

*Columbia River Treaty*

the terms in the acceptance of the original treaty. It is provided for in article XIII of the treaty that there should be no diversion, except those specified, without the consent of the other party, evidenced by an exchange of notes.

All that this amendment asks is that within the terms of the treaty an exchange of notes be sought in order that the particular problem of diversion—one of very grave importance to many hundreds of thousands of Canadians—be clarified within the terms of the treaty as they stand. There is no negative; there is no rejection of the treaty, and I suggest that the very learned authorities which my hon. friend has given to you, Mr. Speaker, while interesting have no relevance to the particular problem that faces us here.

We have a new situation—a treaty submitted for the approval of this house; and if consistent with that treaty we as a parliament are not allowed to suggest an amendment which would clarify and develop something within the treaty, then we might as well not bother with the formality of submitting treaties to parliament at all.

**Mr. Baldwin:** On the point of order, Mr. Speaker, I am reluctant to go all the way with the parliamentary secretary on the first point he raised as to the powers of the executive. He and I have already parted company in that connection during a debate in the house with regard to the federal government as opposed to the federal parliament on the Eskimo issue.

Again I am driven back to section 12 of the British North America Act which defines what are the powers of the executive. I shall just give the gist of it. It simply says that the powers of the governor in council of Canada shall be equivalent to those of the lieutenant governors in council or of the parliament of the United Kingdom as of the time of the enactment of the British North America Act in 1867, and the section ends up by saying that it shall apply until "abolished or altered by the parliament of Canada".

So, to find out what are the limitations of the powers of the executive we are compelled to look at the situation which existed in the respective legislatures of the provinces which formed confederation, and of the parliament of Canada, and I would be reluctant at this time to agree wholeheartedly with the parliamentary secretary on that particular point.

However, I think he is on much sounder ground on the second point he raised with

regard to the practical difficulty facing the hon. member for Greenwood (Mr. Brewin) in moving an amendment. The citation referred to by the parliamentary secretary is quite correct. In effect it says that in a resolution of this kind any attempt to amend, by introducing a suggestion of what is included in the original resolution, is quite wrong, because you secure that effect by voting for it. Any attempt to alter, change, modify or in any way divert from the original resolution is wrong because you are in effect attempting to negative that part of it, and you achieve that effect by voting against the resolution. This is one of the very unfortunate difficulties for anyone proposing to move an amendment to a resolution of this type, and it may well be that in considering our procedural problems we may have to give some consideration to this.

I sympathize with the hon. member for Greenwood who said if what the parliamentary secretary says is correct we are in a dilemma in this house because we have no means, no method, of trying to arrive at amendments of this kind. However, this is not the point now. Your Honour is faced with the established rules and practices of the house, and I submit that the argument made by the parliamentary secretary is quite correct. May I just add to that one or two citations on the second point. This is from Beauchesne's *Parliamentary Rules and Forms*, third edition, as I have not got the current one. On page 580 the head note reads:

On the motion that an address be presented to the King for amendments to the British North America Act, it is out of order to propose amendments dealing with other matters than those mentioned in the address.

I think this is generally along the same point. The amendment here states:

Subject to the negotiation of a further protocol or an exchange of letters clarifying the right of Canada to divert up to 6,000 c.f.s. or 5 million acre feet annually from the Columbia river for the beneficial use of the prairie regions and for multiple-purpose use of water so diverted.

Apart from the merits of this, which may serve a very excellent purpose, my submission, from what I have read and examined in the treaty and protocol and the documents which follow it, is that this would achieve an effect distinct from the effect the protocol provides, and as such it is proposing something completely distinct. I submit that the only resource which the hon. member has is to vote against the treaty. It may be unfortunate that that is all he can do, but under