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[1984] S. C. R. Statistical Analysis

John H. Kim

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[1984] S. C. R. Statistical Analysis

[1984] S.C.R. STATISTICAL ANALYSIS®

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TABLE I¹
VOLUME OF WORK

			TOTAL ²
Reported Judgments ³			
Private	Public		
13	53		63
Reported Motions			
Granted	Refused	Other ⁴	
0	0	2	2
Unreported Motions			
Granted	Refused	Other	
77	348	55	480

¹ All data considered in this table derive from the [1984] *Supreme Court Reports* and the [1984] *Bulletin of proceedings taken in the Supreme Court of Canada*.

² The following cases have been included under both "Private" and "Public" categories but only once under "Total": *Kamloops (City of) v. Nielsen*, [1984] 2 S.C.R. 2; *Guerin v. R.*, [1984] 2 S.C.R. 335; and *Ontario (A.G.) v. Fatehi*, [1984] 2 S.C.R. 536.

³ 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."

⁴ In *Ogg-Moss v. R.* [1984] 2 S.C.R. 171, the motion to intervene was disallowed. In *Lyons v. R.*, [1984] 2 S.C.R. 631, the applications for judicial release or stay of sentence was denied.

TABLE II¹
BREAKDOWN BY SOURCE

	PRIVATE ²			PUBLIC			Total From Source
	Affirmed	Reversed ³	Other	Affirmed	Reversed	Other	
Alberta	0	0	0	7	1	0	8
British Columbia	1	0	0	8	1	0	9
Manitoba	0	0	0	1	0	0	1
New Brunswick	0	0	0	1	0	0	1
Newfoundland & Labrador	0	0	0	0	1	0	1
Northwest Territories	0	0	0	0	0	0	0
Nova Scotia	0	0	0	0	0	0	0
Ontario	4	4	0	8	5	0	19
Prince Edward Island	0	0	0	0	0	0	0
Quebec	0	2	1	2	8	0	13
Saskatchewan	0	1	0	1	0	0	2
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	0	1	0	2	6	0	8
TOTAL	5	8	1	30	22	0	62

¹ 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.

Reference *Re Newfoundland Continental Shelf*, [1984] 1 S.C.R. 86 is an original reference and is not included under "Total From Source."

² The following cases have been included under both "Private" and "Public" categories but only once under "Total From Source": *Kamloops (City of) v. Nielsen*, [1984] 2 S.C.R. 2; *Guerin v. R.*, [1984] 2 S.C.R. 335; and *Ontario (A.G.) v. Fatehi*, [1984] 2 S.C.R. 536.

³ In the following case, the court affirmed in part and reversed in part the decision of the lower court: *Ken Gordon Excavating Ltd. v. Edstan Construction Ltd.*, [1984] 2 S.C.R. 280, ("Ontario - Private").

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	1-6:0			1
Reported Motions ⁴	2	2-5:0			2
APPELLATE					
(a) PRIVATE (Common Law & Civil Law)					
(i) Administration & Succession					
Dependent's Relief					
Devolution					
Executors & Administrators					
Wills					
(ii) Commercial					
Accounts					
Agency & Partnership	1	1-8:0	0	1	0
Assignments					
Bankruptcy					
Banks & Banking					
Bills & Notes					
Companies					
Contract	1	1-7:0	0	1	0
Debtor & Creditor	2	1-7:0	1	0	0
		1-5:0	0	1	0
Guarantees & Sureties					
Insurance					
Interest					
Sale of Goods					
(iii) Family Law					
Adoption					
Child Welfare, Custody & Access					
Divorce					
Judicial Separation					
Maintenance & Support					

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

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
(b) PRIVATE (Civil Law)					
Preliminary Title					
I Persons & Moral Persons					
I Marriage, Separation & Divorce					
II Property					
II Dismemberments of Property					
III Succession & Liberalities					
III Obligations					
III Proof					
III Sale, Exchange & Lease	1	2-5:0 ⁶	1	1	0
III Mandate, Partnerships & Suretyships	1	1-7:0	0	1	0
III Pledges, Privileges & Hypothecs					
III Registration & Prescription	1	1-5:0	0	1	0
III Minor Nominate Contracts					
IV Commercial Law & Insurance					
Civil Law - Other					
(c) PUBLIC					
Aboriginal Rights	1	1-8:0	0	1	0
Administrative Boards	6	1-7:0	0	1	0
		1-6:0	1	0	0
		4-5:0	1	3	0
Assessment					
<i>Certiorari</i>	1	1-4:3	0	1	0
<i>Charter</i>	3	1-8:0	1	0	0
		2-7:0	1	1	0
Civil Rights	1	1-6:0	1	0	0
Combines					
Communications					
Constitutional	9	3-8:0	2	1	0
		5-7:0	2	3	0
		1-4:2	1	0	0
Criminal	23	1-9:0	1	0	0
		1-7:1	1	0	0
		10-7:0	6	4	0
		1-6:1	0	1	0
		1-4:3	0	1	0
		1-6:0	1	0	0
		2-4:2	1	1	0
		6-5:0	6	0	0
Crown & Sovereign Immunity					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Elections	1	1-5:0	1	0	0
Environmental					
Expropriation					
Extradition					
Habeas Corpus					
Human Rights					
Immigration	1	1-5:0	0	1	0
International					
Judicial Review					
Labour	6	3-7:0 1-6:0 2-5:0	1 1 0	2 0 2	0 0 0
Mandamus					
Municipal & Planning	2	1-5:0 1-3:2	1 1	0 0	0 0
Prohibition					
Public Utilities					
Securities					
Statutory Interpretation	10	2-7:0 1-6:1 2-4:2 5-5:0	1 0 1 5	1 1 1 0	0 0 0 0
Taxation	2	1-6:0 1-5:0	0 0	1 1	0 0
Transportation					
Unemployment					
(d) PROCEDURAL					
Appeal	3	1-7:0 1-6:0 1-5:0	0 1 1	1 0 0	0 0 0
Costs	1	1-4:0	1	0	0
Declaratory Action					
Evidence	5	1-8:0 2-7:0 1-4:2 1-5:0	0 1 1 1	1 1 0 0	0 0 0 0
Injunctions	1	1-5:0	1	0	0
Jurisdictions	2	2-5:0	0	2	0
Limitation Period	2	2-5:0 ⁶ 1-3:2	1 1	1 0	0 0
Procedural - Other					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Procedure	3	1-5:0	0	1	0
		1-3:2	1	0	0
		1-4:0	1	0	0
Res Judicata Standing	1	1-5:0	1	0	0

¹ 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."

² The following cases have been included under two or more subject categories: *Beaudoin-Daigneault v. Richard*, [1984] 1 S.C.R. 2, ("Appeal" and "Contract"); *Bibeault v. McCaffrey, Vassart v. Carrier*, [1984] 1 S.C.R. 176, ("Labour" and "Administrative Boards"); *Brown v. Baugh*, [1984] 1 S.C.R. 192, ("Criminal" and "Statutory Interpretation"); *Droste v. R.*, [1984] 1 S.C.R. 208, ("Criminal" and "Statutory Interpretation"); *National Bank of Canada v. Retail Clerks' International Union*, [1984] 1 S.C.R. 269, ("Labour" and "Administrative Boards"); *Reference Re Chapter 40 of The Upper Churchill Water Rights Reversion Act, S.N. 1980*, [1984] 1 S.C.R. 297, ("Constitutional" and "Evidence"); *Hartel Holdings Co. v. Calgary (City of)*, [1984] 1 S.C.R. 337, ("Municipal & Planning" and "Statutory Interpretation"); *Law Society of Upper Canada v. Skapinker*, [1984] 1 S.C.R. 357, ("Charter" and "Statutory Interpretation"); *Kamloops (City of) v. Nielsen*, [1984] 2 S.C.R. 2, ("Negligence," "Limitation Periods," and "Municipal & Planning"); *Khan v. R.*, [1984] 2 S.C.R. 62, ("Procedure" and "Jurisdictions"); *Skogman v. R.*, [1984] 2 S.C.R. 93, ("Criminal" and "Certiorari"); *Gould v. Canada (A.G.)*, [1984] 2 S.C.R. 124, ("Injunction" and "Elections"); *Maroukis v. Maroukis*, [1984] 2 S.C.R. 137, ("Debtor & Creditor" and "Matrimonial Property"); *Ogg-Moss v. R.*, [1984] 2 S.C.R. 173, ("Criminal" and "Statutory Interpretation"); *Nixon v. R.*, [1984] 2 S.C.R. 197, ("Criminal" and "Statutory Interpretation"); *Phoenix Assurance Co. of Canada v. Bird Construction Co.*, [1984] 2 S.C.R. 199, ("Construction & Mechanics' Liens" and "Costs"); *Perka v. R.*, [1984] 2 S.C.R. 232, ("Criminal," "Statutory Interpretation," and "Appeal"); *Wildman v. R.*, [1984] 2 S.C.R. 311, ("Criminal" and "Evidence"); *R. v. Brese*, [1984] 2 S.C.R. 333, ("Criminal" and "Evidence"); *Guerin v. R.*, [1984] 2 S.C.R. 335, ("Aboriginal Rights," "Agency & Partnership," and "Trusts & Trustees"); *Osborne v. R.*, [1984] 2 S.C.R. 406, ("Criminal" and "Evidence"); *Syndicat des employés de production du Québec et de l'Acadie v. Canada Labour Relations Board*, [1984] 2 S.C.R. 412, ("Administrative Boards" and "Labour"); *Blanchard v. Control Data Canada Ltd.*, [1984] 2 S.C.R. 476, ("Labour" and "Jurisdictions"); *Goldwax v. Montreal (City of)*, [1984] 2 S.C.R. 525, ("Constitutional" and "Criminal"); *Abbas v. R.*, [1984] 2 S.C.R. 526, ("Criminal" and "Statutory Interpretation"); *Duhamel v. R.*, [1984] 2 S.C.R. 555, ("Criminal" and "Res Judicata"); *Caldwell v. Stuart*, [1984] 2 S.C.R. 603, ("Civil Rights" and "Appeal"); *Lyons v. R.*, [1984] 2 S.C.R. 633, ("Criminal," "Evidence," and "Statutory Interpretation"); and *Reference Re Section 27(1) of the Judicature Act, R.S.A. 1980*, [1984] 2 S.C.R. 697, ("Criminal" and "Statutory Interpretation").

³ In *Reference Re Newfoundland Continental Shelf*, [1984] 1 S.C.R. 86, the court answered two constitutional questions in favour of Canada.

⁴ Motions were disposed in the following manner: *Ogg-Moss v. R.*, [1984] 2 S.C.R. 171, the motion to intervene was disallowed; and *Lyons v. R.*, [1984] 2 S.C.R. 631, the applications for judicial release or stay of sentence was denied.

⁵ In *Ken Gordon Excavating Ltd. v. Edstan Construction Ltd.*, [1984] 2 S.C.R. 280, one appeal was allowed and one was dismissed.

⁶ In *Desgagné v. Fabrique de la paroisse de Saint-Philippe d'Arvida*, [1984] 1 S.C.R. 19, one appeal was dismissed and one was allowed.

TABLE IV¹
MAJORITY/DISSENT RATIO

Total Number of Cases Reported				65			
Unanimous Decisions				57			
Split Decisions				8			
9:0	1	8:0	4	7:0	21	6:0	5
8:1	0	7:1	1	6:1	1	5:1	0
7:2	0	6:2	0	5:2	0	4:2	3
6:3	0	5:3	0	4:3	1	3:3	0
5:4	0	4:4	0				
5:0	23	4:0	3	3:0	0	1:0	0
4:1	0	3:1	0	2:1	0		
3:2	2	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 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	10	15	20	1
Chouinard	8	3	8	22	22	1
Dickson	5	2	10	20	23	2
Estey	10	2	10	19	22	2
Lamer	5	3	7	19	16	0
Laskin	0	0	0	0	0	0
Le Dain	1	0	1	5	1	0
McIntyre	10	2	9	21	24	2
Ritchie	6	0	7	10	14	2
Wilson	7	2	9	17	21	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 VII¹
SUCCESS RATE OF *CHARTER* CLAIMANTS

	Number	Per cent
<i>Charter</i> Claimant Wins	2	66.7
<i>Charter</i> Claimant Loses	1	33.3
Other		
Total	3	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.

TABLE VIII
OBJECT OF CHARTER LITIGATION

		Number	Per cent	Success Rate (%)
Legislation: ¹	Federal	1	33.3	100
	Provincial	2	66.7	50
	Territorial			
	Municipal			
Administrative:	Decisions			
	Rules			
Conduct or Decisions of Public Officials				
Common Law				

¹ "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."

TABLE IX
CHARTER LITIGATION BY SOURCE

Source	# of Cases	% of Cases	Lower Decisions			Claimant		
			Affirmed	Reversed	Other	Wins	Losses	Other
Alberta	1	33.3	1			1		
British Columbia								
Manitoba								
New Brunswick								
Newfoundland								
Nova Scotia								
Ontario	1	33.3		1			1	
P.E.I.								
Quebec	1	33.3	1				1	
Saskatchewan								
N.W.T. & Yukon								
Federal Court								
Federal Reference								
Total	3	100.0	2	1		2	1	

Section	# of Cases	Claimant			Right or Freedom		Section 1		
		Wins	Loses	Other	Limited	Not Ltd	Saves Limit	Doesn't Save	Other
(h) Double jeopardy									
(i) Benefit of lesser punishment									
12. Treatment or Punishment									
13. Self-incrimination									
14. Interpreter									
15. Equality Rights									
(1) Race									
National or ethnic origin									
Colour									
Religion									
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	1	1			1			1	
24(1) Enforcement									
(2) Exclusion of Evidence									
25. Aboriginal Rights									
26. Other Rights & Freedoms									
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									

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 another basis.

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	Court Maj Diss	Court Maj Diss	Court Maj Diss	Beetz	Chouinard	Dickson	Estey	Lamer	McIntyre	Ritchie	Wilson	
Beetz	3			1		2			1	1						
Chouinard	1					1				1						
Dickson	3	1		1		1					1					
Estey	3	1		1		1				1						
Lamer	3			1		2				1	1					
McIntyre	3			1		2				1	1					
Ritchie	3			1		2				1	1					
Wilson	3			1		2				1	1					

TABLE XIII
VOTING BEHAVIOUR OF JUSTICES

Justice	Majority			Minority			Support			Section 1					
	Judgment For			Judgment For			Concurs With			Concurs With					
	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Saves Limit	Doesn't Save	Other
Beetz	1			1	1					2	1				2
Chouinard				1						1					1
Dickson	2			1						2	1				2
Estey	1	1		1						2	1				2
Lamer	1			1	1					2	1				2
McIntyre	1			1	1					2	1				2
Ritchie	1			1	1					2	1				2
Wilson	1			1	1					2	1				2

I "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.

TABLE XIII
TYPE OF CHARTER CLAIMANTS

	Claimant			Interveners Present		
	# of Cases	% of Cases	Wins Loses Other	For Claimant # of Cases Wins	For Gov't # of Cases Wins	For Both # of Cases Wins
Business Corporations	1	33	1			
Individuals	1	33	1			1
Interest Groups						
Unions						
Other ¹	1	33	1	1	1	

¹ In *Quebec (A.G.) v. Quebec Association of Protestant School Boards*, [1984] 2 S.C.R. 66, the claimant was a school board association and has been classified as "Other" for the purposes of this table.

TABLE XIV
MAJORITY/DISSENT RATIO

Unanimous Decisions	3
Split Decisions	0

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