



FIRST SESSION—THIRTIETH PARLIAMENT
1974-75

THE SENATE OF CANADA
PROCEEDINGS OF THE
STANDING SENATE COMMITTEE ON
FOREIGN AFFAIRS

The Honourable GEORGE C. van ROGGEN, *Chairman*

Issue No. 10

TUESDAY, MARCH 18, 1975

Ninth Proceedings respecting:
Canadian Relations with the United States

(Witnesses: See Minutes of Proceedings)

THE STANDING SENATE COMMITTEE ON
FOREIGN AFFAIRS

The Honourable George C. van Roggen, *Chairman*

The Honourable Allister Grosart, *Deputy Chairman*

and

The Honourable Senators:

Asselin	Lafond
Bélisle	Laird
Cameron	Macnaughton
Carter	McElman
Connolly (Ottawa West)	McNamara
Croll	Rowe
Deschatelets	Sparrow
Hastings	Yuzyk—(20).

Ex Officio Members: Flynn and Perrault.

(Quorum 5)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Wednesday, November 6, 1974:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Riel:

That the Standing Senate Committee on Foreign Affairs be authorized to examine and report upon Canadian relations with the United States;

That the Committee be empowered to engage the services of such counsel and technical, clerical and other personnel as may be required for the purpose of the said examination, at such rates of remuneration and reimbursement as the Committee may determine, and to compensate witnesses by reimbursement of travelling and living expenses, if required, in such amount as the Committee may determine;

That the papers and evidence received and taken on the subject in the preceding session be referred to the Committee; and

That the Committee have power to sit during adjournments of the Senate.

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

Minutes of Proceedings

Tuesday, March 18, 1975

(13)

Pursuant to adjournment and notice, the Standing Senate Committee on Foreign Affairs met at 2.35 p.m. this day.

Present: The Honourable Senators van Roggen (*Chairman*), Bélisle, Cameron, Carter, Grosart, Lafond, Macnaughton, McNamara, Rowe and Yuzyk. (10)

In attendance: Mr. Peter Dobell, Director, Parliamentary Centre for Foreign Affairs and Foreign Trade; Mrs. Carol Seaborn, Special Assistant to the Committee.

The Committee continued its study of Canadian Relations with the United States.

Witnesses:

Professor George Francis, University of Waterloo, Waterloo, Ontario; and Professor Leonard B. Dworsky, Cornell University, Ithaca, New York State.

At the conclusion of his opening statement Professor Dworsky submitted the following additional information:

"Attachment to Memorandum—Research Agenda".

Agreed.—That the above-mentioned additional information be taken as read, and that it be included in the printed Proceedings at the conclusion of Professor Dworsky's opening remarks.

At 4.43 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

E. W. Innes,
Clerk of the Committee.

The Standing Senate Committee on Foreign Affairs

Evidence

Ottawa, Tuesday, March 18, 1975

The Standing Senate Committee on Foreign Affairs met this day at 2.30 p.m. to examine Canadian relations with the United States.

Senator George van Roggen (*Chairman*) in the Chair.

The Chairman: Honourable senators, I should like to welcome, before the committee this afternoon, Professor Leonard Dworsky and Professor George Francis. They are, as I understand it, the joint chairmen of a group of some 30 Canadian and American academics and government people involved in a study of the Great Lakes. As I recall from something I read recently, by the end of this century one-third of the population of Canada and approximately one-quarter of the population of the United States will live in the Great Lakes areas. This is, therefore, a most important study that these gentlemen have under their direction. They have already appeared before a congressional committee in Washington studying the subject of the Great Lakes.

Professor Dworsky is a member of the faculty of Civil and Environmental Engineering and was Director at Cornell University of the Water Resources and Marine Science Center from 1964 to 1974. He is by training an engineer, a public administrator and a conservationist. He previously worked with the United States Federal Public Health Service, where he was concerned with water supply and pollution control programs. At one time he served as regional pollution control officer in the Missouri and Columbia River basins. During 1967-68 he was the water resources staff assistant to President Johnson's Science Advisor. He is currently also a consultant to the Rockefeller Foundation on environmental matters, and a member of numerous other environmental associations.

Professor Francis is a professor and chairman of the Department of Man-Environment Studies at the University of Waterloo. He has been trained in biology, economics and political science, and conservation and resource planning. He has previously worked for the United Nations Development Programme and has since been a consultant to the U. N. and OECD.

Before calling on our witnesses today to make their opening statements, I would like to remind members of the committee that Mr. Jean-Luc Pepin, former Minister of Industry, Trade and Commerce, will be our witness on Tuesday of next week.

I might also mention that I received in the mail this morning a letter from the Secretary of State for External Affairs, Mr. MacEachen, inviting members of this committee to a tour of the new Lester B. Pearson Building, and lunch with the Secretary of State for External Affairs, next Wednesday, March 26. There will be a bus leaving here at 11.15 a.m., I believe, but I will be sending you a copy of his invitation so that you will have the details.

Senator Bélisle: Unfortunately, about two and a half months ago I made a commitment for next Wednesday, so I will be unable to accept that invitation of the minister. However, I would love some day to make that visit, if there is going to be a repetition of it.

The Chairman: I am sure that arrangements can be made for you anyway, without difficulty. It might be a little more difficult to arrange the lunch!

Senator Bélisle: During that week there may not be a full attendance of the committee, and perhaps another opportunity could be arranged for those who have not taken advantage of it.

The Chairman: What I will do is ask Mr. Innes to keep a careful record of who will be able to attend on Wednesday, after the invitation has been circulated. Certainly for those who cannot attend we may be able to make some other arrangements for another day.

Senator Bélisle: Thank you.

The Chairman: If it is agreeable to our two guests, I will ask Professor Francis, as the Canadian member of this team, to begin with an opening statement, following which Professor Dworsky has agreed to speak. We will then proceed with our usual questioning.

Professor George Francis, Chairman, Department of Man-Environment Studies, University of Waterloo: Mr. Chairman, honourable senators, it is indeed a pleasure for us to meet with you this afternoon to participate in your deliberations concerning the institutional arrangements for Canadian relations with the United States. We wish to use this opportunity to share with you some ideas and suggestions concerning institutional improvements which we feel should be considered for the Great Lakes Basin. People with knowledgeable interests in the Great Lakes are increasingly concerned about what may lay ahead of us there, and we think it fair to say that a growing number of such people see the need for Canada and the United States to find ways to cooperate more closely in the joint planning and management of water and associated land resources in the Great Lakes Basin.

Three years ago Leonard Dworsky and I arranged a Canada-United States university seminar which looked into some institutional questions concerning the Great Lakes. I believe, Mr. Chairman, that members of your committee have copies of a report which came from this series of meetings, called "A Proposal for Improving the Management of the Great Lakes of the United States and Canada." The meetings which constituted that seminar drew invited participants from some 20 universities and colleges in Canada and the United States. About 30 people, roughly one-half from each country, came from academic institutions and an equal number of participants came from federal, state, provincial and local agencies of

government from both countries. You may already have looked over this report, and in any event I will not go into it in detail.

The set of working papers, which were the initial basis for this joint seminar, were prepared by graduate students at Cornell University, who, under Professor Dworsky's direction, examined the water management problems of the Lake Ontario basin. The seminar then added and revised materials as part of the process of preparing the report, and it arrived at a set of recommendations which we thought could be generalized, at least for the lower Great Lakes if not all of them.

There were two main sets of assumptions underlying the seminar and the recommendations which arise from it. One is that we are really dealing with an interrelated set of resource management problems around the lakes which have increasingly to be analyzed and understood as such. It is the various land-based activities in both countries which are generating most of the problems showing up in the waters. To us, this means that the perspective, which has so far been restricted mainly to the waters of the lakes, has to be broadened to include associated land resources. Moreover, given the rates of population growth, urbanization and industrialization on both sides of the Great Lakes Basin, more intensive demands will be placed on these resources, which in turn could generate more pervasive and diffused transboundary effects, as well as an increasing number of conflicting demands among resource uses and users.

At this point I might call your attention to Table 1 from page 42 of the report, which summarizes the array of resource management considerations which in our view should come within the purview of some binational body. The manner and extent to which this is done and how concerns should be manifested is, of course, a key question. The seminar participants discussed this at length. There are at least three levels of attention which may be considered, and these are also noted in the Table. At the level of surveillance, which could give a wider measure of common awareness to what is going on, it may only be a matter of gathering certain information and data systematically on a regular and agreed upon basis. However, for some situations it may be desirable to have a mediation function served by open informal discussion to resolve differences of perception or interpretation of problems and to try and agree on joint approaches to their solutions. And finally, there may be a need to exercise co-ordinated control functions through the appropriate regulatory authorities in both countries. To some extent all three functions are already being performed on a binational basis, but this is largely *ad hoc*, and we should look now to extending and co-ordinating such functions within a wider and shared perspective.

This brings us to the second main set of assumptions, which are that any steps towards institutional modifications must use to the fullest the existing institutional structures and build on the expertise and the experience they have. In the Great Lakes Basin there is an impressive array of institutions and organizations at work, each with different functions and activities. This is particularly so if one adopts the broader land and water perspective which we think is necessary. The international boundary complicates this situation, of course, because in effect the two respective federalisms meet in the middle of the lakes so to speak. One result is that a rather heavy responsibility gets placed on the IJC for bridging the two. We are aware

that Professor Cohen has already briefed you on the IJC's roles and responsibilities, and we only wish to note here that we believe the IJC has done a very commendable job over the years on the tasks assigned to it.

Our main concern about institutional arrangements relates to the assumptions about the interrelated nature and growing complexity of the land and water management problems. There is as yet no formal provision for maintaining some measure of a continuous watch over the whole Great Lakes Basin for the expressed purpose of anticipating problems before they reach crisis proportions, exchanging experience among various jurisdictions and groups for coping with them and mobilizing efforts for preventive measures which would at least strive to lessen their impacts. We believe there is a need for a binational organizational structure which would work towards this and which would have certain policy, planning and management functions assigned to it. The way these three functions are defined and developed is crucial, and this of necessity has to be determined through bilateral negotiation between the two federal governments.

The seminar participants generally thought that an appropriate organizational structure would require two complementary components. One would be a joint basin-wide policy and planning body which is politically responsive primarily through federal, provincial, state and citizen group representations. The other would be a network of regional or Lake basin management agencies responsible for implementing the appropriate surveillance and mediation tasks within the overall policy guidelines established by the basin-wide policy body and which would be closely linked with provincial, state and local government agencies.

In meshing this idea with the existing institutional system you will note in the concluding section of the seminar report, on page 49, on "Alternative Institutional Arrangements" that two quite similar alternatives were discussed. The main question seemed to be whether the IJC should be asked to shoulder additional functions and responsibilities or, bearing in mind that the IJC has responsibilities along the whole Canada-United States boundary, whether a new bi-national body should be considered exclusively for the Great Lakes. In either case, the Institutional structure envisaged would provide for:

- Establishing a joint Canada-United States management body for the Great Lakes having surveillance and mediation functions;
- Joint agency budget and administrative procedures;
- Initiatory authority for such matters as planning, surveys, investigations and research under carefully specified guidelines established by the two countries;
- Program responsiveness by requiring that the activities of the joint management body be subject to program and budget authorization and review on, for example, a bi-annual basis;
- Stressing intensive regional and transborder collaboration among state/provincial and local governments;
- Developing a more comprehensive and systematic approach to the management of the Great Lakes;
- Joint information collection and analysis; and
- Public reporting.

The alternatives recommended do not provide for:

- Changing the equality status of the two countries in matters concerning Great Lakes management;
- Establishing a supranational decision-making authority;
- Changing the basic authority of existing national, provincial, or state responsibilities; nor
- Displacing existing agencies.

It was realized that much still has to be thought through to elaborate these approaches in full, and it would have to be done with a wide measure of careful discussion and debate. But we do believe this to be a reasonable proposal and a basis on which to proceed with any examination of how the two countries may strengthen their institutional capabilities to resolve existing difficulties and be better prepared for future problems in the Great Lakes Basin.

This, Mr. Chairman, is where we arrived in our consultations some two years ago and with your permission I would like to ask my colleague, Len Dworsky to bring you up to date on what has happened since.

The Chairman: Thank you, Mr. Francis. I will now call upon Professor Dworsky, following which the questioning will be opened by Senator Rowe.

Professor L. Dworsky, (Professor, Civil and Environmental Engineering and formerly, Director, Water Resources and Marine Science Center,) Cornell University: Thank you, Mr. Chairman. Honourable senators, I also should like to say that we appreciate greatly the opportunity to visit Ottawa and present our opinions before this committee and we thank you for the opportunity you have given us to do so.

Canada and the United States have entrusted the examination and at times the management of the boundary water problems, including those of the Great Lakes, to the International Joint Commission. During more than sixty years of activity, the Commission has established an impressive record of ameliorating issues referred to it by the two countries. On some issues the Commission's recommendations have not been followed, on others the Commission was not used, and on still others the countries have, until recently, shown no inclination to be involved.

Throughout sixty years of IJC's operation, no systematic study was performed to examine the utility, mode of operation and potential use of the Commission. The complex nature of the management of the Great Lakes and the wide range of problems and spheres of activities in which the Commission is, or ought to be, engaged necessitates a close examination and evaluation of the institutional arrangements and scope of a management body for the Great Lakes, either in a format similar to that of the IJC or different, and evaluation of the problems facing such a body.

I might say that we are very pleased to believe that our study was in fact one of the stimulants to having the IJC call its symposium last June in Montreal and—which, to my knowledge, was the first time that such a meeting had been called to evaluate the programs of the IJC and the opportunities for strengthening it.

The inherent functional interrelationships between the various problem areas, for example, lake levels, industrial and residential land use, hydropower, fish and wildlife protection, water quality, and their impact on the nature and work of a management body underlines, we believe, the need to recognize the importance of these interdepen-

dencies. Further, these emphasize the need to consider a more comprehensive and systematic approach to the management of the Great Lakes.

These matters were considered in some depth during the period 1971-72 by a Canada-United States University Seminar and the findings of the seminar were presented in a report: *A Proposal for Improving the Management of the Great Lakes of the United States and Canada, 1971-1972*. Copies of that document you have before you. The main finding was that 24 faculty members from 16 institutions in Canada and the United States

reviewed and have given their endorsement to this report and its recommendations. They consider the report and its recommendations suitable as a guide to further public discussion and debate in both countries on the matter of improving the management of the Great Lakes Basin.

We did not seek from the members of the working group more specific recommendations. We were aware that we were starting on a long-term operation. We knew that there had to be much more information gathered, that we had to have a much better sense of the problem and we accordingly restricted our first recommendations to several alternatives that were broad and general. The finding simply says that the recommendations are thought suitable as a guide to further discussion and debate in both countries on the matter of improving the management of the Great Lakes Basin. We did not wish at that time to pursue the matter in any more detail.

The recommendations endorsed referred to two alternatives: (a) The first alternative would seek organizational improvements within the framework of a significantly strengthened International Joint Commission; (b) The second alternative would call for a specifically created international body which would supplant the IJC in the Great Lakes Basin.

In May 1973 at the request of Congressman Dante Fascell, Chairman of the Subcommittee on Inter American Affairs, Committee on Foreign Affairs, House of Representatives, U.S. Congress, this report and its recommendations were provided to the subcommittee in hearings on the Great Lakes. At that time, a recommendation for a resolution to be adopted by the Congress and addressed to the President was prepared.

This resolution which I am going to read was submitted to the subcommittee at the end of Professor Francis' and my testimony. While we recognized that it would likely not be acted upon at that time we thought it would be useful as an educational approach to show the direction we thought ought to be followed. The resolution reads:

The Congress of the United States is deeply concerned about the need to strengthen the management of the International Great Lakes in order to conserve, develop, and use that unique resource for the benefit of its citizens. The Congress believes that this concern is shared equally by the Government of Canada. The Congress accordingly, requests the President to initiate new discussions with the Government of Canada with the objectives of: (1) Developing a joint comprehensive examination of the problems associated with the multipurpose management of the Great Lakes and associated lands; and (2) using this examination to determine ways to strengthen significantly the joint multipurpose management of the Great Lakes. Among other opportunities, the alternative proposals formu-

lated by the Canada-United States University Seminar would be used as a basis for initiating such discussions.

That recommendation was presented and it is contained in the hearings of the subcommittee.

A follow-up project carried on by a seminar at Cornell University in 1973-74 involved the establishment of "A Great Lakes Experimental Operations Office" which resulted in the publication of *The Great Lakes of the United States and Canada—A Reader on Management Improvement Strategies* (April 1974).

Since we had suggested that the two governments establish a joint office, we decided not to wait but, rather, to establish an experimental office in our classroom. We then attempted to show that some of the activities we had suggested for a joint office were practical. Through such an experimental operations office, we developed a series of documents which were intended to illustrate to the governments what, for example an information program ought to contain; what a public education program ought to be able to provide to the management of boundary waters; what the problems were at the Niagara Frontier; and problems in regard to the fisheries. We believe these management improvement strategies show that what needs to be done are practical tasks. This book covers our studies and I would present a copy to you, Mr. Chairman. It is entitled *The Great Lakes of the United States and Canada—A Reader on Management Improvement Strategies*.

In June 1974, the International Joint Commission convened a seminar at Montreal, Quebec for the purpose of reviewing the organization and functions of and to consider means for strengthening the IJC. The summary of this seminar stated a series of important questions that represented the main thrust of the discussion that took place at that time.

As a result of the review of the findings of that seminar, a set of ten questions was selected from the proceedings of both the Montreal Seminar and the Canada-United States University Seminar as further topics requiring more study. These ten topics are presented in the form of researchable issues in the attachment to this memorandum. I will ask you, Mr. Chairman, for permission to include in the record these topics and their elucidation.

These ten questions represented the kinds of inquiries that the IJC needed to undertake in more detail. In looking at these points it was clear that they needed to be, in bureaucratic terms, "staffed out". They need to be explored and examined and it is on such activities that we propose to use our research funds. In other words, we are taking research funds available to use and doing what we think the governments ought to be doing. We expect faculty persons around the Great Lakes to assist in studying these questions and developing background papers for use in our continuing inter-university research project. These working documents will be used during the 1975-1976 extension of the Canada-United States University Seminar.

The problems presented here are, we believe, of great importance to the management of the Great Lakes whether in its present or an alternative form as well its future or revised operation, and will carry us further in the implementation phase of the research project, the goal of which is formulating, recommending and establishing improved management institutions for the Great Lakes.

I would like to quickly read the headings of these ten topics to give you some sense of these researchable items. We would like to note three that we think are of immediate importance and suggest that these three might be areas on which you would like to address specific questions to us.

The first is: The Value and Use of the IJC to the Governments of Canada and the United States—The Question of Political Will of the Two Countries. This question was discussed in great detail at the IJC seminar. The question of the political will is, in fact, the major determinant as to what the two countries want to do. Clearly, they have all necessary power if they want to use it. Whether they have the will is the point.

The second topic is: The IJC and its Commissions.

Third, Implementing IJC Recommendations. We ought to know something about what recommendations were made and whether they were followed or abandoned and why.

Fourth, A Monitoring Role for the IJC.

Fifth, the IJC and the Authority to Recommend References. This item, Mr. Chairman, we think, is very important and we would like to discuss this further with you this afternoon.

Sixth, the IJC and the Use of Borrowed Staff.

Seventh, the IJC and the Funding of Reference Studies.

Eighth, the IJC and the Public.

Ninth, the IJC and New Planning and Surveillance Authority. That is another major item, Mr. Chairman, that we would like to discuss.

Finally, number ten, Toward Developing a More Comprehensive and Systematic Approach to the Management of the Great Lakes. We suggest that specifically, this will require, among other matters, (a) program responsiveness by requiring that activities of a postulated joint management body be subject to program and budget authorization and review on, for example, a biannual basis; and (b) joint agency budget and administrative procedures. We think that the administration of the joint office ought to be explored in some detail in order that we would have a better sense of how it would work.

These ten items, Mr. Chairman, go together with four other activities that we intend to pursue, which are, first of all, a program assessment of the Great Lakes Basin Commission. Second, we are also going to assess the planning functions of the Great Lakes Basin Commission. The Commission has recently completed for the U.S. side a large multi-volume study of the Great Lakes that has taken several years. Third, we want to make an assessment of the Great Lakes research strategy. I am a member of IJC Research Advisory Board and we have, under that board, recommended an annual research program. Our group—Professor Francis, myself and our colleagues—would like to look at that research program and see whether or not it comprises an overall strategy and whether it links the various problems together in a coherent manner.

Finally, we do want to look at the Great Lakes Fisheries Commission, because this is the only other international body on the Great Lakes. We are proposing that we consider the integration of this agency with other functions that the IJC may be responsible for.

The Chairman: Thank you, Professor.

Professor Dworsky: With your permission, Mr. Chairman, I should like to have these researchable items introduced into the record.

The Chairman: Yes, I think it would be appropriate if we were to include that in the record right at this point. We will simply take it as read.

[Text of ten researchable items follows]:

Attachment to Memorandum

Research Agenda: Date, March 19, 1975

Professors Leonard B. Dworsky¹ and George Francis

(1) *The Value and Use of the IJC to the Governments of Canada and the United States—The Question of Political Will of the Two Countries*

The general attitude held by the Governments of Canada and of the United States on the multiple purpose management of the Great Lakes Basin is essential for understanding the operation of IJC. It is not clear whether or not the two governments believe that the problems emerging in and around the Great Lakes are inexorably leading to critical situations and that it is imperative to initiate new concerted actions in order to conserve and enhance these unique resources for the present and future generations. There is little doubt that some of the problems concerning the Great Lakes (e.g., pollution) are already critical. Can the two countries afford to wait for other crises to occur as a catalyst for action?

The major question is the willingness of both countries to exercise their political will at least to the extent of strengthening their ability to resolve existing difficulties and to be better prepared for future problems.

The Governments may use the IJC as a tool to ensure that both countries cooperate with regard to their shared environment. While a new treaty may not be needed, the option should not be ruled out. What is needed under any circumstances is more effective use of the political will of the two governments along with a better understanding of the IJC and its greater capabilities and a commitment of greater resources to enable the Commission to carry out its responsibilities.

¹ Assisted by graduate research assistant Amos Avgar, Cornell University

Some considerations regarding this problem, we think, ought to be:

—The continued viability of the Boundary Waters Treaty as written, or the improvements that may be possible with careful change.

—The use that the governments might make of the IJC under the existing treaty.

—To what extent can the Commission be asked to move into new areas with its current capabilities and staff?

—What are the new areas the Commission can move into provided it is granted additional staff?

—To what degree has the Commission's performance been dependent upon the political will of the two governments with regard to questions like: (a) utilization of various sections of the Treaty; (b) restricted interpretation placed on the references presented to the Commission.

(Please refer to pages 4, 6, 18, 26 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential", for additional commentary on this point.)

(2) *The IJC and its Commissioners*

The International Joint Commission is the only existing formal arrangement between the United States and Canada concerning the management of the Great Lakes. The Commission consists of six members, three from each country. The U.S. commissioners are appointed by and serve at the pleasure of the President. The presidential appointment is not subject to Senate confirmation. The Canadian commissioners are appointed by Order in Council of the Canadian Government and serve at the pleasure of the Government.

To a great extent, the IJC is only as good as its commissioners. Therefore, we think an examination of the past commissioners could throw some light on the work of the Commission. Lack of institutional procedures for the Commissioners nomination obstructs this task since there is no existing formal set of criteria or qualification for nomination. Establishing such criteria as a basis for evaluating the commissioners might be considered. As examination of the commissioners biographical background may be useful. Another approach might be establishing a set of criteria for evaluating the competence and activity of the commissioners based upon their contributions and participation to the extent identifiable. Such criteria may serve not only as a basis of evaluation of the commissioners, but also the work of IJC in general. Additional considerations may be:

—Continuity in the work of the Commission at times of personnel turnover.

—The pattern of personnel rotation.

—Inter-commissioner conflicts, e.g., national, political, etc. and their effect on the Commission's work.

Suggestions for organizational changes may also be presented:

—Alternative nomination procedures.

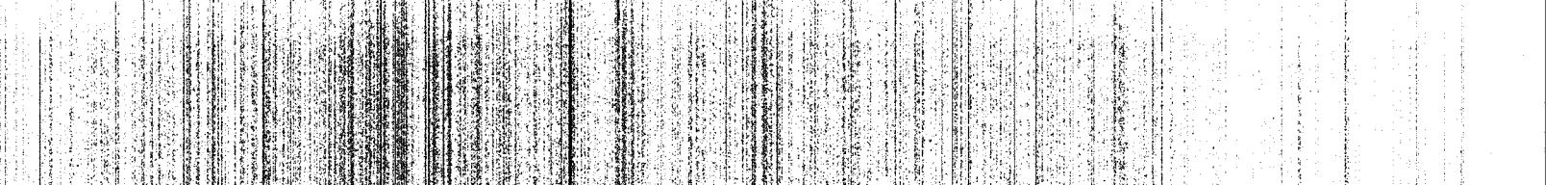
—Optimal duration of the commissioners tour of duty.

A set of interviews with past commissioners about their experience and future suggestions might be a useful method of examining this problem. (Please refer to pages 7, 8 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential", for additional commentary on this point.)

(3) *Implementing IJC Recommendations*

A major responsibility of the IJC which is becoming its major work is to investigate and make recommendations on specific problems referred to it by either or both governments. Neither government is bound by the reports or recommendations of the Commission. The Commission is often hurt when it makes recommendations and no action is forthcoming.

The governments should establish an institutional framework (regularized machinery) within which IJC's recommendations can be dealt with in a more efficient manner and within a shorter period of time. A suggestion at the IJC Seminar proposed that if governments turn down a recommendation, they should show cause as to why they could not accept it.



We believe that several considerations may be of use in looking into the problem of implementing IJC recommendations:

—Should Article IX (of the Treaty) be strengthened to assure great responsiveness by the governments to the Commission's recommendations? What changes would be needed?

—What are the mechanisms within the government that operate to implement IJC's recommendations and what is the time span of their operation?

—What are the differential constraints imposed on the implementation by the different governmental levels (international, federal, state)?

—Can these levels be regarded as distinctive "blocks" with regard to specific recommendations?

What are the major spheres or topics in which recommendations were made?

—Is there a distinction between those recommendations that were implemented and those that were not carried out?

—A study of "abortive" and successful recommendations and the response of the different governmental levels to them might be useful.

—Can institutional "bottlenecks" be identified with regard to hampering implementations? And could differential (governmental and programatic) bottlenecks be identified with regard to different spheres of activities?

—What are the formal (and informal) channels of communication between the Commission and the governments?

—What are the measures taken by the Commission to pressure the authorities to implement their recommendations? (Please refer to pages 7, 8 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential", for additional commentary on this point.)

(4) A Monitoring Role for the IJC

Some of the side effects of various development projects in the Great Lakes have been environmental degradation, natural resource depletion and land use mismanagement.

The rigidities of present institutional arrangements are thought to be blocking progress toward the control of environmental degradation as well as the efficient use of resources in general.

It was suggested at the IJC Seminar that one measure of the responsibilities given to the IJC in the future will be the Commission performance under the Great Lakes Water Quality Agreement (GLWQA). Here the Commission has been asked to help coordinate activities and serve as a watchdog over programs in the two countries designed to achieve agreed water quality objectives. Granting the Commission a monitoring, or a watchdog role, poses a problem. Could such a role jeopardize the continued effectiveness of the Commission by asking the board members to "spy" on their own countries and thus endanger the integrity of the Commission?

Dealing with this problem, its validity should first be examined, i.e., is the "spy" analogy relevant to the monitoring function? Furthermore, wouldn't a monitoring role help the Commission foresee future problems and thus

should it not be structured accordingly? Further considerations might be:

—Can a monitoring function be accommodated effectively within the existing IJC?

—What are the mechanisms required for the fulfillment of this task and how should they be structured?

—To what extent will this task conflict with the present role and structure of the Commission, and what are the potential points of tension that may emerge?

—What can be learned from GLWQA with regard to the Commission's future monitoring role?

—Has the Commission fulfilled this function in the past; on what issues and to what degree of success?

—What are the necessary additional personnel needed to empower successfully the Commission with monitoring functions? (Please refer to pages 15, 16 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(5) IJC and the Authority to Recommend References

The major work of IJC is to investigate and make recommendations on specific problems referred to it by either or both governments. It is under this provision of the Treaty that requests, or "references" by the two governments have been made on such varied subjects as water pollution, lake levels, and land use. (Reference means the document by which a question or matter of difference is referred to the Commission pursuant to Article IX of the Treaty*).

One manifestation of the reactive nature of IJC (as opposed to initiatory), among others, is with regard to the authority to recommend references. One suggestion made at the Canada-United States University Seminar (1971-72) was to seek organizational improvements within the framework of a significantly strengthened International Joint Commission. The key feature in this strengthening is that the IJC would be freed from the present Treaty constraints of acting only when a matter is referred to it by both countries, so that it would assume an active role in the public decision-making process. (This process is already under way in part as a result of the 1972 GLWQA.)

*Rules of Procedure of the International Joint Commission

The modification of the Commission work entails arguments and questions that ought to be evaluated:

—To what extent is the following notion valid: "Unless governments themselves make the references, there would be no political base for governmental support of the IJC's conclusions and recommendations as the result of the reference."

—What are the advantages of giving the Commission several broad standing references, and what should the areas of activity be?

—It was noted at the IJC Seminar that the Commission has used in the past the procedure of pointing out to the two governments potential sources of trouble and dispute and suggested that a reference be made. In what areas were these references and what can be learned from these precedents for expanding the use of this procedure in the future?

—Should the structure of the Commission, the number of commissioners and the present appointment criteria and procedures be altered to fulfill the new task?

—To what extent has the GLWQ's board recommended references and what can be learned from that experience?

—What governmental body should confirm or reject the Commission's recommended references if this authority is extended, and what should the institutional procedures for such examination be? (Please refer to pages 13, 17-19 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(6) *IJC and the Use of Borrowed Staff*

The Commission carries out its varied responsibilities through the employment of permanent and borrowed staff. The borrowed staff is drawn from two sources—governmental and private—and each creates serious problems for the Commission's work.

It is sometimes asserted that the IJC need not maintain a large technical staff to carry out the investigations authorized by reference since it can draw upon the federal agencies of both countries for these purposes. This is a situation not without drawbacks. When the technical work of the Commission is carried out by the agencies of the two governments, the work produced is a product of the priorities, constraints, and program biases of the participating agencies. While the Commission at the onset of an investigation has and exercises authority to mark out the scope and terms of the project, this power tends to dissipate in an irreversible manner once the project is in the hands of the technical agencies. The problems that ought to be examined with regard to this issue are:

—What are the advantages of using such personnel to the two governments in general, and to the Commission in particular?

—Has the dependence of IJC on governmental personnel for various studies and activities limited the capacity of the Commission to make independent judgements? If so, should the IJC procedures be changed? What should be the direction of future IJC personnel policy?

—What are the built-in constraints that emerge from the use of such personnel and how does it effect the work of the Commission? (e.g., conflict of interests between responsibilities to IJC and to their own governments; time constraints due to divided responsibilities; etc.)

A possible solution to the problem posed by the employment of governmental personnel is through contracts with private firms. The desirability of using such non-governmental personnel should be examined. Furthermore:

—Can qualified staff be hired for short periods of time?

—Would contracting with private firms to undertake studies impede the free flow of information that now exists, and will it cause duplication of effort?

—How can the problem of maintaining the confidentiality of information be solved?

—How can the governments still be involved although outside personnel is being used? (This is important in order to maintain their political stake in the outcome.)

Some considerations regarding both service and personnel may be:

—In what areas were each predominantly used?

—Are there areas that ought to use one type and not the other?

—Should the Commission's staff be enlarged and replace the borrowed staff? (Please refer to pages 17, 18, 25 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(7) *IJC and the Funding of Reference Studies*

Governmental agencies find it increasingly difficult to procure funds and implement new references. It was agreed at the IJC Seminar that the problem of receiving new references without funds to carry them out is likely to increase in the future. Furthermore, the Commission has no fiscal control over the work done in its name by agencies assigned to tasks.

The U.S. Congress recently approved a new procedure which gives Congress more control over the budget. Federal agencies will be required to justify their own programs and it can be anticipated that there will be little in the agencies' budgets to do work for others. This may force the IJC to stand on its own.

A mechanism to provide the financing of new work requested by the governments, control over current work, and financing of works recommended by the Commission should be established. A presentation of several alternative solutions to the funding of references and their evaluation could be useful. (One possible solution is a revolving endowment for the IJC to finance new references. A drawback of this solution is that the money could only be used for specific references from the governments and not for work initiated by IJC.)

Possible alternatives should take into consideration problems like:

—Restrictions posed on the Commission through outside funding sources.

—The initiative role of the Commission and at the same time its institutional dependence on the two governments.

—Differential financial problems faced by the two governments. (Canada is faced more with the problem of personnel to deal with references than funds.)

—Private sources of revenue and the restrictions and constraints they may have on the Commission's work. (Please refer to pages 18, 19, 20 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(8) *IJC and the Public*

The Commission and its work is virtually unknown to the general public in the United States and Canada. For many years, the Commission's primary function was the processing of applications for projects involving private parties, yet public interest was absent. In looking for possible explanations for this phenomena, the answer may be in the nature of the institution itself.

The modus operandi of the Commission and its close ties with the Department of State and of External Affairs, effectively isolated it from public involvement. Its rules of procedure in some instances preclude public access (e.g., IJC boards may not hold public hearings, this power being reserved to the Commission itself).

In recent years, it seems that IJC has entered a new phase with regard to public participation, interest and responsiveness. The problem of public participation has two sides that ought to be examined. The interest and participation of the public in the Commission on the one hand, and the openness of the Commission to the public on the other hand. The two sides are related but may be distinguished analytically.

The presence of non-governmental people on board guarantee that public has open access to information, thus adding to the image of openness and increases public confidence and awareness. Since the Commission is conducting the public's business, the public should be involved. Moreover, its membership would serve as a safety valve and assure that issues are not overlooked. We should keep in mind that the management of the Great Lakes Basin, which is the location for huge urban and industrial complexes, is of great interest to a wide range of public groups and organizations.

The problem of IJC and the public calls for examination of issues like:

—What are the constraints and drawbacks of public participation (e.g., confidentiality, the need to maintain a distance from the public, etc.) and how may they effect the Commission?

—What are the institutional barriers, contacts and channels of communications between the Commission and the public, and how can rigidities be modified in order to encourage public accessibility and participation and to stimulate interest in the Commission?

—What were the forms of public participation in the past and which were encouraged or discouraged by the Commission?

—What environmental groups are interested in IJC and how have they participated or influenced the Commission?

—What kind of pressure and in what areas did public groups impose on the Commission? In what cases did the Commission "give in" and where did it anticipate the pressure and was initiative? How did the differential response influence the Commission's prestige?

—In what boards and at which levels is public participation most desirable?

—How often and at what stages of the Commission's work should information and reports be released and how has this problem been dealt with in the past? (Please refer to pages 20-23 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(9) *IJC and New Planning and Surveillance Authority*

The IJC was not granted a planning role with respect to the boundary waters by the Treaty. Thus, the Commission has neither the authority nor the resources with which to undertake a planning function. Under the terms of the 1972 Agreement on the Great Lakes Water Quality, the IJC was assigned new responsibilities, the first of which is collection, analysis, and dissemination of data and information on Great Lakes Water Quality. (As of December 1972, the Commission had 8 surveillance boards under it. This does not include the GLWQA.)

Coordinated planning on a comprehensive level is a key to any meaningful basin-wide endeavor, one that only a

binational arrangement can provide for the Great Lakes Basin. Jointly agreed upon objectives are the premises for joint planning. A binational body might also require a considerable strengthening of cooperative relationships at local and regional levels.

It was suggested at the Canada-United States University Seminar that the IJC should indeed become more involved in policy planning and management functions delegated to it by the two governments. The management functions are surveillance and mediation. Surveillance is defined in this instance as information gathering, data interpretation and dissemination. It is a function concerned with problem identification and definition. Surveillance is necessary for the detection and continued monitoring of the important trends in resource use and socioeconomic development within the Great Lakes. Establishing a broad information base for the Commission would enable it to anticipate problems along the boundary, to advise the governments more often, to make more meaningful recommendations, and to be more active in general. Mediation is viewed as the management function beyond that of surveillance, requiring broader authority and responsibility. It is an active role in which joint activities are agreed upon and conflicts are resolved through discussion and consultation.

The creation of new institutional arrangements must take into consideration existing institutions and authorities. Granting the Commission with these additional functions involves a series of considerations. Some of the institutional-organizational problems are:

—Has the GLWQA opened doors for managerial and planning roles which can be developed by the Commission itself and should this be encouraged by the governments?

—How should these functions be coordinated with existing government controls over planning?

—Should the governments build upon the GLWQA and establish the Commission as the necessary binational coordinating committee for national agencies?

—Should the structure of the Commission be changed in order to incorporate these functions effectively—what organizational improvements within the framework of the Commission should be made?

Further considerations might include:

—Would an information gathering body play a role in encouraging the governments to improve the level of interest in the environment?

—In what areas is the information gap most manifest and what areas should be given priority (economic development, land use planning, environmental planning, etc.)?

—Should the IJC be the information gathering agency along the boundary or would it not be better for the Commission to focus on specifically defined problems which are referred to it by the two governments?

—How would it help IJC carry out its specific responsibilities if it provided information to others on matters not under its jurisdiction?

—To what extent should the scope of the Commission's jurisdiction be extended?

—How should information exchange among interested parties be coordinated?

—How would the Commission be effected if it were aware of existing and potential problems but unable to resolve them?

—What are the obstacles which stand in the way of granting the IJC with policy making and administrative authority to enable it to carry the additional functions and a coordinating role?

—What can be learned from the work of the GLWQ Board and the surveillance boards of the Commission with regard to experience with these functions in the past and their extension in the future? (Please refer to pages 20-28 of the "Summary of the International Joint Commission Seminar on the IJC; its Achievements, Needs and Potential," for additional commentary on this point.)

(10) *Toward Developing a More Comprehensive and Systematic Approach to the Management of the Great Lakes:* Specifically, this will require, among other matters, (a) program responsiveness by requiring that activities of a postulated joint management body be subject to program and budget authorization and review on, for example, a biannual basis; and (b) joint agency budget and administrative procedures.

A comprehensive approach to the management of the Great Lakes will seek solutions to problems concerning the region and will enable their identification and examination within a wider framework. Strengthening comprehensiveness is expected to provide improved insights into the nature of the complex system and its pattern of interaction. An important aspect of such an approach, which will have an important bearing on the effectiveness of a possible joint management body, will involve administrative procedures.

Our interest in administrative procedures is in their relationship to the functional-programmatic aspect of the management body and to its financial-budgeting aspect.

The problematic nature of the administrative procedures lies primarily in the international nature of the management body (apart from the "usual" problems that are inherent to any managerial body). In order to consider administrative procedures, an examination of those now utilized by the Great Lakes Water Quality Office should be attempted as well as considering new procedures.

Some of the questions that ought to be considered with regard to the functional aspect are:

—What are the actual or likely constraints that impinge upon the administrative procedures as determined by the international nature of the management body.

—What are the current administrative procedures that govern decisions regarding determining future programs. What changes would be needed to make a joint office effective?

—What are the administrative regulations that control and direct these programs? What changes would be useful to support effectively a joint office?

—How often are the programs evaluated and revised? What are the criteria for revision?

—How is Canadian and American cooperation achieved with regard to both determining and supervision of current programs? What would be needed to develop effective programs under a joint office?

With regard to the financial aspect, questions that ought to be considered are:

—How would the budget of the management body as a whole be determined? How is the budget for the present joint office (water quality) determined?

—What are the standing administrative procedures that supervise and control the budget of the management body in general and of specific programs in particular? How might this be improved?

—What are the considerations that determine the budgeting of specific programs (an evaluation of the role of pressure and interest groups, formal and informal, in determining the allocation of capital is of great importance)?

—How is the financial burden shared between the U.S. and Canada? How might it be shared?

Recommendations for future changes with regard to administrative procedures ought to be made on the basis of current procedures. Administrative technicalities that seem to impede, or prevent an adequate operation of the management body should be mentioned and ways to eliminate or overcome them presented.

The Chairman: I call on Senator Rowe to commence the questioning.

Senator Rowe: Mr. Chairman, I am not quite clear in my mind just what the powers of the IJC are. I have the impression that the IJC has no executive powers as such. Is that correct? It cannot say, "You can establish or you cannot establish a particular industry here."

Professor Dworsky: There are two functions worthwhile noting, in response to your question. The first is its adjudicative powers. I cannot say whether that would be called executive or decision-making powers, but the fact is that their findings hold. For example, with respect to an application from an industry that wishes to modify the flow of water into the lakes from, say, a tributary stream, or wants to put in a power dam that will change water flow or adjust the level of a particular waterway, the IJC apparently does have judiciary powers in the sense of making a finding. As I understand it, although I would leave the conclusive statement to those who follow the law, their findings do hold and have held.

The second major point, which is becoming much more the task of the commission, is that of undertaking wider-ranging planning studies. These wider-ranging planning activities consider questions like how should we manage the level of the Great Lakes, how should we manage water pollution, how shall we manage the pollution that flows off the land and that affects the lakes. These planning studies come about by way of a reference, which is a common document from both countries to the International Joint Commission asking them to look into the particular question. Then, using the powers and executive agencies of government, to undertake the study, the IJC then reports back to governments with recommendations. That is where they stop. The governments then take up the task, making agreements and arrange for additional necessary actions and so on. On this point, then, with regard to references the IJC does not have decision-making power. They merely make recommendations to the governments.

Senator Rowe: The question I was going to ask first, Mr. Chairman, is one that on the surface does not seem to have too much relevance, but it may have some reference

to the matter we are discussing. Let me preface the question in this way. When I went to England first, some 20 years ago, the Thames was at that time very little better than a sewer; it was a pretty dirty, smelly, nasty stream. When I was there last year—and this is common knowledge—the impression was given, and certainly from looking at it one could see, that there has been a tremendous improvement in the quality of that water, and only in recent months we have heard that there are some indications that salmon and other fish, that have not been there for over 100 years, are returning. I know the two situations are not quite similar or analogous to any great extent, because in the case of the Great Lakes we are dealing with large relatively placid bodies of water and in the case of the Thames we are dealing with a river. Nevertheless, there are some similarities. You have 20 million people in the Thames basin and you have great industries and a lot of other things going on in much the same way as we have on a bigger scale around the Great Lakes. Has there been any liaison between the IJC and the British authorities in this matter? I do not know, frankly, what the British have done to clean up the Thames. Have they resorted, for example, to chemical measures—and here I do not mean the treatment of sewage and things like that—to treat the water itself in any way? I wonder if either of you gentlemen could give us some insight into that particular matter.

Professor Dworsky: The knowledge we need to clean both the Thames and the Great Lakes is common knowledge, and this is not restricted to just our three countries. It is worldwide. I am speaking now of the processes of pollution control, by the construction of both urban and industrial waste facilities, by changing the processes of industry, and by eliminating, for example, certain types of toxic materials—all these things are well known. The Thames has been improved greatly, as I understand it, by the construction of facilities that have removed the excessive amounts of pollution that used to flow into the Thames. The Great Lakes, of course, are pursuing the same venture and the Great Lakes Water Quality Agreement, with which you are familiar, and which was established by Prime Minister Trudeau's and President Nixon's executive action of 1972, clearly calls for the same sort of action. A set of goals and standards have been established, treatment requirements and time schedules have been established, and the governments have said that they would provide the amounts of money necessary to assist local communities in building needed facilities. That there is some slippage in this area is also indicated by a *Globe and Mail* article of a few days ago. At any rate, however, the knowledge is present; we know how to control pollution; we are using the same techniques. The differences lie again essentially in the will of the governments. Do they wish to do it? Will they appropriate the necessary moneys? Will they set out to do what we know how to do, and if they will, then we can clean up the Great Lakes.

Senator Rowe: In fairness we could say, could we not, where you have a unitary authority such as you have in England, the situation is much easier to deal with than it would be in the case of the Great Lakes? On that point you have mentioned, however, a couple of months ago I saw a TV program dealing largely with fisheries and I understood it was on Lake Erie—a commercial fishery—and I got the impression that Lake Erie has improved in recent years, to the point where an expanded fishery development has taken place. Is this so? Are the Great Lakes cleaner today than they were seven or eight years ago? Has there actually been an improvement in the quality, or,

to put in another way, has there been a lessening in the amount of pollution in the Great Lakes generally in the last few years?

Professor Dworsky: I shall give my summation of that. I think there are three things happening. Surely the governments are moving more effectively during the last five years to use their political will to appropriate moneys to enforce actions and to clean up the pollution coming from cities and industries. At the same time we have two other factors that tend to reduce the effects of this. The first is the growth that takes place concurrently with new population and new industry. So the real question is whether we are moving fast enough. The next factor has to do with what people expect and I think a great deal of the problem concerns public expectations.

Water pollution control goals that were sought three decades ago were very modest. Two decades ago the standards were somewhat higher, and the standards we are seeking today are much higher. The 1972 Water Pollution Control Act in the United States proposes to move toward the elimination of the discharge of pollutants into any body of water. That is a very high expectation. We have a debate going on as to whether or not this is a valid expectation. In summary, we are moving forward on the aspect of public will and dollars. But whether we are in fact overcoming the pollution problem depends upon how fast we are gaining on new pollution producing developments and how the public views the problem of pollution in terms of how clean they expect it to be. By and large I would say we are gaining on the problem.

Senator Rowe: Just one final question, and I would not want to put anyone on the spot, but I have been wondering in my own mind—and I think this is a legitimate question—as to whether we are fooling ourselves here. Can we bring back the quality of the water in the Great Lakes, given the tremendous population and the tremendous amount of industrialization and given the fact that we are not really doing anything to stop growth there? Industrial growth is going ahead, and population growth is going ahead in a geometrical progression, and other growth as well. You have the tremendous needs of industry and you have the power of industry to be reckoned with. You have the selfish—and I do not use that word in a derogatory sense—interests of varying municipalities. A city like Chicago has special needs and is not likely to be too concerned about the needs of Toronto. So, given all these factors, and in continuing along the present approach, are we not fooling ourselves? I am not saying we are, but I am asking the question in all sincerity. Are we fooling ourselves in this regard? Can we really bring back the pristine purity or any approximation of it of the Great Lakes?

Professor Francis: That is a good question. I think you are quite right that it is unrealistic to aim for an ideal such as pristine purity. We are just trying for improvements at this point so that the water can still serve a whole variety of purposes. The point you made about the continual growth, the urbanization and industrialization patterns around the Great Lakes, is really the main one. It is the reason we are suggesting that it is necessary to get a better understanding of these processes of economic growth and development and the accompanying changes in land use, which are generating the problems in the water. So far much of the effort has been devoted to understanding the water problems by doing studies which document the pollution for example, and coming out with some recommendations for change. We really have to look at this in a

broader context. I think this is the challenge which lies ahead, and we would like to see that question opened up.

Senator Carter: When you are working out your standards, what do you hope to achieve, what are your goals? Are you trying to achieve a standard that will permit life in the waters? If so, to what extent? Are you trying to get it to the point where it could be used as drinking water? Just what level of quality are you aiming at?

Professor Dworsky: We have a number of uses for the water in the Great Lakes. Drinking water is one, fisheries is another, industrial water use is a third. These, of course, require certain standards of cleanliness. The standards we have adopted are good standards with respect to the degree of cleanliness needed for protecting animals and their habitats, for protecting the drinking water supply of people, recognizing that such water is usually provided with purification facilities, and providing industry with an adequate supply of clean water. I think the Great Lakes standards that were agreed to by the negotiators representing Canada and the United States are very effective standards, and are generally approved.

Senator Carter: You have mentioned three separate goals: one drinking water, another industrial use, and another the protection of life. They are really three separate standards; each one has its own standard.

Professor Dworsky: Yes, each has its own standard. The standards for the protection of aquatic life would probably be the controlling standard. If standards for recreational waters, fishing and the protection of aquatic life were reached all other waters and their uses would in fact be protected.

Senator Carter: That is really the top standard?

Professor Dworsky: That is right.

The Chairman: Let me clarify that slightly. When you refer to drinking water, you are speaking in terms of taking water from the lake, but still being able to chlorinate it in the ordinary sense for city purposes and so on?

Professor Dworsky: Yes.

The Chairman: When you refer to recreational standards, you mean the type of standard where a man could swim from his summer cottage?

Professor Dworsky: That is right, or in the big cities—Toronto, Cleveland or Chicago.

Senator Rowe: Are there parts of the Great Lakes where the existing water can be drunk, like parts of Lake Superior?

Professor Dworsky: I think by far the greater proportion of the Great Lakes is of a very high quality. It is only along the shoreline, where people intercept with the lakes, that you really have problems. This, of course, is what the issue is all about.

Senator Bélisle: Since we have here these two distinguished professors from both sides of the boundary, I would like to know what consultation or co-operation there is by you gentlemen. The reason I ask the question is this. I have been informed that there are eight or nine commissions on the States side. I am fully aware that there are many conservation authorities in Ontario. These conservation authorities, which represent districts and counties, have federated themselves into a provincial authority. At

noon today I had the privilege of having lunch with the chairman, who has been concerned with part of it for the last eight or nine years, and he informed me that he has yet to be invited to discuss or consult with you people. He also informed me that the Province of Manitoba, which copied our act, or most it, regarding conservation, had invited him, the premier and minister on two or three occasions to speak. Is there consultation?

Professor Francis: With regard to the Canada-United States seminar two years back, we did have people there from the Metropolitan Toronto and Region Conservation Authority who participated in that series of meetings. It was more a matter of getting a manageable meeting with people from a variety of agencies with different functions to contribute to the discussions. I realize this is not consultation with the authorities *per se*, but we certainly had representatives and the view from one of the larger and more impressive conservation authorities in Ontario, namely Toronto.

Senator Bélisle: Would you not agree that Ontario is a parcel of land of such importance that it should be consulted? My next question is this. You said you would love to see the authority—I presume you meant the IJC—using more and more of your staff, your personnel or your knowledge. Is that what you meant?

The Chairman: I do not recall that.

Senator Bélisle: Then I misunderstood.

Professor Dworsky: Perhaps I was not clear. We are simply individuals who, because of our interest, our citizenship and our concern for natural resources, have voluntarily banded together to explore these questions through our universities. We are also interested in public affairs. We have sought some money on our own. These are research funds, which come through normal research channels, at least to my university and to myself; we are using these funds to support the kinds of studies we are undertaking. There is no relationship here with the official agencies. We do not belong to any official agency. We have no responsibility to them other than our research agreement and of course we must be responsible and credible as researchers and persons. We are trying to seek out answers about the Great Lakes for public use, and to work with government people at the same time.

Senator Bélisle: In other words, your funding is done, as you said, by you, or through your university, or through the state. Are you getting any funding from the state?

Professor Dworsky: No.

Professor Francis: Actually, the funding in back of the seminar report you have before you, and which we will be following up by further studies, has come through the United States Office of Water Resources Research to Cornell University and is administered there by Professor Dworsky. Perhaps as other kinds of studies get under way we can apply to other funding sources, including Canadian ones. So far it is a research grant to Cornell University that is backing the studies we are referring to here.

The Chairman: I believe in Professor Dworsky's earlier remarks he made the point that they were having to use their limited funds, private funds, that they have through the university, to conduct studies that might more properly be funded or studied individually by government agencies. Was that the point?

Professor Dworsky: Yes. What I was trying to say was that the studies we are undertaking are about the questions we think governments should be studying.

Senator Bélisle: Would it not then be logical, if you are going to make a study or do research on the environment, that the proper place to make an application would be to the Government of Ontario in order to get some funding? Large grants are given for research on the environment, water or land use.

Professor Dworsky: That may be so, but we have not sought them from that source.

Senator Bélisle: My last question is this. On the United States side there is a body called the Great Lakes Basin Commission, representing eight or nine federal agencies. To what extent does this body provide adequate co-operation and planning with you people?

Professor Dworsky: The Great Lakes Basin Commission is one of our important agencies that is designed to bring together the federal government agencies and the states in a particular region. We have some seven of those now—in New England, the Ohio River valley, the Great Lakes, the Columbia, the Upper Mississippi, the Missouri and the Arkansas. The purpose of the Great Lakes Basin Commission is to carry out the authority granted to them by the Water Resources Planning Act of 1965. One of their responsibilities, is to develop plans for the management of the Great Lakes.

The problem with a Great Lakes plan designed by the United States Government and the states is that it can deal only with half the problem, it cannot deal with the Canadian half of the Lakes. There is a new voluminous study now being printed, containing some 20 volumes. It is an excellent report and I hope that the committee will get a copy for its files. But the fact of the matter is, no matter what they report, they can only outline a plan for half the lakes.

This points up one of the important questions I touched on before, and if you do not mind, Mr. Chairman, I would like to pursue this for a moment. One of the recommendations we have made is that the IJC be given some planning authority. Let me explain.

When a major problem arises, the two governments must first agree to consider doing something about it. In recent years an increasing number of references concerning broad problems have been referred to the IJC. The IJC reacts to the references sent them and then initiates its activities.

In addition to this reactive procedure, we would like to have a general reference granted the IJC by the governments, for the purpose of allowing the IJC to look not only at problems that have arisen, such as the crisis of water pollution, but also at potential future problems so that we may be aware of these before they become crises. In other words we are asking that some kind of planning function be given the IJC.

We believe the IJC can be given a general grant of authority for recommending references say, for a five or ten year period. The IJC will continue to be under the control of the governments but it would have a general reference for planning. This means that IJC would not merely be standing by and reacting but would have a forward view, which we believe is essential. In that case,

hopefully—and it may be that Professor Francis would wish to comment on this—Canada might want to undertake a planning task on the Great Lakes somewhat comparable to what the Great Lakes Basin Commission is doing. It does not mean that all planning has to be under one office or under one head, but if both countries were planning ahead, they would find ways to bring the knowledge together.

Senator Cameron: You refer to about 20 volumes. What size would they be?

Professor Dworsky: Each volume would be about this size.

Senator Cameron: I had responsibility of publishing a lot of university publications and I found that the consumption was almost in inverse ratio to the size of the volume.

Professor Dworsky: There is also a summary this size.

The Chairman: The last point you were dealing with was about the IJC having an ongoing planning and surveillance reference made to it. That could be done by governments quite independently of your recommendation number one,—that they have power to recommend their own references?

Professor Dworsky: Yes, I think this would be so, but there may be a link if they had a planning reference that would allow them to look forward into the future to identify problems. This activity would provide the basis for their making recommendations to the governments with respect to proposals for references to the IJC. What we are asking is that the IJC have an opportunity to propose to governments references that would come back to them.

The Chairman: I have your point. It is not that they can simply recommend references to themselves; it is that they can recommend a matter that could be sent to them. There is a good deal of distinction there.

Professor Dworsky: There is.

Senator Carter: Would you be in favour of the IJC having blanket power to conduct or initiate its own investigation?

Professor Dworsky: No sir, I do not think so. What we are asking is that they be as responsive, not any more or any less, as executive agencies are in Canada or the United States. Under your arrangements or under our arrangements, government agencies come to Congress or to Parliament annually for program review, and for authority and for budgeting, and, while it may not be necessary to do this on an annual basis, we are suggesting a bi-annual basis, that may be possible for IJC as an international body. On the other hand we expect it to be responsive to governments and report at whatever period is appropriate, for both programming and budgetary authority. As long as the governments keep control over what is happening they ought not interfere too much with the opportunity to look into the future.

Professor Francis: I should like to add that one thing we are really interested in seeing is that the IJC be invited to get a wider perspective for some of these studies. It should be able to assess for example, land uses and land planning as these may effect water quality and water uses and make recommendations within this broader scope.

Senator Carter: What you are really asking for is that the IJC have broader terms of reference than they have now, but that they should go to the governments and recommend to these two governments that they should have broader terms. I think that is what you are saying.

Professor Dworsky: If they had a general authority for planning, that would give them a broad opportunity to identify questions. They would be independent to identify issues and linked for responsibility. Once that happens they could make recommendations to the governments for references. Then we would hope that the recommendations or references would provide a broader base of planning and study authority than they have now.

Senator Carter: I can see your point, but it is a matter of control. As long as the government holds the purse strings for funding any project, surely the government has the ultimate control for the funding?

Professor Dworsky: We are concerned about the question of supranational organizations and no one is recommending a third party between the two governments. There is no agreement or interest in a supranational agency. What we are striving to do is find ways to strengthen Great Lakes management under the general arrangements that now exist, we are simply recommending a broader base of action be created, and which Ambassadors Heeney and Marchand recommended in their excellent report some years ago; that a Republican ad hoc committee of the Congress also recommended subsequently, and which we now are recommending. We think the time has come for such action.

Senator Grosart: Is it a major recommendation you have, that the necessary authority, the authority which you think is necessary to do the plan, be given to a new body rather than to the IJC?

Professor Francis: We discussed those two options and it could be argued either way. I think our own view is that we would prefer to see something in the way of expanding the IJC. We were favourably impressed with their experience and thought that would be the way to go.

But in that connection, we would like to draw the committee's attention, Mr. Chairman, to the recommendation which was before the United States Subcommittee on Inter-American Affairs, when they summarized their views. What the recommendation does is deal with the whole question of the Great Lakes and open it up a little wider in terms of discussing where we go from here. That may be the next step. After you have had a chance to review the materials and hear the witnesses, you may wish to consider that kind of recommendation yourselves.

The reason I say this is that we have had occasion to talk informally with quite a number of people, including officials in the federal government and in the provincial government. They are quite aware of the problems and they recognize the need and possibilities of further work on the Great Lakes, with the broader perspective that has to be taken. At times we detected a certain reticence among civil servants about whether they were free to talk openly, because there was no official expression of interest, there was no parliamentary body which had declared that this was something which should be looked at more carefully and more frankly in order to open up a discussion on it.

So, if you are talking about what we would like to see, it is some expression of interest by a Canadian parliament-

tary body like yourselves, which would say, let us have a look at what more needs to be done between Canada and the United States for the planning and management of the Great Lakes. That would be an occasion to explore a number of issues in terms of the appropriateness of expanding the role of the IJC in quite a number of these areas.

Professor Dworsky: That question was asked by Congressman Fascell also during the meeting of the subcommittee and our response was that we preferred not to make a precise decision as to which way to go. We felt that this, of course, was clearly a matter about which both the Congress and the Parliament had to be concerned. We thought it was enough simply to say, "Here are two options to strengthen the International Joint Commission as it now stands," and which are feasible. But, on the other hand, if the governments are not alert, our concern is that the problems of the Great Lakes will grow and, at that time, we are going to get more pressure for a new treaty on the Great Lakes. We think that kind of sequence may very well take place. This is why we are asking you to take a look at these questions now and the resolution that Mr. Francis was talking about, the one I quoted before, in which we asked congress to advise the president that he undertake conversations with Canada in order to undertake a study looking toward strengthening the management of the Great Lakes.

Senator Grosart: With respect, I do not think that is very helpful. You have been asked a simple question. I think you could give a simple answer. The simple question is: Do you come down on the side of one or the other, first of all? And I think I can take a yes or no to that. Do you come down on the side of alternative A or alternative B? Alternative A would be to increase the powers of the IJC so that they would be adequate to do the job. Or do you think it is absolutely necessary to have a second institution?

Professor Dworsky: Based upon the fact that we have the IJC seminar that explored this question in some depth, as for me at the moment I would come down on the point of saying let's strengthen the IJC as it stands.

Professor Francis: I would agree with that.

Senator Grosart: Would you see these two alternatives as mutually exclusive, then?

Professor Dworsky: No, sir, they are not mutually exclusive.

Senator Grosart: Would you see, then, a division of authority in this problem between the IJC and a new body as feasible?

Professor Dworsky: Yes, sir. We have some experience on that. I know that there is new interest on the Columbia River treaty and people from British Columbia are concerned about the way that went, but the fact of the matter is that from an organizational standpoint the IJC did an initial study and made recommendations to the governments. It was the governments who finally made the agreement, but what they did, in fact, was to spin off a new management body which is composed of two people from British Columbia and, on the U.S. side, the general manager of the Bonneville Power Administration and the Division Engineer of the Corps of Engineers for the Pacific Northwest Division. Those four people are, in fact the operating managers of the Columbia River for power generation and flood control.

Here was a case where the IJC had an interest, but the operation was clearly spun off to another body. It is not a comparable situation, because the Great Lakes is not as simple as the Columbia River, and the Columbia is very complex. It may well be that the IJC could have some general overall review powers with the operating day-in-and-day-out operations of the Great Lakes spun off to another body.

Senator Grosart: Isn't it so that it already has many of these spin offs? It has many subsidiary bodies that are managing specific things on which they have been given orders. If there was a secondary one, because you make a strong case for a secondary, and, in effect, an alternative body, would you see this as subsidiary to or independant of the IJC?

Professor Dworsky: We have considered the existing bodies, the regulating entities, the study entities, the surveillance entities and so within and outside the IJC. There is a large number of such organisations, perhaps about 30, and they act quite independently, usually. The recent lake level control study took nine years, and was conducted as a separate study by a U.S. agency during much of this period. The International Fisheries Commission has not related its work in any substantial way to others working in the Great Lakes. The Great Lakes Water Quality Agreement is primarily involved in water pollution. Sitting as a member of the Great Lakes Research Advisory Board I have not observed significant conversations about the relationship of water quality to navigation, except as a sanitary matter, or to power from the economic development aspect or to lake levels. It seems to us that today, with the interdependency of these functions, their relationships one to the other, some strong and some less strong, that the time has come to think of bringing the closely related functions together in some manageable way. Separate boards operating in separate compartments and not effectively being brought together at the IJC level is not adequate for today's purposes.

Senator Grosart: You seem to suggest, from the very nature of your organization, that the Great Lakes problem is unique and, therefore, requires something more than the kind of management—and I use the term advisedly—that the IJC has given this problem. Do you see it as something so separate that it should be taken away from the IJC?

Professor Francis: No, we do not. That is the whole point. We would like to see the IJC's functions expanded to encompass the range of problems.

Senator Grosart: The IJC, as generally regarded in international law, is probably the outstanding example of the transfer of national authority to a supranational body. For 60 years it has grown and has invariably been held up in international laws as having this unique position. Are you now suggesting that it should have greater authority, which I presume would mean a rewriting of the boundary waters treaty? Do you see it as having much greater authority than it has now; and, if so, what kind of authority?

Professor Dworsky: The present thought is that many of the things that are being proposed will not require a rewriting of the boundary water treaty. Actions that are, being proposed may be in fact, well within the bounds of the existing treaty. It depends upon whether or not the

political will of the two countries is such as to provide for expanding their activities. This supplementation is being tested in the 1972 executive agreement on water quality which allocated new and expanded responsibilities to the IJC. For example there is now a joint office with authority to monitor the Great Lakes rather than depending on the province of Ontario or the states, or on the federal governments. The same holds true for the matter of putting out reports to the public and to the governments. These illustrate new or expanded efforts that have arisen out of the water quality agreement. We think this is correct and is a good start. We believe we ought to build on these practices and move on to encompass some of the other problems.

On the point of whether it is a great organization or not depends on whom you compare it with. The international management of water pollution is poor in terms of its record. The IJC, too, has a poor record on this matter. We know that the first important task the IJC took up in 1912 was the problem of water pollution in the Great Lakes. A recommendation for a new treaty to cover the Great Lakes was made in 1920 and the two countries turned it down. Nothing else was done until 1946, when another study was made. Recommendations for objectives and standards were excellent and were agreed to by 1954. The professional field work was outstanding. Except for establishing a small ineffective office for surveillance of the Niagara Frontier area, nothing substantial was done by the two governments. But the problem continued to get worse until 1964 when again a third reference was made for three of the lakes. It was not until 1974 that the countries agreed to authorize the IJC to examine the water pollution problems of the upper lakes, Lake Superior and Lake Huron. In terms of the record, either we have been very slow or there has not been much of a problem. The fact of the matter is that there has been a major problem. Unfortunately, we waited until a crisis occurred. I think we are getting on top of it now. I hope we will continue to be.

Senator Grosart: Who else has a better track record?

Professor Dworsky: I do not think anybody has a better record. We are just trying to point out that we ought not to be proud, necessarily, of our record. And comparing it with other poorer arrangements does not make ours any better.

Senator Grosart: It does, because that is the very essence of the word "better"; it is comparative.

Professor Dworsky: But not in terms of the problem itself.

Senator Grosart: But we are still doing better than somebody else.

The Chairman: But not good enough.

Senator Grosart: We all agree. Where is there perfection? Where is there perfection in international relations? Then we have to remember that the whole subject of pollution and our politicizing of it is of very recent origin in international relations. We did not hear much about pollution until a few years ago. The Baltic got polluted before anybody made a single recommendation.

Professor Dworsky: Well, senator, I guess I was going through this brief history for the record. I think we can recognize the fact that the countries had a very clear understanding of the importance of pollution going back

some 60 years and the record is very clear also in terms of their knowledge of the importance of this problem.

Senator Grosart: Well, as I say, it is practically only since the Club of Rome that the problems of pollution have reached the magnitude that they have reached recently. Everybody has had pollution from time immemorial; there are some Roman documents on the subject that are quite interesting, but it was not the kind of awareness of the problem that we are now talking about.

However, to come back to the question of whether the treaty should not itself be revised, the original authority given to the IJC, as I recall it, was largely to deal first of all with disputes then current, and then to make provision for the adjustment and settlement of all such questions as might hereafter arise. I am quoting from page 27 of your report. Now there is a hiatus there. But the sense of it is here. It merely says, to make provision for the adjustment.

Professor Dworsky: I was looking at the same thing. Last night I looked at those first three words following the quote in the middle of that first column. It says, "to prevent disputes" and it occurred to me that we keep talking about ameliorating problems that exist, when we ought to be considering means to prevent problems by looking forward, and which we have not done.

Senator Grosart: Well, that is what I am wondering about, whether the authority is not already here. It is commonly said that the IJC has these two kinds of authority: one where there is an actual work of some kind contemplated; and the other where they have a reference. I am just wondering if they have not had all along the power to prevent these things by planning. What is your view on that?

Professor Dworsky: We would hope that it would have. Then the actions that need to be taken are well within the powers of the governments under the existing treaty, and it would be great if that were the case. If they were interpreted in that fashion, we think we could move along at a much better pace. Certainly we could do better than we have done in the past, and achieve what many of us believe should have been done already for the Great Lakes.

Senator Grosart: Would you say that it was necessary for the subsequent agreement to be negotiated—the Great Lakes Water Quality Agreement—for the IJC to move into the field or, perhaps I should say, the area of water quality? Was this necessary? Did they need it?

Professor Dworsky: I think it was absolutely essential. I fear for the health of the people and the economies of both Canada and the United States in the Great Lakes region.

Senator Grosart: I am not speaking of that aspect. I mean, was it necessary to have the subsequent agreement? First of all there was the "treaty" and then there was an "agreement"—and they are much the same thing—for the IJC to move into the water quality field.

Professor Dworsky: They first had a reference—and I might point out that the first secretary of the American Embassy, Mr. Ed Nef, is here and he was instrumental in the negotiation that took place. But the sequence of events, as I understand them, was first the granting of a reference by the two countries to the IJC to make the examination of lakes water quality. There are several volumes dealing with the technical studies. Then there

was the question of making recommendations with respect to criteria, standards, treatment requirements and time schedules and things of that sort. Having done that the two countries came together and through negotiations developed the definite agreement. Then, at that time they specified to the IJC its operating powers, and this where the IJC is now. It has established a joint office at Windsor, Ontario and it is executing the specific authority granted it by the two governments. Important elements of the IJC include the Water Quality Board comprising representatives of the States and the province of Ontario, and federal members; the Research Advisory Board and so on. The IJC is now an operating entity under this agreement. This results from new and reconfirmed powers.

Senator Grosart: What powers?

Professor Dworsky: If you would look at page 44 of our Great Lakes Report you will find we say that these were either new or reconfirmed responsibilities, and then we list them. Some of the new ones would include the establishment of the joint office; number eight is a very important one—the authority to independently verify data and information submitted by governments. Then there is the discretionary authority to publish its own documentation prepared in the course of its functions on the agreements which maybe a new function. The idea of co-ordination of Great Lakes water quality research is a new function. Again, advice and recommendations to governments on boundary water pollution reflects a broad based reference, and contributes to the authority to make recommendations to the governments. These are the items I regard as new powers, although some are existing powers which were reconfirmed.

Senator Grosart: It seems to me that in all of these cases, and I am looking at it just quickly, they had the power already. They certainly had power to collect, analyses and to submit data. They certainly had the power to advise and recommend to governments on boundary water pollution matters. What I am getting at is this; we are dealing here in this committed at the moment with the institutions that might help so much in dealing with problems between the two countries. Perhaps I should also add that throughout your proposals you go to some length to describe the limitations and the constraints on the IJC. Having said that, is the solution to this problem either more power, specific overall power, for the IJC or has the IJC already the power to create these spinoff institutions that Professor Cohen told us about? In other words, if we have to recommend something, then what are we going to recommend?

Professor Dworsky: I would suggest that if the IJC had this power or has the power, it has not exercised it. This may be for a variety of reasons. Either they do not feel that they have the power; or they are hesitant to expand into these areas, or they have not a clear sign from government as to the government's indicated will to move into these areas. Whatever the reasons may be, the fact remains that they have not exercised the authority you suggest they may have. Therefore, whatever it takes to give them assurance that they have the authority will need to be done.

Senator Grosart: Assuming they had this authority, the kind of authority that you see as necessary for somebody to have to deal with this problem, what kind of authority could they have over the many other authorities that are

dealing with the problem, from the private to the public, municipal and provincial levels?

Professor Francis: It is hard to answer that specifically. At this stage we are interested to see if their function with regard to what we call surveillance and mediation might be extended, as against authority in control. First of all, when we get a broader planning perspective and start to look at the various problems as an associated set of problems related to things happening on the land as well as in the water, it may well be that they would be able to do this, that legally they could get on with it. Maybe some authoritative expression of interest to suggest this should happen is all that is needed right now. It really depends on what is found out by surveillance and mediation activities as to what the appropriate follow up actions would be. I think at that stage you would have to take it through whatever the regular channels of government are in both countries.

Professor Dworsky: Nobody is suggesting that the IJC supersede the local functions of government or provincial or state functions. We are proposing classes of functions which provide for, in one case, the provision of information, its exchange and publication. There is a need to bring information together so that each party has intelligence about what is happening in the Great Lakes. Secondly, we are proposing that particular issues be identified; and that agreements on objectives, on standards, and on time schedules be established where and when needed. We are calling this class of action mediation. We are not proposing control. We are not suggesting enforcement powers. We think that a supra-national control agency at this stage of the game is not called for, although there are many people who might argue that. Some feel very strongly about air pollution, for example, because of the trans-boundary situations—Windsor, Detroit, Niagara Falls and so on.

Perhaps with air and water pollution we might want to come to authorizing a control function at some time. Under the Great Lakes Water Quality Agreement a review of the Agreement must be made by 1977. At that time it will be necessary to consider the need for stranger controls.

Local State and provincial governments must retain their responsibilities. But there has to be some strategy that allows eight states and Ontario, with untold numbers of large cities, small cities, counties, towns and regional governments to understand what their efforts ought to be, and has these are linked together. One is not looking for a perfect world, and one is not looking for a precise strategy. However, we have to find some reasonable way to say what it is we want in the best way human beings can.

Senator Grosart: Do you see anything at the moment to prevent the IJC making a complete study, or doing any amount of research whatsoever? Do you see anything to block them? Why can't they? You are putting a good deal of emphasis on the fact that we do not know the answers. Is there anything to stop the IJC from finding the answers?

Professor Dworsky: I really do not know. I would suggest that perhaps this committee, your Parliament and the United States Congress, through the Foreign Affairs Committee, might want to ask the IJC this question. The question might be posed to them: What do you think your authority is? What do you think you need to move into these areas that people are suggesting you move into? What is it you think you need to do what Ambassadors Merchant and Heeney said you ought to be doing? Let

them respond to you. We are, as I said, going ahead on the basis of how we think the commission is behaving. It is not behaving as if it were free to move ahead and do these things. Therefore, one is looking for those guidelines that will give them the option to go ahead.

Senator Grosart: Would you agree it already does have a substantial degree of supra-national authority?

Professor Dworsky: Only to the extent of the authority granted with respect to acting on adjudication problems under the treaty.

Senator Grosart: That is, it would seem to have complete control of any new work starting?

Professor Dworsky: That would seem to be the case, if there were changes in flows, water levels and the like.

Senator Grosart: So it would have authority to prevent, let us say, works whose effects would be adverse to the waters on the Canadian or American sides?

Professor Dworsky: That would seem to be very clear, I should think.

Senator Grosart: So there is a degree of actual supra-national authority, not in the sense of authority over the nations, but over its citizens and corporations on either side of the border.

Professor Dworsky: Apparently so.

The Chairman: And some controls, surely, even over the nations themselves if they were to launch upon some works that were contrary.

Senator Carter: How could they do that?

Senator Grosart: I would be interested in hearing an opinion on that, whether they would have, let us say, authority to prevent the Seaway project, where the two nations had agreed on works in the St. Lawrence, which is a boundary water.

The Chairman: If the two nations agree on the work, yes. The two nations having agreed on certain works, the IJC could say that that particular work does not fit into the agreement, could it not?

Senator Grosart: I don't know. I doubt it very much. However, that is probably a much wider question than the one we are dealing with here.

The Chairman: Yes, we are off the subject.

Senator Grosart: It would be interesting, because I have not seen any discussion of it. I have read quite a bit about the IJC over the last few years and I have not seen any discussion of this particular aspect of it. The IJC itself has, in my view, been very timorous, very over-cautious in exerting the authority it has. Maybe this is the problem.

Professor Francis: In the light of Senator Grosart's comments, perhaps there could be a strong expression of interest from this committee that the IJC take a more vigorous and forward-looking role in terms of assessing the problems in and around the Great Lakes; that may be very appropriate at this time.

The Chairman: Harking back to Professor Cohen's testimony, as I recall it, he indicated that there was—if I could use the word political with a small "p"—political consideration in the IJC not to press itself to the point

where it lost its effectiveness as between the two governments; it did not simply want to test the barrier endlessly and carry itself to a point where it lost some of its effectiveness so far as the two governments were concerned. There is a political—with a small “p”—problem that they have there.

Senator Grosart: They have done it on a few occasions and got away with it.

The Chairman: It is a matter of degree and how often and to what extent. Very possibly recommendations of this committee could very well either encourage governments to encourage the IJC to go to the limits of their jurisdiction or give them further jurisdiction.

Senator Grosart: If they do not feel they have the additional authority, perhaps they should let governments know what they need.

The Chairman: Yes.

Senator Grosart: First, whether they are willing to accept that authority and, secondly, what they need to exercise it.

The Chairman: Come out and say, “We think we should have this additional authority given to us” or “this further reference made to us.”

Senator Carter: Let us assume that the terms of the IJC were broadened as you suggest. You are still faced with the problem of the multiplicity of agencies, many of them autonomous, some of them joint, some local and autonomous on both sides of the border. To be effective there must be some way of co-ordinating these agencies. Do you see any solution to that problem? What would your recommendation be? Unless they can co-ordinate these agencies involved in this, giving them wider power, they are not likely to achieve much more than they are doing now.

Professor Dworsky: If you have, as you correctly state, a large number of agencies, on both the Canadian and the United States sides, from local governments to state and provincial governments, regional governments, commissions and federal establishments—we understand the way the situation has been—and what it is likely to be in terms of tomorrow's problems. It does not appear to provide an adequate way to bring about the most effective use of the Great Lakes for the people in both countries. If one starts on that basis, then one asks where and how we can move forward. At the moment we are suggesting that the need for surveillance exists. That is another word for the development of information as to what is going to happen on both sides, in the development of land use, population distribution, in the development of power facilities, in the development of navigation facilities, in the development of agriculture, for the protection of fisheries, and even for some distant needs such as the management of parks and recreation. Citizens move freely from one side to the other and you find great numbers of Americans or Canadians crossing the border to the other side and using each others parks and rivers. It is the matter of having knowledge about these programs or projects and which we call surveillance, which ought to be of some assistance. If it is not, we are simply not being intelligent. I believe officials administering government programs are interested in trying to find ways to improve their programs. But problems occur because they have no easy way to develop some of the knowledge they need to have.

We have also to look at the massive collection of information that may be implied if we are not careful. We testified before the House Foreign Affairs Committee in answer to a question inquiring which specific programs ought to be brought together at the present time. We said it would be worthwhile to start with several, see how it goes, and grow as the experience of handling information improves.

The second point would be in connection with the matter of mediation. I referred to this matter before. It includes the development of objectives, standards, and guidelines, that would establish a set of precepts which local state and provincial governments would come to recognize.

How do you do that? If it were to be done just by the IJC, it may be that such recommendations, would be a step forward. If the recommendations are taken by the governments and established as law or policy on each side, without having it as supranational policy, this would provide a stronger basis.

For example, consider the case of requiring secondary waste treatment including phosphate removal as the treatment norm for improving Great Lakes water quality. This national goal was adopted by the United States and is being carried out by the states and cities. This exemplifies how one goal is being carried out at certain levels of government as a result of an overall program strategy and one can visualize the same sort of thing for other kinds of problems.

Senator Carter: Perhaps I did not phrase my question well. I was thinking, as you mentioned earlier about this independent body which would carry on in isolation, that there was the need for some umbrella body to bring these together so that each would educate the other as to what they are doing. Now they are operating more or less in isolation. That was one problem I saw. Let us tackle that first. How would you do it? Would you give the IJC authority to bring these people together, to call a meeting with them and have a joint meeting to thrash out common problems? Is that what you are suggesting?

Professor Francis: I think this would be very appropriate if the IJC is to have a responsibility for being more completely informed about what is going on in and around the Great Lakes so that it provides a forum that would function and have the right to invite representatives from various government agencies with such activities, to come and discuss them and exchange information on which issues are of importance. I think that would be an important role.

Senator Carter: Do you think you do not have that authority now?

The Chairman: The witness has said—let us be fair to him—that they are not legal authorities on behalf of the IJC; they have indicated that it has an authority but has not exercised it and that something should be done to cause them to exercise it.

Senator Carter: I cannot understand why, if this is so essential, that that cannot be done informally outside the legal framework, if the work is so basically necessary. It seems common sense that, whether you have a law of authority, it does not prevent you from inviting somebody to come and talk over common problems.

The Chairman: There are questions of budget. That would be a massive thing for the IJC to undertake.

Professor Dworsky: There is also the question of time in the development of international problems. Since the Treaty of 1909 through the 1920s, the 1930s, the 1940s and 1950s—I think we can all agree that the world is becoming more complex. What happens in one area seems to have an impact in other things. The governments of Canada and the United States are linked in a wide variety of functions. It is recognized that there are problems dealing with labour, trade, energy, water, and so on. I cannot answer as to how we ought to go about bringing all these things together.

These are major international questions. Our point is that in-so-far as the Great Lakes are concerned—as far as the integrity of the Great Lakes is involved, and the shore-lines have a very strong influence on the lakes, it does seem that we could do something more to bring human knowledge to bear on the questions in a more cohesive way without being unreasonable and without saying that everything we do has to be channelled into one arrangement.

Senator Carter: Do you think the real problem is lack of knowledge of each other, or lack of knowledge of the IJC; or is the real problem the acceptance of responsibility? Each agency is responsible and each agency is willing to accept responsibility for a certain area or a certain activity. Is that not the main problem?

Professor Dworsky: I do not know how the commissioners nor how the State Department or the External Affairs Department may feel about this, so we really cannot answer that.

Senator Carter: I am talking about these individual agencies. It boils down to this, that they are in existence for a purpose and that is the reason they are there.

Professor Dworsky: The Great Lakes Basin Commission, for example, has authority to develop a management plan for the Great Lakes, on the United States side. Yet, that is really the only thing they can do because there is no authorization to consider the Canadian Great Lakes. As soon as this is recognized the problems they identify are qualified because they are not examining the entire problem. It is as simple as that.

Senator Carter: Have you any idea how that should be overcome—that it should be included in the treaty, specifying some relationship with other commissions, so that the IJC would have some legal framework with which to approach this subject?

Professor Dworsky: Yes, sir. We have suggested having a joint planning venture. We are not suggesting a single office; we are not suggesting a large Canadian-United States conglomerate to deal with the planning operations of the Great Lakes. We suggest there ought to be a planning agency in Canada with reference to the Great Lakes, co-ordinating with that on the United States side and maintaining an exchange of information in a better way. While there is much opportunity for internal transfer of information at the present time, I would rather see these Canadian-United States relations function under the auspices of the IJC including a study of the collective problems which exist in the Great Lakes. Specifically this is what we asked for when we appeared before the Foreign

Affairs Committee of the House of Representatives. If you do not mind, I would like to go back for a moment to our recommendation because it provides a starting point to unravel this very complicated skein. Our recommendation proposed that "the Congress, accordingly, request the President to initiate new discussions with the Government of Canada with the objective of (1) developing a joint comprehensive examination of the problems associated with the multi purpose management of the Great Lakes and associated plans." We asked that the Governments undertake this joint task because we know that if we did this as a university group, if the Great Lakes Commission did the examination as a U.S. organization or if Ontario did it for Canada, it still does not represent a joint U.S.-Canadian view. We felt that within eighteen months, or at the outside, 2 years, we could have a quick review of the existing problems. We do not have that now. We believe we ought to have a joint statement of what the problems are as a condition of developing a program to strengthen the management of the Great Lakes.

Senator Carter: Earlier in your statement you said that some of the recommendations of the IJC had not been acted on. Could you give us one or two examples. I am interested in finding out if they were rejected by both countries or whether one country was prepared to accept them but could not proceed because the other country was not willing.

Professor Dworsky: I do not have an exhaustive examination of that particular question. This is one of the research questions we want to look into. The ones I had in mind, for example, was the rejection by the two countries of the IJC recommendation for a specific treaty on water pollution in the Great Lakes as a result in 1920. It is always easy to look back, with great hindsight, but, looking back, it would have been an ideal time to deal with that difficult problem. As it is, it took us until 1972 before we again moved in that direction. That is just one example.

The example of fisheries, which pre-dated the IJCs existence, is another problem. It was only in 1955 that the countries established the International Great Lakes Fisheries Commission. And then it was only because of the critical condition caused by the sea lampreys. At test, the current arrangements represent a modest kind of coordinating venture. Senior people in the International Fisheries Commission have inferred that the arrangements are not adequate. Within the last year the International Fisheries Commission established its own committee, and that is referred to in my Great Lakes Reader to look at the interrelationships of the fisheries problems and other Great Lakes problems.

Senator Carter: You mentioned the political will. Have you made any judgment as to the political will on both sides of the boundary?

Professor Francis: We are certainly encouraged by the fact that your own committee is interested in this question, sir, as it is an important expression of Canadian interest in it. We felt the same way with regard to the congressional hearings about a year or so ago.

Professor Dworsky: Specifically, the seminar that was mounted in Montreal last June, in fact brought together some 30 skilled people to examine these questions. I think their summary, which I understand you have available, well illustrates the problems they face. The summary

ought to be "must reading" for anyone interested in the political will. That is one of the key questions the IJC seminar raised.

The Chairman: I suppose a great deal of political will is to be found in the Great Lakes Water Quality Agreement.

Professor Dworsky: Yes, sir.

Senator Cameron: Mr. Chairman, as I have listened to this discussion, it has been obvious that a good deal of interchange of ideas and dialogue takes place between the people at the technical or professional level. I wondered, as I listened to the discussion, if it would not be desirable to consider whether or not a joint conference of the people at the political level might also be a useful exercise. Would a conference on these problems between the political decision-makers of the United States and a group from Canada not be a wise idea? In other words, the technical people have done their work and they have a continuing dialogue and interchange, but I get the feeling, and I could be wrong, that there is need for a greater dialogue and greater exchange of ideas between the political decision-makers and the technical decision-makers. Is that right or not?

Professor Francis: That is an excellent idea, senator. Perhaps the Interparliamentary Group might want to take that idea up sometime.

Professor Dworsky: Questions do come up among the governments but often in the context of substantive issues, as, for example, the high water levels of the last several years. Eight or ten years ago they would have been concerned with low water levels. So they talk about the issues of the particular day. But what we are talking about deals with fundamental intergovernmental arrangements that would provide for the long term management of any issue.

The Chairman: Yes. You are not concerned with what the particular problem is right at the moment but with what it will be in the future, with what, for example, the water levels will be five years from now.

Professor Dworsky: Indeed, but from a management view, and not merely the technical characteristics.

Senator Cameron: It is a question of political decision-makers getting together, of people from both sides of the border getting together and exploring the whole policy situation and the needs for modifications and change.

Professor Dworsky: We are pleased with what has happened so far. Inside of roughly 30 months we have now had for the first time, I suspect, a hearing before the House Foreign Affairs Committee. We are, of course, very pleased to be here today. You are listening to other people too. The fact that the IJC had its own seminar is important. We understand that we may again have another hearing soon in the Congress to further discuss this question, and in that way to continue the debate. Our basic goal was to open and to continue the debate so that you people and the members of the congress can come together and to again begin to talk about the management of this very important resource, the Great Lakes. It ought not be left merely to happenstance, because they are too important to all of us. This, of course, is what our goal is and it is what we are seeking.

Senator Cameron: In other words, you would be in favour, then, of a joint conference—or whatever you

would like to call it—between the American Congress and Canadian parliamentarians on this whole problem.

Professor Dworsky: Yes, if it would lead to some sort of formalized arrangement which would set up a binational study team. There is no doubt about the credibility and capacity of the people that would carry out such a study. The problem is to get governments to agree to undertake a serious set of studies that would lead them to some decision with respect to all the points that you were raising: the strengthening within the IJC as it stands, or external to it; or a new treaty—whatever it may be. Just move in that direction.

Senator Rowe: If I may ask a supplementary, Mr. Chairman, is there any comparable situation elsewhere in the world in which two countries have the kinds of problems we experience with the United States?

Professor Dworsky: Lake Constance is an important one, I suspect.

Senator Grosart: Of course. There is the Rhine, the Danube, the Nile, the North Sea.

Professor Dworsky: La Plata is important in certain areas.

Senator Rowe: Since there are comparable situations in other parts of the world, the question is whether there are any lessons there to guide us at all.

Professor Dworsky: I have on my desk at the moment a box of reports which have come in from all over the world in response to an attempt to find out what other international groups were doing about organization for water quality. While we do not have a large amount of material, we are at the moment proceeding to the development of a report which will look at the state of affairs of other water quality problem situations.

I am in contact with the OECD. Professor Francis has been a consultant to them. They are now beginning to look at the institutional questions applicable to international water quality and related resources problems.

We think that the experience of North America—the United States, Canada and Mexico, provides a very fine basis for our effort. We do have a proposal to one of the foundations at the present time that Professor Francis and I have prepared that we hope will be funded this coming year. I might say that what we intend to do is to bring together the knowledge of Canada, the United States and Mexico about the operations of the International Joint Commission and the International Boundary and Water Commission on the U.S.-Mexican side; to bring that information into some kind of a useful whole so that the North American experience can be available in international deliberations. We simply have not done that.

Professor Francis: It is a question of considerable interest to a number of countries who have shared water bodies in one form or another. It is easy to get the impression that they actually looked forward to learning what Canada and the United States have been able to work out because they are under the impression, and rightly so, I think, that we may have fewer problems in getting sensible agreements because of our closer relationships. So if we can make more headway on the Great Lakes that would help.

Professor Dworsky: The Mexican-United States experience has been very good as well and the willingness of the two countries to co-operate, for example, on the Colorado is an extremely important event.

The Chairman: The problems on the Rio Grande have in many ways been tougher than the problems on the northern boundaries.

Senator Grosart: There is the suggestion that was made by Frederick Jordan in 1969, which you quote on page 36 of your report, where you say:

Jordan rules out the establishment of a supranational pollution control agency. Instead, he recommends that the two governments "vest the Commission with jurisdictions

And that is the word he uses:

—over all matters of boundary water and air pollution which were having transboundary effects in relation both to initiating the investigation without waiting for a reference and to coordinating the various bodies involved in the study."

I am not clear as to how that rules out the establishment of a supranational pollution agency because that seems to be exactly what you are recommending. Would you agree that these powers should be given to the IJC? Jordan is pretty specific here and very wide-ranging. Jordan is at McGill, isn't he?

Professor Dworsky: I do not know where he is right now.

Senator Cameron: He is at McGill.

Senator Grosart: Well, he is Canadian anyway.

Professor Dworsky: I think the assignment of such responsibility can do much good, depending on what the countries wish to do. I suppose that the IJC with its staffs, its files and its knowledge could be an agency of that sort Jordan describes. The problem we also pose deals with the nature of institutions. As you and the members of the committee know, institutions have their own characteristics. You also said it was a conservative organization—using the word in the proper sense—as cautious in international affairs; about not wanting to be too forward; and being careful about its assignments. This describes the nature of the IJC. Now, if you take the IJC with that history; add new members who come to it fresh; members who have probably not thought much about the subjects; and then say to them, "We are going to make you the managers of the transboundary air pollution problems of the United States and Canada and we are making you the managers of the water pollution boundaries," I suspect that unless you give them a new charter they will continue to act very much as they have acted.

Senator Grosart: Well, let us look at the words. It says, "vest the Commission with jurisdiction over all matters of boundary water and air pollution". "Vest" means to give them the authority, and "jurisdiction" is an important word there because generally it means the authority to make laws.

Professor Dworsky: At the moment I would suggest that we not move in the direction of control, and by that I mean authority to decide to enforce pollution activities on either air pollution or water pollution to another body. At least not until the current agreement runs out so that we can see how far we have come. If the current agreement which

ends in 1977 does not prove beneficial or adequate, then we will have to rethink the degree of authority that we want to provide and to whom we should provide it.

Senator Grosart: Well, the Republican congressmen—you have referred to—went considerably further. We did ask Professor Cohen if he thought it would make sense for the IJC to extend its authority to energy, and I see that this group made the recommendation that the IJC be empowered to make recommendations relating to continental development of water and energy resources.

Professor Dworsky: Well, senator, that was their recommendation.

Senator Grosart: Well, we now have two recommendations, and I think that as a committee we are going to be interested in making a recommendation. You have made a great study of this, so what is your view on that?

Professor Francis: On the question of continental water and energy?

Senator Grosart: As to the various suggestions as to the kind of authority that might be given to somebody.

Professor Francis: We have so far kept our interest directed to the Great Lakes question because that is clearly a case of shared resource.

Senator Grosart: Let us stay with the Great Lakes, which you have studied. The reason I have raised the question of energy is that the IJC already appears to have gone pretty far in recommending for example, that Ontario not use salt on its roads. What kind of authority are we going to give to this commission? The authority to recommend? Are we going to vest them with jurisdiction? I would be interested in your views on that. And I am not referring to further studies; this has been studied to death.

Professor Dworsky: We have said that we do not at the present time recommend that we vest them with authority. We clearly recommend all the things we have been saying for the last several hours in terms of how far we think they ought to be authorized to act in planning; in having the power to tell governments what they think will happen in the future; and to have a broader basis for references and some way to interlink the separate programs. These are the kinds of acting we think would be a starting point. Specifically the essential starting point we think is vital is to again, through the resolution that we have suggested, bring about another set of negotiations between the two countries including a review of the many interlinked problems and see what the countries themselves wish to do about them.

Senator Grosart: What concerns me is that all you seem to be recommending is simply more research, and I do not see anything to stop them from doing that research already.

Professor Dworsky: No, sir. What we are saying is that in the ultimate the governments are responsible.

Senator Grosart: Yes, but planning without any authority—what do you mean by planning?

Professor Dworsky: Planning tells what the problems are and what problems are likely to come up. It tells us how we might deal with them, it suggests alternatives for problem solving and it gives governments a chance to better know the options available to them.

Senator Grosart: In other words, you are talking about research.

Professor Dworsky: No, I think not.

Professor Francis: It is very practical research in that case.

Professor Dworsky: The fact of the matter is that it deals with real live problems and the essential knowledge we must have. If you call that research, that is all right, but is not research in my mind. It is the practical development of alternatives for government policy decision-making.

The Chairman: Professor Francis, do you have a comment on this?

Professor Francis: Professor Dworsky and I agree on this. You have to start with a common exploration on a wider perspective to see where it goes from here and where it comes out. We are not prepared to make definitive statements right now in terms of where power and jurisdiction should lie. This is obviously a matter for much wider consideration and debate. We just want to start the process going.

Senator Grosart: Well, I wish you were concerned—perhaps I should say I know you are concerned, but I wish your interest carried into the recommendation stage to say what should be done other than simply suggesting doing more research on the problem.

Professor Dworsky: Well the specific items we raised in what we called "the researchable items" concern questions raised by the IJC seminar. The IJC itself seems to need more information on these items in order to better understand the implications of these to organizational and operational matters. This is what we are attempting to do on what we have termed research. I would hope however, you would not use our research activities as the basis for any delay on your own part. We can assure you that at the end of our own study we do intend to be more precise about our own recommendations. But then we will have better knowledge on our own part about what we think needs to be done.

Senator Grosart: The Montreal symposium went much further than that. It came up with institutional answers.

Professor Dworsky: Did they?

Senator Grosart: Particularly in respect of the IJC.

Professor Dworsky: They posed the questions. In what way did they say what specifically needed to be done?

Senator Grosart: As I read it, it seemed to me that they posed the questions in such a way that they said that if the IJC cannot operate as that kind of authority, then something should be done. In fact, they documented a revision of the Boundary Waters Treaty Act.

Professor Dworsky: With due respect to the IJC members on both sides—and I have a high respect for them—The seminar was held in June; their report came out in August; we are now in March, and I do not know when

they will come forward with suggestions to the governments. I would like to see it come tomorrow.

The Chairman: Gentlemen, I am looking at my watch, not to rush anybody, but it is quarter to five. I do not want to make a definitive summation, because we can always go back to the record for that, but I would like our witnesses to correct me if I am wrong in my general understanding of what I think they are saying. First, you feel that the two governments, through some agency, should encourage more planning and co-ordination of plans than has taken place to date, not on water quality only, but on the linkage between water quality, pollution, water levels, fishing and other matters in the Great Lakes. Secondly, you feel that the IJC is an effective body which has done good work in the past, and it would be a suitable body to do this ongoing planning if it either would do it or were given the power to do so. Is that basically what you are saying?

Professor Dworsky: Yes, sir.

The Chairman: In other words, if the IJC now has the power, it should do it; and if it has not the power, you would like to see it given the power so that it could set up a mechanism under its direction. Senator Grosart, you used a term for some of those agencies under the IJC. What did you call them?

Senator Grosart: Spin-offs.

The Chairman: Spin-offs, or working groups. They could establish a working group under the IJC with specific responsibility for co-ordinating the planning of the various ongoing groups relative to the Great Lakes, so that when they made their recommendations, even if they did not have the force of law, they would at least have the moral force of the IJC, and it would be both governments as opposed to just one government. Is that what you are trying to say?

Professor Dworsky: Yes, sir.

Professor Francis: I think that is the appropriate direction.

The Chairman: I did not want to pre-empt your evidence at all, but I wanted to make sure that I was clear in my own mind about what direction you were asking us to go, in thinking of a recommendation.

Are there any other questions?

As there are no other questions, I thank both Professor Dworsky and Professor Francis, on your behalf, honourable senators, for coming here this afternoon. It has certainly been most helpful and useful to me. While our study is not confined just to water matters, and so on, across the boundary, it is certainly a matter on which we will wish to have either a paragraph or a chapter. If a recommendation is made, your remarks today will be of invaluable help to us. Thank you very much.

Professor Dworsky: Thank you very much.

The committee adjourned.