

Why Do Public Inquiries Work?

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INTRODUCTION

The theme of this conference is “Doing Justice: Dispute Resolution in the Courts and Beyond,” and I am here to discuss public inquiries and why, despite limitations, they work. In Canada, public inquiries have played an important role in the delivery of justice, broadly defined. There is a spectrum of approaches in the delivery of justice to the community. At the one, very familiar end, is the traditional adversarial trial, which is designed to determine what happened, and what ought to be done about it, in a very specific context—the Crown vs. the accused, plaintiff vs. defendant. Generally, courts are good at answering the limited questions posed in individual trials, through a transparent process that depends on fair and full procedural safeguards, a fair decision-maker, and an open court.

At the other end are alternative models of justice-delivery which this conference examines—private courts, arbitration, mediation, restorative justice, faith-based dispute resolution, and so on. These models represent in part a triumph of choice—parties selecting their decision-maker, and designing models of decision-making appropriate to the circumstances, which may include particular attention to efficiency, cost, special knowledge or expertise, and responsiveness to participants. Legitimacy does not flow from publicity, but from the concept of choice of procedures to meet the needs of parties.

How do public inquiries fit into this model? Public inquiries are episodic in nature, and a demanded reaction to an unanticipated major event. The issue, or the dispute, is bigger than “who did what to whom?”, although that question may have to be addressed. The crisis that leads to an inquiry often necessitates a response that is public, specific about the past, comprehensive about the future, and also cost-efficient and speedy. A public inquiry commissioner must be capable of performing a significant number of roles that would not be combined in the classic adversarial model of dispute resolution: that of a fact-finder, like a jury or judge in a non-jury trial; a proposer of public policy reform, a role usually

undertaken by legislators; a healer for traumatized communities, demanding work typically undertaken by trained therapeutic and spiritual service providers; and a manager of the inquiry office, requiring skill in financial matters such as budgets, as well as hiring and oversight of administrative and legal staff.

This leads to the topic of my speech—“Why Do Public Inquiries Work?”—because it seems with these high expectations and conflated roles, they might not. The question—why do public inquiries work—assumes that in Canada public inquiries have served the purposes for which they were called. I believe that have often been the case. It is certainly true that historically, Canada has been a very heavy user of public inquiries. And, as I will point out in these remarks, some very important public policies in Canada have been shaped by recommendations emanating from public inquiries.

I. CONTEMPORARY CONTEXT

There appears to be an increased use of public inquiries in Canada in recent years. Currently, by my count, there are at least nine underway. Federally, there are the Air India Inquiry¹ and the National Security Investigation being conducted by retired Justice Iacobucci.² There is the Milgaard Inquiry in Saskatchewan³ and the breast cancer testing inquiry in Newfoundland.⁴ In Ontario, there are two provincial inquiries underway. The Cornwall Inquiry⁵ is investigating failures of the justice system in dealing with several historic child abuse allegations, and the recently established inquiry being headed by Justice Stephen Goudge is investigating problems arising from the child forensic pathology system in the province.⁶ There are also provincial inquiries proceeding in Manitoba

¹ Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182.

² Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin.

³ Commission of Inquiry into the Wrongful Conviction of David Milgaard.

⁴ Judicial Commission of Inquiry on Estrogen and Progesterone Receptor Testing for Breast Cancer Patients.

⁵ Commission of Inquiry into the Events Surrounding Allegations of Abuse of Young People in Cornwall.

⁶ Commission of Inquiry into Oversight of Ontario’s Pediatric Forensic Pathology System.

involving the child welfare system,⁷ and in British Columbia following a death after release from police custody.⁸ In Nova Scotia, there are two ongoing inquiries, one involving the remuneration of elected provincial officials, and another under *The Municipal Council Conflict of Interest Act*.⁹

In the past three years, at least eight other inquiries have reported. Federally there were the Gomery¹⁰ and Arar¹¹ Inquiries, in Manitoba, the Driskell Inquiry into a wrongful conviction,¹² and in Ontario the Ipperwash¹³ and SARS¹⁴ Inquiries. Former Chief Justice Antonio Lamer reported on issues relating to wrongful convictions in Newfoundland,¹⁵ Justice Nunn in Nova Scotia reported on issues relating to a death following release of a minor from custody,¹⁶ and Justice Wright in Saskatchewan investigated the death of Neil Stonechild and the actions of police services.¹⁷ That is a lot of inquiries. Interestingly, all but one were, or are being, conducted by sitting judges or recently retired judges, a point to which I will return later in these remarks. I will be focusing on the institution of the *public* inquiry, to consider the issue of why public inquiries work—and sometimes, don't work—in terms of resolving disputes and restoring confidence. This is a topic I have considered as

⁷ Commission of Inquiry into the Death of Phoenix Sinclair –per: *Evidence Act*.

⁸ Commission of Inquiry into the Death of Frank Paul.

⁹ Commission of Inquiry on the Remuneration of Elected Provincial Officials, and Inquiry into the actions of Halifax Regional School Board member Bernadette Hamilton-Reid (per: *The Municipal Council Conflict of Interest Act*, C.C.S.M. c. M255).

¹⁰ Commission of Inquiry into the Sponsorship Program and Advertising Activities.

¹¹ Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar.

¹² Commission of Inquiry into Certain Aspects of the Trial and Conviction of James Driskell.

¹³ Commission of Inquiry into the circumstances and events surrounding the death of Anthony O'Brien (Dudley) George.

¹⁴ Commission to Investigate the Introduction and Spread of Severe Acute Respiratory Syndrome.

¹⁵ Commission of Inquiry into the Conduct of the Investigations into the Deaths of Catherine Carroll and Brenda Young and the Circumstances Surrounding the Resulting Criminal Proceedings commenced against Gregory Parsons and Randy Druken, the Delay in the Appeal of Ronald Dalton, Issues of Compensation with respect to Randy Druken and Ronald Dalton, and any Related Systemic Issues.

¹⁶ Commission of Inquiry into the Death of Theresa McEvoy.

¹⁷ Commission of Inquiry into the Matters Relating to the Death of Neil Stonechild.

both a lawyer and a judge. As counsel, I represented parties in a number of inquiries. And I have sat as Commissioner on both the Walkerton and Arar Inquiries. In the process, I have seen how public inquiries can restore confidence and fix institutions—and I have also seen the tremendous impact on individuals whose lives are forever changed through their participation in the process. In the discussion which follows I draw on those experiences in addressing what I see as central issues that transcend specific inquiries, and which shed light on why public inquiries can be an important institutional vehicle for generating public support for the Canadian political and legal system. Legal and Historical Background of Public Inquiries in Canada

Before turning to some specific issues relating to the conduct of inquiries, let me give some background. Public inquiries, formerly known as Royal Commissions, essentially the same thing, have been with us for a long time. As far back as the middle ages, the kings sometimes used their royal prerogative to appoint a commission to investigate and report on matters of public policy or public concern. Today, the federal government and most provinces¹⁸ have inquiries legislation which gives the relevant executive the authority to appoint a commission by way of Order-in-Council, and which provides the commission with the power of compulsion of witnesses and documents necessary to conduct an effective inquiry.

Different jurisdictions provide that inquiries may be conducted in a variety of ways. In fact, not all jurisdictions contemplate open hearings—that is hearings that will be conducted primarily or largely in public.¹⁹ In the various statutes, there is generally room for some flexibility in the way a commissioner conducts a particular inquiry. This is appropriate as there are instances where, in my view, there is no need to have all of an inquiry, particularly the investigative stage, conducted through the process of fully public hearings. In these remarks I will often

¹⁸ *Inquiries Act*, R.S.C. 1985, c. I-11; Bill 6, *Public Inquiries Act*, 3rd Sess., 38th Parl., British Columbia, 2007 (as assented to March 29, 2007); *Public Inquiries Act*, R.S.A. 2000, c. P-39; *Public Inquiries Act*, R.S.S. 1978, c. P-38; *Manitoba Evidence Act*, C.C.S.M. c. E150, ss. 83-96; *Public Inquiries Act*, R.S.O. 1990, c. P.41; *An Act respecting public inquiry commissions*, R.S.Q. c. C-37; *Inquiries Act*, R.S.N.B. 1973, c. I-11; *Public Inquiries Act*, R.S.P.E.I. 1988, c. P-31; *Public Inquiries Act*, R.S.N.S. 1989, c. 372; *Public Inquiries Act, 2006*, S.N.L. 2006, c. P-38.1; *Public Inquiries Act*, R.S.N.W.T. 1988, c. P-14; *Public Inquiries Act*, R.S.Y. 2002, c. 177.

¹⁹ Bill 6, *Public Inquiries Act* (British Columbia), *ibid.* at cl. 25; *Public Inquiries Act* (Ontario), *ibid.* at s. 4; *Public Inquiries Act* (Newfoundland and Labrador), *ibid.* at s. 6; *Public Inquiries Act* (Northwest Territories), *ibid.* at s. 6.

refer simply to inquiries or independent inquiries rather than to “public” inquiries, since all are important to the inquiry process as a distinct system of public justice.

Broadly speaking, there are two types of independent inquiries: those that have a mandate to find and report on facts, and those with a mandate to make recommendations for the development of public policy. Some inquiries are structured with both mandates.

Fact-finding inquiries are established to investigate and report upon a particular event or series of events. Commonly, they are established in the aftermath of a tragedy or scandal usually with political implications, where the public’s confidence or trust in public institutions or officials has been shaken. The normal public institutional responses are seen as inadequate, and governments react to public pressure by creating an independent, *ad hoc* credible process to investigate and report on what happened and to make recommendations to prevent a reoccurrence.

Fact-finding public inquiries have been used in Canada to address a broad array of issues, ranging from a train derailment, a failed bank, abuse in women’s penitentiaries, deaths in a children’s hospital, wrongful convictions, a mining disaster, tainted drinking water to political scandals, and on and on it goes.

Policy-based inquiries are mandated to examine a particular area or issues of public policy and to make recommendations for future policy direction. In Canada, some major public policies have resulted from these types of inquiries—Medicare originated from the inquiry conducted by Justice Emmett Hall,²⁰ our bilingual and biculturalism policies emanated from a public inquiry,²¹ and the MacDonald Report²² in the early 1980s led to the establishment of our current national security framework. The Berger Inquiry²³ made important recommendations that guided development in the north in relation to the interests of aboriginal peoples. These are just a few examples.

Some inquiries have both a fact-finding mandate as well as a separate policy-based mandate. The two inquiries I conducted had both.

²⁰ Royal Commission on Health Services.

²¹ Royal Commission on Bilingualism and Biculturalism.

²² Royal Commission of Inquiry into Certain Activities of the RCMP.

²³ Mackenzie Valley Pipeline Inquiry.

In Walkerton, I was directed to investigate and report on what happened to the drinking water system in Walkerton. In addition, I was directed to make recommendations to ensure the safety of drinking water in Ontario in the future. The large majority of the issues in the second part of the mandate had nothing to do with what happened in Walkerton specifically.

Similarly, in Arar, I was asked to report on the actions of Canadian officials in relation to Mr. Arar. Separately, I was directed to recommend an independent review process for the RCMP's national security activities. In each case, I developed two entirely different processes for the different mandates and delivered separate reports.

II. SITTING JUDGES AS COMMISSIONERS

Let me now turn to one of the important issues that frequently arise when a government is establishing an inquiry, that is whether or not to use a sitting judge as Commissioner.

There is some debate as to whether sitting judges should serve as commissioners of independent inquiries. The concern is with the separation of powers doctrine under which the judicial branch is distinct from the legislative and executive branches of the state. Conducting an inquiry is not part of the judicial role nor involves judicial duties. The creation of an inquiry is an act of the executive. A judge who serves as a commissioner is carrying out a function of the executive, not the judicial branch of government. The judge as commissioner does not adjudicate on issues of civil or criminal liability. The findings and recommendations in a report have no binding legal effect. The judge instead fulfills a function usually carried out by non-judicial investigators or committees.

Interestingly, however, in Canada the most common practice has been to appoint sitting judges as commissioners. The reason for this, I think, is obvious. The need to hold an inquiry arises because of the need to have an independent, credible assessment of whatever the particular problem happens to be. Judges are seen by the public as having the necessary independence from government and bring with them the credibility of the judicial office. From a government standpoint, there is an obvious advantage to beginning an inquiry with a broadly based confidence in the person appointed to conduct it.

Moreover, judges have the experience and expertise to run an inquiry. This is particularly so for fact-finding inquiries. These often

involve conducting hearings, assessing evidence and writing a report that looks very similar to a judicial opinion. While perhaps not as compelling, there are also sound reasons for having judges conduct some policy-based inquiries. Judges are used to collecting, organizing and analyzing information in a wide variety of subject areas—often in areas in which they have no particular expertise. Judges should also be adept at running a procedurally fair process and are unlikely to be identified with any particular policy outcome. When judges who are conducting policy based inquiries need special expertise, they can draw upon experts through the use of advisory or research panels, or otherwise.

Clearly, sitting judges are not the only ones who bring these advantages to an inquiry. Retired judges are also ideally suited. Presently, retired Supreme Court of Canada Justices Major and Iacobucci are conducting important inquiries for the federal government. Similarly, lawyers and others will in some circumstances be well qualified. However, the fact remains that over the years, governments in Canada have most often turned to sitting judges when establishing inquiries.

The process by which judges are appointed as commissioners of an inquiry is very important. A protocol established by the Canadian Judicial Council requires a government to obtain the approval of the Chief Justice of the court on which the particular judge sits before making an appointment. My experience is that governments follow this protocol carefully, and considerable discussion may take place before the Chief Justice and the judge involved agree to an appointment.

There are at least three considerations that I think need to be addressed before agreement is given. The first is the public interest and the importance of the issues involved. I think a judge should only agree to an appointment if the issues are significant and it is felt that the judge can make an important contribution to the public interest by serving as a commissioner. Once a judge agrees, the Chief Justice and the judge will often become involved in drafting the precise terms of the mandate proposed by the government.

The second consideration is the potential that some inquiries may put a judge in the middle of politically contentious issues. The judge may be required to make findings that have significant political consequences. If that happens, the concern is that when the judge returns to the bench, the perception of judicial independence and impartiality may have been compromised. It is feared that the way the judge conducted the inquiry or the findings that are included in the report will have created a public

perception that the judge is not impartial or independent with respect to some of the cases that might come before the court in the future. I think that this is a legitimate concern, and is one that should be carefully considered before a judge accepts an appointment to conduct an inquiry.

The third consideration is the effect on judicial resources. Commissions of inquiry are generally a full-time job and can last for a long time, usually longer than predicted at the outset. In some courts, judicial resources are strained. It is perfectly proper, I suggest, for a Chief Justice to decline a government request to appoint a judge from his or her bench because of the strain that would be placed on the workload of the remaining judges.

In the end, however, if the concerns I mention are satisfied, I believe that sitting judges can make important contributions to the public interest by serving as inquiry commissioners in many instances.

III. THE PROCESS FOR INDEPENDENT INQUIRIES

I have three observations about the process for independent inquiries.

A. PROCEDURAL FLEXIBILITY

The first is that inquiries have, in my view, tended to overuse the evidentiary, adversarial type of hearing process suited for legal trials to gather information. This is the model judges and lawyers are used to but we perhaps have yet to take full advantage of all of the possibilities for different processes that can be tailored to meet the need of investigating and reporting on the various types of matters set out in inquiry mandates. Greater creativity and flexibility in fact-determining processes will ultimately improve the inquiry process from the perspective of all participants, increasing responsiveness, decreasing cost, and ultimately improving the process and results of public inquiries. For example, in my view, there is a real advantage to directly involving groups and individuals in the inquiry process, rather than having them participate only through lawyers. This is particularly the case where the participants have experience, expertise and an understanding of issues under consideration. From a cost perspective, minimizing the involvement of legal counsel, when not necessary, can result in a significant cost reduction.

Unlike criminal or civil trials, inquiries do not need to be conducted within the confines of the fixed rules of practice and procedures. Inquiries are not trials: they are investigations. They do not result in the determination of rights or liabilities; they result in findings of fact and/or recommendations. Subject to what I say below about the need for procedural fairness for those who may be affected by the report of an inquiry, a commissioner has a very broad discretion to craft the rules and procedures necessary to carry out his or her mandate.

Traditionally, fact-finding inquiries have used public, evidentiary, court-like hearings to gather and test information. Commission counsels collect and review relevant documents, interview witnesses and then introduce the relevant information through sworn testimony in a court-like setting. Lawyers for parties with an interest in the inquiry are granted standing and are entitled to cross-examine witnesses, and make closing arguments.

These types of hearings can be very complex, time consuming and expensive. When public inquiries are criticized, criticisms are frequently directed at the inefficiency of the process, the time involved, and the expense incurred. Indeed, criticisms of this nature are sometimes used as arguments against holding an inquiry in circumstances which otherwise warrant an independent examination and report.

Clearly, it is sometimes both necessary and advantageous to canvass the important and contentious issues through the more formal legal-type of hearing process. In any investigation, however, much of the information gathered is not really in dispute. Importantly, a commission of inquiry gathers information in an independent and non-partisan fashion and serves a very different function than a party to a legal proceeding. I found this to be the case both in the Walkerton and Arar Inquiries. The facts are the facts, and in many instances it is unnecessary to subject the facts to the adversarial process in order to ascertain the truth.

There are alternatives to full blown evidentiary hearings, at least for some parts of the information gathering process. Tied to the idea that a commissioner can adopt a more informal, less evidentiary type of process for some parts of an investigation and for some issues, is the notion that not all parts of the investigative process need to take place in public. The preparation of investigative summaries, detailed chronologies and background papers can be thoroughly and efficiently done by commission staff and experts outside of the public hearing process. Depending on the nature of the inquiry and the subject matter involved, it

will often be sufficient to publish only the investigative summaries or background papers, and give parties with an interest the opportunity to respond or challenge. My colleague Justice Goudge and retired Justice Major are making use of some of these approaches in inquiries now underway. Techniques such as these, which can significantly abbreviate the process, will often suffice without compromising the integrity or thoroughness of the fact-finding process.

I recognize that with the use of investigative summaries, the commission loses the benefit of the public observing the problem on a daily basis and in a graphic way. *Viva voce* evidence may be more effective as a form of communication with the public than summaries for some evidence. Used wisely, however, I believe that investigative summaries and other time saving techniques can play an important and useful role in the inquiry process without inappropriate sacrifice of the need to educate the public about the inquiry.

Similarly, the use of witness panels and independent expert reports in a fact-finding inquiry will often advance and expedite the process significantly. We do not use witness panels in our criminal and civil courts but as a commissioner, I found them to be extraordinarily valuable. For example, at Walkerton the evidence respecting how the well became contaminated was presented by an expert panel consisting of a hydro-geologist, an environmental microbiologist and an engineer specializing in water treatment. As a panel, they explained the spread of contamination from the flow of water on the surrounding land and geological points of entry to the well, to the point the well-water entered the municipal drinking water supply. They commented on each other's evidence in the course of both direct and cross-examination. In so doing, all participants gained a valuable inter-disciplinary understanding of the issues in a very efficient manner.

For policy-based inquiries, the trend in recent years has been to move away from the evidentiary type of process. Policy-based inquiries are conducted more as research, consultative processes involving experts and people with experience and particular perspectives. The use of background papers, expert panels, roundtable discussions and the like can often help to streamline the inquiry process. In the Arar Policy Review, for example, we commissioned eight significant background papers on issues including comparative international models for review of national security activities, national security and rights and freedoms, and the RCMP's role in national security. All participants were invited to

respond to the consultation papers, answer questions posed by the Commission, attend expert roundtables, and make written submissions. Some of the participants were also invited to make oral submissions, which were generally presented not by lawyers, but by those directly involved in the issues.

The point is that inquiries legislation generally allows commissioners considerable scope in crafting procedures that will respect the need for transparency and thoroughness on the one hand, and allow the commissioner's work to proceed in a much more efficient manner than would be the case if all information were to be assessed through public evidentiary hearings, as has often been the case in the past.

In the end, however, it is essential that the commissioner's report be made public subject only to concerns such as privilege or national security. The motivating reasons for calling an inquiry dictate as fulsome a public report as possible. Interestingly, the late Justice Archie Campbell conducted two very successful inquiries in Ontario, the Bernardo Investigation Review²⁴ and the SARS Inquiry,²⁵ largely in private. In both cases, the full reports were released to the public and very well received.

B. FAIRNESS TO ADVERSELY AFFECTED INDIVIDUALS

My second observation about the inquiry process relates to the need to ensure procedural fairness to those who may be adversely affected by the information that emerges during the course of the inquiry or in the report. This is critically important. There is enormous potential for an inquiry, particularly a public inquiry, to seriously damage personal and professional reputations. Because of the nature of the issues that give rise to an inquiry, there is often intense publicity both with respect to the evidence called during the hearing process, and to the report which is issued by the commissioner. Inquiry hearings are frequently covered live on television, and news media often assign reporters to cover the inquiry on more or less a full-time basis. This was certainly the case in both Walkerton and Arar. During the course of hearings, the evidence is

²⁴ *Bernardo Investigation Review – Summary*, June 1996, online: The Cornwall Public Inquiry <http://www.cornwallinquiry.ca/en/hearings/exhibits/Wendy_Leaver/pdf/10_Campbell_Summary.pdf> (report by Mr. Justice Archie Campbell).

²⁵ Commission to Investigate the Introduction and Spread of Severe Acute Respiratory Syndrome.

reported in newspapers and on the radio before the commissioner has formed any conclusions with respect to the facts. News is frequently generated by focusing on evidence that points to fault by individuals or institutions. The internet has only increased the coverage and commentary and broadened the scope of potential harm.

Those caught up in an inquiry process face a very real danger of their professional or personal reputations being seriously affected by the exceptional amount of public attention generated by the inquiry process. Inquiries legislations usually provide for some measure of formal legal protection. For example, section 13 of the Federal *Inquiries Act*²⁶ and section 5 of the Ontario *Public Inquiries Act*²⁷ provide that those whose interests may be affected must be given notice of evidence that may affect their interests and the opportunity to participate in the inquiry process. Evidence that adversely affects one's reputation triggers the procedural fairness requirements in these statutes. Commonly a commissioner will grant standing to individuals who may be affected, permit them personally or through counsel to cross-examine, call evidence and make arguments about what conclusions the commissioner should reach in his or her report. There is also some protection provided by way of section 13 of the *Charter*, which provides protection against subsequent use of a witness' incriminating testimony.

That said, there remains a significant danger that those caught up in an inquiry process may have their reputations unfairly tarnished in a serious way. I'm not sure of the complete answer to this. The amount of public attention and what the media will focus on is beyond the control of the inquiry. I do suggest, however, that it is essential that commission counsel, in deciding what evidence to call and how to lead it, lean over backwards to be fair and balanced and alert to the potential for unfair damage to reputations. Equally, a commissioner crafting a report should be very careful in the use of language that may generate this type of adverse effect. It is important to bear in mind throughout that the primary purpose of the inquiry is not to find fault but rather to find facts, and to report on what happened in order to make recommendations to ensure that there not be a repeat of the crisis in the future.

²⁶ *Inquiries Act* (Canada), *supra* note 18 at s. 13.

²⁷ *Public Inquiries Act* (Ontario), *supra* note 18 at s. 5.

C. PUBLIC PARTICIPATION

My third and final comment about the inquiry process is that public inquiries present a wonderful vehicle for broad public involvement and participation in issues of public policy. Indeed, I think this is one of the great strengths of the inquiry process. This advantage is particularly true for policy based inquiries, but also for the recommendation aspect of a fact-finding inquiry. The scope for public participation is enormous. In my mind, the exemplar for public participation in inquiries was the Berger Inquiry in the mid 1970s. It set the gold standard for those that followed. Justice Berger literally took the inquiry to all of the small communities throughout the north that could be affected by his recommendations regarding the building of the Mackenzie Valley Pipeline. He listened carefully, he synthesized the information and he set an example for a new type of community based hearings. Since then, many other inquiries have followed his lead.

In Walkerton, I started the inquiry process by conducting four days of hearings with the residents of the town about the impact of the tainted water on their community, their families and their personal lives. Those affected could choose to meet with me privately, and a number did so. I will never forget sitting with families who had lost their loved ones, looking through their family photo albums, and talking about how much they missed their mother, wife or child. It was important in this town, at this time, to have a judge listen to their story. My counsel and I lived in Walkerton for the duration of the inquiry and were welcomed by the community. This acceptance within the local community was crucial to the success of the inquiry as a whole.

The second part of my mandate in Walkerton was to make recommendations to ensure the safety of drinking water in Ontario. As part of that mandate, I granted standing to thirty-six intervenor groups and individuals, including water authorities, municipal associations, conservation authorities, environmental groups, the government, unions, medical and engineering professionals and so on. I think it is fair to say that virtually every relevant interest or perspective was represented in the inquiry process.

The process proved to be enormously useful. It resulted in focused and informed discussions and debates and enabled me in an organized manner to sift through the issues and to make the policy choices that I thought were warranted. In addition, we held a series of town hall meetings across the province to discuss issues relating to

drinking water. To the extent that the Walkerton report was well received by the public in Ontario, I think that the broad public participation in the process engendered great support for the conclusions and recommendations. Ultimately, without public involvement and support, the inquiry process may not be very useful to the community in preventing a repeat incident and all the attendant social harm that gave rise to the inquiry in the first place.

CONCLUDING THOUGHTS

As a final note, I observe that an inquiry commissioner should play no role in the implementation of the recommendations contained in the inquiry report. Implementation of a commission report is a matter for the political process. In my view, once a commissioner delivers a report, that should be the end of his or her involvement. This is particularly the case when a sitting judge has served as commissioner. Commissioners should give reasons for their conclusions in the reports and leave it to others to debate questions relating to implementation.

In conclusion, it is my observation that inquiry process in Canada is alive, and while the process is not without challenges and problems, I think it is fair to assume that inquiries processes will continue to evolve and can play an important role in the landscape of Canadian government in the future.