

"other use which is given preference over it in this order of precedence:

"(1) Uses for domestic and sanitary purposes;

"(2) Uses for navigation, including the service of canals for the purposes of navigation;

"(3) Uses for power and for irrigation purposes."

And by Article 3 it is provided as follows:—

"No further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission":

The Treaty makes new international law applicable to all boundary waters. No diversion on either side of the line affecting the natural level or flow on the other shall be made by the Government of either country without the consent of a permanent board known as the International Joint Commission. Any question as to such use or diversion is removed once and for all from diplomatic controversy to a court established to deal with it upon established principles. No one will dispute the order of precedence given to the use of these waters:—

"(1) Uses for domestic and sanitary purposes," their natural and primary use. Special provision is made by the Treaty whereby "it is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other."

"(2) Uses for navigation, including the service of canals for the purposes of navigation."

The interests of navigation demand the maintenance of the level of these waters (the most important inland navigation highway in the world), and no further diversion which interferes with such level can now be permitted. It will be noticed among the uses of navigation is the service of canals for purposes of navigation. The amount of water required for the service of such canals is very small and inappreciable in dealing with the question of levels. The danger to be provided against is the diversion for power purposes of waters under the pretence that it is required for the actual service of navigation canals.

"(3) Uses for power and for irrigation purposes."

The use for power and irrigation purposes is governed by the pro-