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go down the Big Sny, and the subcurrents continue free from ice down the South Sault channel. The object of the submerged weir, says Mr. Groat, is to raise the level of the water at the intake of the power canal and reduce the slope passed down over the shoals, so that there will not be such a strong draft under and across the boom tending to sweep the ice under it. The pool of water below the boom and extending down to the crest of the submerged weir will freeze over, and the water will flow under the ice and into the mouth of the canal.

There was no attempt to contradict the statements of Messrs. Rickey and Groat, and in a case of this importance, with new problems of engineering under discussion, one would have thought that engineers would have been called on to testify by the opposing interests. The only suggestion made was that Mr. Rickey himself several years ago had stated that it would be entirely practicable, with properly equipped gangs of men, to keep the South Sault channel open in winter. But Mr. Rickey replied that when he made this statement he had only three year's experience, and that his much longer experience to-day led him to change his mind. If any other means of dealing with the ice troubles than the construction of the submerged weir is available to the applicant, the opposing interests would no doubt have introduced testimony to show that another remedy could be adopted. The same remark seems to dispose of the contention made in some of the Statements in Response, that the applicant could procure electrical energy elsewhere to make up for the winter shortage of power. No evidence of the availability of this power was made. Mr. Davis, President of the Aluminum Company, testified that it was not available, and the Commission is left with the testimony all on one side, and can only resort to this testimony to decide the points in issue between the parties.

Also, with regard to the effect of ice troubles on the production of aluminum during the winter months, and the possibility of increasing the output by at least 6,000,000 pounds if the weir is put in, there is no contradiction of the sworn testimony adduced by the applicant. The Commission therefore must accept these important factors as being conclusively established by the evidence submitted at the hearing.

There is just another point on which the witnesses produced by the applicant were uncontradicted, and that is with respect to the navigability of the South Sault channel. From the statements of several witnesses, it appears that up to approximately ten years ago there was some navigation on the South Sault channel, but that to-day, except for an occasional motor boat, this channel is not used for navigation purposes, certainly not for the transportation of freight. It cannot, however, be said that the South Sault channel is unnavigable, but it is so little navigated under present conditions that, apart from the question whether Canada can insist on its remaining open as a matter of absolute right, its value is much greater for the development of power than for navigation purposes. The evidence adduced does not permit the Commission to determine what effect this development may have on a larger scheme of development of the whole river, at the Long Sault. Fortunately, under the form of order adopted, these question remain open and can be determined at a later date and with a better knowledge of all the conditions.

There remains the consideration of the very important legal questions discussed by the eminent counsel who appeared for the different interests.

The question should be dealt with immediately for if the Commission be without jurisdiction it is without power to adjudicate on the application under consideration.

The Dominion of Canada, as well by its Statement in Response filed before the Commission, as by the oral argument of counsel on its behalf, has denied the jurisdiction of the Commission to grant this application.

The grounds of this denial of jurisdiction are that by Article VII of the Webster-Ashburton Treaty of 1842, it was stipulated "that the channels of the River St.