

mean, at Niagara, diverting water in excess of the 36,000 c.f.s. which was laid down by Article 5 of the Treaty of 1909 as the upper limit of Canada's share of the boundary waters at that point for power production.

Mr. Nixon's letter of September 7, 1937, suggested that a simple exchange of notes with the United States might be enough to authorize Canada to exceed this existing limitation. In effect he suggested this as a provisional measure which "might be sufficient until such time as this question of diversion could be included in a formal treaty". Along the same line Mr. Stewart Lyon (in his letter quoted in Mr. Hepburn's latest letter - February 25th - to the Prime Minister) complained that the Prime Minister "does not propose even to ask United States authorities for their provisional consent by letter to the diversion of the Long Lake water into Lake Superior".

But, as pointed out to Mr. Nixon, the 36,000 c.f.s. limitation upon Canadian diversions at Niagara is ^a strictly legal limitation. (The same thing was shown in Dr. Skelton's letter of February 15, 1936, to Mr. Lyon, then Chairman of Hydro.)

One aspect of the question is whether the United States Executive could, by exchange of notes, authorize a

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