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[1986] S. C. R. Statistical Analysis

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[1986] S. C. R. Statistical Analysis

[1986] S.C.R. STATISTICAL ANALYSIS®

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TABLE I¹
VOLUME OF WORK

			TOTAL ²
Reported Judgments ³			
Private	Public		
19	59		75
Reported Motions			
Granted	Refused	Other	0
0	0	0	
Unreported Motions			
Granted	Refused	Other	
75	306	74	455

¹ All data considered in this table derive from the [1986] *Supreme Court Reports* and the [1986] *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": *Derrickson v. Derrickson*, [1986] 1 S.C.R. 285; *Paul v. Paul*, [1986] 1 S.C.R. 306; and *Nelson v. C.T.C. Mortgage Corp.*, [1986] 1 S.C.R. 749.

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."

TABLE II¹
BREAKDOWN BY SOURCE

	PRIVATE ²			PUBLIC			Total From Source
	Affirmed	Reversed ³	Other	Affirmed	Reversed	Other	
Alberta	0	1	0	5	0	0	6
British Columbia	4	1	0	6	2	1	11
Manitoba	1	1	0	2	1	0	5
New Brunswick	0	0	0	2	1	0	3
Newfoundland & Labrador	0	0	0	0	0	0	0
Northwest Territories	0	0	0	0	0	0	0
Nova Scotia	1	2	0	0	1	0	4
Ontario	4	1	0	6	6	0	17
Prince Edward Island	0	0	0	0	1	0	1
Quebec	0	0	0	9	5	0	14
Saskatchewan	0	0	0	0	2	0	2
Yukon Territory	1	0	0	0	0	0	1
Court Martial Appeal Ct	0	0	0	0	0	0	0
Federal Board	0	0	0	0	0	0	0
Federal Court	2	1	0	6	3	0	11
TOTAL	13	7	0	36	22	1	75

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.

² The following cases have been included under both "Private" and "Public" categories but only once under "Total From Source": *Derrickson v. Derrickson*, [1986] 1 S.C.R. 285, ("British Columbia"); *Paul v. Paul*, [1986] 1 S.C.R. 306, ("British Columbia"); and *Nelson v. C.T.C. Mortgage Corp.*, [1986] 1 S.C.R. 749, ("British Columbia").

³ In *International Terminal Operators Ltd. v. Miida Electronics Inc.*, [1986] 1 S.C.R. 752, ("Federal Court - Private"), the Court affirmed in part and reversed in part the decision of the lower court.

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

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

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
(b) PRIVATE (Civil Law)					
Preliminary Title					
Persons & Moral Persons					
I Marriage, Separation & Divorce					
II Property					
II Dismemberments of Property					
III Succession & Liberalities					
III Obligations					
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	2	2-7:0	2	0	0
Administrative Boards	1	1-5:0	1	0	0
Assessment					
<i>Certiorari</i>	1	1-9:0	1	0	0
<i>Charter</i>	9	1-9:0	1	0	0
		5-7:0	4	1	0
		1-4:3	1	0	0
		2-6:1	2	0	0
Civil Rights	1	1-3:2	0	1	0
Combines					
Communications					
Constitutional	6	2-7:0	2	0	0
		2-6:1	2	0	0
		1-6:3	0	1	0
		1-3:2	0	1	0
Criminal	21	1-9:0	1	0	0
		11-7:0	5	6	0
		1-8:1	0	1	0
		1-7:2	1	0	0
		1-6:3	0	1	0
		5-5:0	4	1	0
		1-4:3	1	0	0
Crown & Sovereign Immunity	1	1-7:0	0	0	14
Elections					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Environmental					
Expropriation	1	1-5:0	1	0	0
Extradition					
Habeas Corpus	1	1-7:0	1	0	0
Human Rights	1	1-9:0	0	1	0
Immigration					
International					
Judicial Review					
Labour	3	2-7:0	1	1	0
		1-5:0	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	1	1-7:0	0	1	0
Taxation	4	3-7:0	1	2	0
		1-5:0	1	0	0
Transportation					
Unemployment	2	1-4:3	1	0	0
		1-5:0	0	1	0
(d) PROCEDURAL					
Appeal	2	1-7:0	1	0	0
		1-5:0	0	1	0
Costs	1	1-5:0	1	0	0
Declaratory Action	1	1-7:0	1	0	0
Evidence	6	3-7:0	1	2	0
		1-5:0	0	1	0
		1-5:2	1	0	0
		1-4:3	1	0	0
Injunctions					
Jurisdictions	7	7-7:0 ³	6	1	0
		1-9:0	0	1	0
Limitation Period	2	1-7:0	0	1	0
		1-5:0	1	0	0
Procedural - Other	3	2-7:0	1	1	0
		1-5:0	1	0	0
Procedure	1	1-7:0	0	1	0
Res Judicata					
Standing	1	1-7:0	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: *Morozuk v. R.*, [1986] 1 S.C.R. 31, ("Criminal" and "Jurisdictions"); *R. v. Oakes*, [1986] 1 S.C.R. 103, ("Charter" and "Criminal"); *Derrickson v. Derrickson*, [1986] 1 S.C.R. 285, ("Constitutional," "Aboriginal Rights," and "Matrimonial Property"); *Paul v. Paul*, [1986] 1 S.C.R. 306, ("Aboriginal Rights," "Matrimonial Property," and "Constitutional"); *Dubois v. R.*, [1986] 1 S.C.R. 366, ("Criminal" and "Certiorari"); *Gendron v. Municipalité de la Baie-James*, [1986] 1 S.C.R. 401, ("Labour" and "Administrative Boards"); *MacDonald v. Montreal (City of)*, [1986] 1 S.C.R. 460, ("Appeal" and "Constitutional"); *Société des Acadiens du Nouveau-Brunswick Inc. v. Association of Parents for Fairness in Education*, [1986] 1 S.C.R. 549, ("Jurisdictions," "Procedural - Other," and "Charter"); *Dube v. Labar*, [1986] 1 S.C.R. 649, ("Negligence" and "Procedural - Other"); *St. Anne Nackawic Pulp & Paper Co. v. C.P.W.U., Local 219*, [1986] 1 S.C.R. 704, ("Labour" and "Jurisdictions"); *Nelson v. C.T.C. Mortgage Corp.*, [1986] 1 S.C.R. 749, ("Hypothecs & Mortgages" and "Criminal"); *International Terminal Operators Ltd. v. Miida Electronics Inc.*, [1986] 1 S.C.R. 752, ("Contract," "Maritime, Admiralty & Shipping," and "Jurisdictions"); *Canning v. R.*, [1986] 1 S.C.R. 991, ("Criminal" and "Evidence"); *Sorochan v. Sorochan*, [1986] 2 S.C.R. 38, ("Unjust Enrichment & Restitution," "Matrimonial Property," and "Trusts & Trustees"); *Beauregard v. Canada*, [1986] 2 S.C.R. 56, ("Constitutional" and "Civil Rights"); *Wile v. Cook*, [1986] 2 S.C.R. 137, ("Real Property" and "Contract"); *Central Trust Co. v. Rafuse*, [1986] 2 S.C.R. 147, ("Barristers & Solicitors," "Negligence," and "Contract"); *E. (Mrs.) v. Eve*, [1986] 2 S.C.R. 388, ("Jurisdictions," "Family Law - Other," and "Human Rights"); *R. v. Prince*, [1986] 2 S.C.R. 480, ("Criminal" and "Procedure"); *Finlay v. Canada (Minister of Finance)*, [1986] 2 S.C.R. 607, ("Declaratory Action" and "Standing"); *R. v. Head*, [1986] 2 S.C.R. 684, ("Criminal" and "Procedural - Other"); and *R. v. Nehring*, [1986] 2 S.C.R. 709, ("Criminal" and "Evidence").

³ In *MacDonald v. Montreal (City of)*, [1986] 1 S.C.R. 460, one appeal was allowed and one was dismissed.

⁴ In *Air Canada v. British Columbia (A.G.)*, [1986] 2 S.C.R. 539, the appeal was allowed and an order in the nature of mandamus was issued.

TABLE IV¹
MAJORITY/DISSENT RATIO

Total Number of Cases Reported				75 ²			
Unanimous Decisions				62			
Split Decisions				14			
9:0	3	8:0	0	7:0	38	6:0	0
8:1	1	7:1	0	6:1	4	5:1	0
7:2	1	6:2	0	5:2	1	4:2	0
6:3	2	5:3	0	4:3	4	3:3	0
5:4	0	4:4	0				
5:0	20	4:0	1	3:0	0	1:0	0
4:1	0	3:1	0	2:1	0		
3:2	1	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.

² In *MacDonald v. Montreal (City of)*, [1986] 1 S.C.R. 460, one issue was decided "7:0" and one was decided "6:1."

TABLE VI
TYPE OF WORK

	Common Law	Civil Law	Constitutional	Criminal	Other Public Law	Reported Motions
Beetz	9	0	13	18	14	9
Chouinard	14	0	10	20	15	8
Dickson	10	0	14	12	12	7
Estey	9	0	10	12	3	5
La Forest	9	0	9	14	10	6
Lamer	11	0	13	23	11	4
Le Dain	12	0	12	20	10	8
McIntyre	13	0	14	20	9	7
Wilson	13	0	12	20	9	9

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."

Concurrences with Another Justice

	Number of Cases	Judgments	Concurrences	The Court	Beetz	Chouinard	Dickson	Estey	La Forest	Lamer	Le Dain	McIntyre	Wilson
La Forest Majority Dissent	48	10 3	27 1	7	3 0	6 0	4 0	2 0	4 1	4 1	2 0	2 0	4 0
Lamer Majority Dissent	61	12 3	39 1	6 1	5 0	7 0	7 0	4 0	6 0	3 0	3 0	4 0	3 0
Le Dain Majority Dissent	59	6 1	44 0	8	5 0	7 0	6 0	4 0	6 0	8 0	4 0	4 0	4 0
McIntyre Majority Dissent	59	11 0	36 3	9	5 1	3 1	3 0	6 1	4 0	6 0	5 0	4 0	4 0
Wilson Majority Dissent	62	13 6	34 2	6 1	3 0	3 0	4 0	3 0	5 1	8 1	3 0	5 0	3 0

In *R. v. Nehring*, [1986] 2 S.C.R. 709, the judgments of the majority and the minority (Estey, Lamer, and Wilson J.J. were the latter) were delivered by the Court.

TABLE VII¹
SUCCESS RATE OF CHARTER CLAIMANTS

	Number	Per cent
<i>Charter</i> Claimant Wins	4	44.4
<i>Charter</i> Claimant Loses	4	44.4
Other ²	1	11.1
Total	9	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 *Mills v. R.*, [1986] 1 S.C.R. 863, the matter was returned to provincial court to complete the preliminary hearing.

TABLE VIII
OBJECT OF *CHARTER* LITIGATION

		Number	Per cent	Success Rate (%)
Legislation: ¹	Federal	1	11.1	100
	Provincial	2	22.2	50
	Territorial			
	Municipal			
Administrative: Decisions				
Rules				
Conduct or Decisions of Public Officials		4	44.4	25
Common Law		2	22.2	50

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	Loses	Other
Alberta	2	22.2	2			1	1	
British Columbia	2	22.2	2				2	
Manitoba								
New Brunswick	2	22.2	1	1		1	1	
Newfoundland								
Nova Scotia								
Ontario	3	33.3	3			2		1 ¹
P.E.I.								
Quebec								
Saskatchewan								
N.W.T. & Yukon								
Federal Court								
Federal Reference								
Total	9	100.0	8	1		4	4	1

¹ See *Mills v. R.*, *supra* Table VII ([1986] S.C.R. Charter Tables), note 2.

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	1	1				1			
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	1		1					1 ⁴	
Educational Rights									
24(1) Enforcement	1								1 ³
(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>	1		1					1	
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.

² In *R. v. Edwards Books and Art Ltd.*, [1986] 2 S.C.R. 713, the claimant won on the basis of section 2(a). The Court held that section 7 was not infringed.

³ In *Mills v. R.*, [1986] 1 S.C.R. 863, the claimant won on the basis of section 24(1). A magistrate sitting before a preliminary hearing is not a court of competent jurisdiction within the meaning of section 24. The Court held that section 11(b) was not limited.

⁴ In *Société des Acadiens du Nouveau-Brunswick Inc. v. Association of Parents for Fairness in Education*, [1986] 1 S.C.R. 549, a decision of the New Brunswick Court of Appeal was appealed based in part on the adequacy of the presiding judge's fluency in French. The constitutional question—whether section 19(2) of the *Charter* entitles a party to be heard by a court whose member(s) are capable of understanding the proceedings, the evidence and the arguments, written and oral, regardless of the official language of the parties. The majority answered this in the negative. While Dickson C.J. and Wilson J. answered the question in the affirmative on the facts of the case, they found no violation of section 19(2) rights.

TABLE XII¹
VOTING BEHAVIOUR OF JUSTICES

Justice	Majority						Minority						Section 1					
	Judgment For			Concurs With			Judgment For			Concurs With			Support For			Saves Limit	Doesn't Save	Other
	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other	Claimant	Gov't	Other			
Beetz	1	2		1	2	1							2	4	1		1	
Chouinard				3	3	1							3	3	1		2	
Dickson	2	1		1	3				1				4	3			2	
Estey	1			2	3								3	3			1	
La Forest	1	1	1	2	1								3	2	1		1	
Lamer		2		3	1		1						4	3			1	
Le Dain				3	4								3	4			2	
McIntyre	2	2	1	2	1								4	3	1		2	
Wilson	1	3		2			1	1	1				5	4			2	

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. Therefore, a case can be counted twice if there are multiple issues.

TABLE XIV
MAJORITY/DISSENT RATIO

Unanimous Decisions	6
Split Decisions	3

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