

[1974] S. C. R. Statistical Analysis

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STATISTICAL ANALYSIS OF [1974] S.C.R.*

TABLES

1. Subject Matter of Litigation
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4. Action of Individual Judges
Type of Work
5. Cases and Majority Ratio
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* Statistics compiled by John Bankes and Brian McClellan, students at Osgoode Hall Law School of York University. All Tables, other than Table II, deal with reported cases only.

TABLE I
SUBJECT MATTER OF LITIGATION¹

	No. of Cases Reported	Exchequer Court or Court of Appeal		No. of Judges Sitting
		Affirmed	Reversed	
ORIGINAL JURISDICTION				
References				
Reported Motions	1			1.1x0
APPELLATE				
(a) PRIVATE				
(i) Administration and Succession				
Devolution				
Executors & Administrators				
Wills				
(ii) Commercial				
Accounts				
Agency				
Assignments				
Banks & Banking	1		1	1.3x2
Bills & Notes	1	1		1.5x0
Bankruptcy	1		1	1.4x1
Companies	2		2	1.5x0 1.3x2
Contract	5	2	3	5.5x0
Debtor & Creditor				
Insurance	2		2	1.5x0 1.4x1
Interest				
Partnership				
Sale of Goods	3	2	1	3.5x0
Subrogation				
(iii) Domestic Relations				
Adoption				
Annulment				
Breach of Promise				
Child Welfare				
Divorce				
Judicial Separation				
Support				
(iv) Industrial Property				
Copyrights				
Industrial Designs				
Patents	5	3	2	5.5x0
Trademarks	1		1	1.5x0

	No. of Cases Reported	Exchequer Court or Court of Appeal Affirmed	Court or Reversed	No. of Judges Sitting
(v) <i>Land</i>				
Landlord & Tenant				
Mechanics Liens				
Mortgages				
Real Property				
(vi) <i>Natural Resources</i>				
(vii) <i>Torts</i>				
Assault & Battery				
Bailment	1	1		1.3x2
Conspiracy & Intimidation				
False Imprisonment				
Libel & Slander	1	1		1.5x4
Negligence	6	4	2	4.5x0 2.3x2
Nuisance				
Occupier's Liability				
Vicarious Liability				
(viii) <i>Other</i>				
Admiralty	1	1		1.5x0
Animals				
Associations				
Charities				
Choses in Action				
Conflicts	2	1	1	2.3x2
Damages	5	2	3	1.7x2 1.7x0 2.5x0 1.3x2
Privileges				
Shipping	4	4		4.5x0
Trusts				
(b) PUBLIC				
Administrative Boards	6	4	2	2.5x4 1.6x1 1.5x2 2.5x0
Certiorari				
Civil Rights	2	1	1	1.5x4 1.3x2
Constitutional	1		1	1.9x0

	No. of Cases Reported	Exchequer Court or Court of Appeal Affirmed	Reversed	No. of Judges Sitting
Criminal	13	11	2	3.9x0 1.7x2 2.7x0 2.4x3 3.5x0 1.4x1 1.3x2
Crown & Sovereign Immunity				
Elections				
Expropriation	6	3	3	4.5x0 2.4x1
Habeas Corpus				
Interpretation of Statute	1		1	1.4x1
Immigration	2	1	1	1.7x0 1.5x0
Labour	2	1	1	1.5x0 1.4x1
Mandamus	1		1	1.4x3
Municipal Law	2		2	1.5x2 1.5x0
Native Rights	1	1		1.6x3
Prohibition				
Public Utilities				
Taxation	12	9	3	8.5x0 4.4x1
(c) PROCEDURAL				
Appeal	2	2		2.5x0
Costs				
Declaratory Action				
Evidence	6	3	3	1.9x0 2.7x0 1.4x3 2.5x0
Injunction				
Limitation Period	1		1	1.5x0
Jurisdiction				
Procedure	2	1	1	1.6x3 1.7x0

KEY

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

- (1) Twelve "Taxation" cases were reported.
- (2) The lower courts were affirmed nine times and reversed on three occasions.

(3) Eight cases were decided by a 5 to 0 majority, and four cases were decided by a 4 to 1 majority.

¹ Multiple entries have been made where a case contained more than one subject matter of importance. One case was entered twice within the "Public" heading and one case was entered once under the "Public" heading and once under the "Private" heading.

Five other cases were entered twice under a single subject matter because the results of appeal and cross-appeal were different with regard to affirmation and reversal.

Where one decision was handed down to cover two or more appeals (including appeal and cross-appeal) or motions, they are treated as one case subject to the exceptions in the preceding paragraph.

Two new subject matter headings have been introduced this year: "Admiralty" under the "Other" section of "Private", and "Interpretation of Statute" under "Public".

TABLE II
VOLUME OF WORK

			TOTAL
Reported Judgments ¹			
Public	Private		
53	42		94
Reported Motions ²			
Allowed	Dismissed	Other	
0	1	0	1
Unreported Judgments ³			
Allowed	Dismissed	Other ⁴	
3	37	1	41
Unreported Motions ⁵			
Allowed	Dismissed	Other	
68	123	0	191

¹ Where one judgment covers two or more appeals (including appeal and cross-appeal) they are treated as one case. If a case is classed both "Public" and "Private", it is entered under each of those heads, but only once under "Total". Procedural cases are classified according to the underlying subject matters.

² Where one judgment covers two or more motions, one entry has been made except where the results of the motion are not the same, in which case they are entered under "Allowed", "Dismissed", and/or "Other", as appropriate, but only once under "Total".

³ The rules for multiple entries with respect to unreported judgments are as in note 2.

⁴ This case *Martell v. City of Halifax* (N.S.) was allowed in part only.

⁵ All data under this heading are derived from the [1974] *Bulletin of Proceedings Taken in the Supreme Court of Canada* because the entries in the [1974] S.C.R. are incomplete. It should be noted that motions entered under this heading may be reported in subsequent volumes of the S.C.R.

Since the purpose of this table is to measure volume of work, only one entry is made where two or more motions are argued on the same day, by the same lawyers before the same judges (e.g., *William F. Robertson v. British Columbia Securities Commission and the Attorney-General of British Columbia* and *Archibald Robb v. British Columbia Securities Commission and the Attorney-General of British Columbia* 4-3-74), except where one of the simultaneous motions is allowed and the other denied, in which case the rule in note 2 applies (e.g., *Her Majesty the Queen v. George Arnold Armstrong and George Arnold Armstrong v. Her Majesty the Queen*, 17-6-74).

TABLE III
PROVINCIAL BREAKDOWN

	<u>PUBLIC</u>			<u>PRIVATE</u>			<u>TOTAL</u> ¹
	A	R	O	A	R	O	
Newfoundland					1		1
Nova Scotia							0
Prince Edward Island							0
New Brunswick					2		2
Quebec	3	2		5	5		14
Ontario	8	2		5	4		19
Manitoba	3						3
Saskatchewan	2	1		2	2		7
Alberta	5			1			6
British Columbia	3	3			2		8
Yukon	1						1
North West Territories							0
Federal Court		1					1
Exchequer Court	2	5		8	5		20
Federal Boards	9	6		1	2		18
Original				1			1
TOTAL	36	20		23	23		101

¹ Three private law cases (one from a federal board and two from the Exchequer Court) and two public law cases (one from a federal board and one from the Exchequer Court) have been entered twice as the lower court was both affirmed and reversed in a case involving a cross-appeal. Also *A.G. Canada v. Lavell - Isaac v. Bedard* was entered twice as each case had a different origin. One case from Quebec was entered both under "Public" and "Private" but only once under "Total". Procedural cases are classified according to their underlying subject matter.

TABLE IV
ACTION OF INDIVIDUAL JUDGES¹

	<u>Majority</u>			<u>Dissent</u>			<u>TOTAL</u>
	J	C	T	J	C	T	
Fauteux	8	25	33	1	1	2	35
Abbott	5	44	49	4	0	4	53
Martland	9	46	55	0	0	0	55
Judson	12	48	60	4	4	8	68
Ritchie	23	45	68	2	1	3	71
Hall	4	27	31	3	8	11	42
Spence	12	43	55	10	4	14	69
Pigeon	24	37	61	3	2	5	66
Laskin	18	34	52	13	5	18	70
Dickson	2	10	12	0	0	0	12

J—Judgment, either majority or dissenting

C—Concurred

T—Total

¹ A justice is entered only once for each case on which he sat. If he wrote an

opinion, he is entered under "J" (whether "Majority" or "Dissent") only, even if he also concurred with one or more justices. The other justices sitting on the case will each be entered once under "C" (whether "Majority" or "Dissent"). Thus the "TOTAL" column gives the number of reported cases in which each justice was involved.

Left: Fauteux 22 Dec. 1973 Joined: Dickson 26 Mar. 1973
 Abbott 22 Dec. 1973 Beetz 1 Jan. 1974
 Hall 28 Feb. 1973 de Grandpre 1 Jan. 1974

Laskin app't C.J.C. 27 Dec. 1973

	TYPE OF WORK ¹				
	Common Law ²	Civil Law ²	Criminal	Constitutional	Other Public Law
Fauteux	2	13	9	1	11
Abbott	6	14	11	1	22
Martland	14	4	16	1	22
Judson	18	6	19	1	26
Ritchie	21	7	19	1	25
Hall	10	4	13	1	15
Spence	22	2	19	1	27
Pigeon	15	14	14	1	24
Laskin	22	10	16	1	22
Dickson	3	5	1	1	3

¹ Procedural decisions are classified according to their underlying subject matter. One case was entered under both "Criminal" and "Civil Law", and another case was entered under both "Criminal" and "Other Public Law" because of multiple subject matter.

² "Common Law" includes equity. Private law cases based upon federal or provincial statutes are classified as common or civil law depending upon their province of origin.

TABLE V
 CASES AND MAJORITY RATIO

Total Number of Cases Reported				94			
Unanimous Decisions				61			
Split Decisions				33			
9x0.....	5	7x0.....	6	5x0.....	50	3x0.....	0
8x1.....	0	6x1.....	1	4x1.....	11	2x1.....	0
7x2.....	2	5x2.....	2	3x2.....	9		
6x3.....	2	4x3.....	3				
5x4.....	3						

TABLE VI
ACTION OF THE JUSTICES¹

	Fauteux	Abbott	Hall	Laskin	Martland	Judson	Ritchie	Spence	Pigeon	Dickson
Fauteux										
MO	8									
C		3	1	0	3	2	6	3	7	0
DO	1									
C		1	0	0	0	0	0	0	0	0
Abbott										
MO		5								
C	7		2	2	6	4	10	3	10	0
DO		4								
C	0		0	0	0	0	0	0	0	0
Hall										
MO			4							
C	1	0		1	2	4	7	2	10	0
DO			3							
C	0	0		5	0	0	0	3	0	0
Laskin										
MO				18						
C	3	2	2		3	2	5	6	10	1
DO				13						
C	0	0	0		0	0	0	5	0	0
Martland										
MO					9					
C	4	3	0	8		7	10	6	7	2
DO					0					
C	0	0	0	0		0	0	0	0	0
Judson										
MO						12				
C	5	4	3	6	5		15	5	6	1
DO						4				
C	1	1	0	0	0		1	0	1	0
Ritchie										
MO							23			
C	3	3	1	6	9	9		3	5	2
DO							2			
C	0	0	0	0	0	1		0	0	0

	Fauteux	Abbott	Hall	Laskin	Martland	Judson	Ritchie	Spence	Pigeon	Dickson
Spence										
MO								12		
C	2	0	3	10	4	7	8		8	1
DO								10		
C	0	0	0	4	0	0	0		0	0
Pigeon										
MO									24	
C	7	1	1	4	4	5	10	5		0
DO									3	
C	1	0	0	1	0	0	0	0		0
Dickson										
MO										2
C	2	2	0	3	0	0	0	1	2	
DO										0
C	0	0	0	0	0	0	0	0	0	

KEY

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

As an example of how this table works, look to Judson and observe:

- (1) He delivered 12 majority judgments.
- (2) He concurred with the majority judgments of Fauteux 5 times, Abbott four times, Hall three times, *etc.*
- (3) He wrote 4 dissenting judgments and concurred once each with the dissenting judgments of Fauteux, Abbott, Ritchie and Pigeon.

¹The totals in this Table are sometimes not in accord with those of Table IV because of different rules of classification reflecting different purposes of the tables. In Table IV a particular judge was entered only once for any given case, under "J" if he wrote an opinion, and under "C" otherwise. In this table he would be entered once for his written opinion, if any, and once for each concurrence.

Where a judge in an opinion indicates approval of another judgment without officially adopting it as his own, no concurrence is entered. Where one judgment is delivered as the opinion of the court, all other judges sitting on the case are entered as concurring with the author of the opinion.

