
Statistics: [Supreme Court of Canada, 1961-1963]

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STATISTICS

We have examined various aspects of the work of the Supreme Court and its judges from 1961-63, in order to determine, *inter alia*, the tendency of judges to concur with certain other judges, the provinces which are the most litigious, the frequency with which provincial superior courts are reversed by the Supreme Court.

We discovered a high rate of unanimous decisions, in reversals as well as in affirming judgments. In 1961, 80% of the total number of decisions were unanimous. In 1962, it was 78%, and in 1963, 79%. We found that more cases came from Quebec than from any other province, but that on a per capita basis British Columbia ranked highest.

The three year trends indicate a high degree of stability at the Supreme Court level. Decisions of the provincial courts were affirmed from 71% to 73% of the time. Government litigation accounted for 44% to 47% of the court's work during that time.

TABLE 1. SUBJECT MATTER OF LITIGATION

Type of subject matter	Motion dismissed			Reported			Unreported			C.A. affirmed			C.A. reversed			No. of judges sitting		
	'61	'62	'63	'61	'62	'63	'61	'62	'63	'61	'62	'63	'61	'62	'63	'61	'62	'63
ORIG JURIS (1) References (2) Habeas corpus																		
APPELLATE																		
(1) Private																		
Accounts				1									1			**	1x5	
Adoption				2						2							2x5	
Agency																		
Animals	1				1					1	1							1x5
Annulments		1									1							
Assignments							1	1		1	1							
Associations					1								1				1x5	
Bankruptcy	4	2		2	1					6	3					1x1	1x5	
Breach of Promise					1								1				1x5	
Charities						1							1					1x5
Choses in action				1	1					1	1					1x5		1x5
Companies	1			2	1	3		1		1	2	3	2		1x5	1x9	1x5	3x5
Conflicts		1				2					1	2						2x5
Contracts		2		4	7	7	2	2		5	11	4	1	3	3x5	1x7	7x5	7x5
Copyrights						1							1					1x5
Damages				6	2		2			8	1		1		6x5	2x5		
Debtor and Creditor		1		2						2	1				2x5			
Devolution of estates					2						1		1				2x5	
Divorce				1						1					1x5			
Hospitals																		
Husband and wife				2	1			1		2		2			2x5	1x5		
Infants	1			4						2		2			1x3	3x5		
Insurance		2		3	4	5	1			3	5	5	1	1	3x5	4x5	5x5	
Interest					1			1			2						1x5	
Judicial separation	1			1						2					1x3			
Landlord and tenant				1			1			2					1x5			
Label and slander				1									1		1x5			
Malicious Prosecution	1									1								
Master and Servant				2	1		2			1	3		1		2x5	1x5		
Mechanics liens					1	2					1			2		1x7	2x5	
Mines				1	1		2			3	1				1x9	1x5		
Mortgages				1	1	1		1		1	1		1	1	1x5	1x5	1x5	
Motor vehicles	2			2	3	3	3	4		6	5	2	1	2	2x5	3x5	3x5	
Negligence	2	1		7	9	6	3	3		11	11	3	1	2	7x5	9x5	6x5	
Occupiers' liability								1			1							
Patents	1			1	1		1			2	1	1			1x5		1x5	
Petrol and natural gas				1	2		1			1	1	2			1x5		2x5	
Partnership				1	1	1				1	1	1			1x5	1x5	1x5	
Physicians					1							1						1x5
Real Property				3	8	6		1		3	8	4		1	3x5	8x5	6x5	
Royalties																		
Sales of land		1		2			1			2		2			2x5			
Sales of Goods				1	1		1	1		2	1		1		1x5	1x5		
Shipping				2	2	1		1		1	2	1	1	1	2x5	1x7	1x5	1x5
Subrogation					1						1					1x5		
Usufruct																		
Water Courses				2						1			1		1x9	1x5		
Wills		3		2	5	3	1	2		1	7	2	2	3	1x7	1x5	1x7	4x5
PUBLIC LAW																		
Admin. Boards	2	6		3	1					4	6		1	1	2x5	1x9	1x5	
Aliens				1						1					1x9			
Certiorari		1			1						2						1x5	
Combines	1				1					1			1				1x9	
Constitutional				2	1	1				1	1		1	1	1x7	1x9	1x5	1x7
Criminal Law	4	10		11	15	11	3	2		14	21	7	4	6	4x9	1x1		
Crown				2	3					2	2			1	1x3	1x7		10x5
Expropriation				5	3					2	2		3	1	5x5	1x9		1x7
Immigration	1			2						3					1x9			3x5
Labour				2	5	1	1			1	4		1	1	1	1x5	4x5	1x5
Mandamus	1									1					1x9	1x9		1x5
Municipal Corporations		6		3	3		1	4		4	12			1	3x5	3x5		
Prohibition																		
Public Utilities				2	1					2	1				1x5	1x7		1x7
Royal Commissions		1									1							
Schools				1	1					1			1		1x5	1x5		
Securities				1						1					1x5			
Succession Duty				1	1					1			1		1x5	1x5		
Taxation				8	11	7		2		4	8	6	4	5	7x5	1x9	10x5	1x5
Trade Unions		1		2			3			1	4		1		1x5	1x9		
Workmen's Compensation				1	2	1		1		1	2	1	1	1	1x5	2x7	1x5	
PROCEDURAL																		
Appeal	5	1		1	2	2				2								
Costs							2			2					6	1	3	1
Courts	1			2	2					3			2		1x5	1x9	1x7	1x9
Evidence	2	3		1			2	1		5	4				1x5			
Injunction	2	2					1			2	3							
Jurisdiction	2	1		4	6		1			6	4		1	3	1x1	1x7	1x9	1x3
Jury Trial					1										2x9	3x5	1x7	
Procedure	1	1		1	1	1	2	1		4	2	1		1		1x5	1x5	1x5
Stat. Interp.				2	1		1			2	1	1	1		2x5			1x5

Canada Law Reports S.C.R. 1961 covers November 21, 1960 (date of judgment) to October 3, 1961.

1962 covers October 23, 1961 to June 25, 1962.

1963 covers Parts I to IX, from October 23, 1962, to approximately July 1963.

N.B.—The dates are not extremely significant as the cases are not placed in order of time, but rather within the editor's discretion.

Also, it must be noted that in the affirmations of the Court of Appeal, are included the motions dismissed which, of course, are all affirmations. Bearing this in mind, one should not be alarmed at the relatively high rate of affirmations. It is not that high in the reported cases.

The first figure indicates the times the subject matter of the case arose, the second figure indicates the number of Justices actually sitting.

NOTE: Subject matter often overlaps in a single case, e.g., one case may deal with criminal law, evidence and the question of jurisdiction.

TABLE II

VOLUME OF WORK

Year	References	Habeas Corpus	Motions dismissed	Motions to vary	UNREPORTED		REPORTED		TOTALS
					Public	Private	Public	Private	
1961			18		6	16	39	40	117
1962			35		13	17	41	50	156
1963*							32	40	72

TABLE III

PROVINCIAL BREAK DOWN

Source	References	Habeas Corpus	Motions dismissed	Motions to vary	UNREPORTED		REPORTED		TOTALS
					Public	Private	Public	Private	
Nfld.							1		1
1961									
1962								1	1
1963									
NOVA SCOTIA									
1961						1	3		4
1962						1	1	1	3
1963							1	2	3
P.E.I.									
1961									
1962									
1963									
N.B.									
1961			1				2		4
1962					2	1	1		3
1963							1	2	3
P.Q.									
1961			7		3	7	7	21	45
1962			15		4	10	10	22	61
1963							8	13	21
ONT.									
1961			5		3	3	16	10	37
1962			8			3	13	9	33
1963							7	12	19
MAN.									
1961			1				1		3
1962			5				2		7
1963							3	3	6
SASK.									
1961							1	2	3
1962							1	2	3
1963							1	2	3
ALTA.									
1961							3	1	4
1962			4				6	4	16
1963							3	3	6
B.C.									
1961			3				5	5	16
1962			3		7	3	6	11	28
1963							8	3	11
YUKON									
1961									
1962									
1963									
N.W.T.									
1961			1					1	2
1962									1
1963									

*1963—Canada Law Reports, S.C.R., in bound edition were not available at date of publication, thus the motions and unreported cases were not available.

TABLE IV

SOURCE OF LITIGATION

Year	Private Litigation	Government Litigation
** 1961	65	52
*** 1962	85	71
† 1963	38	34

** Unreported judgments—29: Found 22: Not found—7.
Private litigation 16—Public 6.

Motions dismissed 34: Source found 18; Not found 16.
Private litigation 11: Government litigation 7.

*** Unreported judgments 34: Found 30: Not found 4.
Private litigation 17: Public litigation 13.

Motions 56: Source found 35; not found 21.
Private litigation—14: Government litigation—21.

† Parts I to IX—No motions. No unreported cases.

TABLE V

ACTION OF INDIVIDUAL JUSTICES—reported cases
1961

	Judgment—J			Concurrence—C			Total—T			Other*
	VOLUME OF WORK									
	Majority			Dissent						
	J	C	T	J	C	T	J	C	T	
Kerwin	19	22	41	3	1	4				
Taschereau	14	32	46		1	1				
Locke	9	27	36	5		5				5
Cartwright	11	29	40	6		6				6
Fauteux	10	34	44	1		1				4
Abbott	4	44	48	1	2	3				
Martland	8	34	42	2	1	3				1
Judson	11	36	47	1	1	2				1
Ritchie	11	34	45	1		1				4
Hall										
Spence										

TYPE OF WORK

	Common Law	Civil Law	Criminal Law	Con-stitutional Law	Other Public Law
Kerwin	16	3	8	2	16
Taschereau	8	18	7	2	21
Locke	15	5	8	2	11
Cartwright	17	6	6	2	15
Fauteux	9	19	7	2	18
Abbott	14	14	6	1	6
Martland	18	9	6	1	11
Judson	18	5	8	2	16
Ritchie	17	9	7	2	11
Hall					
Spence					

* Denotes concurrence with minor opinion.

TABLE VI

ACTION OF INDIVIDUAL JUSTICES—reported cases
1962

	Judgment—J			Concurrence—C			Total—T			Other*
	VOLUME OF WORK									
	Majority			Dissent						
	J	C	T	J	C	T	J	C	T	
Kerwin	7	27	34	3	1	4				1
Taschereau	12	33	45	3	4	7				3
Locke	12	30	42	2	1	3				5
Cartwright	14	24	38	5	2	7				6
Fauteux	7	38	45	2	3	5				3
Abbott	10	42	52	2	3	5				1
Martland	13	42	55	1		1				4
Judson	15	36	51	4	2	6				4
Ritchie	10	43	53	1	2	3				6
Hall										
Spence										

TYPE OF WORK

	Common Law		Civil Law		Criminal Law		Constitutional Law		Other Public Law	
Kerwin	10	6	4	1			1			17
Taschereau	1	24	9	1			1			17
Locke	15	6	7	1			1			15
Cartwright	16	5	8	1			1			15
Fauteux	3	23	10	1			1			13
Abbott	6	21	5	1			1			17
Martland	15	14	6	1			1			19
Judson	16	11	12	1			1			17
Ritchie	17	14	10	1			1			14
Hall										
Spence										

* Denotes concurrence with minor opinion.

TABLE VII

ACTION OF INDIVIDUAL JUSTICES—reported cases
1963

	Judgment—J		Concurrence—C			Total—T			Other*
	VOLUME OF WORK								
	Majority			Dissent					
	J	C	T	J	C	T			
Kerwin	1	12	13	3		3			
Taschereau	5	29	34	2	1	3			
Locke	1		1	1		1			
Cartwright	13	37	50	4	2	6			
Fauteux	5	33	38	1	2	3			
Abbott	10	34	44						
Martland	13	38	51	1	1	2			
Judson	14	26	40	2		2			
Ritchie	12	37	49		1	1			
Hall	1	16	17	2		2	1		
Spence									

TYPE OF WORK

	Common Law	Civil Law	Criminal Law	Con- stitutional Law	Other Public Law
††Kerwin	8	1	2		5
Taschereau	8	14	8	1	6
†Locke			1	1	1
Cartwright	22	9	8	1	16
Fauteux	6	13	10	11	11
Abbott	14	14	6		10
Martland	25	5	10	1	12
Judson	19	5	6	1	11
Ritchie	19	5	11	1	14
‡Hall	8	1	5	1	4
**Spence					

*Denotes concurrence with minor opinion.

††The Hon. Patrick Kerwin, P.C., Chief Justice of Canada, died February 2, 1963.

†On 16 September 1962, the Hon. Charles Holland Locke, Puisne Judge of the Supreme Court of Canada, upon attaining the age of 75 years, retired from the bench pursuant to s. 9(2) of the Supreme Court Act, R.S.C. 1952, c. 259.

‡On 23 November 1962, the Hon. Emmett Matthew Hall, Chief Justice of Saskatchewan, was appointed a Puisne Judge of the Supreme Court of Canada.

**On 31 May 1963, the Hon. Wishart F. Spence, Justice of the Court of Appeal of Ontario, was appointed a Puisne Judge of the Supreme Court of Canada.

ACTION OF THE JUSTICES

TABLE X

1963*

M—Agreement with
O—Written opinion
C—Concurrence
D—Dissent against

Often there are two or more *sets* of opinions, which would account for the seeming discrepancies. This applies of course, to a single case.

	Hall	Ritchie	Judson	Martland	Abbott	Fauteux	Cartwright	Locke	Taschereau	Kerwin	Spence
Kerwin											
M						1	1		1		
O						3	8		1		
C						1	1		2		
D	1	1	1	1	1	1	1				
Taschereau											
M		1	1	2	4	4	2			1	
O	6	18	17	17	17	20	12			2	
C					1	1	1			1	
D	1	1	1		1	1	1			2	
Locke											
M		1		1	1	1					
O											
C									1		
D					1	1					
Cartwright											
M	3	9	6	8	6	3			1	3	
O	6	20	18	26	21	17			13	8	
C		2	3	3	2	3			4	1	
D											
Fauteux											
M		3	2	2	3		4		3	1	
O	7	13	20	18	21		19	1	20	5	
C	1	1	1		1		1				
D											
Abbott											
M	2	4	2	6		6	2		5	1	
O	4	21	18	23		19	26	1	15	9	
C											
D											
Martland											
M	4	11	9		9	3	11		3	2	
O	5	25	22		21	19	24	1	16	9	
C	1		1			1	1		1		
D											
Judson											
M	5	8		10	8	11	9		9	4	
O	6	15		20	9	11	16		9	2	
C				1		2	2		1	2	
D											
Ritchie											
M	7		6	11	7	6	8		6	4	
O	5		16	25	14	11	21	1	14	2	
C			1	1	1	1	1				
D	1		1						1		
Hall											
M		1	1	1			1				
O		11	11	8	5	6	9		6	1	
C			1			1	1		1		
D			2	2	1	2					
Spence											
M											
O											
C											
D											
C											

*—Includes Parts I to IX only—unbound copies of Canada Law Reports.

TABLE XI

CASES AND MAJORITY RATIO
Total number of cases reported—79
(63 unanimous cases)

1961

(9-0) — 11	(7-0) — 2	(5-0) — 48
(8-1) — 1	(6-1) — 2	(4-1) — 6
	(5-2) — 0	(3-2) — 6
(7-2) — 0	(4-3) — 0	(3-0) — 1
(6-3) — 0		(1-0) — 1
(5-4) — 1		

Total number of cases reported—91
(71 unanimous cases)

1962

(9-0) — 3	(7-0) — 4	(5-0) — 63
(8-1) — 0	(6-1) — 3	(4-1) — 4
(7-2) — 0	(5-2) — 0	(3-2) — 10
(6-3) — 0	(4-3) — 0	(3-0) — 0
(5-4) — 3		(1-0) — 1

Parts I to IX

Total number of cases reported—72
(57 unanimous cases)

1963

(9-0) — 0	(7-0) — 0	(5-0) — 55	(3-0) — 2
(8-1) — 0	(6-1) — 0	(4-1) — 8	(1-0) — 0
(7-2) — 0	(5-2) — 2	(3-2) — 5	
(6-5) — 0	(4-3) — 0		
(5-4) — 0			