

Applications approved by a panel either unanimously or by a majority are placed on "Appendix B" for consideration by the conference. Appendix B is analogous to the discuss list in the United States. However, the American chief justice draws up the discuss list (Perry 1991) while Appendix B reflects the decentralized deliberations of the panels. If a panel decides to dismiss an application, the application is placed on "Appendix D," a date is set for the application's dismissal, and the other justices are notified accordingly. If a justice not on the panel disagrees with the dismissal, the dismissal is deferred until the matter can be considered by the full Court sitting in conference. A comparable procedure takes place on the U.S. Supreme Court when a justice asks that a certiorari petition be placed on the "discuss list" for review by the justices when they meet in conference (Perry 1991).

Unlike their peers in the United States who vote in conference and where the "Rule of Four" determines which petitions will be granted, the justices in Canada do not take a formal vote in conference, nor are their actions binding on the panels. There is no published record of the conference's position. Justices in conference may urge a panel to reconsider a decision but other than courtesy or reciprocity among the justices, a panel is not compelled to change its vote. The common view is that panels' decisions amount to the final word, although no empirical evidence exists to support this view. It is not known how often the panel changes its decision as a result of being asked to reconsider its recommendation. After conference, the decisions of the panels are final.

Table 5 shows the decisions of the ten panels during the three focal years. The panels are ordered according to the proportion of leave applications they allowed. The panels clearly behaved differently; the proportion of leave applications granted ranged from a low of 11.2 percent to a high of 20.1 percent. For preliminary purposes the panels were clustered into two groups according to the proportion of applications granted. An analysis of variance was conducted to determine whether the difference in the percentages of allowed leaves for the two clusters was statistically significant. The analysis indicated that the null hypothesis of no difference could be rejected at a .001 level of confidence.

#### **TABLE 5 ABOUT HERE**

The basic purpose of this project is to determine in an empirically systematic way why these differences occurred. The explanation is likely to be complex. One thing this table suggests is that the