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[1970] S. C. R. Statistical Analysis

STATISTICAL ANALYSIS OF [1970] S.C.R.*

TABLES

1. Subject Matter of Litigation
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4. Action of Individual Judges
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*Statistics compiled by Jennifer K. Bankier, B.A. (Toronto), a member of the 1974 graduating class, Osgoode Hall Law School.

TABLE I

SUBJECT MATTER OF LITIGATION

	No. of Cases Reported*	Exchequer Court of Appeal Affirmed*	Court or Appeal Reversed*	No. of Judges Sitting
ORIGINAL JURISDICTION				
References	1			1.5x4
APPELLATE				
(a) PRIVATE				
(i) <i>Administration and Succession</i>				
Devolution				
Executors & Administrators				
Wills	1	1		1.5x0
(ii) <i>Commercial</i>				
Accounts				
Agency				
Assignments				
Banks & Banking	3	3		2.5x0 1.4x1
Bills & Notes				
Bankruptcy				
Companies				
Contracts	3	2	1	3.5x0
Debtor & Creditor				
Insurance	3	2	1	2.5x0 1.4x1
Interest				
Partnership				
Sale of Goods				
Subrogation	2	2		2.5x0
(iii) <i>Domestic Relations</i>				
Adoption	1	1		1.9x0
Annulment				
Breach of Promise				
Child Welfare				
Divorce	1	1		1.5x0
Judicial Separation				
(iv) <i>Industrial Property</i>				
Copyrights	1		1	1.3x2
Patents	1	1		1.5x0
Trademarks	2		2	2.5x0

	No. of Cases Reported*	Exchequer Affirmed*	Court or Court of Appeal Reversed*	No. of Judges Sitting
(v) <i>Land</i>				
Landlord & Tenant				
Mechanics Liens	2	1	1	2.5x0
Mortgages				
Real Property				
(vi) <i>Natural Resources</i>	1	1		1.5x0
(vii) <i>Torts</i>				
Assault & Battery	1		1	1.3x2
Bailment				
Libel & Slander				
Negligence	11	7	4	6.5x0 5.3x2
Occupier's Liability				
Master-Servant				
(viii) <i>Other</i>				
Animals				
Associations	1	1		1.6x1
Charities				
Choses in Action				
Conflicts				
Damages	4	2	2	4.5x0
Privileges				
Shipping	1		1	1.5x0
(b) PUBLIC				
Administrative Boards				
Certiorari	2	2		1.5x4 1.6x1
Civil Rights	1	1		1.6x3
Constitutional	2	2		1.7x2 1.3x0
Criminal	16	10	6	3.9x0 2.7x2 1.6x3 2.5x4 1.7x0 1.6x1 1.5x2 1.4x3 2.5x0 1.3x2 1.3x0
Crown	2	2		1.6x3 1.5x0
Habeas Corpus				
Immigration	2	1	1	1.5x0 1.3x2

	No. of Cases Reported*	Exchequer Court or Court of Appeal Affirmed*	Court or Reversed*	No. of Judges Sitting
Labour	5	3	2	1.5x2 3.5x0 1.4x1
Mandamus				
Prohibition				
Public Utilities				
Taxation	14	9	5	1.9x0 1.7x2 1.6x3 1.7x0 1.6x1 8.5x0 1.4x1
Expropriation	8	5	3	6.5x0 2.3x2
Elections	1	1		1.5x0
PROCEDURAL				
Appeal				
Costs	2	1	1	1.5x0 1.3x0
Declaratory Action				
Evidence	4	1	3	1.9x0 1.5x2 1.5x0 1.3x2
Injunction	1	1		1.5x2
Limitation Period				
Jurisdiction	4	2	2	1.7x2 2.5x0 1.3x0
Procedure				

KEY

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

- (1) 5 labour cases reported
- (2) The Courts of Appeal were affirmed three times and reversed twice.
- (3) One case was decided by a 5 to 2 majority, three cases 5 to 0 and one 4 to 1.

*Multiple entries have been made where a case contained more than one subject matter of importance. Six cases were entered twice within the "PRIVATE" heading for this reason, together with four dual entries under "PUBLIC" and one under "PROCEDURAL" and one case is entered once each under both "PRIVATE" and "PROCEDURAL". One case is entered three times, namely, twice under "PUBLIC" and once under "PROCEDURAL".

One other case was entered twice because the results of appeal and cross-appeal were different with regard to affirmations and reversals. This was not necessary in the other case where this happened since the contradictory results were already entered because appeal and cross-appeal involved different subject matters.

TABLE II

VOLUME OF WORK

		TOTAL
Reported Judgments		
Public	Private	
48	35	83
Reported Motions		
Allowed	Dismissed	
2	1	3
Unreported Judgments		
Allowed	Dismissed	
1	34	35
Unreported Motions*		
Allowed	Dismissed	
35	96	131

*Figures courtesy of L. Taman.

TABLE III

PROVINCIAL BREAKDOWN

	PUBLIC			PRIVATE			TOTAL*
	A	R	O	A	R	O	
Newfoundland							0
Nova Scotia							0
Prince Edward Island				1			1
New Brunswick				1	2		3
Quebec	10	5		6	1		22
Ontario	7	4		5	5		21
Manitoba		1		2			3
Saskatchewan							0
Alberta	4	1		2	3		10
British Columbia	3	2		4			9
Yukon							0
North West Territories	1						1
Exchequer Court	6	5		1	4		16
Federal Boards	1	1					2
Original			1				1
TOTAL	32	19	1	22	15	0	89

*Two decisions (one Quebec private, the other Alberta public) were entered twice each because the court of appeal was both affirmed and reversed in cases involving a cross appeal. One decision (public-affirmed) was entered twice because it disposed of two appeals from different provinces (Ontario and British Columbia).

TABLE IV

ACTION OF INDIVIDUAL JUDGES

	Majority			Dissent			TOTAL
	J*	C	T	J*	C	T	
Cartwright	16	15	31	6	2	8	39
Fauteux	10	32	42	1	0	1	43
Abbott	9	42	51	2	2	4	55
Martland	12	39	51	5	1	6	57
Judson	12	34	46	2	2	4	50
Ritchie	9	50	59	5	2	7	66
Hall	13	40	53	6	4	10	63
Spence	10	39	49	7	9	16	65
Pigeon	15	34	49	8	3	11	60
Laskin	1	3	4	0	0	0	4

J—Judgment, either majority or dissenting.

C—Concurred

T—Total

*In some cases more than one judge gave an opinion. The "leading judgment" terminology previously used in this table has been abandoned because of its vagueness and all reported judgments are now entered under "J".

TYPE OF WORK*

	Common Law**	Civil Law**	Criminal***	Constitutional***	Other Public Law***
Cartwright	19	0	8	1	13
Fauteux	2	9	15	3	18
Abbott	9	8	14	3	26
Martland	17	1	16	2	25
Judson	16	3	13	2	20
Ritchie	22	4	16	2	26
Hall	23	3	14	2	25
Spence	26	4	15	2	23
Pigeon	12	9	15	3	25
Laskin	0	2	1	1	1

*Procedural decisions are classified according to their underlying subject matter. For example, *Ares v. Venner*, [1970] SCR 608, was classified in Table 1 as an evidence case. Since the evidence issue arose in an Alberta negligence case, the appeal was entered under "Common Law" in this table.

**"Common Law" includes equity.

Private cases upon federal or provincial statutes are classified as common or civil law depending upon their province of origin.

***Five cases were entered twice in this table because their multiple subject matter made them fall into two categories. For example, *Cigien v. The Queen*, [1970] SCR 804, is both a criminal and a taxation appeal and is classified under both "Criminal" and "Other Public".

TABLE V

CASES AND MAJORITY RATIO

Total Number of Cases Reported			86
Unanimous Decisions			55
Split Decisions			31
9x0.....5	7x0.....2	5x0.....46	3x0.....2
8x1.....0	6x1.....3	4x1.....3	2x1.....0
7x2.....3	5x2.....2	3x2.....12	
6x3.....4	4x3.....1		
5x4.....3			

TABLE VI

ACTION OF THE JUSTICE*

	Cartwright	Fauteux	Abbott	Martland	Judson	Ritchie	Hall	Spence	Pigeon	Laskin
Cartwright										
MO	16									
C		0	1	6	0	2	3	2	1	0
DO	6									
C		0	0	0	0	0	0	2	0	0
Fauteux										
MO		10								
C	2		5	6	5	3	2	1	9	0
DO		1								
C	0		0	0	0	0	0	0	0	0
Abbott										
MO			9							
C	4	8		5	8	3	3	2	9	0
DO			2							
C	0	0		0	1	1	0	0	0	0
Martland										
MO				12						
C	7	8	3		9	5	1	3	3	0
DO				5						
C	0	0	0		0	1	0	0	0	0
Judson										
MO					12					
C	4	4	4	10		5	0	3	4	0
DO					2					
C	0	1	0	1		0	0	0	0	0

	Cartwright	Fauteux	Abbott	Martland	Judson	Ritchie	Hall	Spence	Pigeon	Laskin
Ritchie										
MO						9				
C	6	7	5	9	10	5	3	3	7	0
DO										
C	0	0	1	2	0		0	0	0	0
Hall										
MO							13			
C	7	3	5	7	3	3		7	5	0
DO							6			
C	2	0	0	0	0	0		1	1	0
Spence										
MO								10		
C	9	3	3	6	2	4	6		6	0
DO								7		
C	2	0	0	1	0	2	2		3	0
Pigeon										
MO									15	
C	6	3	3	6	5	4	3	4		0
DO									8	
C	0	0	0	2	0	1	1	0		0
Laskin										
MO										1
C	0	0	1	0	0	0	0	0	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 Cartwright 4 times, Fauteux 4 times, Abbott 4 times, etc.
- (3) He wrote 2 dissenting judgments, and concurred with Fauteux's and Judson's dissenting opinions once.

*The totals in this table are sometimes not in accord with those in Table IV because of different rules of classification reflecting the different purposes of the tables. In Table 3 a particular judge was only entered once for any given case. For example,

if he wrote a dissenting judgment of his own, but also concurred in someone else's judgment (as Ritchie did in the "Breathalyzer" Reference, [1970] S.C.R. 777,) he would be entered only under Dissenting "J" in Table IV but under both "DO" and "C" (Martland) in Table VI. If a judge concurred with more than one dissenting judgment (as Spence did in the same case) he would be entered under "C" in Table IV once while in this table two concurrences would be indicated (Martland and Ritchie).

Where a judge in an opinion indicates approval of another judgment without officially adopting it as his own this is not treated as a concurrence.

