

to ships, vessels and boats of both parties, and also that, by the Treaty of January 11, 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 would alter the level on the Canadian side thereof, and therefore the Commission has, under Articles III and VIII of the Treaty of 1909, full jurisdiction and authority to pass upon the said application, and

Whereas, the Commission is of the opinion that, in order to arrive at a final decision further evidence should be taken and further argument submitted, especially with regard to the effect of Article VII of the Webster-Ashburton Treaty in so far as it may or may not constitute a bar to the construction of the said weir, and with regard to the question of whether said article has been superseded by the Treaty of January 11, 1909, and

Whereas, the war necessities of the Allied Governments imperatively demand that the production of aluminium at the applicant's plant at Massena be increased as much as possible during the winter months, and

Whereas, it further appears that the construction of the said submerged weir must be immediately commenced and be completed by the 15th day of December next in order that the production of aluminium for the present year may be increased;

Therefore, without at the present time finally deciding the question whether the Commission should approve the construction and permanent maintenance of the said weir, and without prejudice in any way to its right to decide such question hereafter, and in view of the pressing necessity for the immediate increase for war purposes of the available supply of aluminium, and at the urgent request of the United States,

*It is hereby ordered*, as an interim measure, that the construction of the said weir and its maintenance until the expiration of the term of five years from the date hereof, or until the termination of the present war, is hereby approved upon the following conditions:—

(1) That, at the expiration of said period of five years, or upon the termination of the present war, whichever shall last occur, said weir shall be removed by the applicant; reserving, however, to the applicant or any other interested party the right to apply to the Commission at least one year before the expiration of the said period for a further continuance of the said weir, and on such application the Commission may approve of such continuance on such terms and