

in the said South channel cause practically a shutdown of the said plant and an annual reduction in the output amounting to over six million pounds, and that these serious ice difficulties can be remedied by the construction of the said submerged weir, and counsel for the United States Government therefore applied to the Commission for an order for the suspension of its Rules of Procedure so as to permit of the immediate hearing of the said application and in support of said motion submitted letters from the Chairman of the War Industries Board of the United States and the Acting Director of Aircraft Production urgently praying for favourable consideration and approval of the application herein, and

Whereas, by its order dated at Atlantic City, August 13, 1918, the Commission suspended rules 9, 10, 11, 12 and 13 of its Rules of Procedure and ordered that a hearing on said application be fixed for the 29th day of August, 1918, at 10 a.m. of that day in the city of Montreal, Que., and

Whereas, at the time and place agreed upon the hearing having taken place, the commission at the conclusion of the evidence of the applicant, heard counsel on its behalf, as well as counsel on behalf of the United States, the Dominion of Canada, the province of Ontario, and the state of New York, and also on behalf of several private and corporate interests, no testimony having been presented by either Government or by any interest in opposition to said application, and

Whereas, at the said hearing at Montreal counsel for the United States presented to the Commission a letter from the Secretary of War of the United States to the Commission, requesting in order to meet the urgent necessity for the increased production of aluminum for the prosecution of the present war, that the permit he had granted to the applicant receive the approval of the Commission, and

Whereas, the Dominion of Canada by its Statement in Response and also at the said hearing denied the jurisdiction of the Commission to entertain and grant the said application, alleging that under Article VII of the Webster-Ashburton Treaty of August 9, 1842, it is stipulated that the channels in the river St. Lawrence on both sides of Long Sault island and Barnhart island shall be equally free and open 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 aluminum at the applicant's plant at Massena be increased as much as possible during the winter months, and