COMMISSIONS OF INQUIRY AND PARTICIPATION IN CANADA

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ABSTRACT

Commissions of Inquiry have been used as public policy instruments for hundreds of years by governments in Britain and since before confederation by governments in Canada. Over the years, the principle function of commissions has varied from minor investigations of specific instances of wrongdoing, to wide ranging investigations of major public policy issues. In Canada, a shift occurred from the former function to the latter during the 1930s and 1940s. Since the 1930s, Canadian commissions have also begun to actively encourage participation by members of the public in commission hearings.

This paper examines participation before commissions of both the traditional type and the modern type, with an emphasis on commissions which held hearings in the 1930s and those which held hearings in the 1970s. Sample commissions were chosen from both periods, and from both federal and provincial jurisdictions. Analysis of the participation data collected reveals that commissions have experienced a shift in the types of participants appearing before them from well-funded, highly organized interest groups and corporations in the hearings of traditional commissions to voluntary groups and individuals in the hearings of modern commissions.

Some consideration is given in the paper to the different mechanisms adopted by modern commissions to encourage and facilitate participation by people and groups with few resources. In particular, it is concluded from an analysis of the participation data that the number of locations at which commissions hold hearings has a substantial impact on participation by people and groups with few resources.
# TABLE OF CONTENT

Abstract ................................................. ii

Chapter I ................................................. 1

Table 1 - Participation Before Commissions of the
Traditional and the Modern Style ............... 22

Table 2 - Participation Before Commissions Dealing
With Different Issue-Areas ....................... 32

Figure A - Participation by Individuals Before Commissions
With Varying Numbers of Locations for Hearings . . . 38

Figure B - Participation by Voluntary Groups Before
Commissions With Varying Numbers of Locations
of Hearings ........................................... 40

Figure C - Participation by Individuals Before Commissions
With Varying Numbers of Days of Hearings .......... 44

Figure D - Participation by Voluntary Groups Before
Commissions With Varying Numbers of Days
of Hearings ........................................... 45

Notes ....................................................... 55

Commissions .............................................. 58

Bibliography .............................................. 60
If some Canadians have an interest in an issue, but they cannot afford to hire a lobbyist, and they do not have any good friends in or near Cabinet, how do they articulate their interest? The most likely answer is that they would resort to letter-writing and placard-carrying campaigns in the hope of capturing the attention of the news media or a sympathetic decision-maker. Unfortunately, the hope that letter-writing and placard-carrying campaigns will capture enough attention to allow a meaningful input to any given policy debate is largely futile. There are too many policies and too many interests for either elected or non-elected officials to be able to acknowledge, much less consider, each interest. Furthermore, without the resources needed to hire a professional lobbyist, it is very difficult to know which official might be sympathetic to a specific interest on a given issue.

The Canadian Commission of Inquiry is one mechanism which can be used for articulating interests directly to decision-makers without incurring the costs of lobbyists and without requiring social or political contacts with elected decision-makers. This paper will address the question of whether people and groups with few resources actually use the opportunities which are presented by commissions of inquiry. The thesis of this paper is that people and groups with few resources respond to the participatory opportunities presented by commissions of inquiry and that commissions, therefore, provide a needed supplement to the regular parliamentary mechanisms for interest articulation.

The Canadian Commission of Inquiry is a difficult institution to define. Commissions of inquiry are sometimes referred to as Royal Commissions, sometimes as Task Forces. The Law Reform Commission of Canada tried to define commissions by referring to statutory sources of commission mandates, but was not successful. At the federal level, the Public Inquiries Act is a commonly used empowering statute for commissions, but forty-seven other statutes provide for commissions of inquiry with
specific reference to the Inquiries Act, while forty federal statutes provide for commissions without any reference to the Inquiries Act. For example, the Berger Commission on the Mackenzie Valley Pipeline proposals was commissioned under the sole authority of the Territorial Lands Act. The Law Reform Commission finally defined 'commissions of inquiry' to refer to all government-sanctioned inquiries with a specific mandate to inquire into an issue.

The questions raised in this paper will be addressed principally by testing four hypotheses. The first hypothesis is that hearings held by modern commissions of inquiry will attract a larger proportion of participants with few resources than hearings held by traditional commissions, which had a large proportion of well endowed participants.

This hypothesis arises from the assertion to be developed below, that modern commissions use public hearings to actively encourage participation by as many interested parties as possible, while the traditional commissions preferred to use hearings primarily as a forum for getting formal input from people and groups who were identified by the commissioners as having a specific expertise which the commissioners wanted to draw upon.

The second hypothesis of this paper is that the proportion of participants who have few resources will tend to be greatest for those commissions which deal with issues of broad appeal and which are not perceived as highly technical in nature. The type of issue being considered by a commission should have some effect on the kind of participants appearing before the commission at hearings, but this effect should be overcome by the greater effect of enhanced opportunities for participation which are offered by modern commissions of inquiry. If it could be shown that the greatest effect on participation was merely the issue being considered by the commission, then
the efforts aimed at enhancing participation by people and groups with few resources would have to be considered to be of limited value.

The third hypothesis is that participation by people and groups with few resources is greatest as a proportion of participation in commission hearings for those commissions which conduct hearings in the greatest number of locations. The idea of taking the hearing to the participants has been one of the major hallmarks of the modern Canadian commission of inquiry. The argument in support of this hypothesis is that people and groups with few resources always want to participate in commission hearings but cannot afford to if they have to travel to Ottawa or Vancouver, or some other location so remote from Fort St. John or wherever these people and groups are located.

The fourth hypothesis is that participation by people and groups with few resources is greatest for commissions which hold hearings on the greatest number of days. This hypothesis is suggested by the argument that people will continue to fill commission hearings as more time is provided for those hearings. According to the thesis of this paper, such an argument should not be supported by the facts except where an extra day makes access to hearings easier due to other commitments on other days by potential participants. The thesis here is that specifically interested people and groups with few resources will respond to enhanced access, not that people will continue to drift in to commission hearings as long as the hearings are open.

The four central hypotheses of this paper can be summarized as follows:

1. The modern style of commission, with its emphasis on participation, attracts a larger proportion of participants who have few resources than the traditional style of commission which was not very concerned with participation.

2. Participation by people and groups with few resources is a significant proportion of total participation only for commissions which deal with issues of general appeal which are not perceived as highly technical in nature.
3. Participation by people and groups with few resources is greatest for commissions which conduct hearings in the greatest number of locations.

4. Participation by people and groups with few resources is greatest for commissions which hold hearings for the largest number of days.

Although the four hypotheses discussed above will form the core of this paper, some of the characteristics of modern commissions which affect participation before those commissions, but which are not directly addressed by the four hypotheses, will be briefly discussed toward the end of the paper. Some of these characteristics, such as representativeness of Commissioners and funding of intervenors deserve extensive empirical treatment. Unfortunately, for the commissions being considered here, data sources are not adequate to provide anything but a brief discussion of these characteristics.

The four hypotheses defined above will be tested by examining participation before thirteen commissions of inquiry, six of which were drawn from the federal jurisdiction, seven from the provincial jurisdiction of British Columbia. Data collected by examining the participation before these commissions will then be presented and analyzed in order to assess variations in the proportion of participants with few resources appearing before different commissions. The data will be analyzed in terms of explanations for variation which are suggested by the hypotheses.

The thirteen commissions which were used to collect data on participants who made presentations at commission hearings are listed below with their jurisdiction, the date of publication of their final report and the names of the commissioners, where the commissions are commonly identified by the commissioners listed in parentheses:


2. Royal Commission on State Health Insurance and Maternity Benefits (B.C.; 1932).
The choice of commissions for this paper was constrained by the need to test the hypotheses as well as by the definition of commissions being employed. First, commissions had to be chosen largely in pairs which examined roughly similar issues but in different time periods in order to facilitate the comparison between the early and modern commissions considered in the first hypotheses. This proved to be a substantial problem because commissions did not form convenient pairs dealing with identical issues in the appropriate time periods. Fortunately, a sufficient number of examples of similar commissions are available to compare the traditional style to the modern style. In some instances, the names of two commissions do not suggest comparability, but the actual proceedings are comparable on the grounds of the type of issues being considered and the way they were investigated.

The second constraint on the choice of commissions arises from the need, in testing the second hypothesis, to compare the effects of different kinds of issues on participation. Commissions had to be chosen to permit comparison between
commissions dealing with general, non-technical issues and those dealing with more narrow, more technical issues. The issues had to be different enough to permit worthwhile comparison, but not so different that the narrower issues precluded any participation on the grounds that nobody could be expected to be interested in the issue.

A third constraint on the selection of commissions was the desire to include both federal and provincial commissions in the study. For purposes of the second hypothesis, two issue areas from each jurisdiction were chosen. One provincial issue area and one federal issue area were chosen which could be labelled technical, while one provincial issue area and one federal issue area were chosen which could be labelled as general.

Data on participation before each of the commissions being considered in this paper was collected by referring to lists of witnesses appearing at hearings where such lists were available or by looking up transcripts of hearings, or for data on the B.C. Royal Commission on Coal and Petroleum Products, by combing through the handwritten daily notes of a diligent Commission secretary.

The nature of each participant and whether or not they had few resources was usually evident from transcripts of hearings. Many group participants, especially those appearing before modern commissions, were sufficiently well-known that little or no research beyond the group name was necessary. Witnesses appearing before many commissions identified their group's function and general structure as an introduction to their submission. These introductory comments made categorization of otherwise unknown groups fairly straightforward and reliable.

A very few groups such as GWAN, or Group Without a Name, defied identification of their nature or the resources available to them. These groups were gathered in a residual category. It is worth noting that the use of lists of witnesses
has its traps, such as a policy by some commissions of listing every person who appeared as a witness, although a number of these people may have appeared together representing a specific group. In such instances, the group was counted as having made one submission and the people representing the group were not counted as individual participants. Where different chapters of a group made submissions at separate hearings, using different individuals, the group was counted as having made a separate submission at each hearing.

The participation data used in this paper is based solely on records of oral submissions made before the commissions being examined. Participation in the form of written submissions was not included in the data being analyzed here for two main reasons. First, a comparison of the records of the oral and written submissions indicates a large amount of overlap. This overlap is a result of the practice of presenting a written submission in conjunction with an oral submission. In the records of the Rowell-Sirois Commission, the lists of the two types of submissions were almost identical.

The number of written submissions does not, however, always match the number of oral submissions from different categories of participants. The Corporate Concentration Commission received 10% more written submissions than oral submissions from corporations, and, correspondingly, 10% fewer written submissions than oral submissions from individuals. The Status of Women Commission received 33% of their total submissions in written form only. Of these, 70% were from individuals, 22% were from professional, student, church and other associations, and the remaining 8% were distributed more or less evenly amongst other types of witnesses. The records of both commissions were in fact unusual in finding such a difference between the written and oral submissions. Nevertheless, the overlap of oral
and written submissions received by both commissions was far greater than the number of submissions received in written form only.

The second, and most important reason for not including written submissions along with oral submissions is that the records of written submissions are not consistently complete for the commissions being studied. To a considerable extent the usual similarity in commission records between written and oral submissions may be a result of commissions not keeping a record of the many letters which they receive, especially from individuals, and which might be considered to be written submissions.

Each of the participants appearing before a commission at a hearing was categorized to allow analysis of the data. The categories used were:

1. Interest groups with extensive resources, referred to as institutional groups in this paper.

2. Interest groups which are united primarily by a concern for furthering the interests of a common profession or occupation. These groups are referred to as professional groups in this paper.

3. Interest groups with few resources which rely primarily on volunteers and strongly held common interests to carry their message. These groups are referred to as voluntary groups.

4. Individuals who participate on their own behalf in commission hearings.

5. Corporations which send representatives to hearings to articulate that specific corporation's interest in an issue.

6. Specific labour unions or union locals not appearing as representatives of an umbrella organization such as a labour federation or a labour council.

7. Political parties of all sizes which articulate their position on an issue before a commission examining that issue.

8. Governments. These include representatives of federal and provincial ministries and of municipal governments. Periodically, an elected member of a government will represent the government's concerns before a commission.

9. Characteristics such as universities, research organizations and churches which often provide expert submissions to commissions.
Classification of participants appearing before commissions is central to the analysis of data in this paper. The main function of the classification being used here is to identify participants which can be described, in general terms, as 'people and groups with few resources'. Participants which cannot be described as 'people and groups with few resources' have also been broken down into specific categories instead of being lumped into a residual category in order to provide a complete picture of trends in participation before commissions.

The central point in the question of who does and who does not have many resources is that, for purposes of the analysis in this paper, people or groups with few resources are unable to articulate their interests except through letters to MPs and MLAs and through attempts to attract media attention, such as protest marches. Articulation of interests either more effectively or more directly than by letterwriting campaigns or marches is very difficult, if not impossible, without substantial financial and organizational resources. The people and groups without these resources should perceive the greatest benefits from opportunities to appear before commissions of inquiry.

The classification scheme used in this paper to categorize participants appearing before commissions and, in particular, to identify 'people and groups with few resources' necessarily depends upon a set of assumptions about the resources needed to effectively articulate an interest in the regular political process. The assumptions relied on in this paper are largely drawn from the work of W.A. Wooton and A.P. Pross. These assumptions form a list of resources which form the basis of decisions about classification of groups appearing before commissions. It is assumed that individuals lack the organizational resources necessary for effective interest articulation, even though, in rare cases, individuals may have the necessary financial resources.
The resources which are most important for the purpose of effective interest articulation without the need for mechanisms such as commissions of inquiry include money and credit, some bureaucratic organization, control over jobs, control over votes, control over expertise and prestige in the eyes of decision-makers. It is important to recognize that mere access to these resources is not enough for effective interest articulation. The ability or desire to put them to effective use must also be present. The possession of resources should also be supplemented by interests and, therefore, objectives of any campaign of articulation which are specific and definable as opposed to general and poorly focused. Furthermore, there must be a recognition of the importance of organization as a resource to the extent that long-term organizational well-being is paramount to short-term policy goals.

The resources needed for effective interest articulation are most likely to be found among corporations and among what can be referred to as institutional interest groups. The institutional groups are usually organized by a number of wealthy, powerful members, such as corporations, to act as a voice for the common interests of the members. A good example of such a group is the Canadian Manufacturers Association (CMA). Corporate bodies are not the only good examples of institutional groups; the Canadian Labour Congress is another organization which fits into this category. Generally, the resources possessed by individuals, union locals and what can be referred to as voluntary organizations or citizens groups will be too few to maintain an effective articulation of their interests in the normal political process. A very few individuals and possibly a few union locals possess some of the resources necessary to articulate their interests directly to decision-makers, but these few examples are the rare exception to the rule.

The voluntary organizations, by definition, have few resources. Good examples of these groups are local associations of Concerned Parents for National Unity or for
Health Insurance or for any of a number of other issues. Other examples include the Group of Women from St.-Therese, Quebec or the Natural Parents Society or the Non-Partisan Committee for Canadian Unity Through Diversity. All of these groups consist of people who have an informal, general interest in an issue and who formed a rudimentary organization based on that interest.

Professional societies, such as those representing doctors or lawyers usually possess enough resources to effectively articulate their interests to decision-makers, but they usually lack the ability or desire to make the maximum use of those resources. Unlike the institutional groups, professional groups are very divided on their approach to different issues. While organizations such as the Canadian Manufacturers Association are united by a common self-interest, very few issues, if any, elicit a sense of common cause from professionals. However, because they have more resources to draw upon than voluntary groups, they must be identified by their own category, which can be called, simply, 'professional groups'.

Consideration of group resources must take into account the basic question, for present purposes, of whether the group has reasonably good opportunities for interest articulation without the help of commissions. In particular, some groups which lack many of the resources discussed above, are still considered to be institutional groups, for purposes of this paper. For example, the Consumers' Association of Canada do not have the kind of economic, self-interested, basis which most institutional groups have, but they do have national organizations, a long-term policy position, a high public profile and at least some opportunities for articulation of their interests to decision-makers. In some cases, groups such as the Consumers' Association receive financial assistance from ministries of government which are sympathetic to the goals of that group. These groups will be viewed as institutional groups in this paper because they
are generally able to articulate their interests directly to decision-makers without the aid of mechanisms such as commissions of inquiry.

A potential problem for the identification of voluntary groups is the appearance of people who claim to represent a group which is in fact a group in name only. In these cases, one or two people call themselves a group and appear before commissions and other bodies as representatives of that group. There is, in fact, no way of identifying such groups without tracing every group appearing before a commission. As a result, it must be hoped that instances of false groups are few. It would be surprising if many false groups were able to successfully lie about their organizations during submissions to commissions.

The final point which must be made about the classification scheme used in this paper is that the category which includes participants representing federal, provincial and municipal governments does not include native band councils or small village councils. These band and village councils appeared before the commissions being examined on only a few occasions, but they were categorized as voluntary organizations because, unlike most government participants, these councils do not normally have much better avenues of interest articulation than voluntary groups and they often represent very homogeneous ideas within a small community. Most government participants, on the other hand, appear before commissions to ensure that a particular point of view is represented or to provide the commission with otherwise unavailable expertise.

Given the establishment of the methods of analysis being used and the general data source being relied upon, it is now possible to turn to a discussion of each hypothesis and the analysis of the data being employed to test each hypothesis. The first hypothesis, as stated above, is that the modern style of commission, with an emphasis on participation, attracts a larger proportion of participants who have few
resources than the traditional style of commission which was not concerned about providing opportunities for interest articulation. This hypothesis assumes a distinct difference in the nature of traditional and modern commissions, and focuses on the trend toward providing greater opportunities for interest articulation rather than on specific tools used by commissioners to provide these opportunities.

All of the tools employed by commissions to enhance opportunities for articulation of interests before modern commissions of inquiry have been made available primarily because modern governments have recognized that commissions are very good forums for interest articulation, especially by those people and groups who could not normally afford to participate in the decision-making process. The value which many governments have placed on the interest articulation opportunities presented by commissions arises from the recognition that participation in the decision-making process can help tremendously in forming public support around a policy while defusing important pockets of opposition. The very fact of participation may be enough to create support and defuse opposition as a result of people and groups having had an opportunity to be heard. Otherwise, a carefully selected commissioner as well as participants with varied points of view may help to convince people that their opposition to a policy is not as well founded as they had thought prior to appearing before the commission. On the other hand, policy-makers may decide opposition to planned policy is overwhelming or their own position was not well thought out.

The value of expanding participation in the decision-making process beyond the confines of Parliament was recognized many years ago in Britain. The origins of the British Royal Commission can be traced back to the creation of the Domesday Book in 1080 - 1086. The use of commissions in Britain subsequently diminished until 1517 when the Tudor Commission focussed attention on the issue of land enclosures despite
the opposition of the large landowners who controlled the Parliament of that time. This led to a resurgence in the use of Royal Commissions when the monarch wanted wider representation in political dialogue than Parliament provided. Clokie and Robinson, in their study of Royal Commissions, comment that the monarch was not the only initiator of commissions. They argue that the Magna Carta provided for a commission with powers of inquiry into sheriffs, their servants and the forests they administered and that this commission was probably the first British commission of inquiry which was not 'Royal'.

The use of commissions in Britain ebbed and flowed over time, but was greatest during times of social change. G.M. Trevelyan commented in his history of nineteenth century Britain that commissions were "the customary prelude to legislation". He cited the new Poor Laws, the Municipal Reform Act and the Factory Act as pieces of legislation that were traced out by commissions. Royal Commissions were used to legitimize major policy changes such as those cited by Trevelyan because of a general acceptance of their authoritativeness. At the same time, governments were able to exercise a form of control by judicious use of the power of appointment. The public more readily accepted policies which had been considered by commissions before adoption as government policy than those which were only considered by cabinet or by parliamentary mechanisms such as committees of the legislature because commissions were widely perceived to be independent, thorough and relatively accessible to the public. This perception lent tremendous credibility to the findings of most Royal Commissions at that time.

Commissions of inquiry have not always been recognized by Canadian governments for their value as mechanisms of public participation in the decision-making process. As an institution, commissions of inquiry have been conducted in Canada since before confederation, but the traditional Canadian commission was
intended to conduct an inquisition into a specific matter and arrive at a finding of fact. Nevertheless, commissions not only existed many years ago, but sometimes travelled and often held hearings, although the travel was very limited and the hearings were by invitation only.

The statute from which many modern federal commissions get their authority, either directly or through reference in another statute, is the Public Inquiry Act. This Act was passed in 1846, although commissions of inquiry were probably conducted in Canada even before then. Despite the long tradition of use of commissions of inquiry in Canada, there is no comprehensive historical study of Canadian commissions. One study found that, up to 1977, there had probably been 1900 commissions under the Inquiry Act since confederation. Another study found 358 commissions of various kinds at the federal level between 1910 and 1919 alone.

In his historical overview of Royal Commissions, written in 1962, J.C. Courtney found that the greatest concentration of Royal Commissions in Canadian history occurred between the years of 1890 and 1919. Courtney argued that this concentration was probably the result of the tremendous population expansion and land settlement which was occurring in Canada at that time. Most of the commissions of that time, however, dealt with specific instances of maladministration or corruption or other matters which were not of any significant public interest. Commissioners saw their role in terms of thorough investigation but even where there was public interest in an issue, no attempt was made to encourage participation from people other than recognized experts or directly involved individuals. People who were not members of the corporate, government or academic elites were rarely consulted by the early twentieth century commissioners.

During the 1930s in Canada, commissions of inquiry were given a new role. Canadian governments began to recognize the value of commissions for expanding
participation in the decision-making process. Commissions in the 1930s, while not as numerous as those in earlier time periods, dealt with much broader issues such as federal-provincial relations and economic disruption associated with the Depression. Commissions began to recognize the value of participation by people with different interests in an issue. Unlike traditional commissions, which used a very formal and adversarial form of hearing in which a courtroom style of questions and answers was used to research issues, modern commissions began to adopt a less intimidating style of hearing. This change accelerated considerably after the 1930s. Hodgetts described the change as "the displacement of the bench and the bar".18

The modern style of commission has, since the 1930s, increasingly expanded the opportunities for participation before commissions. The traditional commission viewed its role as the pursuit of reasoned investigation leading to a specific conclusion. The modern commissions, on the other hand, have adopted the role, as ex-commissioner Berger has said, of "opening up issues to public discussion, of providing a forum for the exchange of ideas".19 The role of the modern commission has its origins at the time of the Rowell-Sirois Commission on Dominion-Provincial Relations, which reported in 1940, three years after being appointed.

The development of the idea of the modern commission accelerated tremendously after World War II.20 By the late 1940s, commissions were taking the idea of providing opportunities for participation very seriously. For example, the 1943 Royal Commission on Transportation was not given the authority to travel to the various regions of Canada as part of the public hearing process. Despite this lack of authority, the commission travelled to hearings throughout the country.21

During the 1960s, the encouragement of public participation became less important to the governments of the period. Commentators, such as J.C. Hodgetts, argued that public participation before commissions should be de-emphasized and
academic research should be emphasized because the issues were "so complex that the views of the general public cannot be expected to contribute much to the formulation of public policy". Hodgetts complained that "instead of the rigorous question and answer we find animated, if not heated debates going on between the commissioners and the witnesses". Governments of the 1960s agreed with the views of Hodgetts and others to the extent that most of the commissions of the 1960s were primarily research organizations.

By the end of the 1960s, many commentators were complaining that commissions were becoming internal, almost departmental, research organizations which, as a result, were losing some of their public stature. G. Bruce Doern argued, in 1967, that:

"When recent commissions in areas of recurring social and economic problems show a pronounced reliance on closed staffs rather than open public hearings, it may be thought that the democratization of the policy process, especially in this technological age of cumulative change, might be better served by an open hearing, a publishing right being given to dissenting views, or the development of alternative sources of policy intelligency by 'outside participants'".

Fortunately, at least for purposes of this paper, the trend toward using commissions as mechanisms for enhancing the opportunity for articulation of interests was revived in the 1970s. Commissions such as the Royal Commission on the Status of Women and the Task Force on National Unity in the late 1960s signalled the revival of this trend. Commissions such as the Mackenzie Valley Pipeline Commission and the Royal Commission on Electrical Power Planning in Ontario as well as many other commissions, including the modern commissions which are being examined in this paper, continued and developed the trend throughout the 1970s.

It is important to contrast the style of modern commissions in which the articulation of an interest before a public forum with media attention serves as a goal in itself, with the traditional commission to which submissions were made with the purpose of affecting the carefully reasoned investigation of the issue being considered.
Modern commissions positively induce participation by the general public but traditional commissions saw their investigatory mandate in more cautious terms.

The dominant popular attitude toward participation at the time of the traditional commissions was exemplified by the commissioners who conducted the Royal Commission on Coal and Petroleum Products, which reported in 1935. This commission went to a tremendous amount of trouble, especially by travelling to mine sites for hearings, to make itself available for oral submissions, unlike other traditional commissions. The avowed purpose of the travel involved in this effort, however, was to seek the corporate viewpoint. A small number of individuals did appear, but no voluntary groups appeared. Commissioner Macdonald of the Coal commission described the commission's mandate in terms of gathering information from industry about coal and petroleum and their effect on the respective industries "and the consequential effect thereof upon the residents of the Province." In other words, Macdonald, a prominent political figure in the provincial government, assumed that the commission only needed to get some expert information from the corporate sector before a conclusion could be reached about the issue at hand. Participation was not important for its own sake and the best determination of the public interest would be made by the government.

Macdonald's attitude should be contrasted with the view taken by commissioner Pepin of the Task Force on National Unity which reported in 1979. Pepin, during an interview published in Maclean's magazine, cited three parts to the commissions mandate. The first part was to "support the efforts of the public at large to resolve the problems of national unity and within that public particularly unity groups and associations in general." He cited the other two parts of the mandate as the production of ideas by the commission itself and the provision of advice to the government. The most important point here is that, unlike the Macdonald commission, the
National Unity task force saw the encouragement of participation itself as part of its mandate. As Pepin put it in a less formal comment, "One of our first preoccupations ... will be to establish a dialogue with the public."29

Many techniques for enhancing opportunities for participation before commissions were developed by the commissions of the 1970s. These techniques included funding of participants with few resources to allow such participants to pay for professionally-developed briefs to match the effectiveness of briefs prepared by institutional groups and others capable of paying for and organizing professionally-prepared briefs out of their own resources. Commissions of the 1970s put a lot of thought into how to distribute funds to witnesses without adequate resources of their own. These commissions also distributed a lot of money for this purpose.

Among the other techniques used by commissions of the 1970s was travel by commissioners which allowed hearings to be held in regional centres which, in turn, tremendously enhanced accessibility of commissions for those participants who could not afford to travel to Ottawa or Victoria for hearings. Other techniques include longer sittings for hearings, commissioners representing most of the key interests in an issue and extensive advertising of locations and dates of hearings, as well as techniques used during the hearings themselves, such as organized media relations to maximize news coverage and efficient scheduling to enable participants to plan their appearances.

Some commissions devoted considerable time to the analysis and development of the techniques they used to enhance the opportunities for participation before the commission. For example, the Porter Commission on Electrical Power Planning in Ontario devoted considerable space in its final report to an analysis of public participation hearings held by the commission, and of the reasons for that participation.
Although the effect on participation of holding hearings in regional centres and of holding extended sittings in each location will be tested by the third and fourth hypotheses, respectively, of this paper, the other techniques used by modern commissions for enhancing public participation in commission hearings will only be briefly discussed after each of the four hypotheses has been considered. The first hypothesis serves as a test for the effect of the general trend toward the use of these techniques on participation before commissions.

The data used to test the first hypothesis was developed by breaking the list of commissions being examined in this paper into two types, 'traditional commissions' and 'modern commissions', and then computing both the total number of participants appearing before all the commissions of each type, and the percentage of that total which fit into each of the nine categories of participants discussed above. The 'traditional' commissions are the Rowell-Sirois commission, the Price Spreads Commission, the Health Insurance Commission, the State Health Insurance Commission and the Coal and Forest Resources Commission. All of the traditional commissions reported before the 1950s. The 'modern' commissions are the Pepin-Robarts Task Force, the Corporate Concentration Commission, the Status of Women Commission, the Kent Commission, the Pearce Commission on Forestry, the Bates Commission on Uranium Mining and the Family Law Commission. All of the modern commissions reported in the late 1960s or later.

Table 1 presents the results of the analysis of the first hypothesis. To obtain these results, the participants appearing before each commission were categorized according to the nine categories discussed above. The total number of participants in each category was converted into percentages of the total number of participants appearing before each commission. An average of these percentages was calculated for the traditional commissions and for the modern commissions. For example, the
percentages of institutional groups appearing before every traditional commission being studied were averaged to get a single percentage for institutional group participation in traditional commissions. The same process was then repeated for the modern commissions.

The figures shown in parentheses in Table 1 represent participation before all of the modern commissions listed above, while the figures outside the parentheses, but in the column for modern commissions represent participation before the modern commissions other than the Family Law Commission. The reason for separating figures including data from the Family Law Commission from figures not including it is that this commission attracted such a large number of individual participants that percentage results from the category of modern commissions are distorted for all other categories of participants. The Family Law Commission attracted more total participants than all the other modern commissions being considered combined, but 2170 or 93% of the participants were individuals. These figures are large enough to overwhelm any contrary results from the other commissions. It is, however, important to notice that the trends in participation which support the first hypothesis are consistent whether or not data from the Family Law Commission is included in the calculations.
Table 1

Participation Before Commissions of the Traditional and the Modern Style

<table>
<thead>
<tr>
<th>Style of Commission</th>
<th>Traditional</th>
<th>Modern(^1)</th>
<th>Categories of Participants</th>
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<tbody>
<tr>
<td>13.5</td>
<td>7</td>
<td>(3)</td>
<td>Institutional Groups</td>
</tr>
<tr>
<td>13</td>
<td>16</td>
<td>(9)</td>
<td>Professional Groups</td>
</tr>
<tr>
<td>2.5</td>
<td>7</td>
<td>(3.5)</td>
<td>Voluntary Groups</td>
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<tr>
<td>23</td>
<td>38.5</td>
<td>(68.5)</td>
<td>Individuals</td>
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<tr>
<td>26</td>
<td>17</td>
<td>(7.5)</td>
<td>Corporations</td>
</tr>
<tr>
<td>15</td>
<td>5.5</td>
<td>(4)</td>
<td>Government Representatives</td>
</tr>
<tr>
<td>5</td>
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<td>(1)</td>
<td>Unions</td>
</tr>
<tr>
<td>0.5</td>
<td>2</td>
<td>(1)</td>
<td>Political Parties</td>
</tr>
<tr>
<td>1.5</td>
<td>4.5</td>
<td>(2.5)</td>
<td>Institutions (Research organizations, churches, etc.)</td>
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</table>

<table>
<thead>
<tr>
<th>Total number of Participants Appearing Before Commissions</th>
</tr>
</thead>
<tbody>
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<td>1402  1960 (4279)</td>
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</table>

NB: Commissions categorized as Traditional are: Rowell-Sirois, Price Spreads, Health Insurance, State Health Insurance, Coal and Forest Resources (1945). Commissions categorized as Modern are: Pepin-Robarts, Corporate Concentration, Status of Women, Kent, Pearse on Forestry, Bates on Uranium Mining.

1. The figures in parentheses represent the participation before the Modern commissions listed above with the addition of the Family Law Commission.
An analysis of the data resulting from inclusion of the Family Law Commission in the category of modern commissions leads to the conclusion that the proportion of individual participants appearing before modern commissions has expanded dramatically when compared with results for traditional commissions. Participation by voluntary groups has increased a little but participation by all other categories of participants has diminished significantly if the data inclusive of the Family Law Commission is analyzed. An analysis of the data exclusive of the Family Law Commission data leads to the same general trends but dampens the conclusion about participation by individuals, enhances the conclusion about increased voluntary group participation, shows some increase in professional group participation rather than a decrease and maintains the trend but not the degree of variation in participation by each of the other categories of participants.

The major difference between the Family Law Commission and all of the other commissions being examined is that the Family Law Commission was far more successful at attracting individual participants than the other commissions were. The reason for this unusual success is, essentially, that the Family Law Commission under commissioner Tom Berger put a great deal of effort into providing the best possible opportunities for participation before the commission.

One of the techniques used by the commission to increase opportunities for participation was to break the five commissioners into two travelling groups in order to cover more locations than would be possible if all five commissioners had to appear at each hearing. The commission also held separate hearings for both lay citizens and professionals, including agency representatives and organized community groups with the professionals, in the hope that lay citizens would not feel intimidated by the level of debate.
The commission also made extensive efforts to let people know in advance about commission hearings. Various forms of media were used for this purpose, including newspaper and radio advertisements and interviews with commissioners in all forms of media, but the commission felt, nevertheless, that too many concerned citizens did not know about the hearings and that even more money should be spent on advertising than they had spent. The commission also relied on local contact persons to encourage as many professional and voluntary groups as possible to voice their opinions at the hearings.

Other than a very high demand for opportunities for interest articulation, and a corresponding effort by the commission to provide those opportunities and make people aware of them, the high level of participation by individuals before the commission could be partially explained by a perception by the commission that the workshops they conducted in certain communities attracted some people who were frustrated with the service they were getting from government agencies and saw the commission as a form of ombudsman. If people were also drawn to public hearings for this purpose, some of the participation by individuals might be explained by the need for an ombudsman's office which did not exist in B.C. at the time of the commission. Nevertheless, most of the participation by individuals in the commission's hearings can only be explained by the high demand for interest articulation opportunities.

Notwithstanding the unusual statistics representing participation before the Family Law Commission, the analysis of the results presented in Table 1 supports the reasoning of the first hypothesis. Generally, the comparison of the participation in the hearings of commissions of the traditional style and in those of the modern style indicates that people or groups with few resources are participating more in the modern style of commission. The most important results for purposes of the first
hypothesis are those for voluntary groups and individuals. The participants which belong in these categories, except for a few individuals, have the most need of the opportunities presented by commissions in general and modern commissions in particular. In both of these categories, participation has increased significantly from the traditional to the modern commission.

On the other hand, the trend for the participants which have many resources and which have fairly good avenues of interest articulation without the need for forums such as commissions of inquiry, is toward a decreasing proportion of total participation. In particular, institutional groups and specific corporations are a significantly smaller proportion of the participants appearing before modern commissions than they were of the participants appearing before traditional commissions. Representatives of various governments also decreased significantly their presence in the hearings of modern commissions.

It is worth noting that the figures in Table 1 which represent participation before modern commissions but which do not include data from the Family Law Commission slightly understate the trend toward participation by individuals because the level of participation by individuals in hearings held by commissions which dealt with types of issues similar to those dealt with by the Family Law Commission, specifically the State Health Insurance and Maternity Benefits Commission, and the Health Insurance Commission which are included in the category of traditional commissions, also had very high levels of participation by individuals. Therefore, it is likely that the Family Law Commission would have had higher than average participation by individuals even if it had only maintained the proportion of individuals who appeared before the traditional commissions of the similar issue area. The State Health Insurance Commission received 47% of its oral submissions from individuals, more than double the average for the traditional commissions considered here.
One category of participants that might be expected to need the opportunities for articulation which modern commission hearings present, but which had a smaller presence before modern commissions than before traditional commissions, was unions. In the traditional commission hearings, unions represented 5% of all participants while in the modern commission hearings they represented only 2% of all participants. One possible explanation for this result is that unions are more willing than they previously were to rely on centralized political pressure groups to articulate their interests. This explanation may also apply to corporations. If corporations and unions have begun to rely on centralized organizations, they will no longer need commissions to articulate their interests.

On the other hand, at least some unions and corporations will still want to participate in commissions because, for example, they have few resources and are unable to articulate their interests effectively even within the institutional organizations which are supposed to represent their interests as well as those of the larger unions and corporations. Sometimes, unions and corporations with enough resources may want to articulate their interests before a commission just to be certain that their viewpoint is different from the interest of the umbrella organization or because they want to ensure that the commissioners understand their interest but they feel that the only way to be sure is if they appear themselves.

Participation before commissions by voluntary groups and individuals suggests both an increased use of umbrella groups and an increase in participation by individuals at the same time. Any tendency among people with few resources to organize into groups for purposes of interest articulation has been exceeded by the increased total participation by individuals in commission hearings. The modern style of commission has encouraged the organization of voluntary groups by providing funding and other
incentives to organizations but it has also attracted significantly more individual participants than the traditional commissions did.

The trend to greater participation by individuals is masked a little in its magnitude by the use of a particular investigatory tool used extensively by some traditional commissions. The Price Spreads Commission viewed its mandate as including the investigation of certain specific cases of possible price fixing. One such case involved the T. Eaton Corporation. The commission called large numbers of ex-employees and employees of Eatons in order to get first hand experience of pricing policies in Eatons as well as in other companies. There is no indication in the available transcripts that all or even many of these witnesses had a strong interest in the issue, but they wanted to help the commission and through it, the public interest. Modern commissions also call special witnesses, but never in such great numbers as those called by the Price Spreads Commission. There is, therefore, a possibility of some overstatement of the number of individual participants appearing before the traditional commissions.

The largest decline in participation from the traditional to the modern commissions occurred in the category of government representatives. Government representatives formed 15 percent of participation before traditional commissions, but only 5.5 percent before modern commissions excluding the Family Law Commission. The reason for the decline in government participation probably lies in the tendency of governments to view modern commissions as forums for permitting the articulation of various interests rather than for accumulating expert evidence. Significant government participation before modern commissions is evident only when a government body from a ministry or a board has a particular interest in an issue, such as a concern over competing claims to a given jurisdiction by different government agencies and ministries, as was evident in the hearings of Family Law Commission.31.
The government witnesses who appeared before modern commissions were often MPs and MLAs from communities which were particularly concerned about the issue being considered. These elected representatives probably felt a need to make their presence and, therefore, their concern about the issue, known to people in the communities they represented. One example of a modern commission which received above average government participation (7 percent) mostly in the form of elected representatives of concerned communities was the Kent commission on newspapers. Other than the local representatives, government participation before the Kent commission consisted of representatives of provincial press councils.

The increase in participation by political parties in commission hearings is not very substantial but supports the argument that hearings have become a more political forum as a result of the increased emphasis on participation. A few of the parties which appeared before the modern commissions were very small parties with a focus on a specific issue. These small parties participated for the same reasons and in the same manner as the voluntary groups. Most of the parties which appeared before commissions were, however, major political parties. The major parties appeared because of the public attention which commissions and, in particular, commission hearings attract. The media attention given to the hearings is substantial, as shown by statistics kept by the Family Law Commission.32

The data presented in this paper with reference to the first hypothesis supports the view held by modern commissioners, such as Pepin, that commissions of inquiry are very valuable for the opportunities which they can provide for the articulation of interests which might otherwise never be publicly heard in the course of dialogue limited to politicians and recognized experts. People with an interest in an issue but without the resources to effectively articulate that interest have responded favourably to the encouragement from the modern style of commissions to participate in public
hearings and, presumably, in the dialogue outside the commission which is created in part by the attention given to the commission and the issue being considered. The modern commissions have provided an alternative form of interest articulation to supplement letter-writing and marching with signs.

The second hypothesis of this paper is that participation by people and groups with few resources is a significant proportion of total participation only for commissions which deal with issues of general appeal which are not perceived as highly technical in nature. This hypothesis was tested by grouping commissions into four 'issue-area' categories and developing data which broke the participants appearing before each commission into the nine categories of participants which were described above. Two issue-areas were chosen from the federal jurisdiction, Federalism and Prices and Corporate Behaviour, and two issue areas were chosen from the B.C. jurisdiction, Non-Economic Family Welfare and Resources.

For the same reasons cited above in connection with the presentation of data concerning the first hypothesis, the data from the Family Law Commission was treated differently. In Table 2, which presents the data on the second hypothesis, the data from Non-Economic Family Welfare commissions is presented with the Family Law Commission data included in those figures outside the parentheses and excluded from those figures inside the parentheses. The Status of Women Commission was not included in the data because it did not fit any of the issue-areas being considered.

The first issue-area chosen from the federal level was price control and monopolistic behaviour. Three commissions were identified which fall into this category. The Royal Commission on Price Spreads reported in 1937, just as the traditional style of commission was beginning to change, the Royal Commission on Corporate Concentration reported in 1978, and the Royal Commission on Newspapers, popularly known as the Kent Commission reported in 1980.
Corporate concentration, newspapers and price spreads are examples of issues which may not appear to be comparable but which are in fact comparable when the issues actually dealt with by the commissions are considered. The Price Spreads commission found that most of their witnesses were primarily concerned with the concentration of economic power and how it affected prices. The Commissioners wrote in the final report of the commission that "it became clear that many of the grievances complained of, and the problems disclosed, were manifestations of a fundamental and far-reaching social change, the concentration of economic power." The Kent Commission also focussed to a large extent on the issue of corporate concentration with reference to the specific problems of the newspaper industry. The Corporate Concentration Commission tried to consider the ramifications of corporate concentration in numerous industries. Concerns about the concentration of economic power were central to all three commissions.

The second federal issue-area being considered is Canadian federation. This issue is one which is of broad appeal because it is such a popular Canadian topic and because it is not necessary for somebody to be an expert before they can hold a strong opinion and discuss the issue. In the issue of prices and monopolistic behaviour, on the other hand, most people are likely to feel confused about many of the technical arguments which are part of any discussion of the issue; therefore people are less likely to hold strong opinions on what has to be done about the issue. The first commission which dealt specifically with federation was the Royal Commission on Dominion-Provincial Relations, popularly known as Rowell-Sirois commission after the successive chairmen of the commission. The Rowell-Sirois commission reported in 1940. The second commission being considered which dealt with the federation issue is the Task Force on National Unity, which reported in 1979. This commission is popularly known as the Pepin-Robarts commission, after its co-chairmen. These
commissions are very comparable on the grounds of their subject matter. The comparison between them is very important because Rowell-Sirois was the beginning of the modern trend while Pepin-Robarts in many ways represents the maturing of the modern commission.

The first issue area drawn from the B.C. jurisdiction was non-economic family welfare. Three commissions were chosen from this issue area. The first was the Royal Commission on Health Insurance which reported in 1919, the second was the Royal Commission on State Health Insurance which reported in 1932 and the third was the Royal Commission on Family and Children's Law which reported in 1975. The first two commissions considered the issue of whether there should be a form of state health insurance, while the third covered the issue of the law which governs cases of family problems, with an emphasis on cases in which the welfare of children is involved.

The seemingly distinct issues of state health insurance and family law were combined under one category on the grounds that both issues deal with non-economic aspects of problems which face families in B.C. A number of participants who appeared before one of these commissions appeared before another in the same issue area. In fact, there was a fair amount of overlap among the participants who appeared before these commissions, which is particularly striking given the vast time difference between the commissions. Groups such as various residents' organizations and the Victorian Order of Nurses, for example, appeared before all three commissions.

The second B.C. issue area consists of commissions dealing with resource issues. There are four commissions in this category which will be considered in this paper: the Royal Commission on Coal and Petroleum Products, which reported in 1935; the Royal Commission on Forest Resources which reported in 1945; the Royal Commission on Forestry which reported in 1976 and the Royal Commission of Inquiry on Health and Environmental Protection - Uranium Mining, which reported in 1980.
Table 2
Participation Before Commissions Dealing With Different Issue-Areas

Participation expressed as an average of the Percentages of total participation before each commission

<table>
<thead>
<tr>
<th>Issue Areas</th>
<th>Canadian Federalism</th>
<th>Prices and Corporate Concentration</th>
<th>Non-Economic Family Welfare¹</th>
<th>Resources</th>
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<tr>
<td></td>
<td>23</td>
<td>9.5</td>
<td>4 (6)</td>
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<tr>
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</tr>
<tr>
<td></td>
<td>1.5</td>
<td>29</td>
<td>5 (3.5)</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>16.5</td>
<td>7.5</td>
<td>9 (12)</td>
<td>11</td>
</tr>
<tr>
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<td>0.5</td>
<td>4</td>
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<td>1.5</td>
</tr>
<tr>
<td></td>
<td>2.5</td>
<td>2</td>
<td>0.5 (1)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>1</td>
<td>2 (2.5)</td>
<td>1.5</td>
</tr>
</tbody>
</table>

|               | 1007                | 514                                | 2802 (473)                    | 956       |

¹Numbers in parentheses represent the average of the percentages of participants with the Family Law Commission excluded from consideration.

Commissions included in each issue-area:

a) Canadian Federalism: Rowell-Sirois, Pepin-Robarts
b) Price & Corp. Concentration: Price Spreads, Corporate Concentration, Kent on Newspapers
c) Non-Economic Family Welfare: Health Insurance, State Health Insurance, Family Law
d) Resources: Coal, Forest Resources (Sloan), Forest Resources (Pearse), Uranium Mining (Bates).
The second hypothesis is not generally supported by analysis of the data representing participation in different issue-areas. The more general, less technical issues did not consistently attract the most participation from people and groups with few resources. The two issues which can be termed broad and non-technical are Canadian federalism and non-economic family welfare. Federalism attracted the largest percentage of voluntary groups, but the smallest percentage of individuals, while the family welfare commissions attracted the largest percentage of individual participants, even without the family law commission, but the smallest percentage of voluntary groups. On the other hand, the prices and corporate concentration commissions attracted almost as large a percentage of individuals as the family welfare commissions and the resources commissions attracted the second largest percentage of voluntary groups.

The participation of some categories of interests were predictable along the lines of the second hypothesis. Corporations were far more evident as a percentage of total participation before commissions considering the two technical issue-areas. This result should not be surprising, given that these issue-areas had a direct bearing on corporate interests. On the other hand, the participation of institutional groups was by far the greatest in the hearings of the non-technical Canadian federalism commissions. This result is exaggerated by the 36% participation by institutional groups before the Rowell-Sirois commission. The Pepin-Robarts commission had a high percentage of institutional group participation in its hearings, but only slightly higher than the percentages for the other issue-areas.

Participation by all three categories of interest groups was extremely high in the hearings of the federalism commissions. This participation was probably the result of the high profile and wide-ranging significance of the issues which were canvassed. The issues involved were of such general significance that groups with various different
specific interests would have been affected. Furthermore, the high public profile of
the federalism commissions themselves and of the issue meant that the hearings were
an unusually good extra-parliamentary platform for expressing interests in the public
spotlight. For the same reasons, a large number of groups probably formed
specifically for these commissions.

Compared to the commissions considering the prices and corporate concentration
and family welfare issue-areas, the resources commissions attracted a large
percentage of voluntary groups to their hearings. The high level of participation by
voluntary groups before the resources commissions is attributable to the deep concerns
which many people have on matters of the environment which relate to resources. The
Bates commission, which focused on environmental concerns, received submissions
from a large proportion of voluntary groups (10% of all participants), many of which
had a specific interest in the environment. Also, the direct economic impact of
resource issues on many small towns in B.C. gave the resources issue a higher profile
than it might have been expected to have.

It is also possible that the very fact of an overly technical public discussion of an
issue which has an obvious impact on people's lives might encourage people to respond
to an opportunity to discuss the issue in simple, non-technical terms. The Bates
Commission on Uranium Mining encountered participants whose participation was
prompted by frustration with incomprehensibly technical public discussion of an issue
which affected them personally. The Commission commented on the apparent need to
include non-expert participation in discussions of technical issues:

"Many members of the public indicated a belief that the decision to
proceed with uranium mining is not a technical question to be determined
by experts and administrators, but rather an ethical one. The nature of
ethical decision-making is necessarily one in which all can participate as
such decisions are based on individual assessments of moral values." 34
Despite the fact that the direct impact of the resource issues attracted a larger percentage of voluntary group participation than the other issue-areas except federalism, participation by unions was very low. The family welfare issue-area attracted more union participants than did any of the other three issue-areas; however, all of the participation by unions in hearings held by the family issues commissions was in hearings held by the traditional commissions dealing with state health insurance. Unions participated in hearings held by those traditional commissions because the unions were eager to support the government health insurance schemes which were being considered. The prices and corporate concentration commissions also had a fair percentage of unions appear before them because of the unions' direct involvement in the issue.

Another important observation which can be drawn from Table 2 is that there is no evidence to suggest that the trends in participation before federal commissions were different to trends in participation before B.C. commissions. The two federal issue areas, federalism and prices and corporate concentration, do not have any appreciably different pattern of participation in commission hearings than do the two provincial issue-areas, family welfare and resources. In fact, the only category of participants for which participation is higher for the two federal issue-areas than for the two provincial issue-areas is the political parties category. Political parties may appear more before the federal commissions than the provincial commissions because of the need to display their concern over a given issue in each of the regions visited by a federal commission, but may not feel the same need in each of the small communities visited by provincial commissions.

Generally, while certain trends are evident between issue-areas, they are not strong and they are often overwhelmed by significant differences between commissions which dealt with similar issues but which had different patterns of
participation in their hearings. The differences between the commissions dealing with similar issues were usually attributable to the differences between the traditional and the modern style of commission. For example, the apparently high rate of government participation before commissions dealing with the federalism issue is not attributable, as might be expected, to any particular role governments feel they have in the issue. In fact, government participation before the two commissions in the issue-area differs widely with 28% participation before Rowell-Sirois, but only 5% before Pepin-Robarts. Any effect the issue may have had on government participation was overwhelmed by the trend away from government participation before modern commissions.

On the other hand, there is some room for predictability of participation according to issue-areas. A modern style of commission dealing with an obscure topic will not attract as much participation as a modern commission dealing with a topic with broad popular appeal. The data pertaining to the first and second hypotheses merely suggest that for the purpose of analyzing or predicting patterns of participation before commissions, the effect of the modern as opposed to the traditional style of commission is stronger than the effect of the issue-areas being considered by the commission.

The third and fourth hypotheses of this paper focus on the question of whether there is one particular characteristic of commissions which has been responsible for any increases in participation by people and groups with few resources. The particular characteristic considered in the third hypothesis is travel by commissions. Specifically, the third hypothesis suggests that participation by people and groups with few resources is greatest for commissions which conduct hearings in the greatest number of locations. The data pertaining to this hypothesis were analyzed by counting the number of locations in which hearings were conducted by a particular commission and then comparing this figure with participation by individuals and by voluntary
groups, each represented as a percentage of total participation. The results were then placed on the scatter diagrams shown in Figures A and B, respectively. No attempt was made to develop a curve because the number of cases is too small.
Figure A

Participation by Individuals Before Commissions with Varying Numbers of Locations for Hearings

Participation by individuals as a percentage of total participation

100

80

60

40

X X X X X

(Price Spreads X X
X 1935) X

20

X (COAL - 1935)
X (ROWELL-SIROIS - 1940)

0 5 10 15 20 25 30 Number of Locations of Hearings
The scatter diagram presented in Figure A provides evidence to support the contention that increased numbers of locations of hearings result in increased participation by individuals. The pattern which appears suggests a positive relationship between travel and participation by individuals.

Interestingly, the commissions which travelled extensively are not necessarily the modern commissions. The four provincial commissions of the traditional style all travelled fairly extensively. The example of the Macdonald commission, which travelled extensively for the purpose of getting input from corporate participants who were living in minesites located in the outlying regions of B.C. was discussed earlier in this paper. Despite its travelling, the Macdonald commission attracted very little participation by individuals. The other three provincial commissions attracted a fair amount of participation by individuals, commensurate with the amount of travel by the particular commission.

Two other significant exceptions to the positive relationship between participation by individuals and travel by commissions were found. Both of these exceptions were provided by commissions of the traditional style. The first exception is provided by the Rowell-Sirois commission. Like the Macdonald commission on coal, the Rowell-Sirois commission travelled a fair amount but attracted very little participation by individuals. The Price Spreads commission provided a different kind of exception. This commission did not travel at all, but it attracted a significant number of individual participants. As discussed earlier in this paper, the Price Spreads commission received a large number of individual witnesses who were requested by the commission to give personal evidence about firms, such as the T. Eaton Company, which were being considered as case studies by the commission.
Figure B

Participation by Voluntary Groups Before Commissions with Varying Numbers of Locations of Hearings

Participation by voluntary groups as a percentage of total participation

80

60

40

20

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<td>X(2)</td>
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</table>

Number of Locations of Hearings
Although there is some evidence of a positive relationship between travel by commissions and participation by individuals before those commissions, the results presented in Figure B provide no evidence of a relationship between travel by commissions and participation by voluntary groups. The two commissions which did the least amount of travel had very little voluntary group participation, but the four commissions which held hearings in the largest number of locations also had very little voluntary group participation. Even when the data from the Family Law commission is corrected to reflect an average level of individual participation, the level of voluntary group participation before the commission climbs from less than .5 percent to only 4 percent, despite the fact that the commission held hearings in 29 locations.

The most which can safely be said about the relationship between voluntary group participation in commission hearings and the number of locations where those hearings are held is that a reasonable number of locations is a necessary, but not a sufficient, prerequisite for attracting more than a very few voluntary groups to appear before commissions of inquiry. In fact, the four commissions, including one traditional commission (Rowell-Sirois), with the greatest percentages of voluntary group participation all held hearings at between 10 and 16 locations. On the other hand, three other commissions which held hearings at between 10 and 15 locations all attracted negligible participation by voluntary groups.

The limited effect of commission travel on voluntary group participation before commissions strongly suggests that the other tools which modern commissions use are particularly important for attracting participation by voluntary groups. Some degree of reasonable access must be provided but active solicitation of participation by voluntary groups is necessary in order to overcome the poor organizational resources of such groups which result in substantial inertia when it comes to getting the group involved in a collective effort. Analysis of the data presented in Table 1 demonstrates
that the general efforts made by modern commissions have resulted in greater participation by voluntary groups, but Figure B suggests that travel by these commissions is not the most important factor contributing to that result.

It is important to recognize that if hearings are held at a number of locations but these locations are not well distributed, participation by individuals probably will not increase significantly beyond the numbers that would participate with only one location for hearings. Individuals tend to participate more in hearings when the hearings are held in more than one location simply because they do not have to spend as many scarce resources of time and money travelling to hearings. Commissions cannot conduct hearings at every location where somebody would like to participate, but they can at least travel to that person's region and attract a number of other people from the same region.

It is much easier and much cheaper for B.C. commissions to provide maximum access to commission hearings than it is for federal commissions simply because of the fact that B.C. is smaller than Canada. Only those federal commissions, such as the Mackenzie Valley Pipeline commission, which only operate in a specific area, can readily provide the kind of access that provincial commissions can provide.

Nevertheless, every federal commission which was considered in this paper and which travelled, went to every province. The National Unity Task Force, for example, held hearings in every provincial and territorial capital except Victoria, and in Montreal, Vancouver and Calgary, as well as in Ottawa and Hull. The Corporate Concentration commission also held hearings in every region in the country but did not distribute the hearings in geographical terms as evenly as most commissions have done. This commission held hearings in eight locations in Ontario, seven locations in Western Canada, four locations in the Atlantic provinces, only three locations in Quebec, and one in Northern Canada. Despite a slight over-emphasis on Ontario
locations, and slight under-emphasis on Quebec and Northern locations, the Corporate
Concentration commission still managed to provide fairly good geographical access to
the hearings. There is very little doubt that commissions, especially of the modern
style, recognize the need to distribute hearings to provide maximum geographical
access.

The data pertaining to the third hypothesis support the proposition that increased
corporate travel by commissions results in increased participation by individuals, but does not
support the proposition that increased travel by commissions leads to increased
participation by voluntary groups. Even though there is general support for the
participation by individuals part of the hypothesis, this support is much stronger with
reference primarily to the modern commissions. The three exceptions to the support
which were cited were all provided by commissions of the traditional style. Only four
out of seven traditional style commissions but all seven modern style commissions
support the hypothesis as it affects participation by individuals.

The limited support for the third hypothesis is therefore further limited by the
observation that the modern commissions lend more support to the hypothesis than the
traditional commissions do. In practical terms, the conclusion to be drawn from the
third hypothesis is that individuals, not voluntary groups, generally respond to the
enhanced opportunity for participation provided by commissions that conduct hearings
in different locations. The general approach of the commission in terms of the style
of its hearings, and the publicity surrounding those hearings could, however, probably
negate the impact of those opportunities.
Figure C

Participation by Individuals
Before Commissions with Varying
Numbers of Days of Hearings

Participation by individuals
as a percentage of total participation

100

80

60

40

20

0  20  40  60  80  100  120

Number of Days of Hearings
Figure D

Participation by Voluntary Groups
Before Commissions with Varying Numbers of Days of Hearings

Participation by voluntary groups as a percentage of total participation

80

60

40

20

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Number of Days of Hearings
The fourth hypothesis, which suggests that increased numbers of days of hearings will result in increased participation by people and groups with few resources, is not supported by the evidence presented in Figures C and D. There is no apparent relationship between the number of days of hearings and participation in those hearings by either individuals or voluntary groups. The only possibility of a relationship is a curvilinear one between days of hearings and participation by individuals. The explanation for such a relationship might be that lengthy schedules of hearings fail to attract as much attention as shorter ones because of the expectation that nobody would be able to maintain their interest for the time span involved. At most then, there is only a tenuous relationship between the number of days of hearings and participation by individuals, but no relationship between number of days and participation by voluntary groups.

Other than numbers of locations of hearings and numbers of days of hearings, commissions have many specific characteristics which might be part of the reason for increased participation in hearings by people and groups with few resources. Most of these, such as informal hearings, are part of the modern style of conducting commissions which was considered as part of the first hypothesis. Nevertheless, some of these characteristics of modern commissions are worth brief discussion independent of the discussion of the general trend of modern commissions.

One characteristic which is very important in other jurisdictions where commissions are widely used, such as Britain, is the representativeness of the commissioners themselves. A hypothesis about participation and representativeness would suggest that commissions which included representatives of the various major points of view on an issue would be more legitimate and therefore more politically attractive to participants. Unfortunately, not enough of the commissions considered
In this paper were representative in their formation to provide adequate data for testing such a hypothesis.

In Canada, representativeness is not usually the thrust of commission efforts to appear legitimate. Canadian commissions tend to prefer an approach which emphasizes a high profile, 'impartial' chairman of the commission and two or three other 'impartial' commissioners. As a result, many commissioners are judges and professors, with the occasional 'widely respected' politician. Nevertheless, there is a growing number of representative commissions in Canada. In one sense federal commissions are usually representative because they usually draw commissioners from different regions of the country. The two Canadian federalism commissions were particularly sensitive about regional representativeness. The Pepin-Robarts Task Force had some trouble finding a commissioner of enough stature from Quebec, but they finally convinced Solange Chaput-Rolland to join them, much to the commission's and the government's relief.35

One strong indicator of a representative commission is the number of commissioners. British commissions, for example, tend to include a large number of commissioners in an attempt to represent all interests in an issue. In Canada most commissions have between three and five commissioners. The two outstanding commissions in the sample examined here were the Pepin-Robarts Task Force, with nine commissioners, and the Status of Women commission, which had seven commissioners. Both of these commissions made some attempt at being representative. The Rowell-Sirois commission had five members, but they were all professors and judges. The 1935 Price Spreads commission consisted of an entire Parliamentary Committee which took the status of a Royal Commission to pursue its investigation beyond Parliamentary limitations.
There is not enough of a representative trend in Canadian commissions to be able to draw strong conclusions about its effect on participation. Those commissions which did adopt a slightly representative approach to the composition of the commission were modern commissions, with some exceptions. It is possible that representativeness will become an important part of commissions which are interested in attracting participation. There are, however, many factors to be considered in the choice of commissioners, including expertise in the issue being considered, willingness to be a commissioner, as well as a good relationship or at least sympathy for the party in government. To some extent, however, representativeness of commissioners must be considered, at least so that commissions are not perceived by interested members of the public as predisposed to a particular policy. Most importantly, people must be able to respect the commission and to expect to be listened to.

When a commission does not have commissioners who represent different interests, care must be taken to foster a reputation of independence from the government or the commission will lose its reputation as a worthwhile forum before which to articulate interests. That independence must be maintained by avoiding any indications of pre-determined policies and by retaining the right and the likelihood of publication of commissions findings. In fact, most commissions have jealously guarded their right of publication. In an instance, the courts upheld the right of a commission to produce a report of their findings and, arguably, to publish that report. (CA) Kelly v Mathers (1915) 25 Man L.R. 580, at p. 603 and p. 609. The commission involved was The Manitoba Royal Commission on the New Parliament Buildings. Where governments try to suppress publication of a commission report, there is also the danger of leaks which in the case of the Gray Report of Foreign Investment embarrassed the government into publishing the entire report.
Another very important factor which is not directly addressed in the hypotheses of this paper but which has a significant effect on the extent and nature of participation before commissions is the perceived probability of effectiveness of commissions in terms of future legislative results. It is very difficult for commissions to raise hopes of immediate legislative results because examples of the legislative impact of other commissions usually have a substantial time lag between a commission's final report and legislative action arising from that report. One study, for example, attributed a delay of 19 to 30 years to statutory recognition of commission reports in Britain. It was pointed out in that study that commission reports and recommendations usually appear well ahead of the political compromises required for a major policy change.37 Canadian studies have come to similar conclusions with evidence of significant legislative effect over time for commission recommendations.38 In the course of trying to encourage public participation in commission hearings, commissioners have often commented on the long term effect of commissions by couching the expectations of the commission in terms of shaping future debate and political compromise on the issue being considered.

One very important characteristic of modern commissions which makes these commissions attractive forums for interest articulation, especially by people and groups with few resources, is the coverage of commission proceedings and findings by the news media. Media coverage results in greater advance publicity for commission hearings and in greater publicity of the ideas and of the more tangible results of the commission's proceedings.

Modern commissions are very aware of the importance of the media. In most instances, commissioners take full advantage of opportunities to talk about their commission with reporters from various forms of news media. Interviews discussing upcoming hearings can often be seen or heard on radio and television as well as in
newspapers and magazines throughout the jurisdiction of the commission. The hearings of modern commissions are often broadcast on community radio or television stations. All of this publicity is very important for raising the profile of commissions and, therefore, making people aware of the opportunities for participation before commissions.

Although very little study of the media coverage of commission hearings has been undertaken, it is worth nothing that at least one study found the public hearings themselves to be the object of greatest media interest. The Family Law Commission kept a record of the media coverage of the commission and found that the maximum coverage was given to the public hearings. The hearings were the subject of almost double the number of news items as the next major issue, despite the large number of information packages and press releases which the commission prepared and distributed about specific issues dealt with by the commission.39

Although people may have trouble recognizing the value of commissions from the point of view of anticipated legislative results, media coverage of commission hearings can facilitate the recognition of non-legislative results of the articulation of interests before commissions. People following media coverage of ongoing hearings may recognize the opportunity presented by public hearings to affect non-governmental actors in the policy process. An example of such an effect was cited by a study of the Barber Commission on Farm Machinery Costs. The study found that "Many of the Commission's recommendations never emerged as legislation at either federal or provincial levels of government, although farm machinery companies, suddenly thrust into the public spotlight, made hasty changes to their pricing structures."40

Modern commissions often exploit the opportunity to provide a mechanism for non-legislative change. The Mackenzie Valley Pipeline commission asked corporate representatives to travel with it to hear various native submissions in locations along
the proposed pipeline route. As a result of hearing the personally expressed feelings of local people, one of the members of the pipeline consortium actually pulled out of the proposal. The administrative secretary of the Pearse Commission on Forestry commented that she and the commissioner purposely scheduled hearings so that participants with different points of view had to listen to each other. The commission used this scheduling device because of the understanding and therefore compromise which can result. The advantage of results such as compromise between participants is that the benefit of the commission is obvious. The value of commissions and, therefore, the desire to participate, can be maintained best when results of participation are obvious. Where commissions have been able to raise the hopes of people and groups with few resources that the commission's hearings will provide a focus for different actors to communicate with each other, the results in terms of increased participation have been significant. The Family Law Commission commented that its public hearings, which had been publicized extensively, served as a catalyst to draw participation from various interested groups. The commission commented in its final report that many groups operating in various communities used the hearings to re-establish cooperative relationships with other groups having complementary interests.

In some cases, hearings which show promise of attracting media attention are used by groups as a means of reaching members of the public who might share the group's interest and encouraging those individuals to become active in the policy process if not in the commission hearing themselves. For example, one participant in the Mackenzie Valley Commission commented that "The Berger hearings played an important role in politicizing the people in the North. The Dene viewed the inquiry as an organizing tool ... a way of creating political awareness". Similarly, a commentator on the Mackenzie Valley Commission hearings said that "despite the
motivation governments may have for holding a hearing, community groups felt that
the hearing itself and the process prior to the hearing were extremely valuable.\textsuperscript{46}

One very important characteristic of modern commissions which makes the
process leading up to public hearings seem valuable for voluntary groups is the
provision of funds for the preparation of submissions to the commission. Any funding
opportunity is very important for voluntary groups, but funding provided to prepare for
commission hearings where media attention will be focussed is extremely valuable.
Groups which are unable to compete with the sophisticated arguments presented by
institutional interest groups in the normal political process have a rare opportunity to
compete on relatively even terms with well-funded institutional groups when
commissions provide funding for preparation of briefs.

The idea of direct funding was only developed in the 1970s, but is now used
extensively by commissions at both the federal and provincial levels.\textsuperscript{47} The Berger
Commission on the Mackenzie Valley Pipeline distributed 1.8 million dollars to interest
groups which the commission decided were in need of financial assistance. The Porter
Commission on Electric Power Planning in Ontario spent \$360,000 on intervenor
funding while the Bates Commission in B.C. spent \$250,000.\textsuperscript{48} Unfortunately, exact
figures on funding provided by commissions are very hard to find because funding is
rarely presented as a specific item in commission budget reports.

One final characteristic of modern commissions which is employed to enhance
participation by people and groups with few resources is advertising. Modern
commissions advertise dates, times and locations of public hearings in order to ensure
that as many people as possible are aware of the opportunity to articulate their
interests before the commission. Almost every commission now advertises its public
hearings on radio and television, and in the newspapers. Although spending breakdowns
are rarely available in complete form for commissions, the Bates Commission on
Uranium Mining in B.C., which reported in 1981, before completing its planned program of public hearings provided an estimate of $313,500 spent on advertising out of a total budget of over $1.8 million.

Each of these characteristics of modern commissions is worthy of more study than the scope of this paper allows. For purposes of this paper, all of these characteristics considered together account for the observed trend to greater participation by people and groups with few resources before modern commissions of inquiry. Although empirical evidence was presented only for the effect of travel by commissions on participation, each of the other characteristics discussed above contributed to the observed trends of participation before modern commissions.

The results of the research and analysis of the hypotheses presented in this paper can be stated as follows:

1. People or groups with few resources participated more before the commissions of the modern style than they did before the commissions of the traditional style.

2. People or groups with few resources did not participate only before the commissions which dealt with issues of a non-technical nature and a general appeal. Participation could not be explained in terms of responses to broad categories of issue-areas.

3. A positive relationship was found between the number of locations in which commissions conduct hearings and participation by individuals. No relationship was found between numbers of locations of hearings and participation by volunteer groups. There is some evidence that a reasonable number of locations is a necessary but not a sufficient prerequisite for attracting more than a few volunteer groups to appear before commissions.

4. A curvilinear relationship was found between the number of days of commission hearings and participation by individuals. No relationship was found between the number of days of hearings and volunteer group participation.

As a general conclusion, it can be said that people or groups with few resources respond to the opportunities for participation which commissions present.

Furthermore, these opportunities are most commonly presented by what is referred to
in this paper as the modern style of commission. Modern commissions are more aware of the value of participation as a goal in its own right. They encourage participation in many ways, including less formal hearings, intervenor funding, use of advertising, encouragement of media attention, representativeness where necessary, multiple locations of hearings and use of hearings to promote compromise between antagonists.

Most importantly, governments and commissions have adopted an attitude that commissions must provide an opportunity for people and groups without effective means of articulating their interests within the Parliamentary process of government to articulate their views through commissions. Democratization of political dialogue on major issues or at least the appearance of democratization, seems to be the goal of governments and commissions. As commissioner John Robarts said, with reference to the purpose of the Task Force on National Unity:

"Our function is not to be a great body that accomplishes a great deal, but one that can help and assist the people of this country to solve their own problems because that is the only way that it will be resolved for any length of time or forever. It will have to be a solution that wells up from within the people. It will not be a solution that will be imposed upon them by anybody from the top."\textsuperscript{49}

This paper has shown that the efforts made by commissions to provide an opportunity for people to express their views has had tangible results in terms of the response to those opportunities by people and groups which have few resources to draw upon for articulating their interests.
Notes

2 Ibid., p. 5.
3 Ibid., p. 6.

4 There is no way of checking the patterns of interest group existence in Canada outside commissions. (See A.P. Pross, "Canadian Pressure Groups in the 1970's," Canadian Public Administration, Spring 1975, Vol. 18, p. 125.) In this paper, the focus is on group responses to opportunities provided by commissions. Even if a trend in commissions is only a reflection of a trend in society, this paper hopes to demonstrate that commissions continue to be seen as a satisfactory forum for groups which want to articulate their interests. Notwithstanding group trends in society, commissions fail as participatory mechanisms if they do not provide worthwhile opportunities for groups.

5 The Bates Commission did not complete its planned schedule of hearings due to a moratorium on uranium mining imposed by the government. The moratorium was imposed before the commission completed its hearings, rendering the remainder of the investigation into uranium mining in B.C. redundant. Fortunately, enough of the hearings were completed to allow inclusion of data collected from hearings of the commission in this paper.

6 W.A. Wooton, Interest Group Behaviour (Toronto, 1974), pp. 94 - 95.


8 Ibid., p. 124.


12 Ibid., p. 32.

14 Clokie and Robinson, op. cit., p. 25.


16 "What Value in These Probes?", Monetary Times, Feb. 1967, p. 15.


20 Courtney, op. cit., p. 81.

21 Ibid., p. 94.


23 Ibid., p. 483.


26 The Commission Secretary in her handwritten records, commented that the Commission was keeping a rigorous and thorough schedule of visits to many of the sites of provincial coal and petroleum development.


29 Ibid., p. 8.


31 Ibid., p. 21.

32 Ibid., p. 32.


35Spicer, op. cit., p. 16.


39Royal Commission on Family and Children's Law, op. cit., p. 32.


41Tom Berger Interview, August 1982. Mr. Berger was Commissioner of the Mackenzie Valley Pipeline and Family Law Commissions.

42Interview (June, 1982) with Hilary McLoughlin, administrative secretary of the B.C. Royal Commission on Forestry which reported in 1979.

43Interview (July, 1982) with Kim Roberts of the Westcoast Environmental Law Association. Mr. Roberts and WELA are often involved in helping interest groups present their positions to commissions.

44Royal Commission on Family and Children's Law, op. cit., p. 32.


46Ibid., p. 6.


48Figures taken from commission reports.

49Spicer, op. cit., pp. 9 - 10.
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5. B.C. Royal Commission on Health Insurance, Final Report (Victoria, 1921).

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