

# Louisiana Law Review

---

Volume 9 | Number 2

*The Work of the Louisiana Supreme Court for the*

*1947-1948 Term*

*January 1949*

---

## Statistical Survey

Carlos E. Lazarus

---

### Repository Citation

Carlos E. Lazarus, *Statistical Survey*, 9 La. L. Rev. (1949)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol9/iss2/2>

This Article is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact [kayla.reed@law.lsu.edu](mailto:kayla.reed@law.lsu.edu).

# The Work of the Louisiana Supreme Court for the 1947-1948 Term

This symposium, presented for the eleventh time in the Louisiana Law Review, discusses the activities of the Supreme Court of Louisiana during the judicial term just completed and discusses the decisions of the court in their relationship to the jurisprudence of the state.

## I. STATISTICAL SURVEY\*

*Carlos E. Lazarus\*\**

The docket of the supreme court shows that 414 suits were filed during the year beginning October 1, 1947, and ending September 30, 1948. Of these one case was filed directly in the supreme court under the court's original jurisdiction, 234 cases were appeals from lower courts, 111 were applications for writs of certiorari to review decisions of the courts of appeal, and 68 were applications for supervisory writs to the lower courts.

On the other hand, the court rendered 208 written decisions which were reported and published during the same time and disposed of all of the 179 applications for writs, which accounts for fully 85 per cent of the total number of cases docketed.<sup>1</sup> In addition, the court considered 86 applications for rehearings of which 12 were granted and 78 refused.<sup>2</sup> Thus, including the applications for rehearings, the consideration of which must take a substantial portion of the court's time, 438 matters were disposed of by the court<sup>3</sup> (an average of 62.6 matters per member of the court), which indicates that the supreme court continues to keep abreast of its judicial business.

---

\* For a comparative analysis during the 1946-1947 term, see *The Work of the Louisiana Supreme Court for 1946-1947 Term* (1948) 8 LOUISIANA LAW REVIEW 189-194.

\*\* Reporter, Louisiana State Law Institute.

1. A total of 352 matters were handled by the court, excluding applications for rehearing. This figure includes the 208 cases reported and published in the Southern Reporter from October 1, 1947 through September 30, 1948, and 144 of the 179 applications for writs disposed of by the court, 35 of which are included in the number of reported cases. Actually 38 writs were granted; however, the reported cases include only 35 of them. Cf. Table VIII.

2. This figure was obtained from the Official Daily Court Record, published from October 1, 1947, through September 30, 1948.

3. See Table I.

The bulk of litigation reaching the supreme court was based on appeals from the district courts which accounted for 79.3 per cent of the reported cases. Cases on writs accounted for 16.8 per cent and cases on appeal from the city, juvenile and recorder's courts accounted for 3.9 per cent.<sup>4</sup>

Of the 165 cases on appeal from the district courts, the Parish of Orleans contributed 33.3 per cent; Caddo Parish and East Baton Rouge Parish each contributed 9.7 per cent and the Parish of Rapides gave rise to 5.4 per cent. The remaining 40.9 per cent were fairly evenly divided among the other parishes.<sup>5</sup> The accompanying tables also show that 48.5 per cent of the cases appealed from the district courts were affirmed; 27.3 per cent were reversed, with or without directions; 5.5 per cent were dismissed and 18.7 per cent were otherwise disposed of, and that of the 21 cases reaching the court on writs of certiorari to the courts of appeal, 9.5 per cent were affirmed, 47.6 per cent were reversed with or without directions and 43.9 per cent were modified or otherwise disposed of.<sup>6</sup>

The topical analysis table has been made arbitrarily, choosing as the subject what has appeared to the writer to be the most important question decided. This table shows that, as in previous years, the bulk of litigation involved mostly procedural matters (24.5 per cent) and cases dealing with criminal law and procedure (23.5 per cent); 7.7 per cent of the cases dealt with questions involving family law; 6.7 per cent dealt with torts and workmen's compensation; and 6.2 per cent involved cases dealing with mineral rights.<sup>7</sup>

**Table I**  
**Volume of Judicial Business**

Cases disposed of with written opinions.....	208*
Applications for writs filed.....	179
Applications for writs considered.....	179
Applications for rehearings disposed of.....	86
Cases docketed (excluding writ applications).....	235
Total matters docketed.....	414
Total matters handled (excluding rehearing applications).....	352
Grand total of matters handled (including rehearing applications).....	438

\*This figure includes 35 of the 38 cases decided on supervisory writs and writs of review during the term. Cf. Table VIII.

4. See Table II.
5. See Table VI.
6. See Tables I & III.
7. See Table IV.

**Table II**  
**Disposition of Litigation**

	On Appeal from District Courts	On Appeal from City, Mayor's and Recorder's Courts	On Appeal from Juvenile Courts	On Certiorari or Renew to Courts of Appeal	On Supervisory Writs to District and Lower Courts	On Certificate from Courts of Appeal	Total
Affirmed.....	80	2	2	2	2	1	89
Affirmed in part and reversed in part.....	9				1		10
Affirmed in part, reversed in part and remanded.....	1				1		2
Amended and affirmed.....	8			3			11
Amended and remanded.....				2			2
Dismissed on motion.....	9						9
Motion to dismiss denied.....	6						6
Motion to dismiss granted in part, denied in part.....	1			1			1
Motion to recall writ denied.....				2	1		3
Petition denied.....				1			1
Remanded to lower court for dismissal.....				1			1
Remanded for further consideration.....	2						2
Reversed and rendered.....	13		1	1	2		17
Reversed and remanded.....	19	1		1	1		22
Reversed in part and rendered.....				1			1
Reversed in part, amended in part.....	1						1
Reversed and suit dismissed.....	12	1	1	2			16
Reversed and judgment of lower court amended.....				3			3
Reversed and judgment of lower court reinstated.....				2			2
Transferred to court of appeal.....	4				1		4
Writs denied.....					3		3
Writs made peremptory.....					1		1
Writs recalled on motion.....							
<b>TOTALS.....</b>	<b>165</b>	<b>4</b>	<b>4</b>	<b>21</b>	<b>13</b>	<b>1</b>	<b>208</b>

**Table III**  
**Disposition of Cases Reviewed on Writs of Certiorari**

	<i>Orleans</i>	<i>1st Circuit</i>	<i>2nd Circuit</i>	<i>Total</i>
Affirmed . . . . .	..	..	3*	3*
Amended and affirmed . . . . .	1	1	1	3
Amended and remanded . . . . .	..	..	2	2
Motion to recall writ denied . . . . .	..	1	..	1
Petition denied . . . . .	..	2	..	2
Remanded to lower court for dismissal . . . . .	..	1	..	1
Reversed and rendered . . . . .	..	..	1	1
Reversed and remanded . . . . .	..	..	1	1
Reversed in part and rendered . . . . .	..	..	1	1
Reversed and suit dismissed . . . . .	1	..	1	2
Reversed and judgment of lower court amended . . . . .	1	1	1	3
Reversed and judgment of lower court reinstated . . . . .	..	1	1	2
<b>TOTALS . . . . .</b>	<b>3</b>	<b>7</b>	<b>12</b>	<b>22*</b>

\*Includes one case on certificate from the Courts of Appeal. Cf. Table II.

**Table IV**  
**Topical Analysis of Reported Cases**

Administrative Law . . . . .	1
Banks, Banking and Negotiable Instruments . . . . .	2
Community Property . . . . .	1
Constitutional Law . . . . .	4
Corporations and Partnership . . . . .	2
Criminal Law and Procedure . . . . .	49
Elections . . . . .	1
Expropriation . . . . .	1
Family Law . . . . .	16
Insurance . . . . .	4
Labor Law . . . . .	1
Lease . . . . .	1
Local Government and Municipal Corporations . . . . .	10
Mandate . . . . .	1
Mineral Rights . . . . .	13
Obligations . . . . .	7
Practice and Procedure . . . . .	51
Prescription . . . . .	1
Public Law . . . . .	2
Sales . . . . .	7
Schools and School Districts . . . . .	1
Security Devices . . . . .	3
Statutory Construction . . . . .	1
Successions and Donations . . . . .	10
Taxation . . . . .	2
Torts and Workmen's Compensation . . . . .	14
Trade Regulations . . . . .	2
<b>TOTAL . . . . .</b>	<b>208</b>

**Table V**  
**Jurisdictional Origin of Reported Cases**

Appeals from District Courts.....	165
Appeals from City, Mayors' and Recorders' Courts.....	4
Appeals from Juvenile Courts.....	4
Writs of Review to Courts of Appeal.....	21
Certificate from Courts of Appeal.....	1
Supervisory Writs to Lower Courts.....	13
TOTAL.....	208

**Table VI**  
**Geographical Distribution of Appeals from District  
Courts in Reported Cases**

**A—By Parish**

Acadia.....	1
Allen.....	1
Ascension.....	1
Avoyelles.....	2
Beauregard.....	1
Bienville.....	2
Bossier.....	2
Caddo.....	16
Calcasieu.....	2
Catahoula.....	2
Claiborne.....	2
Concordia.....	1
DeSoto.....	2
East Baton Rouge.....	16
Evangeline.....	2
Franklin.....	2
Grant.....	1
Jackson.....	1
Jefferson.....	5
Jefferson Davis.....	1
Lafayette.....	3
Lafourche.....	1
Madison.....	1
Natchitoches.....	2
Orleans Civil.....	39
Orleans Criminal.....	16
Ouachita.....	2
Plaquemines.....	2
Rapides.....	9
Richland.....	1
Sabine.....	2
St. Helena.....	2
St. Landry.....	2
St. Martin.....	3
St. Tammany.....	1
Tangipahoa.....	2
Terrebonne.....	4
Union.....	1
Vermilion.....	1
Vernon.....	4

Table VI—Continued

Washington.....	2
Webster.....	1
Winn.....	1
<b>TOTAL.....</b>	<b>165</b>

**B—By Judicial District**

First District (Caddo).....	16
Second District (Claiborne, Jackson, Bienville).....	5
Third District (Lincoln, Union).....	1
Fourth District (Ouachita, Morehouse).....	2
Fifth District (West Carroll, Richland, Franklin).....	3
Sixth District (East Carroll, Madison, Tensas).....	1
Seventh District (Catahoula, Concordia).....	3
Eighth District (Grant, Winn).....	2
Ninth District (Rapides).....	9
Tenth District (Natchitoches, Red River).....	2
Eleventh District (DeSoto, Vernon, Sabine).....	8
Twelfth District (Avoyelles).....	2
Thirteenth District (Evangeline).....	2
Fourteenth District (Calcasieu, Jefferson Davis, Allen, Beauregard, Cameron).....	5
Fifteenth District (Acadia, Lafayette, Vermilion).....	5
Sixteenth District (St. Mary, Iberia, St. Martin).....	3
Seventeenth District (Terrebonne, Lafourche).....	5
Nineteenth District (East Baton Rouge).....	16
Twenty-first District (Tangipahoa, Livingston, St. Helena).....	4
Twenty-second District (Washington, St. Tamary).....	3
Twenty-third District (Assumption, Ascension, St. James).....	1
Twenty-fourth District (Jefferson, St. John the Baptist, St. Charles).....	5
Twenty-fifth District (St. Bernard, Plaquemines).....	2
Twenty-sixth District (Bossier, Webster).....	3
Twenty-seventh District (St. Landry).....	2
<b>TOTAL.....</b>	<b>110</b>
Orleans Criminal.....	16
Orleans Civil.....	39
<b>TOTAL.....</b>	<b>165</b>

Table VII

**Disposition of Applications for Writs and Rehearings Filed**

	<i>Granted</i>	<i>Withdrawn or not considered</i>	<i>Refused</i>	<i>Total</i>
Applications for rehearings.....	12	..	74	86
Applications for Writs.....	38	5	136	179
<b>TOTALS.....</b>	<b>50</b>	<b>5</b>	<b>210</b>	<b>265</b>

**Table VIII**  
**Disposition of Applications for Writs Filed**

	<i>Granted</i>	<i>Withdrawn</i>	<i>Not Considered</i>	<i>Refused</i>	<i>Total</i>
Supervisory Writs.....	14	..	..	54	68
Writs or Certiorari.....	24	1	4	82	111
<b>TOTALS.....</b>	<b>38</b>	<b>1</b>	<b>4</b>	<b>136</b>	<b>179</b>

**Table IX**  
**Dissents\***

	<i>With Opinion</i>	<i>Without Opinion</i>	<i>Total</i>
O'Niell, C. J.....	7	6	13
Bond.....	1	1	2
Fournet.....	4	2	6
Hamiter.....	4	7	11
Hawthorne.....	8	2	10
McCaleb.....	5	3	8
Ponder.....	2	2	4
<b>TOTALS.....</b>	<b>32</b>	<b>23</b>	<b>55</b>

\*In cases wherein rehearings were granted, the dissents tabulated are from the opinion on rehearing. Total number of cases in which dissents were expressed—38.

**II. PUBLIC LAW**

*Charles A. Reynard\**

**ADMINISTRATIVE LAW AND PROCEDURE**

*The Requirement of Exhausting Administrative Remedies As a Condition to Invoking Jurisdiction of the Courts*

Invoking the universally accepted principle that the courts will not entertain a proceeding where the plaintiff has not exhausted administrative remedies which are available to him, the supreme court in *O'Meara v. Union Oil Company of California*<sup>1</sup> added another decision to an unbroken line of cases which have been a part of Louisiana's jurisprudence for at least thirty years.<sup>2</sup>

\* Visiting Associate Professor of Law, Louisiana State University.  
1. 212 La. 745, 33 So. (2d) 506 (1947).  
2. The case of State ex rel. Tate v. Brooks-Scanlon Co., 143 La. 539, 78