

# Louisiana Law Review

---

Volume 23 | Number 2

*The Work of the Louisiana Appellate Courts for the*

*1961-1962 Term: A Symposium*

*February 1963*

---

## A Study of the New Appellate Structure

C. Jerre Lloyd

---

### Repository Citation

C. Jerre Lloyd, *A Study of the New Appellate Structure*, 23 La. L. Rev. (1963)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol23/iss2/5>

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 [kreed25@lsu.edu](mailto:kreed25@lsu.edu).

## A STUDY OF THE NEW APPELLATE STRUCTURE

C. Jerre Lloyd\*

Louisiana's new appellate system, which channels most appeals to four intermediate courts of appeal and permits the Supreme Court to select the more important ones for consideration through the granting of writs, has now been in operation for two complete fiscal years.<sup>1</sup> During those two years the Judicial Council of the Supreme Court has collected data on the flow of cases through the new structure, and it is now possible to make an evaluation of the change in the light of this data. First, however, it would be well to re-examine the conditions which prompted the appellate reorganization.

During the years immediately preceding the revision, about 900 appeals each year were lodged in the appellate courts. About one-third of these were filed in the Supreme Court and the other two-thirds in the intermediate courts of appeal. In addition to this annual case load of between 250 and 300 appeals, the Supreme Court received yearly an equal number of writ applications (Figure 1) and a chronic backlog of cases developed.<sup>2</sup> It was clear that unless the appellate structure were reorganized litigants would never be able to obtain complete review of their cases within a reasonable time. Accordingly, the Judicial Council of the Supreme Court formulated a plan whereby most of the Supreme Court's appellate jurisdiction was transferred to expanded intermediate courts of appeal, leaving the Supreme Court free to give more detailed consideration to applications for writs. The question now is: has the reorganization resulted in the efficiency the Council expected?

In terms of increased capacity to accommodate litigants, the answer is certainly yes. During the fiscal year just ended the new appellate structure afforded some 33% more litigants the opportunity for appellate review of their cases than during 1960, the last year of operation under the old system. Further, 85%

---

\*Judicial Administrator, Supreme Court of Louisiana.

1. The new structure is set forth in LA. CONST. art. VII, §§ 10, 19, 20-24, 26, 28-30, 36, 81, and 91, as amended, November 4, 1958, pursuant to La. Acts 1958, No. 561.

2. See Pugh & Pugh, *The Work of the Louisiana Supreme Court for the 1959-1960 Term*, 21 LA. L. REV. 277, 283 (1961), in which the age of reported cases in the Supreme Court from 1952 through 1960 is set forth. During that period, 40% to 50% of all reported decisions of the court had been pending there over a year.

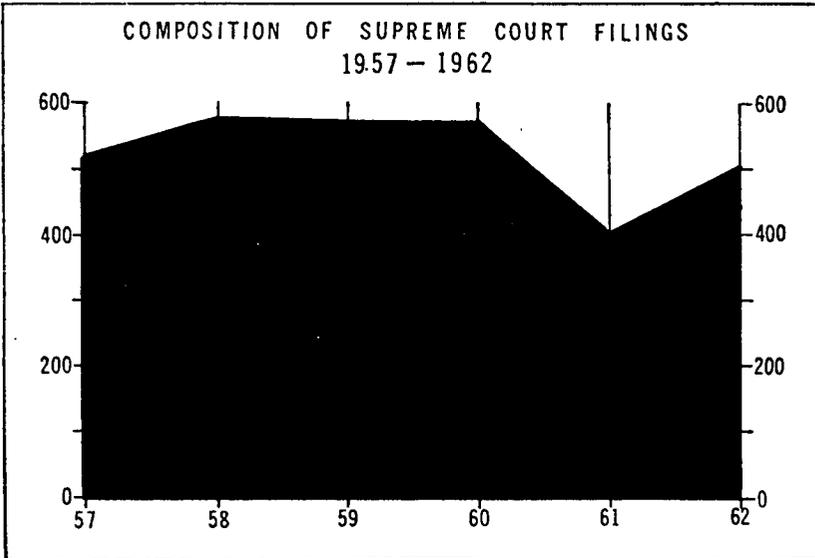


Figure 1

more cases were reviewed on applications for writs. During the last year of the old appellate structure, the Supreme Court and courts of appeal handled 1,020 cases. In 1961, they were able to handle 1,556, and during the fiscal year just ended the number jumped to 1,808 (Figure 2). And in over 1,200 of these cases, written opinions were handed down (Figure 3).



Figure 2

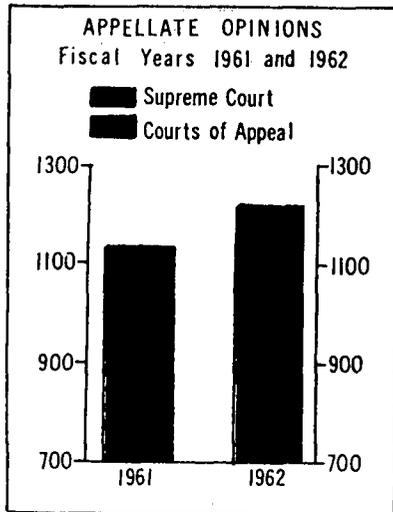


Figure 3

Apparently the new system's superiority lies not only in the accommodation of more litigants, but also in the speed with which cases can be heard and decided. Under the old system, nearly half of the cases in the Supreme Court waited over a year before a decision on them could be rendered and many waited two years or more.<sup>3</sup> Last year, however, most opinions were rendered in less than six months.<sup>4</sup> The median delay in a sample of 333 cases in the courts of appeal during the same period was five and one-half months from filing to decision. In circuits where no Supreme Court transfers were left, this delay was only three and three-fourths months.

In terms of efficiency, then, the new system has already proven a success. The Supreme Court and courts of appeal are now handling 75% more cases than they did prior to the revision, yet the litigants coming before them are getting their decisions faster.

3. For example, during the last term prior to the reorganization, 23% of the reported cases had been pending over two years in the Supreme Court. Pugh & Pugh, *The Work of the Louisiana Supreme Court for the 1959-1960 Term*, 21 LA. L. REV. 277, 283 (1961).

4. The median delay in the 89 cases where no rehearing was involved was five and three-fourths months from filing to decision; this means that half the cases took less time and half took more. However, the ones taking longer were all fairly close to the median, since the longest delay in the group was ten and three-fourths months.

COMPARISON OF 1961 TO 1962

Total filings during 1962 were up 23% in the courts of appeal and 24% in the Supreme Court. Nevertheless, the number of cases handled in the appellate system both years exceeded the current filings (Figure 4) and the Supreme Court maintained a current docket both terms. As expected, the appellate revision in 1960 altered the composition of the Supreme Court case load considerably. The number of appeals filed dropped from 277 during fiscal 1960 to 56 during 1961 (Figure 1). On the other hand, writ applications rose sharply during 1961, and by 1962 had increased 50% over 1960. The detailed consideration of these applications required by Supreme Court Rule XII (written reports on each writ application are presented to the conference by two Justices) now constitutes the bulk of the Supreme Court work. Writ applications also contribute to the case load of the courts of appeal,<sup>5</sup> but most of their work lies in handling the increasing number of appeals. Last year 1,107 appeals were filed in the courts of appeal, compared to 910 in fiscal 1961 — an increase of 22%. As shown in Figure 5, the courts of appeal have kept ahead of current filings both years.

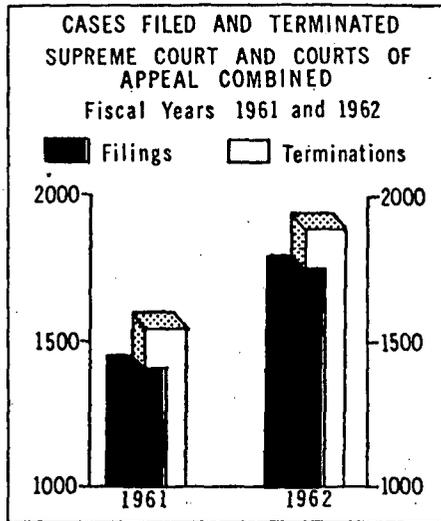


Figure 4

5. Seventy-two applications for writs were received by the courts of appeal in 1961 and 100 in 1962.

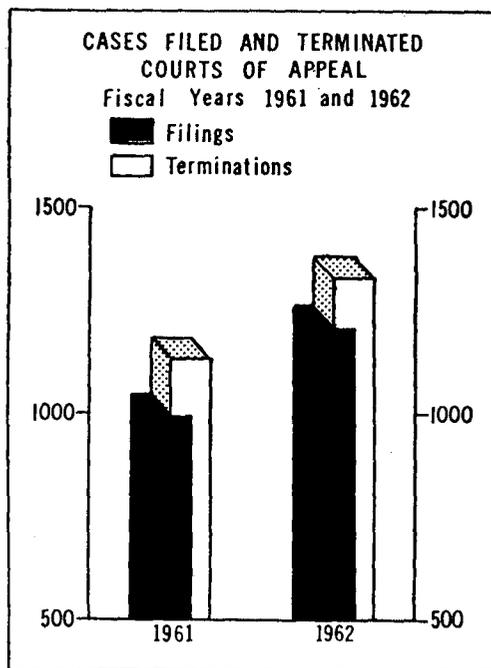


Figure 5

### EQUALIZING THE WORK

A problem of some concern to the Judicial Council immediately after the appellate revision was a disproportion in workload among the four circuits. The existence of backlogs of cases transferred to the courts of appeal by the Supreme Court when the jurisdiction was revised prompted the Council to sponsor the crash program to assist the Fourth Circuit during the summer of 1962; further assistance was furnished by the assignment of judges pro tempore to the Fourth Circuit during both terms and to the First Circuit during 1962.

These measures, even though effective — the crash program completely eliminated the backlog in the Fourth Circuit Court of Appeal — were intended for temporary conditions. Only the analysis of trends in current case filings could reveal whether a permanent increase in the number of judgeships was necessary.

It was possible to make such an analysis by comparing the amount of work each judge faced during fiscal 1961 and 1962 (Figure 6). During 1961 the Fourth Circuit's average filings

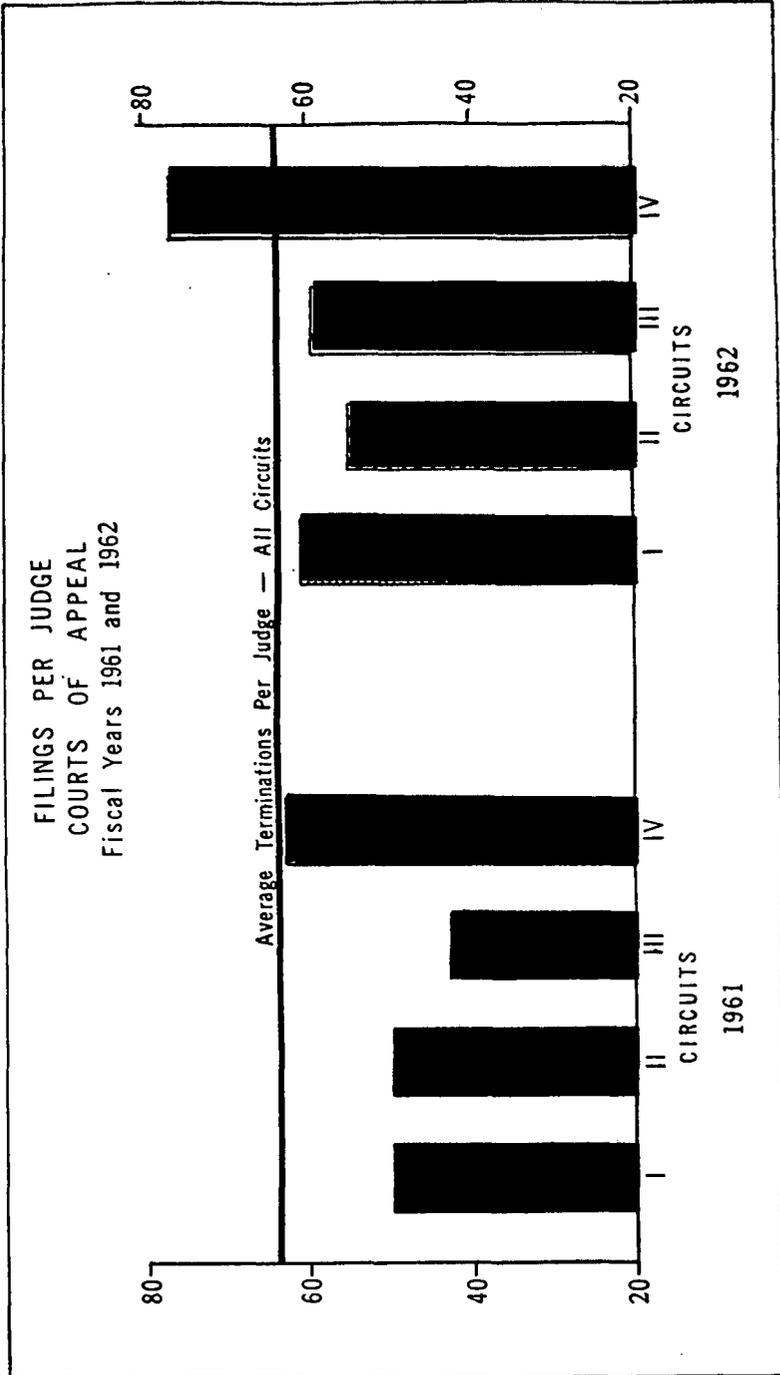


Figure 6

per judge exceeded the averages of the other circuits, and rose to 77 per judge in 1962. This imbalance prompted the Judicial Council to recommend an additional judgeship for the Fourth Circuit, which was subsequently created by the legislature.<sup>6</sup> It is anticipated that with the new judgeship taken into account, average filings of from 60 to 65 cases per judge should be uniform through the four circuits during 1963.<sup>7</sup>

---

6. La. Acts 1962, No. 20.

7. For detailed statistics on the work of the Louisiana courts, see 1961-62 REPORT OF THE JUDICIAL COUNCIL OF THE SUPREME COURT.