

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION OF THE BUFFALO AND FORT ERIE
PUBLIC BRIDGE COMPANY FOR PERMISSION TO CONSTRUCT AND OPER-
ATE A PUBLIC HIGHWAY BRIDGE OVER THE NIAGARA RIVER BETWEEN
THE CITY OF BUFFALO IN THE STATE OF NEW YORK AND THE VILLAGE
OF FORT ERIE IN THE PROVINCE OF ONTARIO.

ORDER

Whereas, the Buffalo and Fort Erie Public Bridge Company, a company duly incorporated by act of the Parliament of Canada (hereinafter referred to as "the Applicant") has presented to and filed with this Commission plans for a highway bridge over the Niagara river between the city of Buffalo in the state of New York, and the village of Fort Erie in the county of Welland, province of Ontario, and has applied for approval of said plans and authority to proceed with the construction of said bridge under the provisions of the treaty between the United States and Great Britain relating to boundary waters and questions arising between the United States and Canada of the 11th of January, 1909; and

Whereas, by an act of the Parliament of Canada (chapter 74 of 13 and 14 George V) the Applicant has been authorized and empowered to construct and operate said bridge; and

Whereas, the Congress of the United States by an act approved June 3, 1924 (Public No. 177-68th Congress) has given its consent to the construction of a bridge and approaches thereto across the Niagara River and the Black Rock canal by the Applicant in accordance with the provisions of an act of said Congress entitled "An Act to regulate the construction of bridges over navigable waters" approved March 23, 1906, subject to certain provisos one of which was that all proper and requisite authority for the construction of said bridge should be obtained from the Government of the Dominion of Canada; and

Whereas, no statement has been filed by any government, person, association or corporation objecting to the construction of said bridge or setting forth any fact or facts bearing on the subject matter of the application and tending to defeat or modify the order of approval sought by the Applicant or requiring that the same be granted on condition; and

Whereas, said application came on for hearing at the city of Niagara Falls in the province of Ontario, on Tuesday, the 11th day

of August, 1925, after due notice to all parties interested in both countries of the filing of said application and of the time and place of said hearing, when evidence was adduced and counsel heard on behalf of the Applicant and the Dominion of Canada, no one appearing in opposition to said application; and

Whereas, the Department of State of the United States claims that the acts of Parliament of Canada and of the Congress of the United States recited above constitute a mutual arrangement between the United States and the Dominion of Canada expressed by concurrent and reciprocal legislation on the part of Congress and the Parliament of Canada, and that therefore the construction of said bridge is provided for by special agreement between the said parties and that the said application does not fall within the class of cases requiring the Commission's approval; and

Whereas, the Government of the Dominion of Canada claims that the said legislation does not constitute such agreement within the meaning of the treaty and has, therefore, requested the approval of the said Commission; and

Whereas, the said Buffalo and Fort Erie Public Bridge Company is especially desirous that the said Commission shall grant this approval of said application to the end that no possible question may arise in the future as to its authority to so construct and operate such bridge; and

Whereas, as evidenced by the legislation of both countries, there is no objection from either country to the construction and operation of said bridge by said company; and

Whereas, this Commission deems it unnecessary under the circumstances at this time to pass upon the said respective contentions of the two countries;

Now Therefore:

1. This Commission orders and directs that the said plans be and the same are hereby approved and the construction of works in accordance therewith authorized under the provisions of said treaty.

2. And this Commission doth further order and declare that nothing in this order contained in the recitals or elsewhere shall by implication or otherwise be construed or taken as an expression of opinion on the part of the Commission with reference to said contentions above recited or as a recognition in any way of the principles contended by either country.

Dated at Ottawa, Canada, this 6th day of October, 1925.

C. A. MAGRATH.

C. D. CLARK.

H. A. POWELL.

FRED T. DUBOIS.

W. H. HEARST.

P. J. McCUMBER.