

# [1968] S. C. R. Statistical Analysis

John Kilgour

Harry Vanderlugt

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>  
Article

---

## Citation Information

Kilgour, John and Vanderlugt, Harry. "[1968] S. C. R. Statistical Analysis." *Osgoode Hall Law Journal* 7.1 (1969) : 105-109.  
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol7/iss1/5>

This Article is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

**STATISTICAL ANALYSIS OF [1968] S.C.R.\***

**TABLES**

- I. Subject Matter of Litigation
- II. Provincial Breakdown
- III. Action of Individual Judges  
Type of Work
- IV. Cases and Majority Ratio
- V. Action of the Justices

**TABLE I SUBJECT MATTER OF LITIGATION**

APPELLATE	No. of Cases Reported	Exchequer Court or Court of Appeal		No. of Judges Sitting
		Affirmed	Reversed	
(a) <i>Private</i>				
(i) <i>Administration &amp; Succession</i>				
Devolution .....				
Executives & Administrators .....				
Wills .....	1	1	—	1.5 x 0
(ii) <i>Commercial</i>				
Accounts .....				
Agency .....	1	1	—	1.3 x 2
Assignments .....				
Banks & Banking .....	1	1	—	1.5 x 0
Bills & Notes .....	1	—	1	1.5 x 0
Bankruptcy .....				
Companies .....	1	1	—	1.5 x 0
Contracts .....	3	2	1	3.5 x 0
Trusts & Trustees .....	1	1	—	1.5 x 0
Debtor & Creditor .....				
Interest .....				
Partnership .....				
Sale of Goods .....				
Subrogation .....				
Suretyship .....				
(iii) <i>Domestic Relations</i>				
Adoption .....				
Annulment .....				
Breach of Promise .....				
Divorce .....				
Husband & Wife .....	2	1	1	2.5 x 0
Judicial Separation .....				
(iv) <i>Industrial Property</i>				
Copyrights .....	1	1	—	1.5 x 0
Industrial Design .....	1	—	1	1.3 x 2
Patents .....	3	2	1	} 2.5 x 0 1.7 x 0
Trademarks .....	1	—	1	

\* Statistics compiled by John Kilgour & Harry Vanderlugt, III year students at Osgoode Hall Law School.

	No. of Cases Reported	Exchequer Court or Court of Appeal		No. of Judges Sitting
		Affirmed	Reversed	
<i>(v) Land</i>				
Landlord & Tenant .....				
Mechanics Liens .....				
Mortgages .....	4	4	—	{ 2.5 x 0 1.7 x 0 1.4 x 1
Real Property .....	1	1	—	{ 1.4 x 1
<i>(vi) Natural Resources</i>				
Mines & Minerals .....	1	1	—	1.5 x 0
Petroleum & Natural Gas .....				
<i>(vii) Tort</i>				
Libel & Slander .....				
Negligence .....	12	4	8	{ 9.5 x 0 1.4 x 1 2.3 x 2
Occupier's Liability .....	1	—	1	{ 1.5 x 0
<i>(viii) Other</i>				
Animals .....				
Associations .....				
Charities .....				
Choses in Action .....				
Conflicts .....				
Damages .....	1	—	1	1.5 x 0
Privileges .....				
Shipping .....				
Usufruct .....				
Water courses .....				
<i>(b) Public</i>				
Administrative Boards .....	2	1	1	2.5 x 0
Certiorari .....				
Combines .....	3	3	—	{ 1.5 x 2 2.7 x 0
Constitutional .....				
Criminal .....	15	8	7	{ 6.5 x 0 4.5 x 4 2.3 x 2 1.6 x 3 1.4 x 1 1.3 x 0
Crown .....	3	2	1	{ 2.5 x 0 1.4 x 1
Habeas Corpus .....				
Immigration .....	1	1	—	1.4 x 1
Labour .....	5	1	4	{ 4.5 x 0 1.3 x 2
Mandamus .....	1	1	—	1.5 x 0
Municipal Corporations .....	2	2	—	2.5 x 0
Prohibition .....	1	1	—	1.5 x 0
Public Utilities .....				
Taxation .....	19	15	4	{ 17.5 x 0 1.4 x 1 1.3 x 2
Expropriation .....	4	3	1	{ 3.5 x 0 1.4 x 1

PROCEDURAL	No. of Cases Reported	Exchequer Court or Court of Appeal		No. of Judges Sitting
		Affirmed	Reversed	
Appeal .....	4	3	1	{ 3.3 x 0 1.1 x 0
Costs .....				
Declaratory Action .....	2	2	—	2.5 x 0
Evidence .....	4	1	3	{ 2.4 x 1 2.5 x 0
Injunction .....	2	2	—	{ 1.9 x 0 1.6 x 3
Limitation Period .....	1	—	1	1.4 x 1
Jurisdiction .....	1	1	—	1.5 x 0
Procedures .....				

TABLE II PROVINCIAL BREAKDOWN

	Public		Private		Total
	A	R	A	R	
NEWFOUNDLAND .....					
NOVA SCOTIA .....					
PRINCE EDWARD ISLAND .....					
NEW BRUNSWICK .....	0	1	—	1	2
QUEBEC .....	6	4	3	3	16
ONTARIO .....	13	5	8	3	29
MANITOBA .....	1	1	2	1	5
SASKATCHEWAN .....	—	1	1	2	4
ALBERTA .....	2	2	2	1	7
BRITISH COLUMBIA .....	5	3	2	2	12
YUKON .....					
NORTH WEST TERRITORIES .....					
EXCHEQUER COURT .....	21	6	—	—	27
FEDERAL BOARDS .....	1	1	—	—	2
ORIGINAL .....	2	0	—	—	2
Total .....	51	24	18	13	106

TABLE III ACTION OF INDIVIDUAL JUDGES

	Majority			Dissent			Total
	J†	C	T	J	C	T	
Cartwright .....	19	40	59	6	1	7	66
Fauteux .....	12	29	41	0	3	3	44
Abbott .....	2	30	32	1	2	3	35
Martland .....	17	50	67	3	2	5	72
Judson .....	14	52	66	4	2	6	72
Ritchie .....	12	56	68	3	3	6	74
Hall .....	10	57	67	3	3	6	73
Spence .....	15	48	63	5	4	9	72
**Pigeon .....	11	28	39	4	2	6	45
(*Taschereau) .....	0	1	1	0	0	0	1

\* retired

\*\* appointed

J—Leading judgment or leading dissenting judgment.

C—Concurred.

T—Total

† In a few cases, 2 or more judges gave leading opinions.

TYPE OF WORK

	Common Law	Civil Law	Criminal	Constitutional	Other Public Law
Cartwright .....	23	0	13	2	26
Fauteux .....	2	12	11	4	16
Abbott .....	3	8	5	2	17
Martland .....	25	9	9	3	28
Judson .....	27	8	13	4	23
Ritchie .....	28	4	13	3	28
Hall .....	26	6	14	4	25
Spence .....	27	4	12	3	27
Pigeon .....	8	9	12	3	13
Taschereau .....	0	1	0	0	0

TABLE IV

CASES AND MAJORITY RATIO

TABLE IV

Total Number of Cases Reported .....	106		
Unanimous decisions .....	82		
Split decisions .....	24		
9 x 0 .....	1	7 x 0 .....	4
8 x 1 .....	2	5 x 2 .....	1
5 x 4 .....	4	3 x 0 .....	4
1 x 0 .....	1	5 x 0 .....	71
		4 x 1 .....	11
		3 x 2 .....	7

TABLE V

## ACTION OF THE JUSTICES

	Cartwright	Fauteux	Abbott	Martland	Judson	Ritchie	Hall	Spence	Pigeon
Cartwright									
MO	16			2					
C		2	1	8	8	6	6	8	2
DO	5						1		1
C									
Fauteux									
MO		12							
C	1		2	8	5	1	2	1	5
DO	4								
C				2		1			
Abbott									
MO			3						
C	4	4		5	5	2	2	4	3
DO			1						
C				1		1			
Martland									
MO				17				2	
C	11	5	1		9	7	8	4	4
DO				3					
C						2			
Judson									
MO					14				
C	8	6	2	11		6	7	8	6
DO					4				
C	1					1			
Ritchie									
MO						11	2		
C	8	6	2	14	9		6	10	2
DO						3			
C				1	1				
Hall									
MO							11		
C	12	5	2	9	7	8		9	4
DO							3		
C	2								1
Spence									
MO	1							15	
C	9	6	1	11	4	7	10		1
DO								5	
C	1						2		1
Pigeon									
MO	2			2	1				9
C	5	4	1	1	3	4	1	6	3
DO	1								
C					1				

## KEY

M—Majority

D—Dissent

O—Wrote Judgment

C—Concurred

As an example of how this table works look to Ritchie and one sees:

- (1) He delivered 11 majority judgments.
- (2) He concurred with Hall six times, but twice wrote a substantial separate opinion.
- (3) He concurred in 10 judgments delivered by Spence.
- (4) He dissented 5 times and delivered 3 leading dissenting opinions.

