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The Work of the Louisiana Supreme Court for the 1958-1959 Term

Statistical Survey

George W. Pugh* and Jean H. Pugh**

In 1958 a constitutional amendment¹ was adopted which will greatly alter the character of the work of the Supreme Court. The far-reaching and salutary effects anticipated from the amendment have been discussed elsewhere in this *Review*.² Suffice it to say here that revision was needed, and that the plan adopted places Louisiana in the vanguard of the movement to eliminate the judicial delays which have so long plagued litigants, lawyers and judges throughout the country.

Under the terms of the amendment, appeals granted prior to July 1, 1960, are returnable to the appellate court to which they were returnable prior to the amendment, and thus the following study will not reflect the changes which will be effected.

It is hoped that the statistical tables which follow³ will provide the reader with further insight into the character of the current work of the state's highest court. A comparison of the statistical data in these tables with those of earlier studies on the work of the court should make the current tables more meaningful.

During the past term, there was a marked increase in judicial business over the prior year, with a decrease shown in only

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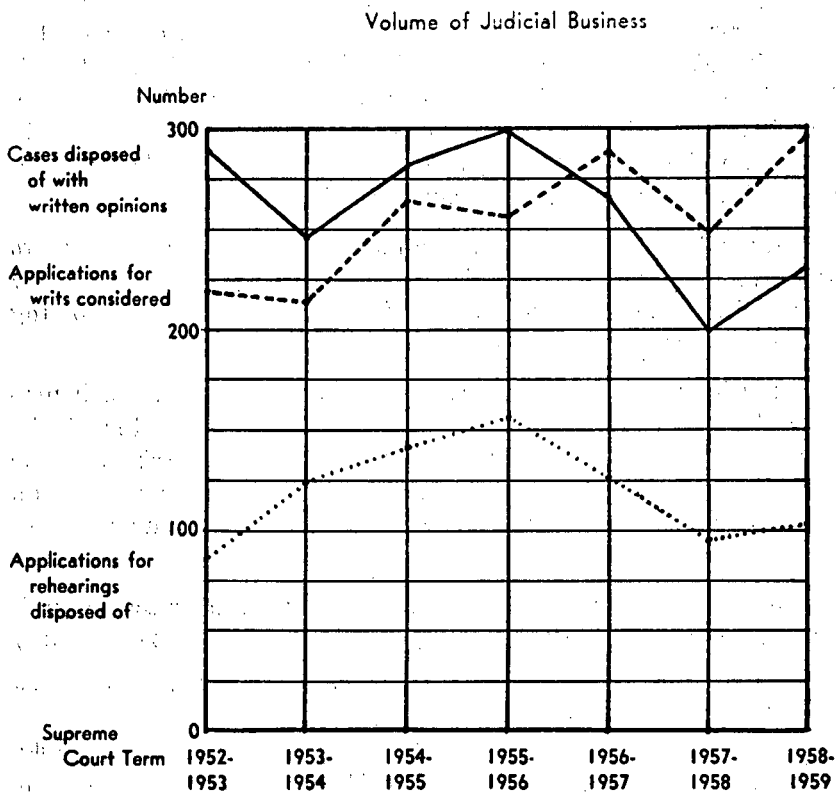
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1. LA. CONST. art. VII, §§ 10, 19, 20-24, 26, 28-30, 36, 81, and 91, as amended on November 4, 1958, pursuant to La. Acts 1958, No. 561.

2. See Tucker, Tate, & McMahon, *Appellate Reorganization in Louisiana*, 19 LOUISIANA LAW REVIEW 287 (1959). See also *The Work of the Louisiana Supreme Court for the 1957-1958 Term — Statistical Survey*, 19 LOUISIANA LAW REVIEW 294 (1959); and *The Work of the Louisiana Supreme Court for the 1956-1957 Term — Statistical Survey*, 18 LOUISIANA LAW REVIEW 10 (1957).

3. In compiling the data used in the statistical tables which accompany this introduction, the writers have relied in part upon data provided by *West's Southern Reporter*, and have used all cases reported as having been decided during the 1958-1959 term, although some of these cases were not reported until after the commencement of the 1959-1960 term. The writers are also indebted to Mr. Richard F. Knight, Judicial Administrator of the Judicial Council of the Supreme Court of Louisiana, who has kindly provided some of the data used in these tables.

one category⁴ — a 7% decrease in the number of “cases filed (excluding writ applications).” There was a 19% increase in the number of writ applications considered, a 16% increase in the number of cases disposed of with written opinions, a 7% increase in the number of applications for rehearings disposed of, with an increase of 16% in the total matters handled. The following chart represents in graphic form a comparison of the number of matters handled during the past term with corresponding data from prior years.⁵



It will be seen from the above chart that the number of writ applications considered during the past term is the highest in the seven-year period covered,⁶ and it is interesting to consider the relative percentage of total judicial business represented by the number of writ applications considered (and that represented by

4. See Table I.

5. In preparing this chart and those which follow, the writers have used data furnished by the *Review's* Statistical Surveys of prior years.

6. Unfortunately, statistical data is lacking for the years 1949 to 1952.

the other categories of judicial business) during this period. This is perhaps best shown by the following chart.

VOLUME OF JUDICIAL BUSINESS BY CATEGORIES AS PERCENTAGE OF WHOLE							
Supreme Court Term	1952-1953	1953-1954	1954-1955	1955-1956	1956-1957	1957-1958	1958-1959
Cases disposed of with written opinions	48.5	42.1	41.0	41.9	39.2	36.6	36.7
Applications for writs considered	36.9	36.7	38.4	36.1	42.2	45.7	46.9
Applications for rehearings disposed of	14.6	21.2	20.6	22.0	18.6	17.7	16.4
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Thus from the above it is seen not only that the number of writ applications considered during the past term is the highest that it has been in the past seven terms, but also that this number represents the highest percentage of total matters handled. And it is interesting, further, that the number of such applications granted also reached a record high for the period, as shown by the following chart.

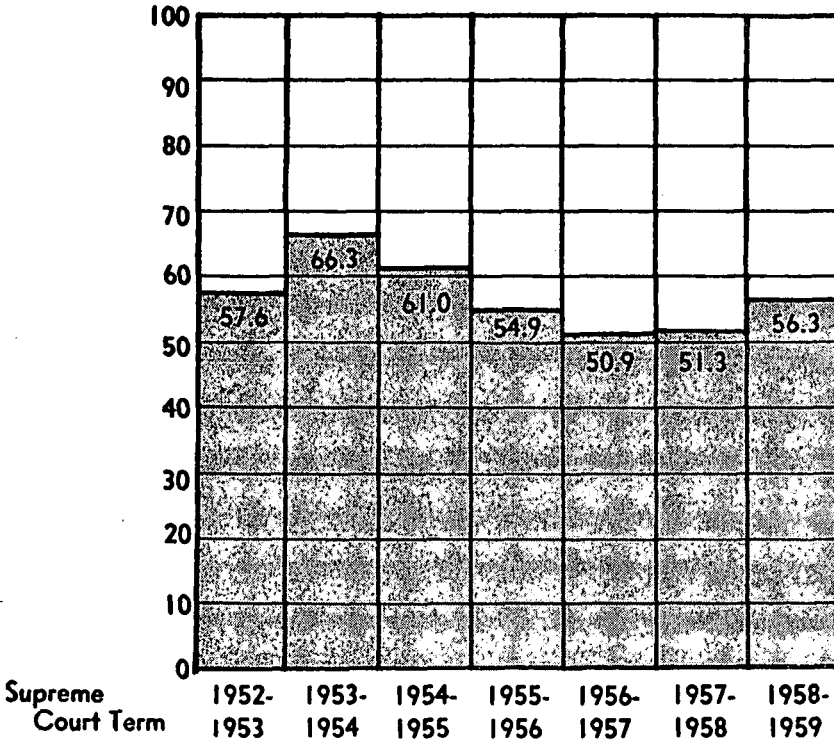
Supreme Court Term	Number of writs considered	Number granted	Percentage granted
1952-1953	219	43	19.6
1953-1954	214	49	22.9
1954-1955	264	55	20.8
1955-1956	257	48	18.7
1956-1957	288	54	18.8
1957-1958	248	48	19.4
1958-1959	295	65	22.0

Of course, under the recent constitutional amendment the supervisory jurisdiction of the Supreme Court will assume an even greater significance.

It is encouraging to note that of the cases decided during the 1958-1959 term, 56% were decided within a year of filing in the Supreme Court — an increase of 5% over the corresponding percentage for the prior year. A further comparison of this term's figure with those of prior years is shown by the following graph.

Percentage of Reported Cases Disposed of
Within One Year of Filing in the Supreme Court

Percentage



A considerable increase in the number of dissents is to be noted during the past term. A comparison between this and prior terms is shown by the following chart.

DISSENTS			
Supreme Court Term	With written reasons	Without written reasons	Total
1952-1953	25	1	26
1953-1954	59	8	67
1954-1955	53	13	66
1955-1956	61	19	80
1956-1957	58	13	71
1957-1958	29	14	43
1958-1959	67	25	92

It should be noted with respect to the faculty discussion of individual decisions rendered by the Supreme Court of Louisiana during the past term, which follows the statistical tables, that complete coverage has neither been attempted nor considered

desirable. Discussion of reaffirmations of settled principles would often be of little service to the reader, but a survey of the most interesting and important cases, it is hoped, will be of assistance.

TABLE I
VOLUME OF JUDICIAL BUSINESS

	Number	No. of increase over preceding year	Percent change
Cases disposed of with written opinions.....	231	+32	+16.08
Applications for writs filed.....	296	+46	+18.40
Applications for writs considered.....	295	+47	+18.95
Applications for rehearings disposed of.....	103	+7	+7.29
Rehearings with written opinions.....	17	+2	+13.33
Cases filed (excluding writ applications).....	277	-21	-7.05
Total matters docketed.....	573	+25	+4.56
Total matters handled (excluding rehearings).....	526	+79	+17.67
Grand total of matters handled (including rehearings)	629	+86	+15.84

TABLE II
DISPOSITION OF REPORTED LITIGATION

	Appeals from District Courts	Writs of Certiorari or Review to Courts of Appeal	On Certificate from Courts of Appeal	Supervisory Writs to Lower Courts	Appeals from Municipal Courts	Appeals from Family Court	Appeals from Administrative Tribunals	Transferred from District Court	Original Jurisdiction	Totals
Affirmed	88	4		1	2	1	3			99
Amended and Affirmed	13	1					1			15
Affirmed in part, Reversed in part, Rendered	5	2								7
Affirmed in part, Reversed in part, Remanded	4			1						5
Reversed and Rendered	28	9		9		1	1			48
Reversed and Remanded	14	4		5						23
Transferred to Court of Appeal	9									9
Motion to dismiss appeal granted	7						1			8
Motion to dismiss appeal denied	4						1			5
Miscellaneous	3 ¹	1 ²	2 ³	4 ⁴				1 ⁵	1 ⁶	12
Totals	175	21	2	20	2	2	7	1	1	231

1. These three cases were disposed of as follows: (1) judgment of the district court annulled, judgment rendered in part, and case remanded with directions; (2) Supreme Court dismissed appeal for the reason that there was no signed judg-

ment filed by the district court; (3) motion by one of defendants to dismiss appeal insofar as it affected him granted.

2. Judgment reversed in part, amended and affirmed in part.

3. These two cases were disposed of as follows: (1) question as to whether or not court of appeal had jurisdiction, answered affirmatively; (2) Supreme Court reviewed entire case under its constitutional power and affirmed the judgment of the district court.

4. In the first of these four cases, writs were made peremptory, motion for a stay of proceedings was overruled, and the district court ordered to hear and render judgment on the rule. Two other cases involved identical issues, and the orders previously issued were made peremptory (that the respondent judge proceed to try the cases and render judgment on the merits). In the fourth case, a motion to recall a writ of certiorari was granted.

5. District court order transferring case to Supreme Court annulled.

6. Attorney's license to practice law cancelled.

TABLE III

DISPOSITION OF REPORTED CASES REVIEWED ON WRITS OF CERTIORARI OR REVIEW

	Orleans	First Circuit	Second Circuit	Totals
Affirmed	2		2	4
Amended and Affirmed		1		1
Affirmed in part, Reversed in part, Rendered		2		2
Reversed and Rendered.....	4	1	4	9
Reversed and Remanded	3		1	4
Miscellaneous	1 ¹			1
Totals	10	4	7	21

1. Judgment reversed in part, amended and affirmed in part.

TABLE IV

TOPICAL ANALYSIS OF REPORTED CASES

Administrative Law	19
Agency	1
Constitutional Law	12
Contracts and Obligations	7
Corporations	8
Criminal Law and Procedure	37
Elections	2
Evidence	2
Expropriation	9
Family Law	13
Insurance	5
Labor Law	3
Lease	2
Legal Profession	2
Legislation	2
Mineral Rights	7
Municipal Corporations	8
Negotiable Instruments	2
Practice and Procedure	40
Property	1
Sale	17
Security Devices	1
Successions, Donations, and Community Property.....	11
Taxation	7
Torts	6
Workmen's Compensation	7
Total	231

TABLE V
JURISDICTIONAL ORIGIN OF REPORTED CASES

Appeals from District Courts.....	175
Writs of Certiorari or Review to Courts of Appeal.....	21
On Certificate from Courts of Appeal.....	2
Supervisory Writs to Lower Courts.....	20
Appeals from Municipal Courts.....	2
Appeals from Family Court.....	2
Appeals from Administrative Tribunals.....	7
Transferred from District Court.....	1
Original Jurisdiction	1
Total	231

TABLE VI
GEOGRAPHICAL ORIGIN OF APPEALS FROM DISTRICT COURTS IN REPORTED CASES

A — By Parish			
Acadia	2	Orleans — Civil	33
Avoyelles	3	Orleans — Criminal	7
Bienville.. ..	1	Ouachita	3
Bossier	4	Rapides	10
Caddo	12	St. Bernard	3
Calcasieu	5	St. Charles	2
Cameron	2	St. Helena	1
Claiborne	1	St. James	3
Concordia	1	St. Landry	3
DeSoto	2	St. Mary	1
East Baton Rouge	32	St. Tammany	2
East Feliciana	4	Tangipahoa	2
Franklin	2	Terrebonne	1
Iberia	1	Vermilion	3
Jefferson	9	Vernon	1
Jefferson Davis	1	Washington	2
Lafayette	3	West Baton Rouge	1
Lafourche	1	West Feliciana	2
LaSalle	1	Winn	1
Lincoln	1		
Livingston	2		
Natchitoches	4	Total	175

B — By Judicial District

First District (Caddo)	12
Second District (Bienville, Claiborne, Jackson)	2
Third District (Lincoln, Union)	1
Fourth District (Morehouse, Ouachita)	3
Fifth District (West Carroll, Richland, Franklin)	2
Seventh District (Catahoula, Concordia)	1
Eighth District (Grant, Winn)	1
Ninth District (Rapides)	10
Tenth District (Natchitoches, Red River)	4
Eleventh District (DeSoto, Sabine)	2
Twelfth District (Avoyelles)	3
Fourteenth District (Cameron, Calcasieu)	7
Fifteenth District (Acadia, Lafayette, Vermilion)	8

Sixteenth District (Iberia, St. Martin, St. Mary)	2
Seventeenth District (Lafourche, Terrebonne)	2
Eighteenth District (Iberville, Pointe Coupee, West Baton Rouge)	1
Nineteenth District (East Baton Rouge)	32
Twentieth District (East Feliciana, West Feliciana)	6
Twenty-first District (Livingston, St. Helena, Tangipahoa)	5
Twenty-second District (St. Tammany, Washington)	4
Twenty-third District (Ascension, Assumption, St. James)	3
Twenty-fourth District (Jefferson)	9
Twenty-fifth District (Plaquemines, St. Bernard)	3
Twenty-sixth District (Bossier, Webster)	4
Twenty-seventh District (St. Landry)	3
Twenty-eighth District (Caldwell, LaSalle)	1
Twenty-ninth District (St. Charles, St. John)	2
Thirtieth District (Beauregard, Vernon)	1
Thirty-first District (Jefferson Davis, Allen)	1
Orleans — Civil District	33
Orleans — Criminal District	7
Total	175

TABLE VII

DISPOSITION OF APPLICATIONS FOR WRITS AND REHEARINGS FILED DURING TERM

	Granted	Refused	Pending	With- drawn	Not Con- sidered	Totals
Applications for Supervisory Writs to Courts Other than Courts of Appeal	25	88	0	0	0	113
Applications for Supervisory Writs to Courts of Appeal	40	142	0	1	0	183
Total Writs	65	230	0	1	0	296
Applications for Rehearing	8	95	0	0	0	103
Totals	73	325	0	1	0	399

TABLE VIII

DISTRIBUTION OF WRITTEN OPINIONS OF REPORTED CASES

	Original Opinion	Concurring with Original Opinion	Opinion on Rehearing	Concurring with Opinion on Rehearing	Opinion on Second Rehearing	Concurring with Opinion on Second Rehearing	On Application for Rehearing	Totals
Chief Justice Fournet.....	28	2	3	2				35
Assoc. Justice Ponder.....	30		2	1				33
Assoc. Justice Hamiter.....	43					1		44
Assoc. Justice Hawthorne	26		3		1			30
Assoc. Justice McCaleb.....	39	3		1				43
Assoc. Justice Simon.....	31		3					34
Assoc. Justice Hamlin.....	21		2					23
Assoc. Justice Tate.....	10	1	3					14 ¹
Per Curiam							2	2
Totals	228*	6	16	4	1	1	2	258

1. Prior to September 29, 1958, when Judge Albert Tate, Jr., of the First Cir-

cuit Court of Appeal was temporarily appointed to the Supreme Court, he had been named to serve as Associate Justice ad hoc. Some of the opinions here listed were signed by Judge Tate in his capacity as Associate Justice, while others were signed as Associate Justice ad hoc.

2. The original opinions in three additional cases were authored by Associate Justice Harold A. Moise, who died prior to the 1958-1959 term.

TABLE IX
DISSENTS IN REPORTED CASES

	Dissenting from Original Opinion			Dissenting from Opinion on Rehearing			Dissenting from Opinion on Second Re-hearing		Dissenting from Denial of Re-hearing		Dissenting from Denial of Further Re-hearing		Totals		
	With written reasons	In part, with written reasons	Without written reasons	With written reasons	In part, with written reasons	Without written reasons	In part, without written reasons	With written reasons	Without written reasons	With written reasons	Without written reasons	With written reasons		Without written reasons	
Chief Justice															
Fournet	4		2										6		
Assoc. Justice															
Ponder	6		2			2							10		
Assoc. Justice															
Hamiter	8		2	3	2					1			16		
Assoc. Justice															
Hawthorne	9		6	2	1	3				1		1	23		
Assoc. Justice															
McCaleb	11			3	2							1	17		
Assoc. Justice															
Simon	3		2	1	3			1					10		
Assoc. Justice															
Hamlin						1						1	2		
Assoc. Justice															
Tate ¹	4	2			2								8		
Totals	45	2	14	1	13	5	6	0	1	0	1	1	0	3	92

1. Prior to September 29, 1958, when Judge Albert Tate, Jr., of the First Circuit Court of Appeal was temporarily appointed to the Supreme Court, he had been named to serve as Associate Justice ad hoc. Some of the dissents here listed were signed by Judge Tate in his capacity as Associate Justice, while others were signed as Associate Justice ad hoc.

TABLE X
 CASES REPORTED IN 1958-1959 WITH REFERENCE TO DATE FILED

Year Filed	Disposed of in 1958-1959 Term
1958-1959	53
1957-1958	100
1956-1957	70
1955-1956	6
1954-1955	1
1953-1954	0
1952-1953	1 ¹
Total	231

1. In this case the plaintiff-appellant had died, and after a showing by defendant-appellee that the provisions of Supreme Court Rule XIV, Section 3, relative to the procedure to be followed when one of the parties to an appeal dies and the legal representative of the decedent is unknown, and compliance with an order of the Supreme Court issued pursuant to this Rule, and a showing that the legal representative had not appeared, the appeal in this case was dismissed.

TABLE XI
 TIME ELAPSED BETWEEN DISPOSITION OF 1958-1959 REPORTED CASES
 AND DATE OF FILING IN SUPREME COURT

Time elapsed divided into periods of six months	Number of Cases	Percentage
6 months or less	73	31.60
6 months to one year	57	24.68
1 to 1½ years	30	12.99
1½ to 2 years	57	24.68
2 to 2½ years	8	3.46
2½ to 3 years	2	.86
3 to 3½ years	3	1.30
.....		
5½ to 6 years	1 ¹	.43
Totals	231	100.00

1. In this case the plaintiff-appellant had died, and after a showing by defendant-appellee that the provisions of Supreme Court Rule XIV, Section 3, relative to the procedure to be followed when one of the parties to an appeal dies and the legal representative of the decedent is unknown, and compliance with an order of the Supreme Court issued pursuant to this Rule, and a showing that the legal representative had not appeared, the appeal in this case was dismissed.