departure, even temporarily, from the 36,000 c.f.s.: 20,000 c.f.s. apportionment prescribed by Article 5 of the 1909 Treaty. It may be confidently assumed that it could not do so. In the United States a treaty provision, when duly ratified, becomes part of the supreme law of the land.

But there is the purely Canadian legal aspect of the question, and that is that this limitation of 36,000 c.f.s. upon Canadian diversions at Niagara is strictly a part of the law of the land in Canada also. It was made part of our law by Chapter 28 of the Statutes of Canada of 1911, which sanctioned the 1909 Treaty and amended the laws of Canada and of the several Provinces so that they should conform to the treaty provisions and obligations. The Canadian Executive, therefore, would also violate the law of the land if it undertook, by a simple exchange of notes, to authorize anyone, even temporarily, to exceed the 36,000 c.f.s. limitation at Niagara, and anyone who attempted to act upon such a basis would presumably be liable to some attack in the courts.

Consequently, it would be essential to have a new formal treaty, duly assented to by the United States Senate and duly made law in Canada by a new Act of Parliament.