

SESSIONAL PAPER No. 230

Whereas, said application was first presented to the Commission at its session at Atlantic City, New Jersey, on August 12, 1918, whereupon counsel appearing for and on behalf of the United States applied for an immediate hearing on said application, representing as was also alleged by the applicant, that the said St. Lawrence River Power Company is a subsidiary of the Aluminum Company of America; that the applicant company had for many years developed hydro-electric power in its power house at Massena, N.Y., using water for that purpose taken from the South Channel of the St. Lawrence River immediately below Dodges Shoal via its power canal and Grasse river near Cornwall Island, that the hydro-electric power thus produced is used mainly in the production of aluminum by the said Aluminum Company of America; that the demand on this company to supply aluminum is most urgent and insistent and practically their entire output is being taken by the United States and allied governments for military purposes in the prosecution of the present war; that during the months of January, February, March and part of April in each year huge ice jams in the said south channel cause practically a shutdown of the said plant and an annual reduction in the output amounting to over six million pounds, and that these serious ice difficulties can be remedied by the construction of the said submerged weir, and counsel for the United States Government therefore applied to the Commission for an order for the suspension of its Rules of Procedure so as to permit of the immediate hearing of the said application and in support of said motion submitted letters from the Chairman of the War Industries Board of the United States and the Acting Director of Aircraft Production urgently praying for favourable consideration and approval of the application herein, and

Whereas, by its order dated at Atlantic City, August 13, 1918, the Commission suspended Rules 9, 10, 11, 12 and 13 of its Rules of Procedure and ordered that a hearing on said application be fixed for the 29th day of August, 1918, at 10 a.m. of that day in the City of Montreal, Quebec, and

Whereas, at the time and place agreed upon the hearing having taken place, the Commission at the conclusion of the evidence of the applicant, heard counsel on its behalf, as well as counsel on behalf of the United States, the Dominion of Canada, the Province of Ontario, and the State of New York, and also on behalf of several private and corporate interests, no testimony having been presented by either Government or by any interest in opposition to said application, and

Whereas, at the said hearing at Montreal counsel for the United States presented to the Commission a letter from the Secretary of War of the United States to the Commission, requesting in order to meet the urgent necessity for the increased production of aluminum for the prosecution of the present war, that the permit he had granted to the applicant receive the approval of the Commission, and

Whereas, the Dominion of Canada by its Statement in Response and also at the said hearing denied the jurisdiction of the Commission to entertain and grant the said application, alleging that under Article VII of the Webster-Ashburton Treaty of August 9, 1842, it is stipulated that the channels in the River St. Lawrence on both sides of Long Sault Island and Barnhart Island shall be equally free and open to ships, vessels and boats of both parties, and also that by the Treaty of January, 1909, between Great Britain and the United States it was agreed that the navigation of all navigable boundary waters shall for ever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels and boats of both countries, and

Whereas, the Commission at Montreal, on the 31st August having duly considered the said application and the evidence offered in support thereof and the said exception to its jurisdiction, adjourned its sitting to the 12th day of September at the City of New York, when it continued the consideration thereof on the said and following days, and

Whereas, the Commission is of opinion that the said submerged weir would be an obstruction in a boundary water on the United States side of the boundary line which