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The Work of the Louisiana Supreme Court for the 1957-1958 Term

Statistical Survey

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

Since its initial publication in 1938, the *Louisiana Law Review* has carried an annual survey of the work of the Louisiana Supreme Court. The importance of the state's highest court in the development of our unique legal system is great indeed, and from the annual studies of its opinions, it is hoped that the reader can obtain meaningful insight into the growth and evolution of our law. Because of our distinct legal heritage, Louisiana, as perhaps no other state, must rely heavily upon the product of its own legal scholarship, as presented in judicial opinions, briefs of counsel, legal periodicals, and treatises. Constant appraisal and critical evaluation of legal developments should assist the profession and the legislature in evolving rules of law consonant with the needs of our dynamic state.

What is probably the most significant legal development in many decades came to fruition during the past year — the preparation and adoption of the constitutional amendment providing for much needed extensive revision in the jurisdiction and structure of the state's appellate courts. Although a treatment of the history, scope, and significance of the constitutional amendment is given elsewhere in this *Review*,¹ it should be noted here that its adoption will have a profound effect upon the number and nature of the cases decided by the state's highest court. To a very large degree, the Louisiana Supreme Court will be a writ court, which means that to a considerable extent it will be able to limit itself to cases involving points of greatest significance. Instead of being forced to decide cases having little importance other than to the parties immediately concerned, it will be able to concentrate its efforts upon its important task of rendering definitive pronouncements in troublesome areas of the law. In

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1. Tucker, Tate & McMahon, *Appellate Reorganization in Louisiana*, 19 LOUISIANA LAW REVIEW 287 (1959).

addition, the new system should alleviate appellate delays which have so long plagued litigants, lawyers, and judges.

When confronted with an overwhelming backlog of cases, a court may decide either to speed up the decisional process in an attempt to "keep current," or, recognizing the gravity of its function and the definitive nature of its decisions, it may decide that despite backlog build-up it should proceed at a more deliberate pace. There are arguments to be made in favor of either course of action, but the latter may particularly commend itself when there is a realistic anticipation that relief from docket difficulties will soon result from contemplated jurisdictional revision.

Prior statistical surveys of the work of the Supreme Court reflect that during the ten-year period from 1939 through 1949 the number of cases disposed of with written opinions varied from a low of 146 to a high of 249,² with an average of 201.5. For the years 1952 to 1957 there was a marked increase, the number of written opinions varying from a low of 246 to a high of 299,³ with an average of 276.4. Unfortunately, data is lacking for the intervening years of 1949-1952. This year's statistical tables⁴ show a marked decrease from the immediately preceding years in the number of cases disposed of with written opinions. During the past year the figure dropped to 199, a decrease of slightly more than 25% from the prior year, and a decrease of 28% from the 1952-1957 average. It should be noted, however, that this year's figure (199) is approximately the same as the 1939-1949 average (201.5). In the light of the strenuous efforts which were being made to obtain constitutional revision of appellate jurisdiction, it may be that the court decided that it would be sounder policy to adopt a schedule which would permit it to devote more time and attention to the decisional process than had been possible at the pace followed during the immediately preceding years.

As would be expected, the percentage decrease in the number of cases disposed of with written opinions (25.47%) is accom-

2. During the 1939-1940 term, 220 cases were disposed of with written opinions; in 1940-1941, 227; 1941-1942, 249; 1942-1943, 228; 1943-1944, 173; 1944-1945, 175; 1945-1946, 204; 1946-1947, 146; 1947-1948, 208; and 1948-1949, 185.

3. During the 1952-1953 term, 288 cases were disposed of with written opinions; in 1953-1954, 246; 1954-1955, 282; 1955-1956, 299; and 1956-1957, 267.

4. See Table I. In compiling the data used in the statistical tables which accompany this introduction, the writers have used all cases decided during the 1957-1958 term, although some of those cases were not reported until after the commencement of the 1958-1959 term.

panied by a similar decrease in the number of applications for rehearing disposed of (24.41%). These two categories, cases (199) and rehearings (96), together with applications for writs considered (248), constitute the three major areas of the work of the Supreme Court and comprise a total of 543 matters handled in the 1957-1958 term, a decrease of 139 from the previous year, or slightly more than 20%.

There are other significant observations which may be derived from a comparison of the following statistical tables with those of prior years, which perhaps should be noted here. Despite the reduction in the number of cases disposed of with written opinions, there is, surprisingly enough, an encouraging break in a discouraging trend previously noted in the pages of this *Review*.⁵ For the past three years there was a continuing decrease in the percentage of decided cases which were disposed of within a year of filing.⁶ This year there was a slight increase in this figure.⁷

Of the total 98 applications for rehearing filed,⁸ 16 or 16.3% were granted. This represents a marked increase over the percentage (10.7) granted during the 1956-1957 term, and continues the trend of the preceding four years.⁹

The number of criminal cases reviewed by the Supreme Court during the past year (27) was a decrease from the prior year (41), which in turn was a decrease from the preceding year (55). These figures are particularly important since, under the constitutional amendment providing for revision of appellate jurisdiction, the Supreme Court will continue to have the same jurisdiction in this area as under the present law.¹⁰

5. *The Work of the Louisiana Supreme Court for the 1956-1957 Term — Statistical Survey*, 18 LOUISIANA LAW REVIEW 10, 11 (1957).

6. In the 1953-1954 term, 66.26% of the decided cases were disposed of within a year of filing; in 1954-1955, 60.99%; 1955-1956, 54.85%; and 1956-1957, 50.93%.

7. 51.26%. See Table XI.

8. This figure differs slightly from the "number of applications for rehearing disposed of" referred to above, since two of the applications filed were subsequently withdrawn.

9. In 1952-1953, the number of rehearings granted comprised 6.9% of the total applications for rehearing disposed of; in 1953-1954, 7.3%; in 1954-1955, 7.9%; and in 1955-1956, 10.1%.

10. Tucker, Tate & McMahon, *Appellate Reorganization in Louisiana*, 19 LOUISIANA LAW REVIEW 287 (1959).

TABLE I
VOLUME OF JUDICIAL BUSINESS

	Number	No. of in- crease or decrease over preceding year	Per- cent change over pre- ceding year
Cases disposed of with written opinions.....	199	-68	-25.47
Applications for writs filed	250	-46	-15.54
Applications for writs considered.....	248	-40	-13.89
Applications for rehearings disposed of.....	96	-31	-24.41
Rehearings with written opinions.....	15	+3	+25.00
Cases docketed (excluding writ applications).....	298	+27	+9.96
Total matters docketed.....	548	-19	-3.35
Total matters handled (excluding rehearings).....	447	-108	-19.46
Grand total of matters handled (including rehearings)	543	-139	-20.38

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	Transferred from Courts of Appeal	Appeals from Administrative Tribunals	Original Jurisdiction	Totals
Affirmed	72	6		2	5	1		3		89
Amended and Affirmed	11									11
Affirmed in part, Reversed in part, Rendered	3			1						4
Affirmed in part, Reversed in part, Remanded	4									4
Reversed and Rendered	24	8		6			1	2		41
Reversed and Remanded	18	5					1	1		25
Transferred to Court of Appeal	8						2			10
Motion to dismiss appeal granted	2									2
Motion to dismiss appeal denied	5						1			6
Miscellaneous	1 ¹		2 ²	3 ³					1 ⁴	7
Totals	148	19	2	12	5	1	5	6	1	199

1. Proceedings dismissed as involving non-justiciable matters.

2. These two cases were disposed of as follows: (1) Supreme Court reviewed entire case under its constitutional power and affirmed the judgment of the district court; (2) question regarding interruption of prescription answered.

3. These three cases were disposed of as follows: (1) execution of order suspended pending final disposition of appeal; (2) proceedings dismissed on theory that issue had become moot; (3) writs made peremptory, and judge of district court ordered to grant suspensive appeal.

4. 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	1	2	3	6
Reversed and Rendered	3	3	2	8
Reversed and Remanded	2	3	..	5
Totals	6	8	5	19

TABLE IV

TOPICAL ANALYSIS OF REPORTED CASES

Administrative Law	9
Agency	1
Constitutional Law	11
Contracts and Obligations	13
Corporations	1
Criminal Law and Procedure	27
Elections	1
Evidence	3
Expropriation	12
Family Law	9
Insurance	4
Legal Profession	1
Legislation	1
Mineral Rights	8
Municipal Corporations	5
Negotiable Instruments	1
Practice and Procedure	40
Prescription	1
Property	6
Sales	5
Security Devices	1
Successions, Donations and Community Property	12
Taxation	8
Torts	13
Workmen's Compensation	6
Total	199

TABLE V

JURISDICTIONAL ORIGIN OF REPORTED CASES

Appeals from District Courts	148
Writs of Certiorari or Review to Courts of Appeal	19
On Certificate from Courts of Appeal	2
Supervisory Writs to Lower Courts	12
Appeals from Municipal Courts	5
Appeals from Family Court	1
Transferred from Courts of Appeal	5
Appeals from Administrative Tribunals	6
Original Jurisdiction	1
Total	199

TABLE VI

GEOGRAPHICAL ORIGIN OF APPEALS FROM DISTRICT COURTS IN REPORTED CASES

A — By Parish

Acadia	5	Lincoln	1
Allen	2	Morehouse	1
Ascension	1	Natchitoches	3
Avoyelles	1	Orleans — Civil	44
Beauregard	1	Orleans — Criminal	6
Bossier	1	Ouachita	3
Caddo	11	Plaquemines	1
Calcasieu	1	Rapides	4
Catahoula	2	Sabine	2
Claiborne	1	St. Bernard	1
DeSoto	2	St. Charles	1
East Carroll	1	St. Helena	1
East Baton Rouge	18	St. John	1
East Feliciana	5	St. Mary	3
Evangeline	1	St. Tammany	1
Franklin	1	Tangipahoa	2
Iberville	1	Tensas	1
Jefferson	3	Washington	1
Jefferson Davis	2	Webster	2
Lafayette	5	West Feliciana	2
Lafourche	1		
LaSalle	1	Total	148

B — By Judicial District

First District (Caddo)	11
Second District (Bienville, Claiborne, Jackson)	1
Third District (Lincoln, Union)	1
Fourth District (Morehouse, Ouachita)	4
Fifth District (West Carroll, Richland, Franklin)	1
Sixth District (East Carroll, Madison, Tensas)	2
Seventh District (Catahoula, Concordia)	2
Ninth District (Rapides)	4
Tenth District (Natchitoches, Red River)	3
Eleventh District (DeSoto, Sabine)	4
Twelfth District (Avoyelles)	1
Thirteenth District (Evangeline)	1
Fourteenth District (Cameron, Calcasieu)	1
Fifteenth District (Acadia, Lafayette, Vermilion)	10
Sixteenth District (Iberia, St. Martin, St. Mary)	3
Seventeenth District (Lafourche, Terrebonne)	1
Eighteenth District (Iberville, Pointe Coupee, West Baton Rouge)	1
Nineteenth District (East Baton Rouge)	18
Twentieth District (East Feliciana, West Feliciana)	7
Twenty-first District (Livingston, St. Helena, Tangipahoa)	3
Twenty-second District (St. Tammany, Washington)	2
Twenty-third District (Ascension, Assumption, St. James)	1
Twenty-fourth District (Jefferson)	3
Twenty-fifth District (Plaquemines, St. Bernard)	2
Twenty-sixth District (Bossier, Webster)	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)	4
Orleans — Civil District	44
Orleans — Criminal District	6
Total	148

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.....	20	80	0	1	0	101
Applications for Supervisory						
Writs to Courts of Appeal.....	28	120	1	0	0	149
<hr/>						
Total Writs	48	200	1	1	0	250
Applications for Rehearing.....	16	80	0	2	0	98
<hr/>						
Totals	64	280	1	3	0	348

TABLE VIII

DISTRIBUTION OF WRITTEN OPINIONS OF REPORTED CASES

	Original Opinion	Concurring with Original Opinion	Opinion on Rehearing	Concurring with Opinion on Rehearing	On Application for Rehearing	On Application for Further Rehearing	Totals
Chief Justice Fournet.....	29	2	4				35
Assoc. Justice Hamiter.....	30	1	3	1			35
Assoc. Justice Hawthorne.....	29	2		1			32
Assoc. Justice McCaleb.....	32	6	2				40
Assoc. Justice Moise.....	14		1				15
Assoc. Justice Ponder.....	27		2				29
Assoc. Justice Simon.....	27	1	1				29
Assoc. Justice Hamlin (<i>ad hoc.</i>).....	4		1				5
Assoc. Justice Tate (<i>ad hoc.</i>).....	7		1				8
Per Curiam					3	2	5
<hr/>							
Totals	199	12	15	2	3	2	233

TABLE IX
DISSENTS IN REPORTED CASES

	With written reasons	In part, with written reasons	Without written reasons	In part, with written reasons	In part, without written reasons	With written reasons	Without written reasons	In part, with 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	With written reasons	Without written reasons	With written reasons	Without written reasons	With written reasons	Without written reasons	Totals	
	Dismissing from Original Opinion	Dismissing from Opinion on Rehearing	Dismissing from Opinion on Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Dismissing from Denial of Rehearing	Signifying Refusal to Subscribe to Per Curiam Opinion	Totals
Chief Justice Fournet.....	1																						1
Assoc. Justice Hamiter.....	1	1	3	1																			10
Assoc. Justice Hawthorne.....	1	1	1	2																			5
Assoc. Justice McCaleb.....	6	4		3																			13
Assoc. Justice Moise.....																							0
Assoc. Justice Ponder.....			2																				3
Assoc. Justice Simon.....	1		3	1	1	2																	10
Assoc. Justice Hamlin (<i>ad hoc.</i>)....						1																	1
Assoc. Justice Tate (<i>ad hoc.</i>).....																							0
Totals	10	6	9	1	8	3	1	0	1	2	1	0	1	0	0	1	1	0	0	1	1	0	43

TABLE X
 CASES REPORTED IN 1957-1958 WITH REFERENCE TO DATE DOCKETED

Year Filed	Disposed of in 1957-1958 Term
1957-1958	33
1956-1957	124
1955-1956	32
1954-1955	9
1953-1954	1
Total	199

TABLE XI
 TIME ELAPSED BETWEEN DISPOSITION OF 1957-1958 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	54	27.14
6 months to one year	48	24.12
1 to 1½ years.....	66	33.17
1½ to 2 years.....	17	8.54
2 to 2½ years.....	8	4.02
2½ to 3 years.....	3	1.51
3 to 3½ years.....	1	.50
3½ to 4 years.....	2	1.00
Totals	199	100.00