

**Federal Court of Canada
Annual Report 1994**

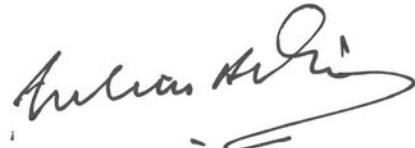
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This is a report on the activities of the Federal Court of Canada for the year ending December 31, 1994. Although there is no statutory requirement for the Court to publish an annual report, it is, in my view, a salutary practice to continue the publication of this instrument of accountability which was commenced by my predecessor, the Honourable Frank Iacobucci. Annual reports were published in 1988, 1989 and 1990, but publication was discontinued between 1991 and 1993 because of the need to focus on adjusting to major jurisdictional changes and on dealing with an unusually high level of Immigration and Refugee proceedings during that period. Adjustments have been made to the jurisdictional changes, and the Immigration and Refugee proceedings have now, happily, been reduced to manageable levels. For reasons of continuity, initiatives commenced in prior years which affected the activities of the Court in 1994 are included in this report.



Julius A. Isaac



1.0 OVERVIEW OF THE FEDERAL COURT OF CANADA

1.1 Establishment

The Federal Court of Canada was established in 1971 as successor to the Exchequer Court of Canada, which dates back to 1875. Both courts were established under the authority of section 101 of the *Constitution Act, 1867*, as "additional Courts for the better Administration of the Laws of Canada." The Court is a superior court of record, having civil and criminal jurisdiction.

The Court is bilingual, offering its services in both official languages of the nation, and bi-jural, administering two great legal systems - common law and civil law. It is also itinerant, in the sense that it may sit and transact business at any place in Canada, to suit, as nearly as may be, the convenience of the parties. Unlike most courts in Canada, the Federal Court travels to the venue most convenient to citizens.

1.2 Composition of the Court

The Court consists of two divisions: the Federal Court of Appeal and the Federal Court - Trial Division. The Court consists the Chief Justice, the Associate Chief Justice, ten judges of the Court of Appeal and nineteen judges of the Trial Division. The Chief Justice is president of the Court and of the Court of Appeal. The Associate Chief Justice is president of the Trial Division. Judges of each division are *ex officio* members of the other division. Five judges of the Court of Appeal, including the Chief Justice, and two judges of the Trial Division have been appointed directly from provincial superior courts.

In order to qualify for appointment as a judge of the Court, a candidate must be or have been a judge of a superior, county or district court in Canada, or a barrister or advocate of at least ten years standing at the bar of a province. At least ten of the judges of the Court must be persons who

have been judges of the Court of Appeal or Superior Court of Quebec, or have been members of the Quebec bar.

A list of judges of the Court as at December 31, 1994, containing details of their appointment and status as regular or supernumerary judges, as well as details of the appointment of those judges who retired during 1994 appears at page 3.

1.3 Other Duties

In addition to their normal duties, judges of the Court are required to devote considerable time to the work of other courts and tribunals. Judges of the Trial Division sit as Umpires to hear appeals under the *Unemployment Insurance Act*, under the leadership of the Associate Chief Justice, who is Chief Umpire.

Similarly, four judges of the Trial Division sit as members of the Competition Tribunal, of which Mr. Justice William P. McKeown is Chairman.

Judges of both Divisions sit as members of the Court Martial Appeal Court, of which Mr. Justice Barry L. Strayer is Chief Justice, act as commissioners for inquiries conducted under the *Immigration Act*, and sit as assessors under the *Emergencies Act*, the *Energy Supplies Emergencies Act*, the *Health of Animals Act*, the *Pesticide Residue Compensation Act*, and the *Plant Protection Act*. They also speak and write about the law and participate as lecturers, seminar leaders or panelists in continuing education programmes.

1.4 Committees

In order to involve judges in the work of the Court, the Chief Justice has appointed a number of committees, composed of representatives of both Divisions of the Court, to deal with discrete operational matters:

The **Accommodations Committee** deals with the physical accommodations for the Court in the National Capital Region and in centres where the Court maintains its

own local offices. This Committee is chaired by the Chief Justice.

The **Bench and Bar Liaison Committee**, chaired by Mr. Justice Mark R. MacGuigan, provides a forum for members of the bar to meet with the judges to discuss informally issues of concern to the bar which do not fall within the mandate of the Rules Committee.

The **Committee on Cameras in the Courtroom**, chaired by Mr. Justice Mark R. MacGuigan, has responsibility for supervising a pilot project on access by electronic media to proceedings in the Court of Appeal, in accordance with guidelines approved by the Court.

The **Federal Court History Committee**, chaired by Mr. Justice Allen M. Linden, performs an advisory and liaison role to the Osgoode Society, which has undertaken to publish a history of the Court from its

inception as the Exchequer Court of Canada to the present.

The **Judicial Education Committee**, chaired by Madam Justice Donna C. McGillis, organizes the Annual Meetings of the Court and arranges continuing legal education seminars for judges. Madam Justice McGillis succeeded Mr. Justice Barry L. Strayer who resigned as Chair in October 1994, after holding that office for two years.

The **Law Clerks Committee**, co-chaired by Mr. Justice Mark R. MacGuigan and Mr. Justice Paul U.C. Rouleau, oversees the recruitment, selection and continuing education of law clerks.

The **Library Committee**, chaired by Madam Justice Alice Desjardins, advises the Librarian on library objectives, policies, regulations, services and collection development.

Judges of the Federal Court of Canada

Chief Justice

The Hon. Julius A. Isaac
December 24, 1991

Associate Chief Justice

The Hon. James A. Jerome, P.C.
February 18, 1980

Judges of the Court of Appeal

The Hon. Louis Pratte
June 10, 1971 (Trial Division)
January 25, 1973 (Court of Appeal)
November 29, 1991 (Supernumerary)

The Hon. Louis Marceau
December 23, 1975 (Trial Division)
July 18, 1983 (Court of Appeal)
February 6, 1992 (Supernumerary)

The Hon. James K. Hugessen
July 18, 1983

The Hon. Arthur J. Stone
July 18, 1983

The Hon. Barry L. Strayer
July 18, 1983 (Trial Division)
August 30, 1994 (Court of Appeal)

The Hon. Mark R. MacGuigan, P.C.
June 29, 1984

The Hon. Alice Desjardins
June 29, 1987

The Hon. Robert Décary
March 14, 1990

The Hon. Allen M. Linden
July 5, 1990

The Hon. Gilles Létourneau
May 13, 1992

The Hon. Joseph T. Robertson
May 13, 1992

The Hon. F. Joseph McDonald
April 1, 1993

Retired

The Hon. Darrel V. Heald
June 30, 1971 (Trial Division)
December 4, 1975 (Court of Appeal)
January 2, 1993 (Supernumerary)
August 27, 1994 (Retired)

The Hon. Patrick M. Mahoney, P.C.
September 13, 1973 (Trial Division)
July 18, 1983 (Court of Appeal)
July 19, 1994 (Supernumerary)
November 1, 1994 (Retired)

Judges of the Trial Division

The Hon. Jean-Eudes Dubé, P.C.
April 9, 1975
November 6, 1991 (Supernumerary)

The Hon. Paul U.C. Rouleau
August 5, 1982

The Hon. Francis C. Muldoon
July 18, 1983

The Hon. Barbara J. Reed
November 17, 1983

The Hon. Pierre Denault
June 29, 1984

The Hon. Yvon Pinard, P.C.
June 29, 1984

The Hon. L. Marcel Joyal
June 29, 1984
July 19, 1994 (Supernumerary)

The Hon. Bud Cullen, P.C.
July 26, 1984

The Hon. Max M. Teitelbaum
October 29, 1985

The Hon. W. Andrew MacKay
September 2, 1988

The Hon. Donna C. McGillis
May 13, 1992

The Hon. Marshall E. Rothstein
June 24, 1992

The Hon. Marc Noël
June 24, 1992

The Hon. William P. McKeown
April 1, 1993

The Hon. Frederick E. Gibson
April 1, 1993

The Hon. Sandra J. Simpson
June 10, 1993

The Hon. Marc Nadon
June 10, 1993

The Hon. Howard I. Wetston
June 16, 1993

The Hon. Danièle Tremblay-Lamer
June 16, 1993

The Hon. John D. Richard
August 30, 1994

1.5 Prothonotaries

Prothonotaries are barristers or advocates of a province who are appointed to assist the Court in the efficient performance of its work. Their duties are assigned to them by the *Federal Court Rules*. In 1994 the prothonotaries of the Court were:

Jacques Lefebvre Senior Prothonotary	Ottawa Appointed 1985
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Peter A.K. Giles Associate Senior Prothonotary	Toronto Appointed 1985
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John Hargrave Prothonotary	Vancouver Appointed 1994
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1.6 Composition of the Registry

The Registry of the Court consists of a principal office in Ottawa and 16 local offices located across Canada. The Registry is headed by the Administrator, who is accountable to the Chief Justice for all administrative matters pertaining to the operation of the Court and Registry. He is also the deputy of the Commissioner for Federal Judicial Affairs for purposes of preparing the budgetary submissions for the Court, and making all administrative arrangements to ensure that the reasonable requirements of the Court for the carrying out of its operations are provided in accordance with law.

Registry staff appointed under the *Public Service Employment Act* carry out the various administrative functions as required by the *Federal Court Rules*.

The Registry is organized as follows: Office of the Administrator, Appeal Division, Trial Division, Regional Operations, Judicial Support Services and Administration. A list of principal staff as of December 31, 1994 is found at page 5.

A list of the local offices of the Court is provided at Appendix 1.

1.7 Judicial Administration

The Chief Justice is assisted in his management of the Court by an Executive Officer, who is also the Media Relations Officer for the Court and Secretary to the statutory Rules Committee. In addition, the Chief Justice and the Associate Chief Justice have designated Judicial Administrators to assist them in the scheduling of sittings of the Court and the performance of their non-judicial duties. The incumbents in 1994 were:

Executive Officer to the Chief Justice
Allison L. Small
Judicial Administrator (Appeal Division)
Huguette R. Narum
Judicial Administrator (Trial Division)
Pauline C. Bratt

REGISTRY

Administrator of the Court	Robert Biljan
Deputy Administrator - Appeal Division	John E. Clegg
Deputy Administrator - Trial Division	Paul F. Scott
Deputy Administrator - Human Resources and Security	Michael E. Doherty
Deputy Administrator - Judicial Information Services	William Wendt
Deputy Administrator - Facilities Management	Pierre R. Gaudet
Regional Director - Atlantic	Gerald Parlee
Regional Director - Québec	Monique Giroux
Regional Director - Ontario	Peter P. Pace
Regional Director - Western	Charles E. Stinson
Assistant Administrator - Finance and Administration	Gerald Parlee (Acting)
Assistant Administrator - Management Services	Robert Misener

2.0 JURISDICTION AND PROCEDURE

2.1 Jurisdiction

The Federal Court exercises a specialized jurisdiction in areas governed by federal law, including a limited criminal jurisdiction. For example, the Court exercises jurisdiction in admiralty, intellectual property, proceedings by or against the Crown in right of Canada, and the supervision of federal boards, commissions and other tribunals either by way of statutory appeal or judicial review. This jurisdiction, like that of the Exchequer Court, has evolved with the legislative responses by Parliament to the changing needs of Canadians and embraces a broad range of subject matter. A list of some of the federal statutes under which the Federal Court may exercise jurisdiction appears at Appendix 2.

2.2 Recent Changes in Jurisdiction

In recent years, two federal statutes have affected significantly the jurisdiction of the Court, and its allocation between the Court of Appeal and the Trial Division.

First, on February 1, 1992, Bill C-38, *An Act to Amend the Federal Court Act, the Crown Liability Act, the Supreme Court Act and other Acts in consequence thereof*, S.C. 1990, c. 8 was proclaimed in force. This legislation reformed the jurisdiction and procedure of the Court in three important respects:

1. Except for the tribunals listed in section 28 of the *Federal Court Act* or another Act of Parliament, in respect of which the Court of Appeal has the sole review jurisdiction, the exclusive jurisdiction of the Court to supervise federal boards and other tribunals was confided to the Trial Division.
2. Jurisdiction in actions against the Crown was made concurrent with that of provincial superior courts.

3. The rules of practice and procedure, formerly made by the judges, are now made by the statutory Rules Committee.

Secondly, on February 1, 1993, Bill C-86, *An Act to Amend the Immigration Act and other Acts in consequence thereof*, S.C. 1992, c. 49 was proclaimed in force. The two significant changes to jurisdiction and procedure were:

1. Virtually all decisions or orders made under the *Immigration Act* may be challenged only by way of judicial review by a judge of the Trial Division, with leave of the Court. Under the previous scheme, this function was performed by a panel of three judges of the Court of Appeal.
2. An important exception to the general power of the Court of Appeal to hear appeals from decisions of the Trial Division was created. Under the amended Act, an appeal from a decision of a judge of the Trial Division on any application for judicial review under the *Immigration Act* lies to the Court of Appeal only on certification by the judge hearing the application of a serious question of general importance.

2.3 Procedure

The general rules governing practice and procedure in the Court are made by the Rules Committee created under section 45.1 of the *Federal Court Act*, as amended by S.C. 1990, c. 8. The work of the Rules Committee during 1994 is reported in Part 2.4

The rules governing the practice and procedure to be followed in applications for leave to commence an application for judicial review pursuant to the *Immigration Act* are made by the Chief Justice. The *Federal Court Immigration Rules, 1993* were introduced February 1, 1993.

2.4 Rules Committee

The Rules Committee is composed of the Chief Justice, the Associate Chief Justice, seven other judges of the Court, a representative of the Attorney General of Canada, and five members of the practising bar nominated by the Canadian Bar Association. The representatives of the bar are drawn from all regions of the country and represent the various areas of practice within the jurisdiction of the Court. The Chief Justice is the statutory Chair of this Committee, but he has delegated this function to Mr. Justice James K. Hugessen, a judge of the Court of Appeal. The work of the Rules Committee in 1994 included the following initiatives:

Amending Order No. 16

Amending Order No. 16 to the *Federal Court Rules* came into force on January 12, 1994. Its purpose was to shorten and simplify many steps in proceedings before the Court by:

1. ensuring that the time for completing steps in the litigation process continues to run during the months of July and August, the "Long Vacation";
2. introducing procedures for formal offers to settle, summary judgment, and for ordering the expedited trial or hearing of any proceeding;
3. relaxing the requirements relating to deponents of affidavits of documents; and
4. revising the admiralty rules governing *caveats*, the preliminary act, the form and adequacy of bail, and limitation proceedings.

Amending Order No. 17 - Revisions to Tariff B

In December 1994, the Rules Committee approved proposed Amending Order No. 17, which revises significantly the tariff of costs to be awarded by the Court. The Amending Order has been distributed widely for public consultation. This consultation will continue in early 1995,

with the expectation that the new Tariff will be implemented by the fall.

Amending Order No. 18 - Case Management

In 1993, the Rules Committee mandated its Case Management Subcommittee, chaired by the Chief Justice, to examine the extent and causes of delay in litigation in the Court and to make recommendations for a case flow management system to reduce delay. In December 1994, the Rules Committee considered a report from the Subcommittee on its proposed design for a case flow management system, of which time standards are an integral part. A revised report entitled Amending Order No. 18 will be considered in the spring of 1995. Once approved by the Rules Committee, Amending Order No. 18 will be distributed to the public for comment. Implementation of a full case flow management system in the Trial Division is targeted for September of 1996, to be followed by a similar system in the Court of Appeal the following year.

Comprehensive Review of the Federal Court Rules

In 1993, with the assistance of Professors W. A. Bogart of the University of Windsor and Denis Ferland of Laval University, the Rules Committee began a comprehensive review of the *Federal Court Rules*. The project was undertaken with a view to harmonizing the *Federal Court Rules* with those of provincial superior courts, and making them more readily understandable, in order to enhance efficiency in the conduct of litigation.

The Committee has completed its review and has proposed recommendations for reform. These will be considered in the spring of 1995, and, if approved, will be included in a discussion paper outlining the recommendations and the general principles underlying them. The Committee expects to publish the discussion paper by mid 1995, and to consult extensively with the public throughout the rest of the year. The Rules Committee hopes to implement the new *Federal Court Rules* early in 1997.

3.0 COURT ACTIVITIES

3.1 Annual Meeting of the Court

In 1992, the Court instituted the practice of convening an Annual Meeting of all judges. Three meetings have been held - one in each of the falls of 1992, 1993 and 1994. The Annual Meeting provides a forum for judges to consider issues respecting the operation of the Court, and to examine emerging aspects of law and procedure which touch upon the specialized jurisdiction of the Court.

3.2 Cameras in the Courtroom

As a result of a request in 1993 by the Radio-Television News Directors Association for a pilot project to permit electronic media coverage of Federal Court proceedings, the Chief Justice appointed the Committee on Cameras in the Courtroom. The request was debated at the 1993 Annual Meeting, following which the Committee developed guidelines for a two-year pilot project to be conducted in the Court of Appeal between January 1, 1995 and December 31, 1996. These guidelines were approved at the Annual Meeting held in 1994 and were released to the public thereafter.

3.3 Delay Reduction Programme

In 1992, the Court established a Delay Reduction Programme. A computer-accessible inventory of the proceedings pending in the Court was created as a first step. Modifications to the existing computerized Proceedings Management System were completed in 1994 and included special computer programmes to permit the measurement of the elapsed time between various steps in the litigation process.

3.4 Judicial Education

Consistent with the *Standards for Judicial Education in Canada* approved by the Board of Governors of the National Judicial Institute in October of 1992, the Judicial Education Committee was established to develop continuing education programmes for judges of the Court. The Committee has sponsored the following programmes:

Lectures in Trademarks, Patents and Copyright were offered in the fall of 1992 and the spring of 1993 with the assistance of the National Judicial Institute and members of the Intellectual Property Bar.

With the assistance of the Canadian Maritime Law Association, a seminar on Admiralty Law was offered in the spring of 1993, and a further seminar is scheduled for December of 1995.

In addition to the Annual Meeting of the Court mentioned in Part 3.1, the Committee has also organized a number of "in house" seminars on the following topics: Refugee Determination Procedure, Recent Developments in the Law of Evidence, the *Corrections and Conditional Release Act*, and Gender Equality. The 1995 programme includes seminars on Practice Issues, Pre-trial Conferences, and the Management of Complex Trials.

4.0 VOLUME AND PACE OF LITIGATION

4.1 Introduction

As is mentioned in Part 3.3, in 1992 the Court established a Delay Reduction Programme (DRP) consistent with recommendations made by the Canadian Judicial Council in its report released in August of that year. As a first step, a computer-accessible inventory of litigation pending as at December 31, 1993 was created.

The inventory for the Court of Appeal is complete, and includes all proceedings initiated in that Division since its inception in 1971.

The inventory for the Trial Division is not yet complete. At present, it contains all litigation in which some activity has been recorded since October 15, 1990, when a computerized record-keeping system was initiated. Proceedings which have become active after December 31, 1993 are brought into the inventory. The Court plans to complete the inventory by the end of 1995, in order to ensure that it contains all unresolved litigation pending in the Trial Division at that time.

An important feature of the DRP is its ability to measure and report the elapsed time between events in the litigation process. The time taken to dispose of a proceeding in the Court has three major components. The first is the time taken by the parties to complete all steps required by the *Federal Court Rules* to prepare the case for hearing by the Court. This component is referred to as "perfection" in the Court of Appeal, and "readiness" in the Trial Division. Once a proceeding is perfected or ready, there is the further time required by the Court to schedule and conduct a hearing. Finally, there is the time required by the Court to consider the case and to render judgment after hearing.

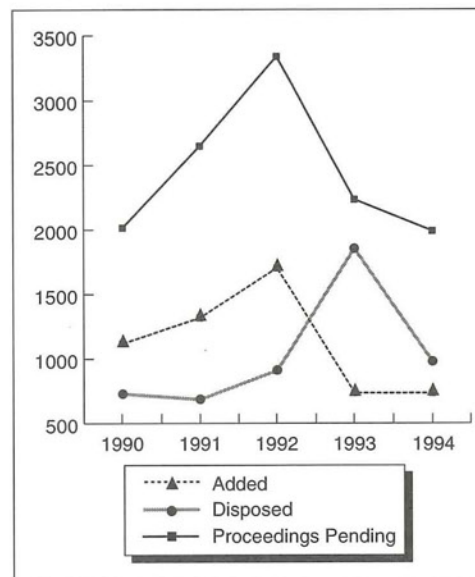
This chapter summarizes the information available about the volume and pace of litigation in the Court in 1994.

4.2 Volume of Litigation in the Court of Appeal

Figure 1 illustrates the size of the inventory of proceedings pending in the Court of Appeal at the end of each reported year, together with the number of proceedings added to the inventory and those disposed of each year. Applications for leave to appeal or to commence an application for judicial review under the *Immigration Act* are shown separately in Figure 2.

There were 2,234 proceedings pending in the Court of Appeal on December 31, 1993. 734 proceedings were added to the inventory during 1994 and the Court disposed of 978 proceedings, leaving 1,990 proceedings pending at the end of 1994.

Figure 1:
Court of Appeal
Proceedings added to/disposed of from Inventory
(Excluding Applications for Leave to commence Immigration Proceedings)



The period of significant growth in the inventory between 1990 and 1992 is attributable to the number of appeals and applications for judicial review under the *Immigration Act* that were commenced after leave had been granted by the Court. The decrease in 1993 includes the transfer of 775 of these proceedings to the Trial Division, as a result of the 1993 amendments to the *Immigration Act*.

Applications for leave to commence Immigration proceedings

As is mentioned in Chapter 1, jurisdiction in appeals and judicial review under the *Immigration Act* was exercised primarily by the Court of Appeal until February 1, 1993. Figure 2 shows the activity with respect to applications for leave to appeal or to commence an application for judicial review under former sections of the *Immigration Act*. With the amendments to the *Immigration Act* in 1993, this jurisdiction was transferred to the Trial Division, reducing the inventory in the Court of Appeal to zero. As shown in Figure 2, however, judges of the Court of Appeal continued to decide applications for leave in their capacity as *ex officio* judges of the Trial Division. Judges of the Court of Appeal decided 1,212 leave applications in 1993 and 1,157 leave applications in 1994.

Figure 2:
Court of Appeal Applications for Leave under the *Immigration Act*

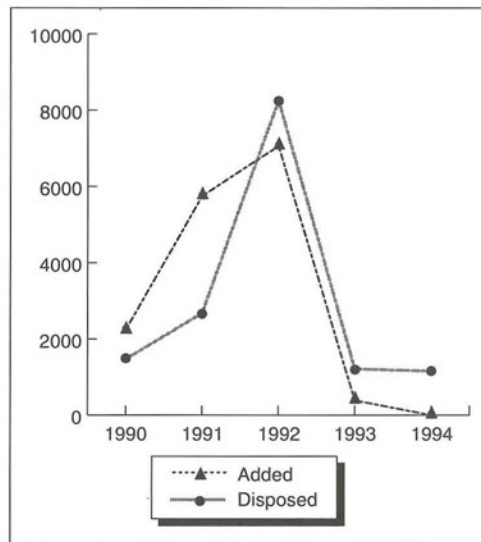
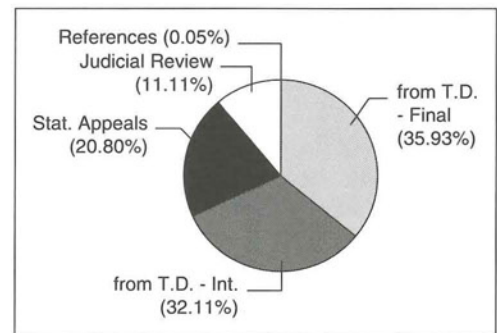


Figure 3 profiles, by major subject area, the 1,990 proceedings pending in the inventory as at December 31, 1994. The inventory comprised 1,354 appeals from the Trial Division: 715 appeals were from final orders, and 639 appeals were from interlocutory orders. The latter appeals are of major concern to the Court, because they contribute to delay in proceedings still unresolved in the Trial Division. As a result, these have been identified as a priority for disposition in 1995.

Figure 3:
Court of Appeal Profile of Proceedings Pending as of December 31, 1994



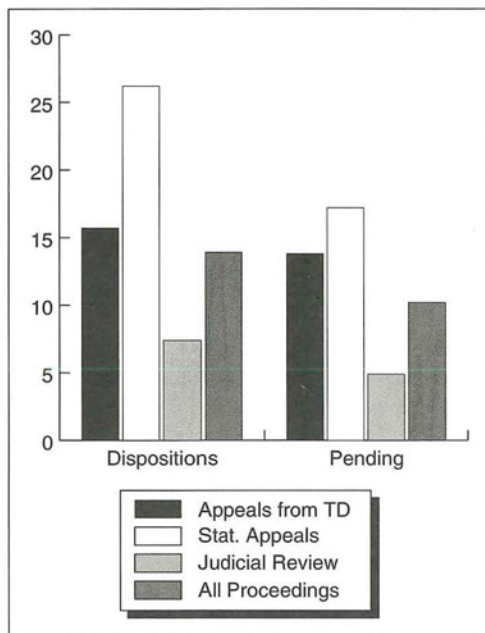
The remainder of the inventory consisted of 221 applications for judicial review, 414 statutory appeals and 1 reference from a federal board, commission or other tribunal.

4.3 Pace of Litigation in the Court of Appeal

Commencement to Perfection

Figure 4 compares the average time (in months) taken to perfect proceedings disposed of by the Court of Appeal in 1994 to those which were perfected but still pending at year end. A further comparison is made between the time taken to perfect Appeals from Trial Division, Statutory Appeals, and Applications for Judicial Review.

Figure 4:
Court of Appeal Average Time (in months) from Commencement to Perfection



Two trends emerge. First, the average time from commencement to perfection appears to be decreasing in all subject areas. The average time to perfection for all proceedings disposed of in 1994 was 13.9 months. Of the proceedings perfected but still pending, the average time was 10.2 months.

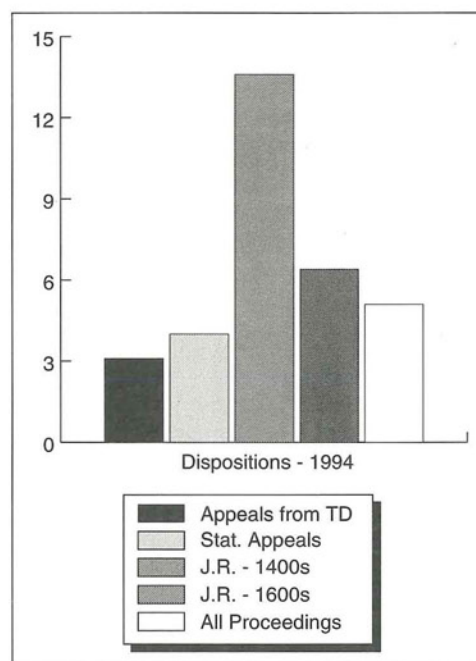
Secondly, it is clear that parties consistently take more time to perfect appeals from the Trial Division and statutory appeals than applications for judicial review. This trend can be attributed to an important difference in the procedural rules. Applications for judicial review are subject to strict time frames, which are enforced by the Court as part of its statutory obligation to hear and determine these applications “without delay and in a summary way.” Extensions of the time limits fixed by the Rules are available only on application to the Court. The Rules governing appeals from the Trial Division and statutory appeals, however, currently allow the parties to extend time limits on consent. As a result, parties took an average of 26.2 months to perfect statutory appeals disposed of in 1994, and 15.7 months to perfect appeals from the Trial Division. These figures are somewhat

lower for proceedings pending at year end: 17.2 months to perfection for statutory appeals and 13.2 months for appeals from the Trial Division.

Perfection to Hearing

As shown in Figure 5, proceedings disposed of in 1994 were heard, on average, within 5.1 months of perfection.

Figure 5:
Federal Court of Appeal Average Time (in months) from Perfection to Hearing



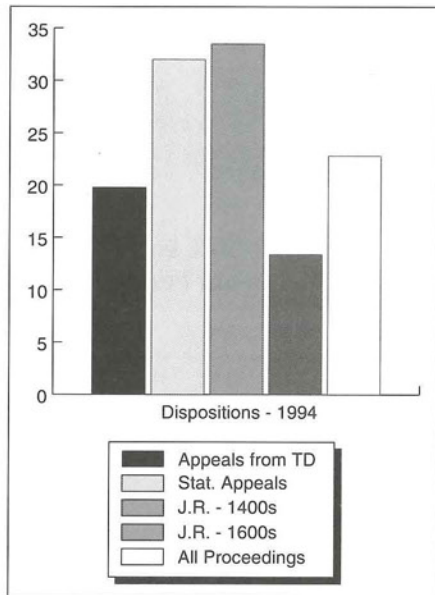
Hearing to Judgment

In 1994, the Court of Appeal delivered 600 judgments after full hearings. 51% of judgments were delivered from the bench. 49% were reserved. Judgments were delivered, on average, within 0.6 months of hearing.

Commencement to Judgment

Figure 6 reflects the time taken from commencement of a proceeding in the Court of Appeal to final disposition. As shown, the average time for all proceedings disposed of in 1994 was 22.8 months.

**Figure 6:
Court of Appeal Average Time (in months) from Commencement to Disposition**



Appeals from the Trial Division were concluded, on average, within 19.8 months of commencement.

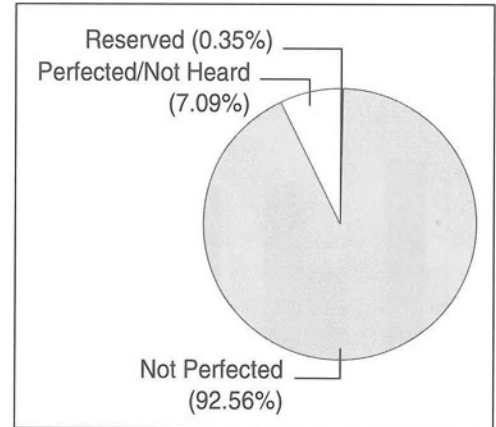
Applications for judicial review following the 1600 Rules were concluded within 13.4 months of commencement. Statutory Appeals and applications for judicial review under the 1400 Rules took 32.0 and 33.5 months respectively. Most of these proceedings were commenced by way of application for leave under the pre-1993 *Immigration Act*, and the elapsed time includes the time taken to apply for and obtain leave. The number of these proceedings remaining in the Court of Appeal has been greatly reduced and the Court expects an improvement in the overall pace of litigation in 1995.

Status of Pending Inventory

The data in Figures 4 - 6 describe concluded litigation. Of equal if not greater importance is the status of proceedings which are still outstanding. As shown in Figure 7, there were 7 judgments (0.35%) under reserve as of December 31, 1994. 141 cases had been perfected but not yet heard. Of these, 92 had already been given fixed dates for hearing, leaving 49 to be fixed. Over 90% of pending cases - 1,842

of the 1,990 proceedings in inventory - remained unperfected at the end of 1994.

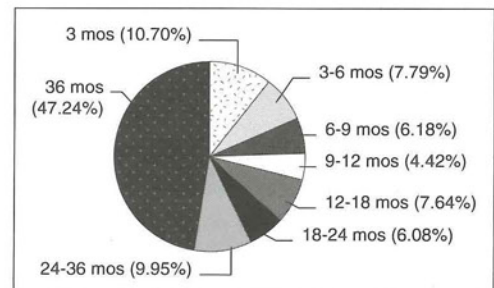
**Figure 7:
Court of Appeal Status of Pending Inventory as of December 31, 1994**



Age of Pending Inventory

The age of the pending inventory is illustrated in Figure 8. Over one half of the inventory - 1,138 cases - are over 2 years old. This exceeds the average time from commencement to disposition in 1994. Either most of these proceedings have been resolved without notice to the Court or the time taken to perfect proceedings is actually increasing. The Court has started to invoke its powers under Rule 327.2 to identify which of these proceedings are active and to issue orders dismissing those which are not. Where a proceeding is identified as active, the Court makes an order, on notice to the parties, expediting the hearing. This initiative will continue in 1995.

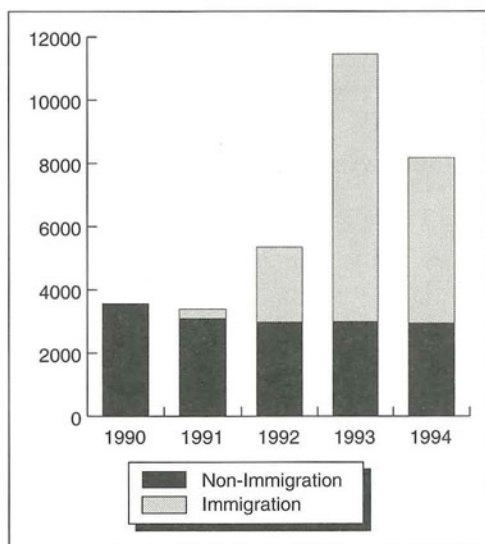
**Figure 8:
Court of Appeal Distribution of Inventory by Age as of December 31, 1994**



4.4 Volume of Litigation in the Trial Division

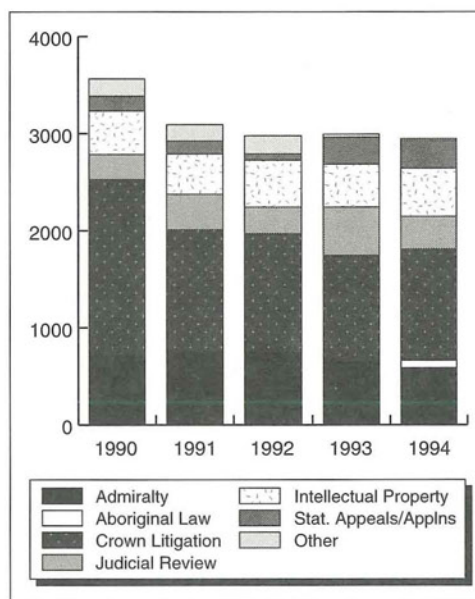
Figure 9 shows the number of new proceedings commenced in the Trial Division in each year since 1990. Immigration proceedings are shown separately from all other proceedings. As Figure 9 shows, Immigration has proved to be the most significant source of new proceedings in both 1993 and 1994, with 8,454 new proceedings commenced in 1993 (including 1,987 proceedings transferred from the Court of Appeal) and 5,224 commenced in 1994.

Figure 9:
Proceedings Commenced in the Trial Division



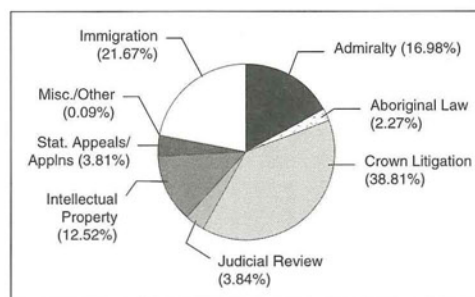
While new Immigration proceedings reached a peak in 1993, the number of new proceedings in the other areas of the Trial Division's jurisdiction has remained fairly constant - at approximately 3,000 per year - since 1991. Figure 10 profiles, by subject matter, the new proceedings commenced in areas other than Immigration.

Figure 10:
Trial Division New Proceedings Profile (excluding Immigration)



As of December 31, 1993, the pending inventory of the Trial Division stood at 13,390 cases. 8,487 proceedings were added to the inventory during 1994, and 10,227 dispositions were recorded. The inventory at the end of 1994 consisted of 11,650 proceedings. Figure 11 profiles the December 31, 1994 inventory by major subject area: Admiralty - 1,978; Aboriginal Law - 265; Crown Litigation - 4,521; Judicial Review - 447; Intellectual Property - 1,459; Statutory Appeals and Applications - 444; Immigration - 2,525 and Miscellaneous/Other Litigation - 11.

Figure 11:
Trial Division Profile of Pending Inventory as of December 31, 1994



4.5 Pace of Litigation in the Trial Division

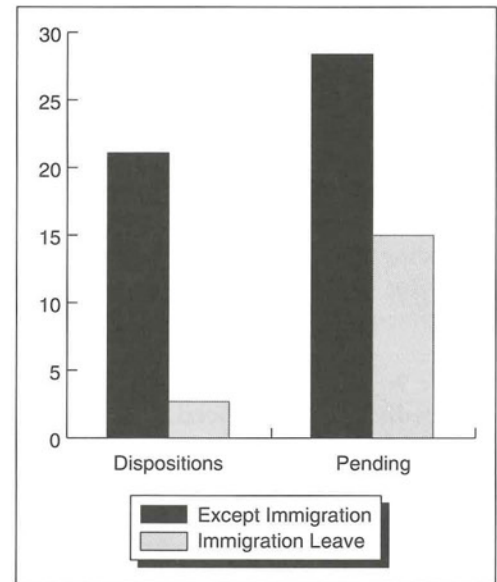
Commencement to Readiness

In most proceedings in the Trial Division, parties signify their "readiness" by the filing of a joint or unilateral application for trial. Applications for judicial review are considered to be ready either upon the filing of the applicant's supplementary record or upon the expiration of the time allowed for filing. Applications for leave and for judicial review under the *Immigration Act*, however, are considered ready upon the completion of the application for leave. Where leave is granted, the Court fixes the date for the hearing of the application for judicial review in the order granting leave.

In all proceedings disposed of in 1994 (except applications for leave and for judicial review under the *Immigration Act*) the average time taken from commencement to readiness was 20.7 months. The average time to readiness for applications for leave and for judicial review under the *Immigration Act* was 2.6 months.

As shown in Figure 12, the elapsed time from commencement to readiness appears to be increasing significantly. For proceedings which were "ready" but still pending in 1994, the elapsed time to readiness was 15.0 months for applications for leave and for judicial review under the *Immigration Act*, and 28.4 months for all other proceedings. To remedy the situation with respect to Immigration proceedings, judges of the Court of Appeal were assigned to continue to decide applications for leave in 1995, in their capacity as *ex officio* judges of the Trial Division.

Figure 12:
Trial Division Average Time (in months) from Commencement to Readiness

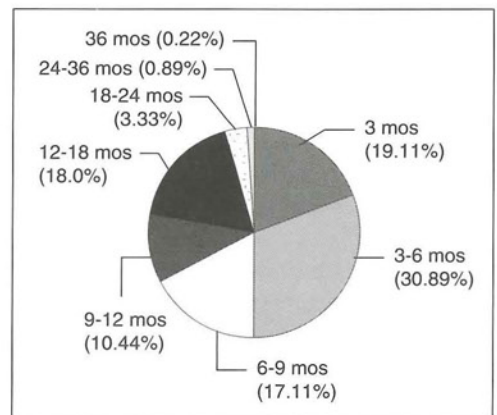


Readiness to Hearing

Applications for leave and for judicial review under the *Immigration Act* were heard, on average, within 8.3 months of readiness. The Court is mandated by statute to fix the judicial review hearing for a date which is within 90 days from the date leave was granted. The delay experienced in 1994 was a function of the large volume of leave applications to be decided.

All other proceedings disposed of were heard, on average, within 7.6 months of readiness. As Figure 13 illustrates, 67% of proceedings were heard within 9 months of readiness, and 95% were heard within 18 months of readiness.

Figure 13:
Trial Division Average Time (in months) from Readiness to Hearing Proceedings Disposed of in 1994 (Excluding Immigration)



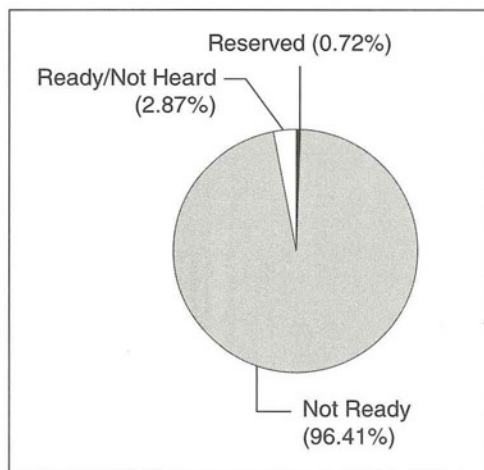
Hearing to Judgment

In 1994, the Trial Division rendered 1,439 judgments after full hearings. The average time taken to render judgment after hearing an application for judicial review under the *Immigration Act* was 0.7 months. The average time taken to render judgment in all other proceedings was 2.0 months.

Status of Pending Inventory

Figure 14 shows the status of the inventory of all proceedings (except Immigration) as of December 31, 1994. 64 judgments were under reserve at year end, and 451 cases were ready but not yet heard. Of these, 339 had been assigned fixed hearing dates, leaving 112 to be fixed. 8,605 of the 9,125 cases in the inventory were not ready for hearing.

Figure 14:
Trial Division Status of Pending Inventory as of December 31, 1994 Excluding Immigration



On December 31, 1994, the inventory of Immigration proceedings pending in the Trial Division stood at 2,525, of which 2,045 were applications for leave and for judicial review. 60 judgments (2.38%) were under reserve. 1,463 (57.94%) were ready but not yet heard. Of those that were ready, 252 were fixed for hearing, and 318

¹ By March 31, 1995 the Immigration inventory had been reduced to 1,606 proceedings, of which 1,169 were applications for leave and for judicial review.

remained to be fixed. An additional 893 leave applications were ready but not yet heard. 1,002 Immigration proceedings (39.68%) were not ready.¹

Age of Pending Inventory

Figure 15 illustrates the age of the pending inventory (excluding Immigration proceedings). The age of the Immigration cases in the Trial Division inventory is shown in Figure 16.

Figure 15:
Trial Division Age of Pending Inventory as of December 31, 1994 Excluding Immigration

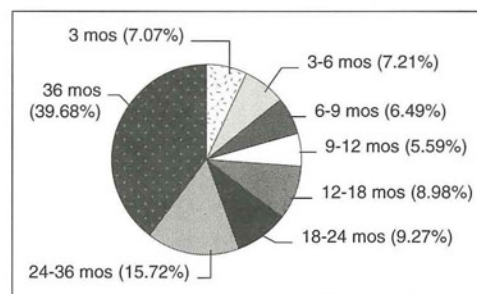
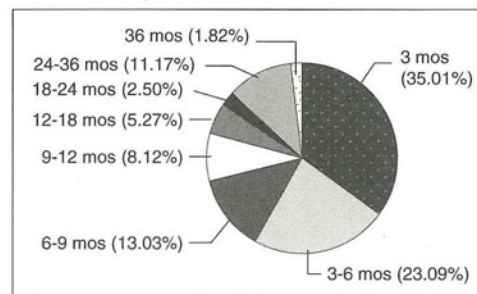


Figure 16:
Trial Division Age of Pending Inventory as of December 31, 1994 Immigration Proceedings Only



As shown in Figures 15 and 16, over 40% of the total inventory is over 3 years old. An additional 26% is over 2 years old. As with the inventory in the Court of Appeal, there is reason to believe that many of these cases have been resolved without notice to the Court. In 1995 the Trial Division will follow the lead of the Court of Appeal and remove from inventory those cases which do not require the attention of the Court, by making orders under Rule 327.2 to expedite the hearing or other disposition of active cases.

5.0 REGISTRY ACTIVITY

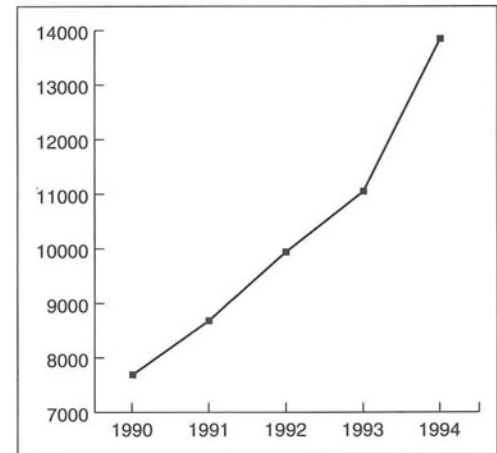
5.1 Overview

The Registry provides services to the Court, litigants, the legal community and the general public. Its role is to ensure that all cases before the Court are conducted in accordance with the Rules. This involves activities such as advising and assisting litigants on the rules of practice, court directives and procedures, assisting in case scheduling and courtroom operations, preparation of Court files, and the maintenance of Court records. Registry Officers frequently perform quasi-judicial functions such as taxation of costs, the arrest of ships in admiralty proceedings and references to determine damages.

Provision is made in many federal statutes for the filing of certificates, decisions or orders of federal boards, commissions or other tribunals as judgments of the Federal Court - Trial Division. These "administrative proceedings" rarely require the attention

of a judge, and are dealt with mainly by Registry Officers. These proceedings are not included in the DRP inventory. It should be noted, however, that they have almost doubled in number in recent years. As Figure 17 shows, 13,848 filings were made in 1994, as compared to 7,691 in 1990.

Figure 17:
Administrative Proceedings
Commenced



Appendix 1

OFFICES OF THE FEDERAL COURT OF CANADA

PRINCIPAL OFFICE - OTTAWA

Federal Court of Canada
Supreme Court of Canada Building
Wellington Street
Ottawa, Ontario
K1A 0H9

Appeal Division

Telephone: (613) 996-6795
Facsimile: (613) 952-7226

Trial Division

Telephone: (613) 992-4238
Facsimile: (613) 952-3653

LOCAL OFFICES

ALBERTA - CALGARY

Dan Buell
District Administrator
3rd Floor
635 Eighth Avenue S.W.
Calgary, Alberta
T2P 3M3

Telephone: (403) 292-5920
Facsimile: (403) 292-5329

ALBERTA - EDMONTON

R. Orrin J. Splane
District Administrator
Tower 1, Suite 530
Scotia Place
10060 Jasper Avenue
Edmonton, Alberta T5J 3R8

(Mailing Address: P.O. Box 51)
Telephone: (403) 495-4651
Facsimile: (403) 495-4681

BRITISH COLUMBIA - VANCOUVER

Charles E. Stinson
Regional Director, Western
Pacific Centre
700 West Georgia Street
Vancouver, British Columbia V7Y 1B6

(Mailing Address: P.O. Box 10065)
Telephone: (604) 666-3232
Facsimile: (604) 666-8181

MANITOBA - WINNIPEG

Roger E. Fréchette
District Administrator
4th Floor
363 Broadway Street
Winnipeg, Manitoba R3C 3N9

Telephone: (204) 983-2509
Facsimile: (204) 983-7636

NEW BRUNSWICK - FREDERICTON

Gerald Parlee
Regional Director, Atlantic
Suite 100
82 Westmorland Street
Fredericton, New Brunswick E3B 3L3

Telephone: (506) 452-3016
Facsimile: (506) 452-3584

NEW BRUNSWICK - SAINT JOHN

George S. Thériault
District Administrator
Room 413
Provincial Building
110 Charlotte Street
Saint John, New Brunswick E2L 2J4

Telephone: (506) 636-4990
Facsimile: (506) 658-3070

NEWFOUNDLAND - ST. JOHN'S

Henry J. Thorne
District Administrator
The Court House
Duckworth Street
St. John's, Newfoundland A1C 5M3

(Mailing Address: P.O. Box 937)
Telephone: (709) 772-2884
Facsimile: (709) 772-6351

NORTHWEST TERRITORIES - YELLOWKNIFE

Lysette Deyelle
District Administrator
The Court House
4905-49th Street
Yellowknife, Northwest Territories X1A 2L9

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Telephone: (403) 873-2044
Facsimile: (403) 873-0291

NOVA SCOTIA - HALIFAX

François Pilon
District Administrator
Halifax Ferry Terminal
5077 George Street
Halifax, Nova Scotia B3J 1M3

Telephone: (902) 426-3282
Facsimile: (902) 426-5514

Courtroom: The Law Court Building
1815 Upper Water Street
Halifax, Nova Scotia
B3J 1S7

*PRINCE EDWARD ISLAND -
CHARLOTTETOWN*

E. Dorothy Kitson
District Administrator
Sir Henry Louis Davies Law Courts
42 Water Street
Charlottetown, P.E.I. C1A 8B9

(Mailing Address: P.O. Box 2200)
Telephone: (902) 368-0179
Facsimile: (902) 368-0266

QUÉBEC - QUÉBEC

Mireille Bonin
District Administrator
Room 500 A
Palais de Justice
300 Jean Lesage Blvd.
Québec, Québec G1K 8K6

Telephone: (418) 648-4920
Facsimile: (418) 648-4051

SASKATCHEWAN - SASKATOON

Dennis Berezowsky
District Administrator
The Court House
520 Spadina Crescent East
Saskatoon, Saskatchewan S7K 2H6

Telephone: (306) 975-4509
Facsimile: (306) 975-4818

ONTARIO - TORONTO

Peter P. Pace
Regional Director, Ontario
3rd Floor, Bank of Canada Building
250 University Avenue
Toronto, Ontario M5H 3E5

Telephone: (416) 973-3356
Facsimile: (416) 954-0647 - Trial
(416) 973-2154
Appeal/Immigration

Courtrooms: 330 University Avenue
8th and 9th Floors

•
361 University Avenue
Courtroom 4-10

QUÉBEC - MONTRÉAL

Monique Giroux
Regional Director, Quebec
30 McGill Street
Montréal, Quebec
H2Y 3Z7

Telephone: (514) 283-4820
Facsimile: (514) 283-6004 - Trial/Appeal
(514) 283-5388
Immigration

SASKATCHEWAN - REGINA

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YUKON TERRITORY - WHITEHORSE

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Telephone: (403) 667-5441
Facsimile: (403) 667-4116

Appendix 2

Some statutes under which the Federal Court exercises jurisdiction

Access to Information Act
Bank Act
Bankruptcy and Insolvency Act
Broadcasting Act
Canada Agricultural Products Act
Canada Deposit Insurance Corporation Act
Canada Evidence Act
Canada Grain Act
Canada Labour Code
Canada Pension Plan
Canada Shipping Act
Canada Environmental Protection Act
Canadian Human Rights Act
Canadian International Trade Tribunal Act
Canadian National Railways Act
*Canadian Ownership and Control
Determination Act*
*Canadian Radio-Television and
Telecommunications Commission Act*
Canadian Security Intelligence Service Act
Canadian Space Agency Act
Cape Breton Development Corporation Act
Commercial Arbitration Act
Competition Act
Competition Tribunal Act
Cooperative Credit Associations Act
Copyright Act
Corrections and Conditional Release Act
Criminal Code
Crown Liability and Proceedings Act
Cultural Property Export and Import Act
Customs Act
Defence Production Act
Divorce Act
Emergencies Act
Energy Supplies Emergency Act
Excise Act
Excise Tax Act
Expropriation Act

Farm Credit Corporation Act
Fisheries Act
Foreign Enlistment Act
Government Railways Act
Hazardous Materials Information Review Act
Health of Animals Act
Immigration Act
Income Tax Act
Indian Act
Industrial Design Act
Insurance Companies Act
Integrated Circuit Topography Act
Investment Companies Act
Motor Vehicle Fuel Consumption Standards Act
National Defence Act
National Energy Board Act
National Transportation Act, 1987
Northern Pipeline Act
North West Territories Waters Act
Official Languages Act
Patent Act
Pension Benefits Standards Act
Pesticide Residue Compensation Act
Petroleum and Gas Revenue Tax Act
Plant Protection Act
Privacy Act
Public Service Staff Relations Act
Radiocommunication Act
Railway Safety Act
Royal Canadian Mounted Police Act
Special Import Measures Act
Tax Court of Canada Act
Trade Marks Act
Trust and Loan Companies Act
Unemployment Insurance Act
*United Nations Foreign Arbitral Awards
Convention Act*
Yukon Waters Act

