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supply of aluminum will not be adequate for the requirements of the Government and of our Allies, and is therefore wisely encouraging the increase of output. The War Department is, I need not say, vitally interested that there shall be at all times an adequate supply of this product to meet the requirements of our military program and the program of our Allies." (See the whole of this letter printed in the appendix to this Opinion). The uncontradicted evidence showed that this weir had to be immediately commenced, and that if the authority to construct it should come later than the 15th of September, it would be very doubtful whether it could be completed this year. (See the statement of Mr. Rickey at the close of the Montreal hearing). Under these circumstances the Commission had to take the responsibility of acting immediately so as to cope with this sudden and very urgent emergency. It is confident that while discharging its duty so as to fully provide for this emergency, it has so framed its order of approval that no rights of either country or of any of its citizens can possibly be jeopardized by its action.

#### SCOPE OF THE ORDER OF APPROVAL.

The principle which dominates the order of approval granted by the Commission is that the construction of the submerged weir is approved merely for a term of five years or until the termination of the present war, whichever shall last occur. The order of approval is adopted "as an interim measure," and the Commission does not, at the present time, finally decide the question whether it should approve of the construction and permanent maintenance of the weir. In other words, following the practice of courts familiar to all lawyers, an interim order is made, and the whole question of the right of the applicant to construct and maintain the weir is not finally passed upon. The question therefore remains an open one, and no right of any Government or interest to object to the weir as a permanent structure is affected by the order of approval.

The order goes further and obliges the applicant to remove the weir at the expiration of the period specified. By constructing it under the terms of the order, the applicant accepts this condition, and without any further order of the Commission is bound to remove the weir. There does not seem therefore to be any ground for the fear expressed by Hon. Guthrie, in his argument before the Commission, that "if it goes in, it will never come out," for it must come out unless the Commission, on a new application, and after hearing all parties interested, allows it to be maintained. The removal of the weir, at the end of the term fixed, is not even conditioned on the reimbursement to the applicant of the moneys it has expended in constructing it. In other words, if the applicant builds the weir, it can only build it as a temporary structure, and must remove it unless a new order is obtained from the Commission, and if the company applies for a new order, the whole question of its right to place an obstruction in the South Sault channel will be examined anew as if this order of approval had never been granted.

It is to be further observed that the applicant is identically in the same position should the Secretary of War of the United States order the removal of the weir. The permit of the War Department contains the express condition,

"that if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of War, it shall cause an unreasonable obstruction to the free navigation of said water, the permittee will be required, upon due notice from the Secretary of War, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation or other modification of the water-course hereby authorized shall not be completed, the permittee at his own