0	0	1	4	2	4	0	1	3	0	0
Sopinka	32	0	3	2	0	0	0	11	14	2	2	1	3	3	13	0	2 ³	3	0	0
Stevenson	19	3	1	1	0	0	0	4	10	1	2	0	3	2	1	0	4	0	0	0
Wilson	7	0	2	2	0	0	0	0	3	0	0	0	0	0	3	0	0	0	0	0

¹ In *Lavigne v. Ontario Public Service Employees Union*, [1991] 2 S.C.R. 211, Cory J. agreed with La Forest J. in part and with Wilson J. in part.

² In *Kündler v. Canada (Minister of Justice)*, [1991] 2 S.C.R. 779, L'Heureux-Dubé J. and Gonthier J. agreed with La Forest J. in part and with McLachlin J. in part.

³ In *R. v. Evans*, [1991] 1 S.C.R. 869, Sopinka J. concurred with McLachlin J. in part.

TABLE XII¹
VOTING BEHAVIOUR OF JUSTICES

Justice	Majority			Minority			Support			Section 1								
	Judgment For			Judgment For			For			Saves	Doesn't Save	Other						
	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other				Claimant	Gov't	Other			
Cory	1	3	0	8 ²	14	1 ³	3	0	0	0	0	0	12	17	1	1	1	0
Gonthier	0	2	0	8	13	1 ³	2	0	0	0	1 ⁷	0	10	16	1	0	1	0
Iacobucci	2	3	0	5	7	0	0	0	0	0	0	0	7	10	0	1	1	0
La Forest	2 ²	4	1 ³	6	13 ⁸	0	1	0	0	0	0	0	9	17	1	2	2	0
Lamer	5	7 ⁸	0	3 ²	3	1 ³	1	0	0	4	0	0	13	10	1	3	5	0
L'Heureux-Dubé	2 ²	3	0	4 ³	12	0	1 ⁴	3 ⁷	0	3	1	0	10	19	0	1	3	0
McLachlin	3	5	0	5 ²	9 ⁴	1 ³	6 ^{5,6}	0	0	0	0	0	14	14	1	1	4	0
Sopinka	2	1	0	9 ²	16 ⁸	1 ³	2	0	0	1	0	0	14	17	1	1	0	0
Stevenson	1	3	0	5 ²	7	1 ³	1	1	0	0	0	0	7	11	1	1	0	0
Wilson	0	1	1 ³	0	3 ⁸	0	0	2	0	0	0	0	0	6	1	3	0	0

¹ "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. Thus, a case can be counted twice if there are multiple issues.

² In *Tétrault-Gauduory v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, the claimant won the *Charter* argument but lost in the result, on procedural grounds, for improperly reaching the Federal Court of Appeal.

³ In *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, the decision concerned the jurisdiction of a tribunal to address a *Charter* issue and did not turn on an interpretation of a particular *Charter* guarantee.

⁴ In *R. v. Romeo*, [1991] 1 S.C.R. 86, the claimant lost the *Charter* argument but won on other grounds.

⁵ In *R. v. Landry*, [1991] 1 S.C.R. 99, the claimant lost the *Charter* argument but won on other grounds.

⁶ In *R. v. Ratti*, [1991] 1 S.C.R. 68, the claimant lost the *Charter* argument but won on other grounds.

⁷ In *R. v. Seaboyer; R. v. Gayme*, [1991] 2 S.C.R. 577, L'Heureux-Dubé J. dissented in part with Gonthier J. concurring.

⁸ *Supra* notes 4, 5, and 6.

TABLE XIII
TYPE OF CHARTER CLAIMANTS

	Claimant		Intervenors Present								
	# of Cases	% of Cases	Wins	Losses	Other	For Claimant # of Cases	For Gov't # of Cases	For Both # of Cases	For Both Cl'nt Wins		
Business Corporations ¹	4	12	3	1		2	0	0	0	2	0
Individuals	28	85	9	15	3	2	0	8	6	6 ^{2,3}	2
Interest Groups	1	3	1	0	0	0	0	0	0	1	1
Unions											
Other											

¹ *Canadian Broadcasting Corporation v. Lessard*, [1991] 3 S.C.R. 421 and *Canadian Broadcasting Corporation v. New Brunswick (A.G.)*, [1991] 3 S.C.R. 459, are included under this category.

² In *Cuddy Chicks Ltd. v. Ontario (Labour Relations Board)*, [1991] 2 S.C.R. 5, the decision concerned the jurisdiction of a tribunal to address a *Charter* issue and did not turn on an interpretation of a particular *Charter* guarantee.

³ In *Tétrault-Gauduory v. Canada (Employment and Immigration Commission)*, [1991] 2 S.C.R. 22, the claimant won the *Charter* argument but lost in the result, on procedural grounds, for improperly reaching the Federal Court of Appeal.

TABLE XIV
MAJORITY/DISSENT RATIO

Unanimous Decisions	19
Split Decisions	14

9:0	4	8:0	0	7:0	12 ¹	6:0	0
8:1	0	7:1	0	6:1	4	5:1	0
7:2	1	6:2	0	5:2	2	4:2	0
6:3	2	5:3	0	4:3	4	3:3	0
5:4	1	4:4	0				
5:0	3	4:0	0	3:0	0	1:0	0
4:1	0	3:1	0	2:1	0		
3:2	0	2:2	0				

¹ In *Committee for the Commonwealth of Canada v. Canada*, [1991] 1 S.C.R. 139, Cory, La Forest, L'Heureux-Dubé, McClachlin JJ., and Lamer C.J. wrote separate judgments concurring in the result.

TABLE XV
LEGAL RIGHTS AND SECTION 24(2)

Legal Rights	# of Cases	Claimant			Section 24(2)			
		Wins	Losses	Other	24(2) Used	Evidence Excluded	Evidence Admitted	Other
7. General (non-distinguished)	4	1	2	1 ¹	1	1		
Life								
Liberty								
Security of Person								
Principles of Fund. Justice	4	3	1	0	1	1		
8. Search or Seizure	1	0	1	0	1		1	
9. Detention or Imprisonment								
10. Arrest or Detention								
(a) Informed Promptly of Reasons	1	0	1	0	1		1	
(b) Retain & Instruct Counsel	3	3	0	0	3	2	1	
(c) <i>Habeas Corpus</i>								
11. Criminal & Penal Matters								
(a) Informed of Offence								
(b) Tried within Reasonable Time	1	0	1 ²	0				
(c) Compelled To Be a Witness								
(d) Presumption of Innocence,	5	2 ³	1	2 ⁴				
Fair Public Hearing,	1	1	0	0				
Independent Impartial Tribunal								
(e) Reasonable Bail								
(f) Trial by Jury								
(g) Time of Act or Omission	2	0	2	0				
(h) Double Jeopardy								
(i) Benefit of Lesser Punishment								
12. Treatment or Punishment	3	0	3	0				
13. Self-Incrimination								
14. Interpreter								

¹ In *R. v. Landry*, [1991] 1 S.C.R. 99, the claimant won the *Charter* argument but lost on other grounds.

² In *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869, the Court held that section 11(b) did not apply because it involved a disciplinary matter of a regulatory nature without true penal consequences.

³ In *R. v. Henley*, [1991] 1 S.C.R. 116, with the consent of the Crown, the appeal was allowed and a new trial ordered.

⁴ In *R. v. Ratti*, [1991] 1 S.C.R. 68 and *R. v. Romeo*, [1991] 1 S.C.R. 86, the claimant lost the *Charter* argument but won on other grounds.