

"If the submerged weir be constructed in the South Sault channel, by way of compensation for the dredging at Dodger Shoal, then the control of the high and low-water levels at this part of the St. Lawrence River will pass from international territory and control to the power house at Massena.

"That the proposed works are sought to be erected by and then will remain the property of a private corporation, and are situated in the public domain in a large and important channel of a great highway, and it is contrary to the public interest to permit such to be done by private corporations.

Governments Should Have Control

"That in connection with the deep waterway from the Great Lakes to the Atlantic, to which Canada is practically committed, the governments of both countries should keep control of the bed and full flow of the river so that private corporations may not acquire vested interests therein to be afterwards expropriated or repurchased.

"As has been repeatedly stated to your commission, Canada is opposed to any piecemeal development of the St. Lawrence, particularly by private corporations."

At the recent meeting of the commission held in Atlantic City, when notice of the company's application was first formally presented, the reason given for the application was that the weir was needed to protect the company's plant from ice trouble during the months of January February and March, so that full efficiency could be obtained all the year round, and more aluminum obtained for war purposes.

During the cross-examination of the company's engineers last week at Montreal, it developed that the weir was probably to compensate for the work done in Dodger Shoal, to the west of the site of the proposed weir, and about which Canada had not been consulted.

There were five commissioners at the Montreal hearing; Governor Glenn, one of the United States members, being ill in Atlantic City. Hon Hugh Guthrie, Solicitor-General, and F. H. Keefer, K.C., appeared for the Canadian Government, while G. H. Kilmer, K.C., watched proceedings for the Province of Ontario and the Ontario Hydro-Electric Power Commission; Francis King, of Kingston, appeared on behalf of the Canadian Marine Association; F. E. Meredith, K.C., for the Montreal Harbor Commissioners; James White and Arthur V. White for the Commission of Conservation, Canada; Marshall McLean for the State of New York; Judge Koonce for the United States War Department; George Gordon, Pittsburg, and Leighton McCarthy, Toronto, attorneys for the company; Henry Holgate, Montreal, and B. F. Groat, Pittsburg, engineers for the company.

Judge Koonce Asks Approval

Judge Koonce opened by stating that at Atlantic City he had asked for the hearing of the application. "But now I am asking you to give your approval of the company's application for the sole reason of helping the output of aluminum in order to aid war preparations," said he. "I have here a letter from the Secretary of War, and I do not consider it necessary for me to say any more."

The letter was dated August 23rd, 1918, and pressed for the application to be presented to help out the aluminum supply, and that construction of the work would be of no disadvantage to navigation.

Hon. Hugh Guthrie stated that the government appreciated the attitude of the United States, but "the government of Canada desires to have it thoroughly understood that it in no way seeks to block, hinder or delay

any essential work or development which may be necessary or conducive to increase the production of war material by the United States, or by citizens of that country. On the contrary, the government of Canada is anxious to assist in every proper and legitimate way to the end that both the United States and Canada may put forth a maximum of war efforts in the present conflict with the least possible delay," said he. "With such purpose and desire firmly and prominently in view, the government of Canada respectfully submits that the present application of a private corporation to construct a submerged weir across the south branch of the Sault Island channel is directly contrary to both the letter and spirit of existing treaties, and the application raises the question and involves a matter which are subjects of treaty rights and beyond the jurisdiction of the commission to entertain and decide.

"The government of Canada submits that the questions raised have an international scope and bearing and only should be discussed internationally. The Canadian Government, therefore, desires formally to express both its willingness and its readiness to enter upon intimate negotiations and discussions with the United States Government of the whole question of supply and development of power at the Long Sault Island channels in the St. Lawrence River, and the rights and obligations of the respective countries in regard thereto, and to reach a speedy solution of the whole power question at Long Sault Island upon a satisfactory basis to the governments of both countries.

Diversion Not Authorized

"However, the Canadian Government does not in any sense admit the right or title of the St. Lawrence Power Company to divert any of the waters of the river for any purpose. The Canadian Government takes the position that the company has not, and never had, any valid legal right to construct or maintain its canal or divert the water from the river."

Marshall McLean, for the State of New York, claimed that New York was ready and anxious to co-operate to the fullest extent in winning the war, but there were certain fundamental rights between the states and the company.

"The proposed weir is, in fact, to place a dam across a navigable stream," said he. "This will absolutely destroy navigation in the South Sault Channel," He also claimed it meant diverting nearly all the water down the canal.

He pointed out that there is great danger of the company claiming proprietary rights to any structure placed there. The permit for the application was intended to increase the power efficiency and not to increase the rights under the charter. "It would be all right to grant a permit for the duration of the war," said Mr. McLean, "but not for any longer. Title to any structures should remain in the State of New York, the company operating under a charter of the State of New York that provides for certain structures which must not interfere with navigation."

Jurisdiction Undecided

Judge Koonce declared the State of New York had no power over navigable waters, and that the Secretary of War in granting the permits had protected every right of the State of New York.

The commissioners decided to leave the question of jurisdiction for later decision.

A. B. Davis, president of the Aluminum Co. of America, stated that increased production could not be