Item 1. That Arizona will accept the Colorado River Contract as agreed upon at Santa Fe, New Mexico, if and when the same is supplemented by a subsidiary compact, which will make definite and certain the protection of Arizona's interests.

Item 2. That before regulation of the Colorado River is undertaken, Mexico be formally notified that this country reserves for use in the United States, water made available by storage within the United States.

Item 3. That any compact dividing the waters of the Colorado River and its tributaries, shall not impair the rights of the states under their respective water laws, to control the appropriation of water within their boundaries.

Item 4. That the waters of the tributary streams of the Colorado River System, entering the River below Lee Ferry and which are inadequate to develop their own valleys, be reserved to the states in which they are located.

Item 5. That the water of the main Colorado River which is physically available in the lower basin (but without prejudice to the rights of the upper basin states) shall be legally available to and divided between Arizona, California and Nevada, as follows:

A. To Nevada, 300,000 acre-feet.
B. The remainder, after such deductions as may be made to care for Mexican lands, which may be allotted by treaty, shall be divided equally between Arizona and California.

Item 6. That the right of the states to secure revenue from and to control the development of hydrop-electric power, within or upon their boundaries, be recognized.

Item 7. That encouragement will be given subject to the above conditions to either public or private development of the Colorado River at any site or sites, harmonizing with a comprehensive plan for the maximum development of the river's irrigational, and power resources.

Item 8. That Arizona is prepared to enter into a compact at this time to settle all of the questions enumerated herein, or Arizona will agree to forego a settlement of Items 6 and 7, and make a compact dividing the water alone, provided it is specified in such compact that no power plants shall be installed in the lower basin portion of the main Colorado River, until the power question is settled by a compact between the states.
About October, 1925, California and Nevada jointly submitted to Arizona a formal proposal as follows:

"(a) The States of California and Nevada hereby release to the State of Arizona any and all claims of every kind or nature to the use of the waters of the Gila River, the Williams River and the Little Colorado River, and all of their respective tributaries for agricultural and domestic use and the States of Arizona and California hereby release to the State of Nevada any and all claims of every kind or nature to the use of the waters of the Virgin River and all of its tributaries for agricultural and domestic use, in consideration of which there is hereby allocated from the waters of the Colorado River to the State of California 1,095,000 acre feet of water per annum in perpetuity for beneficial consumptive use.

(b) There is hereby allocated to the State of Nevada such waters of the Colorado River as can be put to beneficial use within the state not exceeding 300,000 acre feet of water per annum for beneficial consumptive use in perpetuity.

(c) There is hereby allocated from waters of the Colorado River to the State of Arizona, its present perfected rights to the beneficial consumptive use of 252,000 acre feet of water per annum in perpetuity.

(d) There is hereby allocated from the waters of the Colorado River to the State of California its present perfected rights, in addition to all other allocations, the beneficial consumptive use of 2,146,600 acre feet of water per annum in perpetuity.

(e) The use of waters of the Colorado River not otherwise hereinabove expressly allocated, is hereby allocated in equal shares to the States of Arizona and California, it being the intention of the signatory states, subject to the terms of the Colorado River Compact, to divide for use in said states all of the waters of the Colorado River; provided, that any water allocated by this paragraph (e) but not actually applied to agricultural or domestic use by January 1, 1975, shall thereafter notwithstanding the foregoing allocation, be subject to appropriation for use in either Arizona or California." California is still willing to stand by that proposal.

In December, 1926, after many days of conference between the Arizona, Nevada, and California Commissions, various tabulations were compiled showing the areas both in California and Arizona now irrigated from the main stream; areas which could be irrigated from the main stream by gravity; areas embraced within projects now started, in addition to all other lands which can be irrigated by gravity; and gross areas which can be irrigated from the main stream, including a 200-foot pump-lift so as to include the so-called Parker-Gila project in Arizona.
The most favorable set-up that could possibly be found for Arizona is in the tabulation showing these gross areas. In this gross area computation by far the most favorable to Arizona, there is 67.7% of water demand for California and 32.3% for Arizona. This tabulation includes the so-called Parker-Gila project, which will require a dam 100 feet high, a pump-lift of 200 feet, a tunnel of some 15 miles, and a long canal to get to the lands to be irrigated. Comparable areas were used in California except that nothing was found in California requiring as expensive works as that on the Parker-Gila project.

Based upon these figures the Nevada Commission at that time made the proposition of allocating to Nevada all the water which she could use in or directly from her tributaries, and not to exceed 200,000 acre feet per annum from the main stream; to Arizona all water which she could use in or directly from her tributaries and one-third of the main stream, and to California two-thirds of the main stream. Water in the main stream not put to beneficial use within 25 years to be subject to appropriation by either State. This proposition was accepted by the California Commission.

While this proposition is unfair to California, first in that it does not recognize present perfected rights which cannot under any consideration be taken away by compact, and did not recognize domestic water for coastal cities which has already been filed upon and for which works have been started, yet nevertheless the California Commission at that time accepted the offer, and California will today stand by it.

It will be borne in mind that the tributaries are as much a part of the Colorado River System as the river itself. I understand Arizona to state that she has more than 5,500,000 acre feet of water per annum in her tributaries for the use of which works have already been constructed or started, and that she will actually be using within five years from now 5,500,000 acre feet of water per annum from her tributaries. Under the Nevada proposal this water is released to Arizona in perpetuity, and in addition thereto under this proposal she would receive from the main stream 2,435,233 acre feet per annum, or a total of 7,935,300—practically 8,000,000 acre feet of water per annum under the allocation of the Colorado River compact, while California would receive 4,800,000 feet per annum.

This offer was made by Nevada and accepted by California as a last resort in the hope of reaching an agreement. It was driving a hard bargain and further than California should have gone, but as we said before, we are willing today to stand by it.

Both of these offers were rejected by Arizona.

The main stream does not belong to Arizona any more than it belongs to California or Nevada either morally, equitably or legally. Substantially all of the same is set down from the Upper Basin, and it is elementary water law that one cannot own water until it is taken into possession and used. We take it that it is fundamental that water that cannot be used should not be held up so as to prevent a practical use somewhere else, and under this set-up California is bound to suffer very much more from a possible water shortage than can Arizona, Arizona not having the great domestic demand to supply.
Both the proposition of 1925 and the proposition of 1926 to which California has already assented still hold good as far as California is concerned. If Arizona is still unwilling to accept these eminently fair offers, or either of them, California is prepared to make a further offer:

1. To Arizona and Nevada their tributary waters, subject, however, to the condition that any tributary waters not used, and reaching the main stream, shall be deemed part of the main stream flow for the purpose of the agreement.

2. To Nevada, 500,000 acre-feet per annum from the main stream.

3. To Arizona her present perfected rights to 233,600 acre-feet per annum, and to California her present perfected rights to 2,159,000 acre-feet per annum from the main stream; the balance of the water of the main stream below Lee Ferry, subject to the terms of the Colorado River Compact, to be divided equally between Arizona and California, subject, however, to the provision that any part of the allocation of either State not put to beneficial use in said State within 20 years, shall thereafter be subject to appropriation and use in either State, pursuant to its laws.

If Arizona is unwilling to accept any of these offers then California is willing to submit its case to an impartial tribunal as heretofore indicated.
PROPOSAL FOR ALLOCATION OF WATER TO LOWER BASIN STATES

by Upper Basin States Aug 25

2-7

1. Give Nevada 300,000 acre feet.

2. Give Arizona and California their vested rights.

3. Give Arizona water for approximately 675,000 acre feet for her Indian land as a vested right.

4. Deduct total of the three foregoing items from 7,500,000 acre feet, and split the remainder between Arizona and California, on a fifty-fifty basis.

5. Give each State its tributaries.

6. Water from the tributaries reaching the main stream above Laguna shall be considered part of the main stream, and be divided equally between Arizona and California.

7. The extra million allocated by the Colorado River Compact shall be considered as part of the tributary waters going to Arizona.

<table>
<thead>
<tr>
<th>Total</th>
<th>Vested</th>
<th>California</th>
<th>Arizona</th>
<th>&quot; Indian</th>
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</thead>
<tbody>
<tr>
<td>7,500,000</td>
<td>Lee Ferry</td>
<td>2,000,000</td>
<td>250,000</td>
<td>675,000</td>
</tr>
<tr>
<td>300,000</td>
<td>Nevada</td>
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<tr>
<td>7,200,000</td>
<td>Calif. &amp; Ariz.</td>
<td>675,000</td>
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<tr>
<td>2,925,000</td>
<td>Vested</td>
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<tr>
<td>4,275,000</td>
<td>Total Future</td>
<td>2,925,000</td>
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<tr>
<td>2,137,500</td>
<td>Each Future</td>
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**California**

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<tr>
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<th>Future</th>
<th>Total</th>
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<td>2,000,000</td>
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<td>2,137,500</td>
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<td>4,137,500</td>
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**Arizona**

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<tr>
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<td>250,000</td>
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<td>675,000</td>
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<td>3,062,500</td>
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<td>1,000,000</td>
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<tr>
<td>4,062,500</td>
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</table>
In deference to the suggestions of the Governors of the Upper Basin States, Arizona at this time and for the purpose of this Conference accepts in principal the suggestions for an allocation of the waters of the Colorado River as herein modified, this acceptance being without prejudice.
GOVERNORS' SUGGESTION AS MODIFIED

1. Give Nevada 300,000 acre feet.

2. Give Arizona and California their vested rights as given below.

3. Give Arizona water for 675,000 acre feet for her Indian land as a vested right.

4. Deduct total of the three foregoing items from 7,500,000 acre feet, and split the remainder between Arizona and California, on a fifty-fifty basis.

5. Give each state all of the water supplied by its tributaries, except 200,000 acre feet from Arizona tributaries hereby allotted to California.

6. The extra million allocated by the Colorado River Compact shall be considered as part of the tributary waters going to Arizona.

7. In addition to the allocation of water made to the lower basin by the Santa Fe Compact and by the provisions of this proposal; the States of California and Arizona shall, without prejudice to the rights of the Upper Basin States, divide equally all the water in the Main Colorado River which is physically available.

<table>
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<tr>
<th>Vested</th>
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<tbody>
<tr>
<td>7,500,000 Total Lee Ferry</td>
<td>2,000,000 California</td>
</tr>
<tr>
<td>300,000 Nevada</td>
<td>250,000 Arizona</td>
</tr>
<tr>
<td>7,200,000 Total Cal. and Ariz.</td>
<td>675,000 &quot; Indian lands</td>
</tr>
<tr>
<td>2,925,000 Vested</td>
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<tr>
<td>2,137,500 Future</td>
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<tbody>
<tr>
<td>2,137,500 Future</td>
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</table>

<table>
<thead>
<tr>
<th>California</th>
<th>Arizona</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,000,000 Vested</td>
<td>250,000 Vested</td>
</tr>
<tr>
<td>2,137,500 Future</td>
<td>675,000 &quot; Indian lands</td>
</tr>
<tr>
<td>220,000 Tributary waters (Arizona)</td>
<td>2,137,500 Future</td>
</tr>
<tr>
<td>4,337,500 Total</td>
<td>Total = 3,062,500 Plus the waters in Item 5.</td>
</tr>
</tbody>
</table>

Arizona is ready to ratify the Santa Fe Compact when a compact is made embodying the provisions of this proposal contingent upon action being taken on the Mexican question and also that the agreement shall contain a provision that no power plant shall be installed in the Colorado River in the Lower Basin until the power question is settled by a compact between the states of Arizona, California and Nevada and ratified by the Congress of the U.S. The Arizona Commission is ready to continue this conference until all questions are concluded and the Arizona Commission requests that when the water question is agreed upon we immediately proceed to consideration of the power question.
In support of this position Arizona directs attention to paragraphs 6, 7 and 8 of the proposal submitted by Arizona August 22, 1927, to the Conference which read as follows:

"Item 6. That the right of the states to secure revenue from and to control the development of hydro-electric power, within or upon their boundaries, be recognized.

"Item 7. That encouragement will be given subject to the above conditions to either public or private development of the Colorado River at any site or sites, harmonizing with a comprehensive plan for the maximum development of the river's irrigational, and power resources.

"Item 8. That Arizona is prepared to enter into a compact at this time to settle all of the questions enumerated herein, or Arizona will agree to forego a settlement of Items 6 and 7, and make a compact dividing the water alone, provided it is specified in such compact that no power plants shall be installed in the lower basin portion of the main Colorado River, until the power question is settled by a compact between the states."
Re Memoranda by Upper States' Governors respecting water allocation between Lower Basin States:

1. "Give Nevada 300,000 acre feet." Accepted.

2. "Give Arizona and California their vested rights." Accepted as written. This means that the amount of vested or present perfected rights are open to settlement in the usual way if ever brought in question.

3. "Give Arizona water for approximately 675,000 acre feet for her Indian land as a vested right." Rejected.
   We believe that this matter was carefully thought out and covered in the Seven State Compact in a manner that the Upper Basin considered satisfactory. The Tri-state agreement should follow the same wording on the same subject. We, therefore, suggest that the wording of the Seven State Compact be followed, as follows—

   "Nothing in this Compact shall be construed as affecting the obligations of the United States of America to Indian Tribes."

4. "Deduct the total of the three foregoing items from 7,500,000 acre feet, and split the remainder between Arizona and California, on a fifty-fifty basis." Accepted as far as it goes, less item No. 3, but it should also divide unallocated water between Arizona and California on an equal basis, subject to the terms of the Colorado River Compact.

5. "Give each State its tributaries." Accepted.

6. "Water from the tributaries reaching the main stream above Laguna Dam shall be considered part of the main stream, and be divided equally between Arizona and California." Accepted.

7. "The extra million allocated by the Colorado River compact shall be considered as part of the tributary waters going to Arizona." Accepted.

California feels strongly that there should be a reasonable time limit for utilization of waters allocated. If her limitation of 20 years seems unreasonable to the Governors of the Upper States, she is willing to extend that limitation to 1965, in conformity with the Compact.
SUGGESTED BASIS OF DIVISION OF WATER BETWEEN THE STATES OF THE LOWER DIVISION OF THE COLORADO RIVER SYSTEM,

SUBMITTED BY

THE GOVERNORS OF THE STATES OF THE UPPER DIVISION,
AT DENVER CONFERENCE, AUGUST 30, 1927.

The Governors of the States of the Upper Division of the Colorado River System, suggest the following as a fair apportionment of water between the States of the Lower Division, subject and subordinate to the provisions of the Colorado River Compact:

1. Of the average annual delivery of water to be provided by the States of the Upper Division at Lee Ferry under the terms of the Colorado River Compact:
   
   (a) To the State of Nevada, 300,000 acre feet.
   
   (b) To the State of Arizona, 3,000,000 acre feet.
   
   (c) To the State of California, 4,200,000 acre feet.

2. To Arizona, in addition to water apportioned in subdivision (b), 1,000,000 acre feet of water to be supplied from the tributaries of the Colorado River flowing in said State, and to be diverted from said tributaries before the same empty into the main stream. Said 1,000,000 acre feet shall not be subject to diminution by reason of any treaty with the United States of Mexico, except in such proportion as the said 1,000,000 acre feet shall bear to the entire apportionment in (1) and (2) of 8,500,000 acre feet.

3. The several foregoing apportionments to include all water necessary for the supply of any rights which may now exist, including water for Indian lands in each of said States.

4. As to all water of the tributaries of the Colorado River emptying into the River below Lee Ferry not apportioned in paragraph (2) each of the States of the Lower Basin shall have the exclusive beneficial consumptive use of such tributaries within its boundaries, provided, the apportionment of the waters of such tributaries situated in more than one state shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby.

5. Arizona and California each may divert and use one-half of the unapportioned waters of the main Colorado River flowing below Lee Ferry, subject to future equitable apportionment between the said States after the year 1925, and on the specific condition that the use of said waters between the States of the Lower Basin shall be without prejudice to the rights of the States of the Upper Basin to further apportionment of water as provided by the Colorado River Compact.
2. The States of the Lower Basin respectively shall have the exclusive beneficial consumptive use of the tributaries within their boundaries before the same empty into the main stream, and such waters shall never be subject, except as provided in Section 5, heretofore, to any diminution whatever by any allowance of water which may be made to the Republic of Mexico, or otherwise; provided, the division of the waters of such tributaries situated in more than one State, shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby.

3. The 1,000,000 acre feet of water allocated to the States of the Lower Basin by paragraph (b) of Article III of the Colorado River Compact, shall be deemed to attach exclusively to the Arizona tributaries of the Colorado River, and to be included in the waters of such tributaries allocated to Arizona under the terms of paragraph (2) hereof, to be diverted from said tributaries before the same empty into the main stream; provided, that said 1,000,000 acre feet shall bear its proportion of any deficiency which the States of the Lower Basin may be called upon to supply by reason of any Treaty with the United States of Mexico, in the ratio of 1,000,000 to 3,500,000 acre feet.
BASIS OF DIVISION OF WATER BETWEEN THE LOWER BASIN STATES
by 4 Upper States

The 8,500,000 acre feet of water allocated to the Lower Basin
of the Colorado River System by the Colorado River Compact, shall be
divided and apportioned as follows:

A. To Nevada, 300,000 acre feet.
B. To Arizona, 3,000,000 acre feet.
C. To California, 4,200,000 acre feet.

The said three several apportionments to include all present
perfected rights or claims, including Indian lands in each of said states.

D. To Arizona, 1,000,000 acre feet to be supplied from the
tributaries of the Colorado River flowing in said State,
and to be diverted from said tributaries before the same
empty into the main stream.

Arizona to have the preferred and superior perpetual right to the
use of all the remainder of the waters of her tributary streams, which
she can use by diversions from said tributaries before the same empty
into the main stream.

California, Utah, Nevada, and New Mexico, to have the first and
preferred right to the use of all the waters of their respective
tributaries of the Colorado River, which may be diverted before such
waters enter the main stream below Lees Ferry.

Arizona and California each may divert and use one-half of the
unallocated waters of the main Colorado River flowing below Lees Ferry,
subject to future equitable apportionment between the States of the
Colorado River System on or after year 1963, as provided in the Colorado
River Compact, and on the specific condition that the use of waters
between the States of the Lower Basin shall be without prejudice to the
rights of the States of the Upper Basin to further allocation of water
as provided by the Colorado River Compact, and shall otherwise be
subject to the terms and provisions of said Compact.
Referring to your proposal of August 27th relative to the allocation of the water of the Colorado River to the lower basin States of Arizona, California and Nevada, we are required, because of a difference of opinion among the members of our Commission and advisers, to request an interpretation of some of the items in your proposal and also an expression from the Governors in reference to other items discussed by the conference.

The items referred to are:

1. Item "D" which we interpret to mean — That all the water allotted to Arizona from its tributaries, which include the 1,000,000 acre feet referred to in subdivision "D" is in addition to, and not included in the water allotted to Arizona in subdivision "B".

2. That none of the water allotted to any state from tributaries flowing into the Colorado River below Lee Ferry shall be subject to any diminution whatever by any allowance of water which may be made to the Republic of Mexico.

3. That the division and allocation of water of tributaries which flow into the Colorado River below Lee Ferry, and which are situated in more than one state, shall not be affected by said agreement, but shall be left to adjudication or allocation between said states in such manner as may be determined upon by the states affected thereby.

We would appreciate it if you will confirm our interpretation of this item if you agree with our conclusions and if not advise us wherein your interpretation differs from ours.

We would also appreciate an expression from you whether it is your understanding that acceptance of this proposal is contingent upon satisfactory action being taken upon the Mexico question and also whether in your opinion acceptance of this proposition is contingent upon an agreement being reached upon items six and seven of the Arizona proposal of August 22nd regarding power and in the event such an agreement is not reached that it is contingent upon the acceptance of item eight of the Arizona proposal of August 22nd. These items read as follows:

"Item 6. That the right of the states to secure revenue from and to control the development of hydro-electric power, within or upon their boundaries, be recognized.

"Item 7. That encouragement will be given subject to the above conditions to either public or private development of the Colorado River at any site or sites, harmonizing with a comprehensive plan for the maximum development of the river's irrigation, and power resources.

"Item 8. That Arizona is prepared to enter into a compact at this time to settle all of the questions enumerated herein, or Arizona will agree to forgo a settlement of Items 6 and 7, and make a compact dividing the water alone, provided it is specified in such compact that no power plants shall be installed in the lower basin portion of the main Colorado River, until the power question is settled by a compact between the states."
SUGGESTED BASIS OF DIVISION OF WATER BETWEEN THE STATES OF THE LOWER DIVISION OF THE COLORADO RIVER SYSTEM,

SUBMITTED BY

THE GOVERNORS OF THE STATES OF THE UPPER DIVISION,
AT DENVER CONFERENCE, AUGUST 30, 1927.

The Governors of the States of the Upper Division of the Colorado River System, suggest the following as a fair apportionment of water between the States of the Lower Division, subject and subordinate to the provisions of the Colorado River Compact:

1. Of the average annual delivery of water to be provided by the States of the Upper Division at Lee Ferry under the terms of the Colorado River Compact:

(a) To the State of Nevada, 300,000 acre feet.

(b) To the State of Arizona, 3,000,000 acre feet.

(c) To the State of California, 4,200,000 acre feet.

2. To Arizona, in addition to water apportioned in subdivision (b), 1,000,000 acre feet of water to be supplied from the tributaries of the Colorado River flowing in said State, and to be diverted from said tributaries before the same enter into the main stream, said 1,000,000 acre feet shall not be subject to diminution by reason of any treaty with the United States of Mexico, except in such proportion as the said 1,000,000 acre feet shall bear to the entire apportionment in (1) and (2) of 8,500,000 acre feet.

3. The several foregoing apportionments to include all water necessary for the supply of any rights which may now exist, including water for Indian lands in each of said States.

4. As to all water of the tributaries of the Colorado River emptying into the River below Lee Ferry not apportioned in paragraph (2) each of the States of the Lower Basin shall have the exclusive beneficial consumptive use of such tributaries within its boundaries, provided, the apportionment of the waters of such tributaries situated in more than one state shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby.
5. Arizona and California each may divert and use one-half of the unapportioned waters of the main Colorado River flowing below Lee Ferry, subject to future equitable apportionment between the States of the Colorado River System on or after year 1965, as provided in the Colorado River Compact, and on the specific condition that the use of waters between the States of the Lower Basin shall be without prejudice to the rights of the States of the Upper Basin to further apportionment of water as provided by the Colorado River Compact, and shall otherwise be subject to the terms and provisions of said Compact.
REVISION OF
SUGGESTED BASIS OF DIVISION OF WATER BETWEEN THE STATES
OF THE LOWER DIVISION OF THE COLORADO RIVER SYSTEM,

SUBMITTED BY

THE GOVERNORS OF THE STATES OF THE UPPER DIVISION,
AT DENVER CONFERENCE, AUGUST 30, 1927.

The Governors of the States of the Upper Division of the Colorado River System, suggest the following (proposed) apportionment of water between the States of the Lower Division, subject and subordinate to the provisions of the Colorado River Compact, (as far as such provisions affect the rights of the Upper Basin States)

1. Of the average annual delivery of water to be provided by the States of the Upper Division at Lee Ferry under the terms of the Colorado River Compact:
   (a) To the State of Nevada, 300,000 acre feet.
   (b) To the State of Arizona, 3,000,000 acre feet.
   (c) To the State of California, 4,200,000 acre feet.

2. To Arizona, in addition to water apportioned in subdivision (b), 1,000,000 acre feet of water to be supplied from the tributaries of the Colorado River flowing in said State, and to be diverted from said tributaries before the same empty into the main stream. Said 1,000,000 acre feet shall not be subject to diminution by reason of any treaty with the United States of Mexico, except in such proportion as the said 1,000,000 acre feet shall bear to the entire apportionment in (1) and (2) of 8,500,000 acre feet.

3. As to all water of the tributaries of the Colorado River emptying into the River below Lee Ferry not apportioned in paragraph (2) each of the States of the Lower Basin shall have the exclusive beneficial consumptive use of such tributaries within its boundaries before the same empty into the main stream, and such waters shall never be subject to any diminution whatever by any allowance of water which may be made to the Republic of Mexico, or otherwise, provided, the apportionment of the waters of such tributaries situated in more than one state shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby.

4. The several foregoing apportionments to include all water necessary for the supply of any rights which may now exist, including water for Indian lands in each of said States.

5. The waters of the main Colorado River flowing below Lee Ferry unapportioned herein shall first be used to satisfy any water agreed to be delivered to the Republic of Mexico by International Treaty and as to the remainder thereof, Arizona and California each may divert and use one-half, subject to further equitable apportionment between the States of the Colorado River System on and after the year 1953, as provided in the Colorado River Compact, and on the specific condition that the use of waters between the States of the Lower Basin shall be without prejudice.
to the rights of the States of the Upper Basin to further apportionment of water as provided by the Colorado River Compact, and shall otherwise be subject to the terms and provisions of said Compact.
RESOLUTION OFFERED BY SENATOR KEY PITTMAN ON
BEHALF OF THE NEVADA COMMISSION TO THE CONFERENCE OF GOVERNORS AND THE COMMISSIONERS OF
THE COLORADO BASIN STATES IN SESSION AT DENVER,
COLORADO, AUGUST 29th, 1927.

WHEREAS, it is settled law of this country that the ownership
of an dominion and sovereignty over lands covered by navigable waters
within the limits of the several states of the Union belong to the
respective states within which they are found, with the consequent
right to use or dispose of any portion thereof, when that can be done
without substantial impairment of the interests of the public in the
waters, and subject always to the paramount right of Congress to control
their navigation so far as may be necessary for the regulation of com-
merce with foreign nations and among the states, and

WHEREAS: It is the settled law of this country that subject only
to the settlement of controversies between them by interstate compact,
or decision of the Supreme Court of the United States, the exclusive
sovereignty over all of the waters within the limits of the several
states belong to the respective states within which they are found, and
that sovereignty over waters constituting the boundary between two states
is equal in each of such respective states; and

WHEREAS: It is the sense of this conference that the exercise by
the United States Government of the delegated constitutional authority to
control navigation for the regulation of interstate and foreign commerce
does not confer upon such government the use of waters for any other pur-
pose and does not divest the states of their sovereignty over such waters
for any other public purpose that will not interfere with navigation.

THEREFORE, BE IT RESOLVED:

That it is the sense of this conference of governors and the duly
authorized and appointed commissioners of the states of Arizona, Cal-
ifornia, Colorado, New Mexico, Nevada, Utah and Wyoming; constituting the
Colorado River Basin States, assembled at Denver, Colorado, this 29th day
of August, 1927, that:

The rights of the states under such settled law shall be maintained.

The states have a legal right to demand and receive compensation for
the use of their lands and waters.

The states or states upon whose land a dam is built by the United
States Government, or whose waters are used in connection with a dam
built by the United States Government to generate hydro-electric energy are
entitled to the prior right to acquire the hydro-electric energy so generated
or to acquire the use of such dam for the generation of hydro-electric
energy, upon undertaking to pay to the United States Government the charges
that may be made for such hydro-electric energy or the use of such dam to
amortize the government investment, together with interest thereon, or
to agree upon any other method of compensation for the use of state waters
for power purposes.
The Senators and Representatives in Congress from, and the state officers of the Colorado River Basin States should, support all legislation that tends to enforce or make effective such rights and oppose all attempts through legislative, judicial or administrative action to nullify, alter or depreciate such rights.
Colorado River Conference
of the Seven Colorado River Basin States upon the Development of the Colorado River

Held at Denver, Colorado
August 22 to September 2
1927

Address by
UNITED STATES SENATOR
KEY PITTMAN
From Nevada

UPON
The Work of the Conference
The General Problems Involved
The Sovereign Rights of the State
The Rights of the United States Government
RESOLUTION OFFERED BY SENATOR KEY PITTMAN ON BEHALF OF THE NEVADA COMMISSION TO THE CONFERENCE OF GOVERNORS AND THE COMMISSIONERS OF THE COLORADO BASIN STATES IN SESSION AT DENVER, COLORADO, AUGUST 29, 1927.

WHEREAS, it is the settled law of this country that the ownership of and dominion and sovereignty over lands covered by navigable waters within the limits of the several states of the Union belong to the respective states within which they are found, with the consequent right to use or dispose of any portion thereof, when that can be done without substantial impairment of the interests of the public in the waters, and subject always to the paramount right of Congress to control their navigation so far as may be necessary for the regulation of commerce with foreign nations and among the states, and whereas:

It is the settled law of this country that subject only to the settlement of controversies between them by interstate compact, or decision of the Supreme Court of the United States, the exclusive sovereignty over all of the waters within the limits of the several states belongs to the respective states within which they are found, and that sovereignty over waters constituting the boundary between two states is equal in each of such respective states, and whereas:

It is the sense of this conference that the exercise by the United States Government of the delegated constitutional authority to control navigation for the regulation of interstate and foreign commerce does not confer upon such government the use of waters for any other purpose and does not divest the states of their sovereignty over such waters for any other public purpose that will not interfere with navigation:

THEREFORE, BE IT RESOLVED: It is the sense of this conference of governors and the duly authorized and appointed commissioners of the states of Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming, constituting the Colorado River Basin States, assembled at Denver, Colorado, this 29th day of August, 1927, that:

The rights of the states under such settled law shall be maintained.

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The state or states upon whose land a dam is built by the United States Government, or whose waters are used in connection with a dam built by the United States Government to generate hydro-electric energy are entitled to the prior right to acquire the hydro-electric energy so generated or to acquire the use of such dam for the generation of hydro-electric energy, upon undertaking to pay to the United States Government the charges that may be made, for such hydro-electric energy or for the use of such dam, to amortize the government investment, together with interest thereon, or to agree upon any other method of compensation for the use of their waters.

The Senators and Representatives in Congress from, and the state officials of the Colorado River Basin States, should support all legislation that tends to enforce or make effective such rights and oppose all attempts through legislative, judicial or administrative action to nullify, alter or depreciate such rights.

(Note—The foregoing resolution was discussed and temporarily laid aside pending negotiations relative to division of water between Arizona and California. The resolution is pending and will be acted upon at the next meeting of the Conference on September 19, 1927, at Denver, Colorado.)
MR. CHAIRMAN, GOVERNORS AND COMMISSIONERS:

I am not a member of the Nevada Commission but Governor Balzar before returning to Nevada appointed me legal advisor to the Commission.

On behalf of our Commission, I prepared a resolution which I submit to the Conference for their consideration and adoption or rejection.

WORK OF THE CONFERENCE

I think this Conference has done a great deal of good whether it reaches a definite agreement or not. I think those of you, particularly from the Upper States, deserve unlimited credit for the efforts you have put forth to bring about an agreement. I have not been present at but one, I believe, of the executive conferences. At the one I did attend, they did not seem to have any ideas other than those that were presented in the general session. It was expected, of course, that the same reasons and arguments occurred to them in private session. It was the hope of the conference of the Upper States, that some character of settlement be reached,—so that Arizona would become a part of the Seven State Compact, and California would unconditionally ratify the Compact, because there is no Compact under the present condition of affairs. The States are now in exactly the same position that they were in 1920.

It is evident why this was sought. It was because there was immediate demand for development of the Colorado River in its lower reaches.

There is no doubt that the evidence submitted to the Committee on Reclamation, of the United States Senate, was absolutely conclusive as to one point: That was, that the destruction of the Imperial Valley of California is eminent.

There are two remedies,—hold back the flood waters in impounding reservoirs or dredge the lower channel deep enough to carry the flood water within the bank of the river. The latter plan has been declared too expensive.

Congress is faced with a responsibility, and I think the whole Congress desires to act. Congress, however, is made up of human beings who come from the different states and they have their own troubles.

We out here are the only states that have suffered greatly from the tendency to usurpation of power by the Federal Government. We suffered it first because we have long had reclamation under government projects; because we have public lands. But now, that there is a demand
throughout the whole United States to harness the streams for hydro-electric energy, the question of the usurpation of these streams by the Federal Government touches them all.

BOULDER DAM

The Congress of the United States were ready and willing at the last session, in my opinion, to construct the Boulder Dam, and to build the All-American Canal, except for one thing—a sufficient number of the members of Congress did not believe that the terms of the Swing-Johnson Bill were fair to the State of Arizona. It is strange indeed that a large body like Congress should be so solicitous about the protection of one State. It was not Arizona alone that concerned them, but it was the establishment of a precedent. They were unwilling to punish a State by depriving it of its natural resources.

I supported the Swing-Johnson Bill and yet I could not and did not deny the legal contentions of the State of Arizona. I stated on the floor of the Senate that I thought that Arizona was entitled to have amendments to that Bill.

PRINCIPLES IN RESOLUTION RECOGNIZED

I prepared an amendment and submitted it to the senators and representatives from California, and to their delegation which was sent on there by their Governor, asserting that Nevada was entitled to compensation for the use of her waters and her land for the building of a dam that created hydro-electric power. The amendment I asked for was that Nevada have the prior right to purchase at cost one hundred thousand horse power created at Boulder Dam. The Senators from California recognized the principles and agreed to the amendment. I asked only for one hundred thousand horse power because the former Nevada Commission appointed by my state opposed taking more. That demand was based upon the principle that we were entitled to compensation, but the measure of compensation was entirely wrong. It should have been half of the power as I pointed out in my speech in the United States Senate when the bill was under consideration.

I may go further and say, there was not a Senator on the floor that questioned the principle, and the amendment was read on the floor of the Senate.

SETTLEMENT OF POWER QUESTION ESSENTIAL

I realize that some of you may feel that the injecting of this power question into this Conference is injurious. Our delegation patiently waited a week while these various negotiations were carried on by the Conference, but it is evident from the public statements made here that the settlement of the water and power question is indissolubly intermingled and the whole history of this matter since 1920 discloses the same thing.

The representatives of Arizona publicly said here a few days ago, "Yes, if the agreement on the division of water is satisfactory to us, we will agree to it at this time with the understanding that there will be no disposal of power created by any dam for a longer period than one year without an agreement to which Arizona will be a party, determining the distribution of the power and the terms upon which it will be distributed." They have not changed their position on that. And they should not change their position on that. They would be foolish if they did change their position on it. Why? Because the Bill will be drawn as it was before giving the Secretary of the Interior the authority to dispose of the power generated to whom he please and upon any terms he may fix, unless we agree here upon the principles that shall govern and the limitations that shall be incorporated in the Bill. But it is contended that it is only a Congressional matter, and that this Conference has nothing to do with it. The Swing-Johnson Bill recognizes the fact that it is a State matter. Why? Because there was a statement in there providing that the power should be disposed of by the Secretary of the Interior in accordance with an agreement to be entered into between Arizona and California and Nevada, but that agreement had to be entered into before the Secretary of the Interior had contracted for the disposal of the power. The Secretary of the Interior reported that he intended to contract for the disposal of it as soon as the Bill was passed. California would get all the power if there was no agreement between the three states, so, of course, California would enter no agreement.

What we want is an agreement that shall be incorporated in every bill effecting power created by Nevada waters, or in connection with a dam on Nevada land.

But Arizona's proposition does not mean development. It means that there shall not be a settlement that could result in the building of the dam, because Arizona said, "If the terms are satisfactory with regard to water, we will agree on them with the condition that there shall be no power sold, etc."

Do you think that the Congress of the United States would be so negligent as to appropriate possibly $120,000,000 when their only chance to get their money back would be from the sale of power, and that right to sell the power for a longer period than one year could be prevented by one State?
That would mean that there would be no dam built by the government on the Colorado River. California wants a dam built on the Colorado River. Nevada wants a dam built on the Colorado River. We have our reasons for wanting a dam built on the Colorado River, but not under the terms of the Swing-Johnson Bill.

Even if you reach a settlement on the division of water in the Colorado River, you will have to reach a settlement on the power question before Arizona will go into the Seven States Compact. If Arizona does not go into the Seven State Compact, according to your view of the matter, you are just as unprotected as you were in 1920, and she won’t go into that Compact unless the power question is satisfactorily settled.

We might just as well understand each other now for there would be no use of our staying here two or three weeks unless Arizona withdrew from her position on that proposition—or later on California would agree to the principles underlying the power proposition.

We have not, in my opinion, right at the present moment, very much chance, with the disposition I have seen manifested,—to reach a conclusive agreement now. But this Conference has done a lot of good. We have had the opportunity of hearing both sides. Both sides have doubtless been helped by it. And there is not very much difference as to the demands of those two States as to the division of the water of the Colorado.

CONGRESS WILL PROBABLY ACT

I wish to say, however, that Congress is liable to put through a bill at their next session containing provisions that this Conference may agree upon, or that the disinterested states may consider fair to the interested states.

If such a bill is introduced in Congress and is opposed by one of these states, then the influence of such state will end. It was only because many in Congress believed that the bill was unfair to Arizona that there was no successful action on the matter.

The Congress of the United States is ignorant of our problems. There are 435 men in the House of Representatives of the United States. Four-fifths of them know nothing on earth about water,—particularly those that live in the City of New York. They are too impatient to listen to a discussion on water. What is the result? If a bill is introduced and submitted by the administration, no matter how destructive it may be of the fundamental rights of the states, those men will vote with the administration because it is the safest thing to do. They will go to their constituency and say, "I voted with the administration."

ATTITUDE OF FEDERAL GOVERNMENT RELATIVE TO STATE WATERS

This impending legislation is about to establish a precedent. There is not a western state to my knowledge but what has experienced encroachments upon their rights by the Federal Government. The different bureaus in charge are demanding, or contending that it is the Federal Government that has control over the waters of the states and not the states. They are contending that they may disturb even the vested rights of citizens for the purpose of putting water on non-irrigable Indian lands, or upon government projects; that such is the power of the Federal Government. Their attitude in all legislation relating to the use of waters disclosed that they do not think that the states have any right to a superior control over the waters. Mr. Hoover takes that view and Mr. Work takes that view. Neither one of them are lawyers, but they are the men whose views will probably be accepted by the Congressmen I am telling you about as the will of the administration unless we unite in opposing such destructive program.

The question arises, if reclamation dams are built in the State, shall the government establish the policy of making a profit over and above the cost? Are we to remain silent while the United States Government through its delegated authority to regulate navigation assuming authority of the streams for all other purposes, although such additional authority has never been delegated by the States to the Federal Government?

WHAT WILL BE ATTITUDE OF STATES?

What are you going to do in the Upper States? Are you going to support the principle of state sovereignty over waters, or are you going to support the principle of Federal control? These questions will be voted upon in the next session of Congress and we in the West will have a desperate fight if the Senators from the Western States are contending for different principles and policies.

A little question of four or five hundred thousand acre feet of water as between these two states of Arizona and California is insignificant in comparison with the establishment of the principle of the exclusive sovereign rights of the states to the exclusive control of the waters of the states. You may not realize it now, but the time will
come when you will, and it may then be too late to protect the states.

STATE SOVEREIGNTY OVER WATERS

Sovereignty of the states means supreme control by the states. It originated in England. England had sovereignty originally over the waters in this country when she owned the colonies. She had sovereignty over the waters of the colonies until the revolution broke those ties. At that time there was not any constitution of the United States. Our existing states became separate sovereignties. They confederated together for certain purposes but each of the succeeding sovereign states succeeded to the sovereign rights of Great Britain. And every one of those states was a sovereign state. Many people think the Federal Government created the states. It was the states that created the Federal Government under the constitution they created. The United States Constitution expressly states that only those rights and powers delegated to the agency called the United States Government shall be exercised by that government and that all jurisdiction and authority not expressly delegated shall be reserved to the states exclusively. And the Supreme Court of the United States has said time and time again that every State comes into the Union on an equal footing with every other state. That the State of Mississippi's sovereignty over the waters of that state is equal to the sovereignty of the State of Delaware over its waters. When you want to see what the control of the Federal Government is, just look and see what authority the states delegated to the United States Government for all authority is originally in the states. The only authority delegated to the United States Government about or over the waters was the sole right to regulate interstate and foreign commerce. That is all. The Supreme Court of the United States has interpreted that clause and in such interpretation has declared that the United States Government has the right to regulate the flow of the rivers for such purpose but for no other purpose whatsoever.

Is that what Mr. Work now conceives his power to be? Is that what Mr. Hoover conceives his power to be? Of course not. They conceive that the United States right and power over navigation incidentally constitutes an appropriation of all the waters for any and every other purpose and that from that time on the states cannot use any of such waters for any purpose, not even for drinking water without the permission of the United States Government. And if their theory is right the United States Government will do what it pleases with the waters of the several states. There cannot be two supreme powers with regard to the same subject. If the United States Govern-

ment has sovereignty over the waters of the state, then they can tie up the waters of the state. They can take the waters out of a state if they have sovereign power over such waters. Of course, the United States Government does not have such sovereignty as it was always in the states and never has been surrendered.

If the question of the benefits of power as well as the benefits of irrigation and the benefits of domestic use are all involved, we may not be able to agree at this time on the details of a decision, but in attempting to agree on any controversy you will make great headway if you can agree on the principles that underlie the negotiations. No one here has discusses the principles underlying these questions.

Now, we come to the question of hydro-electric power created by the construction of a dam. If the dam is built even on the theory that it is for the purpose of improving navigation, we know that it is inevitable that it will create a very large amount of hydro-electric energy. And in that event, would you imagine that the only value of the water was for navigation, or irrigation or drinking?

Let us divide the water first it is urged—for what purpose—for navigation or irrigation or drinking? If you control something, you can use it for whatever purpose you see fit.

I say to you, that the State of Nevada has the sovereign right to take every foot of water out of the Colorado River on its own soil, because it has exclusive sovereignty over such waters within its borders. There is an equal right for Arizona to do the same thing if she can use the water.

Now, then, if Nevada cannot use this water for irrigation, and like Los Angeles for drinking purposes,—because she is so unfortunate in those particulars, is she to be deprived of the right to the use of that water for another beneficial purpose, such as the creation of a project that will generate hydro-electric power? Why, no, that would be preposterous.

I do not believe, unless there is more of the spirit of give and take manifested among the seven states, that an agreement will be possible.

PRIOR RIGHTS OF ARIZONA AND NEVADA TO POWER

Nevada is entitled to one-half of the power that may be generated by a government dam on its land, or by the use of its waters after compensating the government for its
expenditure upon such dam. Arizona is entitled to the same for the same reason.

That is not the announced policy of the Secretary of the Interior, but, of course, the Secretary of the Interior does not recognize the rights of the states at all in the waters after the dam is built, or to any of the power generated with such waters.

Haven't the states a prior right? Their land is being used for dams by means of which the electric energy is generated—their water is being used to generate such electric energy for power. The land and water are assets of the state. Have they no prior rights over the Southern California Edison Company which is distributing its electricity throughout the southern part of California? Would the State of Arizona, Colorado, Utah, Wyoming or New Mexico be willing to have its land and water used to create or generate electrical power and sold by the Edison Company or by some other company and outside the state without any control over the matter? It won't be done. It can't be done. No Congress on earth would allow that.

CONGRESS RECOGNIZED SOVEREIGN RIGHTS OF STATES

Did Congress recognize the sovereignty of the states over their waters at the time the Federal Water Power Bill was enacted? It provided that the United States Government shall not grant any permit to use the public lands for the building of a power dam until the applicant has first obtained a permit from the state wherein the dam is to be built, to use its waters and land and has otherwise complied with the laws of the state. But, of course, when the United States Government itself builds a dam, it will build it and use it as Congress may authorize and direct in the Act authorizing such construction.

Under the Federal Water Power Act we attempted to protect the states' rights because we provided in that Act that a municipality, that is a city, or county, or state, shall have prior right to a permit to use the public lands for the building of dams and plants for the generation of hydro-electric power.

DANGER OF BUREAUCRACY

The Congress of the United States may pass a bill such as the Swing-Johnson Bill which does not provide any priority to any state and which does not provide for any state sovereignty over the waters of the state. A dam will be built at Boulder Canyon and it may be built under the Federal Water Power Act by private capital, or it may be built by the Government after long and expensive litigation, and it may be that when it is built it will be not only a federal dam but a federal institution in every sense of the word, with all of the water and power under the arbitrary control of some bureau of the United States Government.

When I see these states of Arizona and California with this vast quantity of water allotted to them by this agreement suggested by the four Upper States,—four million acre feet each in comparison with the three hundred thousand acre feet allotted to my own state, a state in size equal almost to either one of them,—when I think of it, that they on account of the division of only one-fifth of what is allotted to them—one-tenth possibly of the whole amount involved—should threaten the enactment of a precedent that may destroy the most valuable asset that these states have—I want the people of these states to know the facts, and this conference has done a magnificent thing in giving them the facts.

Now, I know the people of the western country are surely not going to endanger their sovereign rights by reason of selfishness manifested on the part of their representatives.

With your permission I will read the resolution I have offered:

WHEREAS, it is the settled law of this country that the ownership of and dominion and sovereignty over lands covered by navigable waters within the limits of the several states of the Union belong to the respective states within which they are found, with the consequent right to use or dispose of any portion thereof, when that can be done without substantial impairment of the interests of the public in the waters, and subject always to the paramount right of Congress to control their navigation so far as may be necessary for the regulation of commerce with foreign nations and among the states, and whereas:

It is the settled law of this country that subject only to the settlement of controversies between them by interstate compact, or decision of the Supreme Court of the United States, the exclusive sovereignty over all the waters within the limits of the several states belongs to the respective states within which they are found, and that sovereignty over waters constituting the boundary between two states is equal in each of such respective states, and whereas:

It is the sense of this conference that the exercise by the United States Government of the delegated constitutional authority to control navigation for the regulation of
interstate and foreign commerce does not confer upon such
government the use of waters for any other purpose and
does not divest the states of their sovereignty over such
waters for any other public purpose that will not interfere
with navigation:

THEREFORE, BE IT RESOLVED: It is the sense
of this conference of governors and the duly authorized
and appointed commissioners of the states of Arizona,
California, Colorado, New Mexico, Nevada, Utah and Wy-
oming, constituting the Colorado River Basin States, as-
sembled at Denver, Colorado, This 29th day of August,
1927, that:

The rights of the states under such settled law shall
be maintained.

The states have a legal right to demand and receive
compensation for the use of their lands and waters.

The state or states upon whose land a dam is built by
the United States Government, or whose waters are used
in connection with a dam built by the United States Gov-
ernment to generate hydro-electric energy are entitled to
the prior right to acquire the hydro-electric energy so gen-
erated or to acquire the use of such dam for the generation
of hydro-electric energy, upon undertaking to pay to the
United States Government the charges that may be made,
for such hydro-electric energy or for the use of such dam,
to amortize the government investment, together with in-
terest thereon, or to agree upon any other method of com-
ensation for the use of their waters.

The Senators and Representatives in Congress from,
and the state officials of the Colorado River Basin States,
should support all legislation that tends to enforce or make
effective such rights and oppose all attempts through leg-
islative, judicial or administrative action to nullify, alter
or depreciate such rights.

STATEMENT RELATIVE TO FORM
AND CONTENTS OF
RESOLUTION

The statement of the settled law of the country as to
the rights of states with regard to water must be set out in
the resolution or the resolve that such rights shall be main-
tained will be meaningless. We recognize existing law,
we do not create it by resolution, therefore the statement
of existing law should be in the recital clauses rather than
under the resolving clauses. The second resolve that “The
states have a legal right to demand and receive compensa-
tion for the use of their lands and waters,” is more easily
applicable to individuals and corporations because in such
cases the state can unquestionably prevent construction
until the state’s demands are complied with.

Peculiar situations and conditions may arise if Con-
gress authorizes the United States to build a dam under
its delegated authority to regulate commerce, for whilst
the declared purpose is to improve navigation, such dam
will inevitably increase the value of the water for domestic
use, irrigation, power and other purposes.

The United States Government is entitled to compen-
sation for having added such incidental value to the state’s
water. The question, what shall it be? What is equitable?
What principles and policies should be established? To
say that the State is entitled to compensation for use of
lands and waters and that the United States is entitled to
compensation for use of its dams and plants, is not suffi-
cient in such case. These questions will be determined by
Congress, and the method and amount of compensation
fixed by the terms of the Act authorizing the construction
of such dams and appropriating the money therefor. What
do the States desire written into such an Act with regard
to the amount and terms of compensation to be paid by the
states for the use of the electric energy generated by the
Government at such dam, or for the use of such dam by
the state to generate electric energy?

The government, after building the dam, will either
build its own power plant and generate electric energy, or
it will grant a permit to someone else to use the dam to
generate electric energy. Unless the Act provides a prior-
ity to the states, then others may purchase all such electric
energy, or contract for the use of the dam to the exclusion
of the states. Again, unless the Act states the measure
of compensation, then the Secretary of the Interior may
charge the state an exorbitant rate for the electric energy,
or the use of the dam and plant to create electric energy.

In the recital clause I have largely used the language
found in the opinions of the Supreme Court of the United
States. I have also attempted to confine the resolution to
principles and policies that will inevitably effect the de-
velopment of the Colorado River and its tributaries. Of course,
the principles and policies will apply to all other similar
developments throughout the United States and will un-
doubtedly have the support of other states.
RESOLUTION OFFERED BY SENATOR KEY PITTMAN ON
BEHALF OF THE NEVADA COMMISSION TO THE
CONFERENCE OF GOVERNORS AND THE COMMISSIONERS OF THE COLORADO BASIN STATES IN
SESSION AT DENVER, COLORADO, AUGUST 29, 1927.

WHEREAS, it is the settled law of this country that the
ownership of and dominion and sovereignty over lands covered by
navigable waters within the limits of the several states of the Union
belong to the respective states within which they are found, with
the consequent right to use or dispose of any portion thereof, when
that can be done without substantial impairment of the interests
of the public in the waters, and subject always to the paramount
right of Congress to control their navigation so far as may be
necessary for the regulation of commerce with foreign nations and
among the states, and whereas:

It is the settled law of this country that subject to the settle-
ment of controversies between them by interstate compact, or
decision of the Supreme Court of the United States and subject al-
ways to the paramount right of Congress to control the navigation
of navigable streams so far as may be necessary for the regulation
of commerce with foreign nations and among the states, the ex-
clusive sovereignty over all of the waters within the limits of the
several states belongs to the respective states within which they
are found, and the sovereignty over waters constituting the bound-
dary between two states is equal in each of such respective states,
and whereas:

It is the sense of this conference that the exercise by the
United States Government of the delegated constitutional authority
to control navigation for the regulation of interstate and foreign
commerce does not confer upon such government the use of waters
for any other purposes which are not plainly adapted to that end,
and does not divest the states of their sovereignty over such waters
for any other public purpose that will not interfere with naviga-

THEREFORE, BE IT RESOLVED, That it is the sense of
this conference of governors and the duly authorized and ap-
pointed commissioners of the States of Arizona, California, Colo-
rado, New Mexico, Nevada, Utah and Wyoming, constituting the
Colorado River Basin States, assembled at Denver, Colorado, this
23d day of September, 1927, that:

The rights of the states under such settled law shall be main-
tained.

The states have a legal right to demand and receive compensa-
tion for the use of their lands and waters except from the
United States for the use of such lands and waters to regulate
interstate and foreign commerce.

The state or states upon whose land a dam and reservoir is
built by the United States Government, or whose waters are used
in connection with a dam built by the United States Government
to generate hydro-electric energy are entitled to the preferred
right to acquire the hydro-electric energy so generated or to ac-
quire the use of such dam and reservoir for the generation of
hydro-electric energy, upon undertaking to pay to the United
States Government the charges that may be made, for such hydro-
electric energy or for the use of such dam and reservoir to amor-
tize the government investment, together with interest thereon,
or in lieu thereof agree upon any other method of compensation
for the use of their waters.

We, the undersigned Committee, to which has been referred
the foregoing Resolution, as presented to the Conference on
August 29, 1927, by Senator Key Pittman, having adopted certain
amendments unanimously which are now incorporated therein,
we recommend that the Resolution set out above be adopted.

KEY PITTMAN,
FRANCIS C. WILSON,
WM. R. WALLACE,
CHARLES E. WINTER,
A. H. FAVOUR,
DELPH E. CARPENTER.
The seven-State Colorado River conference at Denver which, after a two weeks' session, recessed to convene again next Monday, has so far made scant progress toward an agreement which will enable the government to proceed with the long-delayed plans for river development. It is too early to say that no agreement will be reached, but the signs are not auspicious. Such progress as was made toward reconciling the dispute over water allocation is offset by the appearance of new points of difference—notably the "States' rights" power issue injected by Senator Key Pittman of Nevada and championed by Arizona as a welcome addition to her consistently maintained program of obstruction. This issue, unless settled next week, is not unlikely to send the Congressional delegations of the upper-basin States to Washington to fight instead of to support the Swing-Johnson bill.

The California delegates, headed by Gov. Young and dominated by the same interests which two years ago hamstrung the six-State pact by the Finney reservations, are standing stubbornly on the platform dictated by the Johnson clique and indicate that they will yield nothing, especially on the power issue. Purposely deferred at the first session in favor of an effort to get together on water allocation, the power battle is to be the main feature of the renewed conference. All the conferees have apparently satisfied themselves that power is the real meat of the Colorado coconuts and are girding themselves for a finish fight for the countless millions of dollars' worth of hydroelectric power which they fondly envision as the result of damming the Colorado.

It is time that the several parties at interest in the Colorado question should acquaint themselves with the disagreeable fact that the supposed power bonanza so confidently counted on may turn out to be worth next to nothing. The power will be there but, if recent developments are any criterion, there may be no market for it.

From the beginning it has been the contention of the authors of the several plans for high dams on the Colorado that the cost of such works would ultimately be repaid through the sale of hydroelectric power to be generated at suitable power plants at the dam site. The Swing-Johnson bill itself is entirely dependent upon that consideration. The act provides that the government shall advance up to $125,000,000 to defray the cost of a high dam at Black or Boulder Canyon and an all-American canal to Imperial Valley, with this provision (Sec. 4:b):

"Before any money is appropriated or any construction work done or contracted for, the Secretary of the Interior shall make provision for revenues, by contract or otherwise, in accordance with the provisions of this act, adequate in his judgment to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within fifty years from the date of completion of the project, of all amounts advanced... together with interest thereon."

Subsequent sections provide for the making of such contracts for both water and power, but, of course, the great bulk of the revenue is expected to come from the sale of power to corporations, communities, and municipalities.

In other words, the government must have bona-fide, signed-up customers for something like $100,000,000 worth of power, over a period of fifty years, before it can turn a wheel under the provisions of the Swing-Johnson bill. If such customers are not available the dam cannot be built under the act as it lies.

Largest of all the prospective customers for Boulder Canyon power is the Southern California Edison Company which, a few years ago, itself stood ready to finance the dam for the power to be derived therefrom. As the biggest wholesaler and retailer of electrical power in this region, the attitude of the Edison company will, in a degree at least, tend to determine the attitude of the other private power companies.

Present indications are that the Edison company will not be in the market for Boulder Canyon power. Its officials say quite frankly that they have found they can generate electrical current much more cheaply at their improved steam plants than it can be produced by water power when the heavy cost of transmission is added. Because of this fact the company has abandoned its costly observation station on the Colorado River and has withdrawn from consideration of the river's power potentialities.
If the Edison experts are right, it is the most serious reverse which the Colorado River project has suffered since its inception. If the Edison company can generate electrical power more cheaply at local steam plants than it can be created by the Colorado, then so can every other organization in the business of generating current, including the city of Los Angeles. In such case the chief source of potential revenue from the Boulder Dam vanishes into thin air and the Swing-Johnson bill becomes an empty gesture. It can be passed but nothing can be done under its provisions until the government is able to contract for the sale of enough power to pay the entire cost of the project. If there should be no market for the power the whole undertaking must halt right there.

Undoubtedly there will be many to take issue with the Edison engineers in their findings regarding the relative cost of steam-generated and hydroelectric power, though these findings have been tentatively verified by writers in technical publications on the subject.

The Municipal Power Bureau's own desperate anxiety to build a steam generating plant here would seem to confirm them, though the Power Bureau insists that it hopes ultimately to supply the whole local field with hydroelectric current from Boulder dam.

In any event, with this uncertainty created, it is extremely doubtful if any conservative dealer in power will contract for Colorado River current for so long a period as half a century. In the main, it is to be expected that the smaller power companies will follow the lead of the Edison company. The city of Los Angeles cannot make a contract of this magnitude save under exacting legal restrictions and probably not without direct authorization by the voters. The same situation obtains in other political subdivisions.

Unpleasant as is this outlook, it cannot be ignored. If competent, disinterested investigation should demonstrate that the enormous hoped-for revenue from Colorado River power will never actually materialize—as it failed to materialize at Muscle Shoals—the sensible thing will be to revise the undertaking in accordance with the new conditions and before it is too late.

The Swing-Johnson bill specifically provides that the dam to be built under its provisions shall be primarily for river regulation and flood control, secondly for impounding water for irrigation and domestic uses, and lastly for power. The first two purposes would be served as well by a low dam as by a high one.

The government is committed to the construction, at its own expense if necessary, of a dam adequate for flood control and, incidentally, for conservation of water.

An amendment to the Swing-Johnson bill providing that in case the government shall for any reason be unable to contract for the sale of power, it may nevertheless proceed to build the dam up to the height necessary for flood control would appear to meet every possible contingency.

It would provide at once the primary objects of the government, of the Swing-Johnson bill sponsors, of Imperial Valley and of the city of Los Angeles—to wit: flood control, flow-equating, desilting and water conservation for irrigation and domestic use. It would remove the chief cause for the recalcitrance of Arizona. It would make possible immediate beginning of construction instead of being forced to wait on the signing of problematical power contracts. At best the project will require from seven to ten years for completion of a high dam after work actually begins and two to three years to complete a low dam. And any year may see a Mississippi flood in Imperial Valley.

Such an amendment would not in the slightest degree prejudice any of the actual or theoretical advantages of the Swing-Johnson bill as it is now written. It does not presuppose a failure to sell the power but merely provides a means to save the other benefits of the project should the power prove unsalable.

It would make of the Swing-Johnson bill a practicable and instantly workable document, with every advantage it now has and several which it does not have.
PROPOSAL NO. 5
SUGGESTED BASIS OF DIVISION OF WATER BETWEEN THE STATES
OF THE LOWER DIVISION OF THE COLORADO RIVER SYSTEM,
SUBMITTED BY
THE GOVERNORS OF THE STATES OF THE UPPER DIVISION,
AT DENVER CONFERENCE, SEPTEMBER 19, 1927.

The Governors of the States of the Upper Division of the Colorado River System, suggest the following as a fair apportionment of water between the States of the Lower Division, subject and subordinate to the provisions of the Colorado River Compact:

1. Of the average annual delivery of water to be provided by the States of the Upper Division at Lee Ferry under the terms of the Colorado River Compact:

   (a) To the State of Nevada, 200,000 acre feet.

   (b) To the State of Arizona, 2,700,000 acre feet.

   (c) To the State of California, 4,500,000 acre feet.

2. The States of the Lower Basin respectively to have the exclusive beneficial consumptive use of the tributaries within their boundaries before the same empty into the main stream, provided, the division of the waters of such tributaries situated in more than one State shall be left to adjudication or apportionment before said States in such manner as may be determined upon by the States affected thereby.

3. (a) The 1,000,000 acre feet of water apportioned to the States of the Lower Basin by paragraph (b) of Article III of the Colorado River Compact, to attach exclusively to the Arizona tributaries of the Colorado River, and to be included in the waters of such tributaries apportioned to Arizona under the terms of paragraph (5) hereof, to be diverted from said tributaries before the same empty into the main stream.

   (b) Any apportionment of water made to the Republic of Mexico, shall be supplied out of water unapportioned herein.

   (c) If it shall be necessary at any time for the Lower Basin to supply any water to the Republic of Mexico, in addition to that available from unapportioned water herein, the same shall be supplied by California and Arizona in equal amounts out of the water apportioned to them from the main Colorado River.

4. The several foregoing apportionments to include all water necessary for the supply of any rights which may now exist.

5. The water of all tributaries reaching the main stream of the Colorado River to be definitely considered as water of the main stream, and the States in which the tributaries are located to lose all claim thereto as tributary water.

6. Arizona and California each may divert and use one-half of the unapportioned waters of the main Colorado River flowing below Lee Ferry, subject to further equitable apportionment between the said States after the year 1969.

7. No State to withhold water, and no State to require the delivery of water which cannot be reasonably applied to beneficial use.
In proposal No. 1, the basis of apportionment was upon the formula of allowing the States of California and Arizona sufficient water to supply present perfected rights, deducting this amount from the specified delivery at Lee Ferry after the State of Nevada had been apportioned 300,000 acre feet, and then dividing the remainder equally between the two States; included in the allowance of water for perfected rights for Arizona was an amount of 675,000 acre feet of water for Indian lands as considered vested under Indian Treaty rights.

The same basis was used in proposal No. 2, although a correction of figures relating to the allowance for Indian lands in Arizona caused a change in the total amounts apportioned to the States of Arizona and California. The basis of the apportionment was in no way changed.

In proposal No. 3, the basis of apportionment is along the same general lines with the exception that allowance of water for Indian lands not now developed is included in water allowed for future development.

In round numbers the allowance of water for lands now developed in California was taken at 2,100,000 acre feet, and for lands now developed in Arizona as 300,000 acre feet. Subtracting the total amount of 2,400,000 acre feet from the 7,200,000 acre feet of water at Lee Ferry after the State of Nevada had been allowed 500,000 acre feet, would give each of the States of Arizona and California, 2,400,000 acre feet for future development.

### Division Lee Ferry

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PARTIAL PROCEEDINGS

OF

CONFERENCE OF GOVERNORS

Commissioners and Advisors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming

on the

COLORADO RIVER

HELD AT DENVER, COLORADO, AUGUST 22 TO SEPTEMBER 1, 1927

Published by Arizona Commission on the Colorado River
PARTIAL PROCEEDINGS OF CONFERENCE OF GOVERNORS, COMMISIONERS AND ADVISORS OF THE STATES OF ARIZONA, CALIFORNIA, COLORADO, NEVADA, NEW MEXICO, UTAH AND WYOMING ON THE COLORADO RIVER

SPEECH OF HON. GEO. H. DERN, GOVERNOR OF UTAH

SPEECH OF UNITED STATES SENATOR KEY PITTMAN, OF NEVADA

Resolution Adopted by the Conference Requesting the President of the United States to Notify Mexico that the Water of the Colorado River is Reserved for Use in the United States, Except as May Be Agreed Upon by Future Treaty as an Act of Comity on the Part of the United States.

1927
DAILY SILVER BELT
Miami, Arizona
SPEECH OF GOV. GEORGE H. DERN, OF UTAH,
Chairman of the Seven States Conference on the Colorado River,
at the Opening of the Conference in Denver, August 22, 1927

This important gathering has been called a conference. Conferences are familiar things with us in Utah for the people of the dominant church in our state hold a general conference semi-annually. At those times thousands of members of the church assemble in the great tabernacle at Salt Lake City for spiritual guidance and exaltation.

In the meetings there is not only a good deal of preaching, but also a good deal of praying, which no doubt helps to cultivate a spirit of brotherly love, a desire to help one's neighbor in his problems and a resolution to deal justly with all men.

Whether we formally open our sessions with prayer or not, may I express the hope that as we here proceed with the business before us we may keep our minds and hearts somewhat in that attitude of prayer which will dispel an atmosphere of narrow selfishness, and will enlarge our vision to the end that right may prevail. Unless we are all here with a determination to do justice as well as ask justice, our deliberations are foredoomed to failure.

Our American system of popular government is supposed to aim at the greatest good for the greatest number.

Perhaps even selfishness does and should play an important part in arriving at a decision that is just according to this standard. Each one must contend vigorously for his own interest so that all sides and elements may be presented and understood. Then with a reasonable disposition to give and take and a willingness to see the other man's viewpoint, substantial justice may be done and the greatest good for the greatest number achieved. This presupposes open mindedness and fairness on the part of all, so that in striving for our own interests we will not ruthlessly ignore the claims of others.

We are here in a conference for consultation, discussion and exchange of opinion upon a subject that is of grave importance to each of our respective states. We are here, not as enemies but as friends and neighbors. To borrow a phrase, "God has made us neighbors; let justice make us friends." Our seven states comprise the major part of the great west which we proudly and confidently acclaim as the future theater of the world's highest civilization. We constitute an empire that is lightly divided by the state lines but is firmly united by the ties of common aspirations, common interests, common conditions and common problems. The future of all of us is indissolubly linked together. We must co-operate if we would advance. The west is great in area but weak in numbers. The state of Pennsylvania alone has more representatives in congress than have all the states west of the Rocky mountains put together.

It would be a tragedy for all of us if we should fail to fighting among ourselves. If we are to move toward our destiny we must stand together and plan together, and work together, and fight together. The west has a set of problems of its own in which the busy and populous east has no interest, and unless we present a united front we shall receive scanty consideration from the rest of the country. Wise statesmanship and an enlightened self interest alike dictate that we compose our differences and go before the country as a compact unit.

There are many reasons why we should do this, for the Colorado river is not the only problem of the great west. This conference is of unusual significance since it is participated in by the governors of seven states. That alone bespeaks its importance. I wish I might express the hope that it may become historic as an example of how states can settle their mutual problems by friendly negotiation, which is always more conducive to a square deal than contention and litigation. I also wish I might express the hope that this conference will become historic as a protest by seven states of the American union against the ever growing aggressions upon their sovereignty. Is it not about time that the west served notice upon the rest of the country that we believe in local self government?

It is now about time for the west to proclaim that the Constitution of the United States with its reservations in favor of the states, is not a mere scrap of paper to be contemptuously brushed aside when it stands in the way of a misguided nationalism and centralization? Is it not about time that the western states made it known that they are getting sick and tired of the doctrine that everything in our states that is worth anything belongs to Uncle Sam?

There seems to be a school of thought that wants to run everything from Washington and make the states mere figureheads and nonentities. I regret that even in the west there are some who evidently lack faith in the ability of their states to manage their own affairs and who want to deliver us over to federal bureaus. That program is fraught with danger and will carry us on to disaster. We need to revitalize our state governments in the eyes of the people. It is the only means of preserving democracy from the centralized bureaucracy that will otherwise spell ruin to our American ideals. As state officials we should hold up the hands of those of our congressional delegations who are defending the faith that
strong states are essential to the integrity, to the fundamental principles of our government.

There are a lot of well-meaning citizens who are worried about the future because they see a Bolshevist behind every tree, but they entirely overlook the more insidious and more dangerous foe who is little by little overthrowing the American plan of local self government. There is a vast number of activities that are exclusively the functions of the states. How are the states going to perform these functions for their people if their vitality is sapped by the federal government bleeding them of their sources of revenue?

In so far as we have already been despoiled of our resources, our own apathy is much at fault. We must not sleep upon our rights, for the rights of states depend largely upon their own attitude and efforts. We may lose our sovereign rights and powers, if we do not assert them, and assert them in time, on the same theory as estoppel operates upon individuals. The most glaring example is the case of the public lands. As Congressman Winter of Wyoming conclusively proved in two notable speeches in the house of representatives, there can be no doubt that in theory, every new state admitted to the union is entitled to all the unappropriated lands within its borders, and yet the federal government now owns those lands. It owns them because it adopted a policy of claiming them, and the states meekly acquiesced. Colorado, when she came into the union, should have been just as much the owner of the unappropriated public lands within her borders as Massachusetts: the owner of her lands when she came into the union. But Colorado, with the rest of the new states, stood silently by and permitted the federal government to assert and exercise control over these lands, and thereby acquire title thereto.

As a result of this theory the federal government now owns 74 per cent of the area of the state of Utah. This government land is exempt from taxation and does not help support the state government. A similar condition prevails in all the public land states in varying degrees. The last Wyoming legislature memorialized Congress to cede all the remaining public lands together with all natural resources including water power, power sites, forest and minerals to the states.

Arizona is of the same mind. The California State Farm bureau at one time discussed seriously the proposition to make government lands subject to taxation. Following that, I understand, Congressman Raker of California, introduced and pressed a measure giving the states the power to tax national forests and other public lands.

ON THE COLORADO RIVER

Taxation in the public land states is burdensome and oppressive because only a small percentage of the land is in private ownership and the small part must bear the entire burden of state, county and municipal government.

The public lands, so far as I can see, are irretrievably lost to us, unless the federal government, out of the goodness of its heart, sees fit to restore them to us; and I have a life-size picture of a New England congressman voting for that proposition. He believes that New England belongs to New England and that Wyoming, Colorado, New Mexico, Utah, Arizona, Nevada and California belong to the United States of which New England is an important part.

People of the eastern states, where 100 per cent of the land is in private ownership and paying taxes cannot conceive the exasperating burden of making one-fourth of the state support the other three fourths in idleness.

In other words, they maintain the unconstitutional doctrine that the western states were not admitted upon an equality with the states of the east, which have always been conceded to own and control the waters of their streams and the beds of their navigable rivers, in their sovereign capacity. The western states were admitted upon equal footing with the eastern states and under our plan of government came into being endowed with the same powers they would have possessed if they had participated in the formation of the union. The most vital of all these powers, especially in an arid region, is jurisdiction over their streams. Preservation of this control is a matter of necessary self defense.

We hold that the western states have absolute jurisdiction over their streams, and that the federal government neither owns nor has the right to control any of our streams, whether navigable or unnavigable, and, unless invited to do so, has no authority to do anything on our rivers except to regulate navigation for interstate commerce. Furthermore, we believe no greater catastrophe could befall the western states than to let their rivers fall into the hands of the federal government. I am sure the farmers of Utah, even if they are not exercised over preserving state autonomy, do not want to take orders from federal employees in irrigating their lands; and I suppose the same spirit of independence is alive in the farmers of the rest of the states represented here. The federal government already owns most of our lands. If it now also takes our waters, what will there be left of our boasted statehood? That the beds of navigable streams belong to the states in their sovereign capacity is so well established by numerous decisions of the supreme court of the United States that it would be a waste of time to argue the
point. The Colorado river is a navigable stream in Utah. Thousands of tons of freight and hundreds of passengers have been transported on it by boat during the past two or three years, not to mention any other evidence of the fact of its navigability. In Utah therefore the bed of the Colorado river belongs to the state.

If I have succeeded in establishing the points that are so clear and obvious to my mind, namely, that the states own the water of the Colorado river, and that, in Utah at least, the state owns the bed of the stream, then it is time to ask the question, “Who owns the Colorado river?” Congressman Taylor of Colorado eloquently answered that question in his speech in the house last February when he said: “When those several states came into the union the government of the United States by congressional acts, ceded to them the ownership of all the water of that river. The people of those states own that water. They owned it as a birthright when their states were born. For what purpose? They own it for any and all beneficial uses they can use that water for—for domestic use, for irrigation, for storage, for power, and other uses—because it is absolutely necessary in that arid region. It is our very life blood. When those states came into the union there was put into the enabling acts and into their constitutions, approved by congress, a clause to the effect that the people in every one of those states have the sole and exclusive right to all the water within their borders for the necessary development of the country, for the utilization of its people.” Up to this good hour all the water in the great stream does, and always has, belonged solely to the people of those states. They are the owners of it now. It is the most priceless possession they have. It is all held subject to approval by the people for any of those beneficial purposes.

I agree with Mr. Taylor. This great resource belongs to the states. I want to keep it for the states. I don’t want to give it to the United States or any one else. The Lord knows the states need it. If we own the river, then we own the power resources of the river. Those power resources are a potential source of revenue to the states. Everybody is complaining about high taxes. If a greater portion of the cost of our state and local government could be derived from some other source besides a tax on property, it would afford relief to every taxpayer.

In my message to our last legislature I advocated that the state’s power resources of navigable streams should be treated on a conservation basis and should not be given away or sold, but should be leased, so that the rentals or royalties might help relieve the tax burden on property. If we sleep on our rights and let the federal government grab the power resources, we shall forever close this avenue of relief to our property owners. Furthermore, if the state retains perpetual ownership, it can include regulation of rates in the terms of the lease from time to time, and thereby prevent the lessee from gouging the public.

I am not in a temper to be dogmatic about these things, and so I do not want to be understood as delivering an ultimatum. I appreciate that where there is a conflict of interest there must be compromises in order to arrive at a settlement, and very beneficent results are often the outcome of compromises. The Constitution of the United States was a bundle of compromises when it was framed. As regards the points I have discussed, the situation seems to be simply this: If we own the water and the power of the Colorado river, why should we give these invaluable resources away? If we do not own them, let us know it, so we can agree on a sensible program in the light of that information. We are here for the purpose of solving our mutual problems, and ironing out our differences. I have merely taken the liberty of making the first statement of some of the questions involved.

There is, however, another big problem and it is the biggest one of all. I refer to a division of the water of the Colorado river so that each state shall receive a just and equitable share. The Colorado river compact concluded by the seven states at Santa Fe in November, 1922, was intended to provide for this division in a fair and just manner.

It has withstood all the attacks that have been made upon it, and in my opinion it would be a fatal mistake to undertake to reopen the negotiations for the purpose of changing the compact. It has been ratified by the four upper states and Nevada, but not by Arizona and California. Arizona refrained until a satisfactory three-state compact shall have been concluded, providing for the distribution of the water allotted to the lower basin, and for revenues from the sale of power. California is withholding ratification until storage shall have been authorized in order that she may be assured flood control, the All-American canal, additional reclamation of arid lands, and the generation of cheap electric power, part of which is to be used for pumping large quantities of water from the Colorado river out of the watershed to Los Angeles and other cities of the coastal plain. The building of such storage will so seriously jeopardize the rights and general welfare of each of the other states of the basin, that it is imperative that matters of title be settled in advance of any construction.

But the states, in their sovereign capacity, own other resources toward which the grasping hand of federal bureaucracy is out-
stretched and it is high time we were claiming our title to them, lest through our neglect they be taken from us.

The most important of these is the water in our western states. Man cannot live without water, and states cannot exist without it. Every state has the inherent sovereign right to control the uses of this element which are essential to its existence. To deprive a state of this right would destroy its autonomy. Moreover, the original states are conceded to possess full power to control their waters save for the regulation of interstate commerce, and to deprive the newer states of this control would take from them that equality with the original states which was guaranteed them when they were admitted into the union. The arid states in particular, whose water is their very life blood, should realize that if they would protect their state autonomy they must resist the deliberate and constant pressure of certain enthusiasts for federal usurpation of state powers.

The theory that is advanced by attorneys for the bureau of reclamation that congress has the power to allocate and apportion the waters of any western river among the states, regardless of their will, is abhorrent to our whole plan of government. It proceeds from the vicious bureaucratic hypothesis that in all the western states the United States and not the states, owns and may dispose of the waters of every stream, and that congress at any time may wholly remove the control of such waters from the states; and that the states exercise their present control by mere sufferance.

The states of the upper basin are not mere obstructionists. On the contrary, they are all desirous of encouraging, in every legitimate way, the construction of flood control works, along the lower river. The officials of the upper states, however, are confronted by the facts that such works will be very expensive; that the cost must be repaid to the federal government; that the money to repay this cost must be earned by using the water impounded by the dam; and that when its water is used it will give rise to claims of prior appropriation of the whole flow of the river, unless such a disastrous result is avoided by interstate compact, concluded and ratified in advance of construction.

It is also interesting to note that the financial setup contemplates that the government is to be repaid from the sale of power, and the estimated earnings are based on a proposed power plant that will require water in excess of the allocated supply. In that event, where do the upper states get off? And if the upper states take out their share of the water, and thereby reduce the earnings of the power plant, where does the government get off? All of the water of the river will pass through the turbines of the proposed power plant. Such use might set up claims of the right to continue to use the total flow of the stream, and would deny the right to diminish the volume by upper stream use either on the main stream or the tributaries. For this reason the four upper states, in necessity of self defense, have resisted all efforts to proceed with construction along the lower river until their rights to future development have been guaranteed by compact. Without this protection the growth of those portions of the upper states which lie in the Colorado river basin is at an end, and they will be doomed to remain a desert forever.

Fortunately, the Colorado river compact which was negotiated for the purpose of permitting California to proceed with her program of construction without injury to the other states, and which embodies the verbal assurances advanced by California, is satisfactory to the upper states and will afford the desired protection when ratified by all seven states and the United States. The governors of the four upper states have called this conference for the purpose of tendering their good offices to bring about ratification by California and Arizona. We realize that we cannot write their subsidiary compact for them, but we hope we may be of service in bringing them to an understanding that will be acceptable to all concerned.

There is nothing selfish about the attitude of the upper states, and I want particularly to emphasize that Utah is not, and never has been fighting California. We are simply resisting an attempted federal usurpation of constitutional state rights and an unwarranted appropriation of state resources. An enlightened self-interest dictates that Utah should be friendly to California and should encourage her development and growth. California is our best market, and every additional inhabitant of California is potentially an additional consumer of Utah products. It is therefore to Utah's advantage to have Los Angeles and other southern California cities increase in population, because that growth spells increased markets for our products. Last December I visited southern California for the purpose of studying her interest in the Colorado river, and I gained a keen and sympathetic understanding of her real needs. I think Utah ought to help her satisfy those needs. On account of the community of interest between Utah and California we are bound to be sympathetic with much of her program. Both states are parts of the great west and they are united by many financial, commercial, economic and social ties. They ought to work together and help each other. Utah ought to help California because we need her markets. California ought to help Utah because she needs our raw materials. For humanitarian reasons and
as good neighbors we should help the Imperial valley to get flood control, silt elimination, a stabilized water supply and freedom from friction with Mexico.

For selfish reasons we want Los Angeles to have an ample supply of domestic water, so that she may continue her present phenomenal rate of growth and thereby demand more Utah products. None of her legitimate wants can be supplied without a storage reservoir on the Colorado river. California has exhausted her own natural resource in the Colorado river, for she is using the entire natural low water flow of the stream and has no dam site wholly on her own soil where she can store flood water. She needs some of the flood water that is now running to waste, and the only way she can get an ample supply is by a storage reservoir built in other states. And of course the rest of the states in the basin cannot afford to give her the storage she wants unless she first agrees by compact to limit herself to a fair share of the flood water and not appropriate the whole river.

Our problem is to enable California to get her desired pro rata without sacrificing our own chances for future growth and development and the well-being of our people. We must fairly protect ourselves before we protect our neighbors.

The upper states are alive to the danger of permitting development on the river that will result in a regulated and continuous flow to Mexico in advance of adopting some means that will define and limit Mexico's rights. Mexico certainly should never be permitted to acquire rights to any of our storage water.

ADDRESS OF SENATOR KEY PITTMAN OF NEVADA
Before the Seven State Conference at Denver, August 29, 1927

I am not a member of the Nevada Commission but Governor Balzar before returning to Nevada appointed me legal advisor to the commission.

On behalf of our commission, I prepared a resolution which I submit to the conference for their consideration and adoption or rejection.

I think this conference has done a great deal of good whether it reaches a definite agreement or not. I think those of you, particularly from the upper states, deserve unlimited credit for the efforts you have put forth to bring about an agreement. I have not been present at but one, I believe, of the executive conferences. At the one I did attend, they did not seem to have any ideas other than those that were present in the general sessions. It was expected, of course, that the same reasons and arguments occurred to them in private session. It was the hope of the conference, and particularly of the members of the conference of the upper basin states, that some character of settlement be reached, so that Arizona would become a party to the Seven State compact, and California would unconditionally ratify the compact, because there is no compact under the present condition of affairs. The states are now in exactly the same position that they were in 1920.

It is evident why this was sought. It was because there was immediate demand for development of the Colorado river in its lower reaches.

There is no doubt that the evidence submitted to the Committee of Reclamation of the United States senate, was absolutely conclusive as to one point: That was, that the destruction of the Imperial valley of California is imminent.

There are two remedies—hold back the flood waters in impounding reservoirs or dredge the lower channel deep enough to carry the flood water within the bank of the river. The latter plan has been declared too expensive.

Congress is faced with a responsibility, and I think the whole congress desires to act. Congress, however, is made up of human beings who come from the different states and they have their own troubles.

We out here are the only states that have suffered greatly from the tendency to usurpation of power by the federal government. We suffered it first because we have long had reclamation under government projects; because we have public lands. But now that there is a demand throughout the whole United States to harness
the streams for hydro-electric energy, the question of the usurpation of these streams by the federal government touches them all.

The congress of the United States was ready and willing at the last session, in my opinion, to construct the Boulder dam, and to build the All-American canal, except for one thing—a sufficient number of the members of congress did not believe that the terms of the Swing-Johnson bill were fair to the state of Arizona. It is strange indeed that a large body like congress should be so solicitous about the protection of one state. It was not Arizona alone that concerned them, but it was the establishment of a precedent.

They were unwilling to punish a state by depriving it of its natural resources.

I supported the Swing-Johnson bill and yet I could not and did not deny the legal contentions of the state of Arizona. I stated on the floor of the senate that I thought that Arizona was entitled to have amendments to that bill.

I prepared an amendment and submitted it to the senators and representatives from California, and to their delegation which was sent on there by their governor, asserting that Nevada was entitled to compensation for the use of her waters and her land for the building of a dam that created hydro-electric power. The amendment I asked for was that Nevada have the prior right to purchase at cost one hundred thousand horse power created at Boulder dam. The senators from California recognized the principle and agreed to the amendment. I asked only for one hundred thousand horse power because the former Nevada commission appointed by my state opposed taking more. That demand was based upon the principle that we were entitled to compensation, but the measure of compensation was entirely wrong. It should have been half of the power as I pointed out in my speech in the United States senate when the bill was under consideration.

I may go further and say, there was not a senator on the floor who questioned the principle, when the amendment was read on the floor of the senate.

I realize that some of you may feel that the injection of this power question into this conference is injurious. Our delegation patiently waited a week while these various negotiations were carried on by the conference, but it is evident from the public statements made here that the settlement of the water and power question is indissolubly intermingled and the whole history of this matter since 1920 discloses the same thing.

The representatives of Arizona publicly said here a few days ago, "Yes, if the agreement on the division of water is satisfactory to us, we will agree to it at this time with the understanding that there will be no disposal of power, created by any dam, for a longer period than one year without an agreement to which Arizona will be a party, determining the distribution of the power and the terms upon which it will be distributed." They have not changed their position on that. And they should not change their position on that. They would be foolish if they did change their position on it. Why? Because the bill will be drawn as it was before, giving the secretary of the interior the authority to dispose of the power generated to whom he pleases and upon any terms he may fix, unless we agree here upon the principles that shall govern and the limitations that shall be incorporated in the bill. But it is contended that it is only a congressional matter, and that this conference has nothing to do with it. The Swing-Johnson bill recognizes the fact that it is a state matter. Why? Because there was a statement in there providing that the power should be disposed of by the secretary of the interior in accordance with an agreement to be entered into between Arizona and California and Nevada, but that agreement had to be entered into before the secretary of the interior had contracted for the disposal of the power. The secretary of the interior reported that he intended to contract for the disposal of it as soon as the bill was passed. California would get all the power if there was no agreement between the three states, so, of course California would enter into no agreement.

What we want is an agreement that shall be incorporated in every bill effecting power created by Nevada waters, or in connection with a dam on Nevada land.

But Arizona's proposition does not mean development. It meant that there would not be a settlement that could result in the building of the dam, because Arizona said, "If the terms are satisfactory with regard to water, we will agree on them with the condition that there shall be no power sold, etc."

Do you think that the congress of the United States would be so negligent as to appropriate possibly $120,000,000.00 when the only chance to get their money back would be from the sale of power, and that right to sell the power for a longer period than one year could be prevented by one state?

That would mean that there would be no dam built by the government on the Colorado river. California wants a dam built on the Colorado river. Nevada wants a dam built on the Colorado river. We have our reasons for wanting a dam built on the Colorado river, but not under the terms of the Swing-Johnson bill.

Even if you reach a settlement on the division of water in the Colorado river, you will have to reach a settlement on the power question before Arizona will go into the Seven States compact. If
Arizona does not go into the Seven States compact, according to your view of the matter, you are just as unprotected as you were in 1920; and she won’t go into that compact unless the power question is satisfactorily settled.

We might just as well understand each other now for there would be no use of our staying here two or three weeks unless Arizona withdrew her position on that proposition, or later on California would agree to the principles underlying the power proposition.

We have not, in my opinion, right at the present moment, very much chance, with the disposition I have seen manifested, to reach a conclusive agreement now. But this conference has done a lot of good. We have had the opportunity of hearing both sides. Both sides have doubtless been helped by it. And there is not very much difference as to the demands of those two states as to the division of the water of the Colorado.

I wish to say, however, that congress is liable to put through a bill at their next session containing provisions that this conference may agree upon, or that the disinterested states may consider fair to the interested ones.

If such a bill is introduced in congress and is opposed by one of these states, then the influence of such state will end. It was only because many in congress believed that the bill was unfair to Arizona that there was no successful action on the matter.

The congress of the United States is ignorant of our problems. There are 435 men in the house of representatives of the United States. Four-fifths of them know nothing on earth about water—particularly those that live in the city and state of New York. They are too impatient to listen to a discussion on water. What is the result? If a bill is introduced and submitted by the administration, no matter how destructive it may be of the fundamental rights of the states, those men will vote with the administration because it is the safest thing to do. They will go to their constituencies and say, "I voted with the administration."

This impending legislation is about to establish a precedent. There is not a western state to my knowledge but what has experienced encroachments upon their rights by the federal government. The different bureaus in charge are demanding, or contending, that it is the federal government that has control over the waters of the states and not the states. They are contending that they may disturb even the vested rights of citizens for the purpose of putting water on non-irrigated Indian lands, or upon government projects; that such is the power of the federal government. Their attitude in all legislation relating to the use of waters disclosed that they do not think that the states have any right to a superior control over the waters. Mr. Hoover takes that view and Mr. Work takes that view. Neither one of them are lawyers, but they are the men whose views will probably be accepted by the congressmen I am telling you about as the will of the administration, unless we unite in opposing such a destructive program.

The question arises, if reclamation dams are built in the state, shall the government establish the policy of making a profit over and above the cost? Are we to remain silent while the United States government through its delegated authority to regulate navigation assumes authority of the streams for all other purposes, although such additional authority has never been delegated by the states to the federal government.

What are you going to do in the upper states? Are you going to support the principle of state sovereignty over waters, or are you going to support the principle of federal control? These questions will be voted upon in the next session of congress and we in the West will have a desperate fight if the senators from the western states are contending for different principles and policies.

A little question of four or five hundred thousand acre feet of water as between these two states of Arizona and California is insignificant in comparison with the establishment of the principle of the exclusive sovereign rights of the states to the exclusive control of the waters of the states. You may not realize it now, but the time will come when you will, and it may then be too late to protect the states.

Sovereignty of the states means supreme control by the states. It originated in England. England originally had sovereignty over the waters in this country when she owned the colonies. She had sovereignty over the water of the colonies until the Revolution broke those ties. At that time there was not any Constitution of the United States. Our existing states became separate sovereignties. They confederated together for certain purposes, but each of the succeeding sovereign states succeeded to the sovereign rights of Great Britain. And every one of those states was a sovereign state.

Many people think the federal government created the states. It was the states that created the federal government under the constitution they established. The United States Constitution expressly states that only those rights and powers delegated to the agency called the United States government shall be exercised by that government and that all jurisdiction and authority not expressly delegated shall be reserved to the states exclusively. And the supreme court of the United States has said time and time again that
every state comes into the Union on an equal footing with every other state; that the state of Mississippi’s sovereignty over the waters of that state is equal to the sovereignty of the state of Delaware.

When you want to see what the control of the federal government is, just look and see what authority the states delegated to the United States government for all authority is in the states. The only authority delegated to the United States government about or over the waters was the sole right to regulate interstate and foreign commerce. That is all. The supreme court of the United States has interpreted that clause, and in such interpretations has declared that the United States government has the right to regulate the flow of rivers for such purpose but for no other purpose whatsoever.

Is that what Mr. Work now conceives his power to be? Is that what Mr. Hoover conceives his power to be? Of course not. They conceive that the United States’ right and power over navigation incidentally constitutes an appropriation of all of the waters for any and every other purpose and that from that time on the states cannot use any of such waters for any purpose, not even for drinking water, without the permission of the United States government.

If their theory is right, the United States government will do what it pleases with the waters of the several states. There cannot be two supreme powers with regard to the same subject. If the United States government has sovereignty over the waters of the state, then they can tie up the waters of the state. They can take the waters out of a state if they have sovereign power over that water. Of course, the United States government does not have such sovereignty, as it was always in the states and never has been surrendered.

If the question of the benefits of power as well as the benefits of irrigation and the benefits of domestic use are all involved, we may not be able to agree at this time on the details of a decision, but in attempting to agree on any controversy you will make great headway if you can agree on the principles that underlie these negotiations.

Now we come to the question of hydro-electric power created by the construction of a dam. If the dam is built, even on the theory that it is for the purpose of improving navigation, we know that it is inevitable that it will create a very large amount of hydro-electric energy. And in that event, would you imagine that the only value of the water was for navigation, or irrigation or drinking?

Let us divide the water first it is urged—for what purpose—for navigation or irrigation or drinking? If you control something, you can use it for whatever purpose you see fit.

I say to you, that the state of Nevada has the sovereign right to take every foot of water out of the Colorado river on its own soil, because it has exclusive sovereignty over such waters within its borders. There is an equal right for Arizona to do the same thing if she can use the water.

Now then, if Nevada cannot use this water for irrigation, and like Los Angeles for drinking purposes, because she is so unfortunate in those particulars, is she to be deprived of the right to the use of that water for another beneficial purpose, such as the creation of a project that will generate hydro-electric power? Why, no; that would be preposterous.

I do believe, that unless there is more of the spirit of give and take manifested among the seven states, that an agreement will be impossible.

Nevada is entitled to one-half of the power that may be generated by a government dam on its land, or by the use of its waters after compensating the government for its expenditure upon such dam. Arizona is entitled to the same for the same reasons.

That is not the announced policy of the secretary of the interior, but, of course, the secretary of the interior does not recognize the rights of the states at all in the waters after the dam is built, or to any of the power generated with such waters.

Haven’t the states a prior right? Their land is being used for dams by means of which the electric energy is generated—their water is being used to generate such electric energy for power. The land and water are assets of the state. Have they no prior rights over the Southern California Edison company which is distributing its electricity throughout the southern part of California? Would the states of Arizona, Colorado, Utah, Wyoming or New Mexico be willing to have their land and water used to create or generate electrical power to be sold by the Edison company or by some other company outside the state without any control over the matter? It won’t be done. It can’t be done. And no congress on earth would do that.

Did Congress recognize the sovereignty of the states over their waters at the time the Federal Water Power Bill was enacted? It provided that the United States government shall not grant any permit to use the public lands for the building of a power dam until the applicant has first obtained a permit from the state wherein the dam is to be built, to use its waters and land and has otherwise complied with the laws of the state. But, of course, when the United States Government itself builds a dam, it will build it and use it as Congress may authorize and direct in the Act authorizing such construction.
Under the Federal Power Act we attempted to protect the states' rights because we provided in that Act that a municipality—that is, a city, or county, or state—shall have prior right to a permit to use the public lands for the building of dams and plants for the generation of hydro-electric power.

The Congress of the United States may pass a bill such as the Swing-Johnson Bill which does not provide any priority to any state and which does not provide for any state sovereignty over the waters of the state. A dam will be built at Boulder Canyon and it may be built under the Federal Water Power Act by private capital, it may be built by the Government after long and expensive litigation, and it may be that when it is built it will be not only a federal dam but a federal institution in every sense of the word, with all of the water and power under the arbitrary control of some bureau of the United States Government.

When I see these states of Arizona and California with this vast quantity of water allotted to them by this agreement suggested by the four Upper States—four million acre feet each in comparison with the three hundred thousand acre feet allotted to my own state, a state in equal almost to either one of them,—when I think of it, that they on account of the division of only one-fifth of what is allotted to them—one-tenth possibly of the whole amount involved—should threaten the enactment of a precedent that may destroy the most valuable asset that these states have,—I want the people of these states to know the facts, and I want the Congress of the United States to know the facts, and this conference has done a magnificent thing in giving them the facts.

Now, I know the people of the Western country are surely not going to endanger their sovereign rights by reason of selfishness manifested on the part of their representatives.

The statement of the settled law of the country as to the rights of states with regard to water must be set out in the resolution, or the resolve that such rights shall be maintained will be meaningless. We recognize existing law, we do not create it by resolution, therefore the statement of existing law should be in the recital clauses rather than under the resolving clauses. The second resolve that "the states have a legal right to demand and receive compensation for the use of their lands and waters," is more easily applicable to individuals and corporations because in such cases the state can unquestionably prevent construction until the state's demands are complied with.

Peculiar situations and conditions may arise if Congress authorizes the United States to build a dam under its delegated authority to regulate commerce. Whilst the declared purpose is to improve navigation, such a dam will inevitably increase the value of the water for domestic use, irrigation, power and other purposes.

The United States Government is entitled to compensation for having added such incidental value to the state's water. The question is, what shall it be? What is equitable? What principles and policies should be established? To say that the State is entitled to compensation for the use of lands and waters and that the United States is entitled to compensation for the use of its dams and plants, is not sufficient in such case. These questions will be determined by Congress, and the method and amount of compensation fixed by the terms of the Act authorizing the construction of such dams and appropriating the money therefor. What do the States desire written into such an Act with regard to the amount and terms of compensation to be paid by the states for the use of the electric energy generated by the Government at such dam, or for the use of such dam by the state to generate electric energy?

The government, after building the dam, will either build its own power plant and generate electric energy, or it will grant a permit to someone else to use the dam to generate electric energy. Unless the Act provides a priority to the states, then others may purchase all such electric energy, or contract for the use of the dam to the exclusion of the states. Again, unless the Act states the measure of compensation, then the Secretary of the Interior may charge the state an exorbitant rate for the electric energy, or the use of the dam and plant to create electric energy.

In the recital clause I have largely used the language found in the opinion of the Supreme Court of the United States. I have also attempted to confine the resolution to principles and policies that will inevitably affect the development of the Colorado River and its tributaries. Of course, the principles and policies will apply to all other similar developments throughout the United States and will undoubtedly have the support of other states.

The Resolution is as follows. With your permission, I will read it:

Resolution offered by Senator Key Pittman on Behalf of the Nevada Commission to the Conference of Governors and the Commissioners of the Colorado Basin States in session at Denver, Colorado, August 29, 1927.

Whereas, it is the settled law of this country that the ownership of and dominion and sovereignty over lands covered by navigable waters within the limits of the several states of the Union belong to the respective states within which they are found, with
the consequent right to use or dispose of any portion thereof, when that can be done without substantial impairment of the interests of the public in the waters, and subject always to the paramount right of Congress to control their navigation so far as may be necessary for the regulation of commerce with foreign nations and among the states, and whereas:

It is the settled law of this country that subject only to the settlement of controversies between them by interstate compact, or decision of the Supreme Court of the United States, the exclusive sovereignty over all of the waters within the limits of the several states belongs to the respective states within which they are found, and that sovereignty over waters constituting the boundary between two states is equal in each of such respective states, and whereas:

It is the sense of this conference that the exercise by the United States Government of the delegated constitutional authority to control navigation for the regulation of interstate and foreign commerce does not confer upon such government the use of waters for any other purpose and does not divest the states of their sovereignty over such waters for any other public purpose that will not interfere with navigation:

Therefore, be it resolved, That it is the sense of this conference of governors and the duly authorized and appointed commissioners of the states of Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming, constituting the Colorado River Basin States, assembled at Denver, Colorado, this 29th day of August, 1927, that:

The rights of the states under such settled law shall be maintained.

The states have a legal right to demand and receive compensation for the use of their lands and waters.

The state or states upon whose land a dam is built by the United States Government, or whose waters are used in connection with a dam built by the United States Government to generate hydro-electric energy are entitled to the prior right to acquire the hydro-electric energy so generated or to acquire the use of such dam for the generation of hydro-electric energy, upon undertaking to pay to the United States Government the charges that may be made, for such hydro-electric energy or for the use of such dam, to amortize the government investment, together with interest thereon, or to agree upon any other method for the use of their waters.

The Senators and Representatives in Congress from, and the state officials of the Colorado River Basin States, should support all legislation that tends to enforce or make effective such rights and oppose all attempts through legislative, judicial or administrative action to nullify, alter or depreciate such rights.

(NOTE—The foregoing resolution was discussed and temporarily laid aside pending negotiations relative to a division of water between Arizona and California. The resolution is pending and will be acted upon at the next meeting of the Commission.)
MEMORIAL CONCERNING INTERNATIONAL RELATIONS RESPECTING THE COLORADO RIVER

(Adopted at Seven States Conference on the Colorado River in Denver)

TO THE HONORABLE CALVIN COOLIDGE,
President of the United States of America,
and
THE HONORABLE FRANK B. KELLOGG,
Secretary of State:

WHEREAS, the prosperity and growth of the Colorado River states, namely, Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, are dependent upon present and increasing use of the waters of the Colorado river for domestic, agricultural, industrial and other beneficial purposes, and the need of many regions of these states for additional water from that source, already is extremely acute and will become increasingly so, and

WHEREAS, said river is an international stream between the United States of America and the United States of Mexico with all of the water supplying the same coming from the United States of America, and the United States of Mexico is rapidly extending the irrigated area supplied from said river within her own boundaries, and great storage projects within the United States of America are in existence and in contemplation, and

WHEREAS, said United States of Mexico, although having no strictly legal right to a continuance of the river flow for beneficial purposes, nevertheless, may hereafter make some claim thereto, and

WHEREAS, under acts of congress of May 13, 1924, and March 3, 1927, a commission of three has been appointed by the President to cooperate with representatives of the United States of Mexico in a study regarding the equitable use of the waters of the Colorado river and other international waters for the purpose of securing information on which to base a treaty relative to international uses.

NOW, THEREFORE, and to the end that no unfortunate misunderstanding may arise between the United States of America and the United States of Mexico, and that no false encouragement may be given to present or future developments along the Colorado river in the United States of Mexico, WE, THE GOVERNORS OF ALL SEVEN OF THE COLORADO RIVER STATES, WITH OUR INTERSTATE RIVER COMMISSIONERS AND ADVISORS IN CONFERENCE ASSEMBLED in the City of Denver on this 20th day of August, 1927, do hereby in great earnestness and concern make common petition that a note be dispatched to the government of the United States of Mexico calling attention of that government to the fact that, neither it nor its citizens or alien investors, have any legal right as against the United States of America or its citizens to a continuance of the flow of the Colorado river for beneficial purposes and that the United States of Mexico can expect no such continuance except to the extent that as a matter of comity the two governments may declare hereafter by treaty and that especially under no circumstances can the United States of Mexico hope to use water made available through storage works constructed or to be constructed within the United States of America, or hope to found any right upon any use thereof. We believe too, so great are the water necessities of our states, that any adjustment made with the United States of Mexico concerning the Colorado river, should be based upon that river alone. We further earnestly suggest that a special commission be created by act of congress for the Colorado river alone, a majority of the commission to be appointed from citizens of the Colorado river states, or that by act of congress the present commission already referred to be enlarged to contain two additional members to come from the Colorado river states.

It is only by such precautionary measures, promptly taken, that our seven states with their millions of people can be given a basis of economic certainty, adequate protection, and a feeling of security pending the negotiation of an early treaty between the two governments.

And your memorialists will forever pray.

GEO. W. P. HUNT,
Governor of Arizona.
C. C. YOUNG,
Governor of California.
Wm. H. ADAMS,
Governor of Colorado.
F. B. BALZAR,
Governor of Nevada.
R. C. DILLON,
Governor of New Mexico.
GEO. H. DERN,
Governor of Utah.
FRANK C. EMERSON,
Governor of Wyoming.
To The Colorado River Conference, Denver, Colorado.

Gentlemen:

In re "Suggested Basis of Division of Water Between the States of the Lower Division of the Colorado River Submitted by the Governors of the Upper Division at Denver, Colorado, Conference." September 20, 1927.

The position of California is as follows:

California assumes that there is no particular significance attached to the wording of the preamble. It is understood that it is the use of the water and not the water itself that is the subject of division.

As to Section 1, relating to proposed allocation of use of water to be delivered at Lee Ferry under the Colorado River Compact:

Subdivision (a) "To the State of Nevada, 300,000 acre feet." Accepted.

The basis of the allocation in subdivision (b), to-wit, "To the State of Arizona, 3,000,000 acre feet," or the allocation in subdivision (c), to-wit, "To the State of California, 4,200,000 acre feet," has not been disclosed to California, and California therefore, respectfully requests to be informed as to the method employed in arriving at the same.

The position of California as to its allocation of the waters to be provided by the States of the Upper Division at Lee Ferry under the Colorado River Compact is that it should be not less than 4,600,000 acre feet per annum.

With such allocation to California, Arizona will receive approximately 65 per cent and California approximately 35 per cent of the waters of the Colorado River system below Lee Ferry, based upon the Colorado River Compact and Arizona's computations.

STATE RIGHTS

Much has been said in this conference about State rights and yet the whole theory of the Colorado River Compact, as well as the proposed Three State Compact, is in conflict with the State Rights Doctrine. It waives the rights of some states in favor of other states. Under the law of appropriation, as well established in the western states, the citizens of any state may appropriate and use water for any beneficial purpose, and, regardless of state lines, so long as such use does not interfere with prior appropriations.

For nearly three hundred miles the Colorado River forms the boundary line between Arizona and California and all of the lands in either State which can receive water directly from the River lies adjacent to that portion of the River thus forming the boundary line between the two states. Either state has the unquestioned right to divert and beneficially use such water as it may, not in conflict with prior appropriations, even to the extent of completely exhausting the supply. This is a beneficent rule designed to bring about the highest and most beneficial and most economic use of water so essential to development in the arid west. Arizona seeks not only to change this rule but to change it in such a way that she will have not only abundance of water for all known requirements but a surplus left over which will forever waste itself in the sea or be available for use in a foreign country and at the same time deprive California of water for its known requirements, even water long since appropriated and required for the completion of projects already well under way and of proven feasibility—in an amount of more than 1,000,000 acre feet per year. The upper state governors have apparently concurred, in part, with Arizona in this view. Such a change in the use of water would be uneconomical even to Arizona. It is definitely discriminatory against California. It is wasteful and in direct conflict with all known rules for distribution of water in western states, and is decidedly unfair to California. California, of course, cannot accede to so gross a violation of her state rights.

The Colorado River Compact is not for the protection of any rights of any state. The purpose of the Compact is to create rights in certain states which rights do not now exist. California is willing to approve the Compact and create those rights but it is not obligated to do so. California is likewise willing to make an equitable agreement with Arizona and create rights in that State which do not now
exist but she is not obliged to do so and certainly she is not obliged to enter into or even consider an agreement which on its face is grossly unjust. Those temporarily entrusted with making decisions on her behalf would be untrue to their trust if they permitted her present necessities, great as they are, to influence them in binding future generations to an unjust agreement.

The lower river cannot be developed for many years to come without California resources.

If California is to surrender rights which she now enjoys or is to assist in creating rights which do not now exist, and if California resources are to be employed in the development of the river which will benefit not only California but all of the Colorado River Basin and particularly Arizona, then certainly California has some rights and some equities which should not be wholly ignored.

Arizona has developed more rapidly in her use of the Colorado River water than has California and largely through government financing. On this basis no compact should be required by Arizona. But if she fears a slowing up of her development, however, then the most she has a right to demand is protection against the possibility of a more rapid future development in California.

She has no right to demand of California that which she is not willing to accord to California. She has no right to demand an arbitrary division of water; she has no right to demand title to water she cannot use, and which could be used in California. She has no more right to arbitrarily demand fifty per cent of the main stream than has Nevada the right to demand one-third of the main stream.

Under the present law California has the right to take and use the whole stream on her lands if necessary, and not in conflict with earlier appropriations, Arizona has the same right. If this well established rule is to be changed by agreement, then the only demand which Arizona can, in justice, make is that the uses of the same character should enjoy the same priority in either state.

There is no justice nor equity in abrogating a well recognized rule and tying up the title to water on the hope that some day it can be used by a pump lift of four hundred fifty feet or more, when it is now needed and can be used economically in another state. The only theory of the Compact is to do equity between states which may not develop with the same rapidity. It is not upon the theory of the State's rights or the State's ownership of the water, but only in a reasonable use of the water. To arrive at this equity determination must be made of the uses to which the water may be applied on either side of the stream, with the same class of uses on each side standing in the same relationship one to the other.

CALIFORNIA'S REQUIREMENTS

At the present time there is actually being diverted and used by California 2,892,000 acre feet of water per year from the Colorado River. This is based upon Imperial Valley only 462,000 acres of lands, whereas, Imperial Valley, with an appropriation going back to 1898 has long since had its canals in operation with a capacity of more than 7000 cubic feet of water per second and its canal system fully constructed to irrigate 515,000 acres of land, or 53,000 acres more than is actually irrigated at the present time, but which has the right to demand and could receive water at any time. This land would require, under present conditions, 291,500 acre feet additional, or a total for present demands in California of 3,175,500 acre feet to which rights are fully established and which rights cannot be taken away by compact or otherwise, but which are fully protected under the law.

In fact, the present California rights go much further. There are valid appropriations in California from the tributaries as well as from the main stream, not in conflict with any other appropriations, for something like 12,000 second feet of water or enough to assure a supply for nearly all known requirements in that State. The water, in each instance, has been applied to use with diligence and definite rights have been acquired which cannot be taken away, at least without California's consent.

Imperial Valley is paying $96,000 per year to the United States under the contract of 1918, one purpose of which is to bring about this larger development for which rights have already been acquired.
In addition, all of the water that is now used in the Yuma project in Arizona is being diverted in California and passed through a power house in California for the generation of electric power. While this is for the sole benefit of Arizona and was constructed at government expense, nevertheless it is a right in California which has actually attached to the beneficial use of this water and a right which cannot be taken away, but for the sake of this statement claim to this additional water is not made by California.

In order to ascertain the total requirements of California we must add to the 2,882,000 acre feet present use, such water as will be necessary for the completion of present projects, rights to which have already vested, water for known domestic requirements, with rights also vested, and water which can be served within an economic pump lift for irrigation purposes, considered by California to be one hundred and fifty feet.

The City of Los Angeles has already made a filing on 1,500 cubic feet of water, or a total of 1,095,000 acre feet per year, for domestic purposes only for the benefit of itself and other southern California cities. Bonds have already been voted by that City in the amount of $2,000,000 for preliminary work, and a large part of the same have been sold. Extensive work in the form of surveys, irrigation plans, and otherwise has been carried on. The City of Pasadena has now passed or is about to pass initiating ordinances for the formation of a Metropolitan Water District under the laws of California to take over and complete this great undertaking. Some twenty-eight cities in Southern California have expressed their intentions of becoming members of the District.

With the known water resources of the coastal plain of Southern California, now inadequate and rapidly being exhausted, and in view of the law of self preservation and the known activities of these cities in that behalf, it may be taken as a settled fact that these coastal cities will actually divert and use 1,055,000 acre feet of water per year from the Colorado River for domestic purposes.

Under the All American Canal there will be added to the present irrigated area in Imperial and Coachella Valleys 267,000 acres which will be served by gravity, requiring 1,174,800 acre feet of water per year, and 171,700 acres which will be served by a pump lift not exceeding 150 feet and requiring 755,480 acre feet of water per year.

There are projects already under way with water rights already vested and when completed will require, together with present uses, a total of 6,889,800 acre feet of water per year.

Under a pump lift of 150 feet there may be added to the above areas 121,650 acres requiring 485,100 acre feet of water per year, or a total demand in California for the present known projects of 6,074,900 acre feet of water per year.

**ARIZONA DEMANDS**

The total actually used in Arizona from the main stream at present is 306,000 acre feet per year and with a pump lift of 150 feet, based upon figures furnished by Arizona, her total future demand, even including Indian land, which is unjustifiable and will be treated later, will amount to 1,739,500 acre feet per year.

**COMPARISON OF ARIZONA REQUIREMENTS WITH CALIFORNIA REQUIREMENTS FROM MAIN STREAM**

Upon these computations we find that of the present use from the main stream Arizona has 9.6 per cent, California has 90.4 per cent.

The use for projects existing and those under way will be, by Arizona 7.1 per cent, and by California 92.9 per cent.

For all known projects, present and suggested, under 150 foot pump lift, the water demands of Arizona will be 23 per cent and of California 77 per cent.

**AVAILABLE WATER**

The Colorado River system below Lee Ferry includes not only the main stream but all streams flowing into it below that point. Under the Colorado River Compact the upper basin states are required to deliver at Lee Ferry an average of 7,500,000 acre feet per year. The tributaries of the Colorado River in Arizona, upon her figures, produce a minimum of 6,000,000 acre feet per year, making a total in the lower basin of 13,500,000 acre feet of water per year, not considering the Nevada tributaries.
Of this total of 13,500,000 acre feet, California demands title to only 4,600,000 acre feet plus one-half of the surplus or unused water of the main stream over and above that allocated by the Colorado River Compact, or consumptively used in the upper basin. Upon this basis, without considering surplus or allocated water, Arizona would receive more than sixty-five per cent of the waters of the Colorado River system in the lower basin, and California would receive less than thirty-five per cent.

This is a smaller amount of title water than California, in good conscience, can be asked to take in the division of water among the lower basin states.

For California to make an agreement on her own proposal she will be 1,474,900 acre feet of water short of her present known requirements, while on the same basis Arizona will receive all of her tributaries yielding at least 6,000,000 acre feet per annum and also receive title to the use of all of the water from the main stream which she can use up to and including a 200 foot pump lift, or 50 feet more than any considered by California, and have a surplus of 300,000 acre feet per year left over.

If California is to serve her present known requirements, upon her own proposal, she must receive from surplus unallocated water—water to which she can have no title—1,474,900 acre feet of water per year. This would provide only for the known requirements with no water whatever left over or wasted. Under the California proposal, if California shall receive this amount of surplus water for its known requirements, Arizona would receive a like amount by which, together with her surplus of 6,000,000 acre feet of title water, would give her sufficient for all known requirements up to and including a 200 foot pump lift and 1,774,900 acre feet left over for her higher pump lifts, or to waste in the sea, or be applied to Mexican lands.

SUFFICIENT WATER WITH GOOD TITLE ESSENTIAL TO FEASIBILITY OF PROJECTS

The All American Canal, which is conceived by all to be necessary to the future progress of all of the basin states, must be paid for by California lands. This will be a large undertaking. For it to be practicable it must be constructed to serve all of the lands that can be reached by it. Under the California law any contract for repayment must be submitted to a vote of the people concerned. If there is any question about the title to water sufficient to serve the lands the people will be reluctant to vote the obligation and properly so. This is for the All American Canal itself. Before it can be used extensive distribution must also be constructed. The money for the distribution system must be derived from the sale of bonds upon the lands to be served. The first step for such a bond issue, under the California law, is the submission of the whole proposition to a commission known as the California Bond Certification Commission. This Commission first passes upon the feasibility of the project and its financial and most pertinent matters will naturally further or not there is a known water supply with good title and sufficient for the full development. The purpose of this Commission is to permit no bond issues that are not sound for investments of savings banks and public funds. To get by this Commission we must naturally show, not mere hope or possible expectancy or confidence that the water needed will be available but actual title to enough water for the purpose.

After the Commission has approved the issue, it is not yet an assured fact. It must be submitted to the people. Nearly all of those voting upon the proposition will be residents of the Imperial Irrigation District. This District already has a canal system, unsatisfactory to be sure, but nevertheless one that does supply them with water through Mexico. This supply may continue. Therefore the people in this District will be slow and properly so, to vote bonds unless there is a serious question about the title to the water supply. Still further, after the bonds are issued they must be sold and money is timid where security is weak or questionable.

The Coastal cities will be required to vote bonds to the amount of perhaps $150,000,000 for their domestic water supply. These bonds require a two-thirds vote if they are to be issued by the cities, or a majority vote if to be issued by a metropolitan district. Such enormous financing cannot be done on a mere hope, and yet if California is allocated the use of only 4,600,000 acre feet of water to which she can actually acquire title, a large amount of this financing must
be done upon the hope there will be a large amount of water which California may use even though she does not have title to it. As said before, to serve all of the lands proposed under the All American Canal and to serve the coastal cities California will be more than 1,000,000 acre feet short. This figure makes financing extremely difficult and to go below that figure will make it impossible and impracticable.

California has tried to bring about the Seven State Compact and to that end has been and is perfectly willing to enter into a fair and equitable agreement with Arizona. It is obvious, however, that neither a three state compact nor a seven state compact in and of itself is of value to California.

California is willing that the other states be fully protected in their future requirements. To do this, however, by compact, California is simply waiving present and future rights which she is not willing to waive without the construction of projects on the River that will be absolutely necessary to safeguard her own future. If California cedes away title to so much water that she cannot economically finance or develop her own resources, then she has no interest whatever either in the Three States Compact or the Seven States Compact.

When California offered to contract with title to only 4,600,000 acre feet of water she well recognized that her offer was at the danger point below which she could not go, and without the reasonable time limit for putting water to beneficial use which California suggested, she could not consider for a moment accepting title to so small an amount of water. California is willing to stand bound by the Seven State Compact and enter into a Three State Compact with the assurance of development, but if these compacts are so rigid in their terms as to tend to defeat this development, then California is not interested in either of them.

Section 2 of the Governors' suggestion, providing for allocation to Arizona of 1,000,000 acre feet of the waters of the tributaries in that State, is accepted.

Regarding Section 3, in reference to other tributary waters, it will be understood that the waters of tributaries must be considered as part of the river system, and all taken into account in ascertaining what is "surplus water" for the purpose of supplying Mexican demands under subdivision (c) of Article III of the Colorado River Compact.

We understand that Section 3 also means that after the water from tributaries reaches the main stream it is no longer to be regarded as tributary water, and the states in which the tributaries are located lose all claim thereto as tributary water.

The proviso attached to Section 3 is unnecessary and perhaps confusing. Other states which may be interested in some of the tributaries will not be parties to the proposed three state agreement and their respective rights cannot be protected or impaired by such agreement.

Subject to the foregoing suggestions and interpretations, Section 3 is accepted.

Section 4, subject to readjustment of the water allocations in Section 1 to comply with California requirements, is accepted except as to the part dealing with Indian lands.

Allocations to states for the use of Indian lands have no place in the proposed three state compact.

The water is for use of the United States, not a party to the compact and the United States would be under no obligation to respect such allocation. California objected to water for Indian Lands being classed as a perfected right for Arizona and pointed out that California likewise has Indian lands and that no such provision is made for them. The proposal was then put in its present form, which is no more satisfactory to California.

It is apparent, taking the Governors' suggested allocation in conjunction with previous suggestions, that their proposed allocation to Arizona includes 675,000 acre feet of water for Indian lands. That is, we submit, unjustifiable, first, because it is in large part without basis in the theory of vested rights, and, second, it is an allocation to which Arizona is in no sense entitled. It really amounts to a double allocation to Arizona at the expense of vested rights in California, which, of course, was not intended by the Governors.

Moreover, the Colorado River Compact expressly provides that nothing therein shall be construed as affecting
the obligation of the United States of America to Indian tribes, and clearly the proposed tri-state compact should deal with the subject of Indian lands in the same fashion.

Regarding Section 5, relating to "unapportioned waters," if the term "unapportioned waters" means waters not otherwise apportioned by the proposed three state compact, such term is satisfactory. If it means unapportioned by the Colorado River Compact, then it is not satisfactory, as the lower division states should have the use of all of the waters of the Colorado River below Lee Ferry, subject to the terms of the Colorado River Compact.

Section 5 further provides that the use of the waters so divided shall be "subject to future equitable apportionment between the said states after the year 1963." This is not satisfactory. It will also be even more difficult to ascertain and divide the equitable use of such water as may not then be in actual use than it is now. Hence, the California suggestion is that any water not actually put to beneficial use for agricultural or domestic purposes prior to October 1, 1963, shall thereafter be subject to appropriation and use in either state, pursuant to its laws. California maintained and still maintains that twenty years is a reasonable time after which water not put to beneficial use should be open to appropriation, but at the insistence of the upper state governors and others that period was extended to 1963. It is only with some such provision as this that California can accept so small an allocation of title water as 4,600,000 acre feet per year.

The latter part of Section 5, providing that the use of the so-called unappropriated waters between the lower basin states shall be without prejudice to the rights of the upper basin states to further apportionment of water as provided by the Colorado River Compact, is rejected. That provision, designed to protect the upper basin states against equities created by use of water in the lower basin, has no place in the proposed compact to which the three lower basin states alone are to be parties, and besides, is unfair to the lower basin states.

OTHER POINTS

There are other points, more or less of detail, and yet important, that should not be overlooked in the drafting of a three state compact, among which is the provision, like one contained in the Colorado River Compact, that no state shall demand the delivery of water and no state shall withhold water than cannot be reasonably applied to beneficial use. There is also the provision defining the relative proportions of the Mexican demand each state should bear. Other essential provisions for such compact might be mentioned by us, but we will not attempt to discuss them at this time.

Respectfully submitted,

CALIFORNIA RIVER COMMISSION,

By John L. Bacon, Chairman.
RESPONSE OF ARIZONA TO PROPOSAL OF THE
GOVERNORS OF THE UPPER DIVISION, COLORADO
BASIN STATES WHICH WAS SUBMITTED TO THE
LOWER DIVISION STATES UNDER DATE OF
AUGUST 30, 1927.

TO THE GOVERNORS:

We solicited this meeting—we believed that we would
benefit by putting our case before you. We are not disappoin-
ted with what has occurred here and we are hopeful of
the future. We will never be able to present our case
to men more interested. We cannot hope to find anywhere
a group of men who are better qualified to solve a water
problem.

Our own belief in the justness of our position cannot
be questioned. Had we not thought that the indisputable
facts supported our contention, would we willingly have
come to these states, which we now regard as our
rightful beneficiaries of our refusal to sign the Santa Fe Compact as to join in
an offensive and defensive six state alliance with our tem-
porary enemy—not only to give her what she wants but
to have the great Federal Government coerce us into sub-
mission—to hold us while we were despised?

It was natural for you to be prejudiced against Arizona.
You did not know when you awarded 7,500,000 acre feet
to the three lower basin states at Santa Fe that one state
would seriously advance claims to a vested right in all—and
more—of this amount of water.

You were aware of the possibility of quick develop-
ment in California and Mexico and you justly feared that
they may take your water away from you if you do not
prior appropriation before you could yourselves utilize the natural re-
sources which nature grudgingly showers on a semi-arid
West.

You knew little of the possibilities of Arizona. How
could you, when the people of our own state knew but little of
them? We ourselves could not know until the recent
surveys were completed.

Like Burke "we cannot indict a nation" or group of
states. But, we protest the early judgment formed against
us before we were given the time and opportunity to ascer-
tain our assets. Your verdict or judgment here speaks
elocutiously for your fairness—your sense of justice. We
feel gratified that our confidence in the honor and integ-
ity of Western Americans has been justified. But may
we not feel that had you possessed no early resentment,
had more time elapsed in which fixed opinions could be
gradually altered—had our state been more ably repre-
"trusted than by her present agents, who feel humble in face
of our responsibilities, your verdict would have been better
for us. Were we not handicapped, perhaps many millions
even now might find homes and seek happiness in the
great State of Arizona which is to be. No one who has
sensed the importance of this river question will urge
undue haste. We are dealing here with resources greater
than those, the coveting of which brought on the Great
War from which a world has not yet recovered.

We of the West know little of the crowding—little of
intensive soil cultivation, but may we not expect the future
to be as the past? "Time was ere England's woes began
when every rood of soil maintained its man." Irrigation
made Egypt—Babylon. Civilization began when men
crowded into the valleys of the Tigris, the Euphrates, the
Nile.

Irrigation produces the heaviest crops today—why will
the provision subsisting on the irrigated acres be so
great? Your Upper Basin representatives have testified
before the Congressional committees that you wanted water
allocations which would protect your future for 150 years.
Arizona has no objection to your foresight. We know that
150 years ago in 1777 there were but 4 million people in
the U. S. against 120 million today. We know that man-
kind has been ordered to be fruitful—to multiply and re-
plenish the earth.

You will need all of the water reserved to you by the
Santa Fe Compact. The twenty year time limit in which
to use water which California sought to impose upon Arizona, the first day of our session, needs no rebuttal argument. Our representatives could not help but notice the manner in which you gentlemen received this suggestion. We were not surprised at your attitude as we presumed you knew that the first ten years had been estimated as needed for dam construction, etc. Our surprise came from hearing men say such things who came from a project which is thirty years old and which today lacks 30% of farming the first unit, altho’ water by the hundreds of thousands of acre feet is wasting into the Salton Sea.

The able head of the Los Angeles Bureau of Power and Light has testified before a Congressional committee that the utilization of the resources of the Colorado River will create between fourteen and fifteen billion dollars of wealth, in the Southwest. Those figures are startling but are subject to at least approximate check by any one.

Do you know that the total valuation of the six states of the Colorado Basin which are unblessed with a sea coast is but approximately four billion dollars?

We know of no progressive community that pays as low as 1 percent in yearly taxation; yet one percent of 15 billion dollars is $150,000,000.

If property values created in California by the utilization of the resources of other states will pay more than $150,000,000 per year in taxation to procure for the people of that state those things they need and demand from good government—is it fair, is it rational, to assert that the people, who are conquering the waste places of the desert states, are to be denied the right to tax their own resources, in order to reduce the present burdens caused by the small amount of our states held in private ownership which is paying not only for the maintenance of the whole state but also for its development?

When we came here to Denver we knew we had much work to do.

We thought we would have to justify our refusal to accept the Santa Fe Compact. We are now willing to withdraw all the arguments Arizona has made to you to justify our position on this question and have you decide the issue upon the statements of our opponents as to their vested rights, their appropriations, their filings, their claims and necessities. If California's contentions are true this is a futile meeting—the river is already gone. It is theirs. Instead of being handed a Compact to execute we should have been given the legal dollar to sign a quit claim deed in order to quiet their title to all of the water allotted to the Lower Basin.

We thought there might be Congressional objections to expending $125,000,000 for a project which will benefit practically one state only, especially as this sum approximates the government expenditures in all the Western States during all the twenty-five years in which the Reclamation Act has been in force.

We, therefore, investigated another dam site and we are able to report to you and to the Government, that storage for flood control, irrigation and power use can be obtained for half the expenditure elsewhere than at the site advocated by California. But, it is a division of resources, not dam sites we are attempting to adjust here—"Each thing in its place is best".

We thought that you would want to know how and where we were going to use the water we are asking for—altho' we had not asked you to submit your own plans for our inspection.

We have submitted to you a feasible project including 1,400,000 acres (which can be developed progressively) as fast as the demand for agricultural products warrant. We have shown that the cost of putting water on this land will be one-third of what is now being paid on irrigation projects in our adjoining state—raising identical crops. It is true we suggest to start part of this irrigation by pumping but it can be changed to gravity at any time.

The tables prepared by California giving amounts of land subject to irrigation by gravity, and their figures on
pump lift can only be correct if you begin your ditches where they locate them. There is more than one dam site on the Colorado River. We are not limited to the fifty sites which have been mentioned; were they destroyed today, five thousand and more remain.

We have shown you that approximately four million acres can be irrigated by gravity from these dam sites in the Colorado River in Arizona if sufficient water were obtainable. We have shown you that by a gravity tunnel we could put our entire allotment of water on Arizona land as cheaply as California can force 1/4 as much water over the Coast Range.

We have shown you by printed documents put out by the Bureau of Public Works of California; that it was the hope and intention of our neighbor state to pump water this 1500 feet for irrigation. We admit that financially it will soon be feasible, but insist that pumping 1/6 of this height is more feasible and economical. We have shown you from the testimony of Meade and Davis that approximately 1/4 million more acres can be irrigated in Imperial Valley from the proposed All American Canal. But a similar Government subsidy of $37,000,000 would irrigate twice this acreage in Arizona. We have shown you that the apparent patriotic advocacy of providing irrigation for land for ex-soldiers was really a demand that the Government put water on lands in private and corporate ownership.

We have offered to take your own engineers over our projects in order that our contentions might be proven to your satisfaction.

We have shown that the potential water power of California is three times as great as that of Arizona and that state's ultimate irrigated area will be six times our own. We feel that this should reconcile California to the development of her own resources instead of coveting ours. We have shown you the only "reality" involved in the power question is tribute proposed to be levied on the power users to pay for the construction and maintenance of the All American Canal.

We have listened patiently to the repeated statement that Arizona is to be given her tributaries. Yet the written proposals have practically nullified the spoken word. Most of the water of our tributaries which can be used before it reaches the main stream has already been appropriated and will be vested in the land by present laws. Certainly this portion is not a gift to us! The other portion, which flows from our mountains by canyons into the main stream, is not given to Arizona, but it is demanded that we share it equally with California. So it would be more proper to say that we are required to give half of the water of our tributaries should be included in stated percentages is not other half.

We desire to again call your attention to the fact that, according to the figures of the California representatives, that state will require forty per cent more water to irrigate her land than will be required in Arizona, because of her inability to use the reflow. This is uneconomic. From a national view point it is a waste of our resources.

We have listened with pleasure to expressions from five other states here, in approval of the theory that the states owned their waters and the beds of their navigable streams. It is significant that action on this matter has been postponed until after the water has been divided. If states have rights; if they own their appropriated as well as their unappropriated, their unused water, California having reached the limit of her own ability to grant her people water must appeal to the generosity of Arizona and Nevada—not to the Federal Government. If we are not too sorely tried that appeal will not be in vain.

The point early raised by California, that the Arizona tributaries should be included in stated percentages is unfair unless a division were to be made on the basis of 17 to 1 in accordance with our respective areas. When the 72,500,000 other acre feet of annual water in California is considered Arizona is requesting but 9% of the total water of the two states. But we admit that this statement is as unfair as is their's that we are getting most of the water.
There have been many extraneous arguments introduced here. Vested rights of either White or Indian must be and are admitted, especially the latter because they rest on treaties as sacred as the one we are trying to make. But vested rights which vary with time have nothing to do with future appropriations.

When we first came to the Upper Basin states you asked us to try to settle the water question first. We agreed. We knew that the Upper Basin states were more interested in the water than in the power question. Your own power was not being asked to finance competitive irrigation projects in an adjoining state. We knew that Nevada was interested mostly in power. We knew that great storage dams can be started, and construction be carried on for several years before it is necessary to install the power plant.

We do not demand that any state hurry, but as long as this question of power must be settled we believe that it should be either definitely settled or definitely and honestly postponed so that California may not capture our power merely by refusing to discuss the question with us.

We think that this conference, and that any conference, must be hampered as long as the Swing-Johnson bill is hanging like a sword of Damocles over one of the states, or as we believe, over six of the states.

We cannot criticize the policy—from the standpoint of expediency by California. But, why should she here give up half of the Colorado river water to Arizona when she expects to get all of it from Congress.

We think the Swing-Johnson bill will not pass. The bill proposing to sell Muscle Shoals to Henry Ford once had far better prospects of adoption. Like this one it was fundamentally unsound. It is not a law.

In view of the record of this Conference, statements that have already been made by California and expressions that have been made by the Governors of the Upper Basin States, we feel that we must again set forth the basis upon which we can consider the matter of water division. We quote from our opening statement of the first day of the conference:

1. That the right of the states to secure revenue from and to control the development of hydro-electric power, within or upon their boundaries, be recognized.

2. That Arizona is prepared to enter into a compact at this time to settle all of the questions enumerated herein, or Arizona will agree to forego a settlement of Item 1 and 2 and make a compact dividing the water alone, provided it is specified in such compact that no power plants shall be installed in the lower basin portion of the main Colorado River, until the power question is settled by a compact between the states.

Assuming that we have proceeded under one or the other of the above conditions and conceding that much merit exists in the proposal of the upper division governors, we respectfully suggest that the following alteration would insure a more perfect and just agreement.

We believe that the division of water suggested in paragraph No. 1 is unfair to Arizona, in that California has already exhausted her ability to take additional water from the Colorado River and that therefore she should not be awarded the major benefits to be derived from the use of water made available by using the storage facilities of other states.

We assert that Arizona has at all times been ready to assist California to secure drouth and flood protection, silt elimination and that the fifty-fifty proposition that we have offered is exceedingly generous in that, beside providing water for all the land California now has under irrigation, it will permit her to irrigate 500,000 additional acres and also provide ample domestic water for her coast cities when her own sources of supply are developed. We believe that our legislature took cognizance of these facts in asking for
an equal division of the river water. We believe that both Arizona and California must sacrifice some of the lands which they could put under cultivation in order to arrive at an agreement. There is no reason of law, justice, or economic development which has been made which would warrant Arizona in making a sacrifice of 600,000 acre feet of water to California.

It must be evident that Arizona would be abundantly justified, as a matter of strict justice, in rejecting—in utterly and decisively casting aside—the proposal suggested, or any proposal failing to recognize her right to at least an even division of the water available for the use of Arizona and California out of the main stream of the Colorado River. That we do not so is due to a desire, the earnestness and sincerity of which we trust will no longer be questioned, for an amicable settlement of this controversy, and out of a deep sense of appreciation of the labors and friendly offices of the Governors of the States of the Upper Division. If, on the other hand, we still hesitate to accept, that hesitancy may be attributed to the fact that we have as yet no assurance that such a sacrifice on our part would result in a final settlement; no assurance of the protection of Arizona's tributaries against an undue share of the burden of supplying water to Mexico; no assurance of the recognition of Arizona's right to a fair revenue from the utilization of her hydro-electric power resources to the further enrichment and the greater glory of California. The insistence of that State's representatives that Arizona must bear the brunt of the Mexican burden; their apparent unwillingness to proceed to a settlement of the power question; their evident purpose and the purpose of their State, with its vast resources, to press for the enactment of the Swing-Johnson Bill, which is so glaringly unjust to Arizona, fill us with foreboding.

Nevertheless, in the face of these disquieting circumstances, despite these misgivings, if the vital matter to which reference has here been made can be resolved affirmatively—and it must clearly be understood that it is only upon the condition that they are resolved affirmatively—we will accept the first item of your proposal, relating to the allocation of water. This price will we pay that the Colorado River problems may be solved. We must suggest, however, that no further sacrifice be asked of us. In the event that these negotiations fail, and that this conference terminates without an agreement being reached, this acceptance hereby is and shall be deemed to be withdrawn, as fully and completely as if it had never been made. Finally, we declare that this offer shall not be construed as representing Arizona's claims as to her rights in the Colorado River, and most emphatically we insist that at no other time or place, by any other tribunal, shall the proposal hereby accepted for the purpose at this time of bringing about a settlement of the Colorado River controversy, be employed as a basis of other negotiations.

We interpret the intention of paragraphs "2" and "3" of the proposal of the Governors to be intended to allocate to Arizona the use of her tributary waters as was so frequently expressed in these meetings. As we interpret these paragraphs as written they do not accomplish that purpose. We have rewritten these two paragraphs in the light of this interpretation and as rewritten we accept them. As rewritten the paragraphs read as follows:

2. The States of the Lower Basin respectively shall have the exclusive beneficial consumptive use of the tributaries within their boundaries before the same empty into the main stream, provided, the division of the waters of such tributaries situated in more than one State, shall be left to adjudication or apportionment between said States in such manner as may be determined upon by the States affected thereby.

3. The 1,000,000 acre feet of water allocated to the States of the Lower Basin by paragraph (b) of Article III of the Colorado River Compact, shall be deemed to attach exclusively to the tributaries of the Colorado River, and to be included in the waters of such tributaries allocated
to Arizona under the terms of paragraph (2) hereof, to be diverted from said tributaries before the same empty into the main stream. Any allocation of water made to the Republic of Mexico shall be supplied out of water unapportioned herein and if it shall be necessary at any time for the lower basin to supply any water to Mexico the same shall be supplied by California and Arizona out of the water allotted to them from the main Colorado River in equal amounts.

We accept paragraphs 4 and 5.

The foregoing five paragraphs we consider to be one proposal relating to the division of water and can only be considered as an indivisible proposal. The change of any paragraph would necessarily mean the change of all and void this acceptance as herein provided and conditioned.

Respectfully submitted,

ARIZONA COLORADO RIVER COMMISSION,

September 22, 1927.
This conference is composed of representatives of the seven Colorado river states called together (1) for the purpose of bringing about a seven state ratification of the Colorado River Compact, (2) by assisting the three states of the lower basin to arrive at an agreement respecting their local problems.

Our assembly is large, our proceedings have been informal, and freedom of speech has prevailed with the degree of progress to be expected under the circumstances.

Some impatience has been manifested but the importance of the subject under consideration and the desirability of a thorough "ventilation of ideas", as a proper preliminary, has called for freedom of discussion with resultant and inevitable consumption of time. Wherever many are assembled and many desire to speak, time must be consumed and the progress of the body must be correspondingly deliberate.

Free preliminary discussion is essential to a development of the real issues involved. When those issues have become defined and the general discussion has covered the field, it becomes necessary to adopt a different procedure, if actual results are to be accomplished.

Human experience has proved that every legislative and other gathering, of a considerable number of persons, assembled to deal with and finally dispose of any subject matter, had best conform to certain principles of proce-
dure which have been the development of that experience.

This fundamental principle is particularly applicable to a conference such as this where the results of deliberation are to take the form of solemn treaties or compacts between sovereignties.

This conference presents a double phase:

First, there is the general conference called for general discussion of the problems of the Colorado river and composed of the chief executives and the interstate river commissioners of all seven states, together with the counselors and expert advisers accompanying each state delegation, and the Senators and Congressmen.

Secondly, and included within the general conference are the commissioners duly authorized by state laws to negotiate and conclude a compact between the three states of the lower basin, in conformity with both the letter and intent of the Colorado River Compact.

It is not the province or the desire of the general conference to draft a compact between the three lower states, but in view of the fact that such a compact is a necessary prerequisite to the ratification of the Colorado River Compact by both Arizona and California, it is proper that the other states of the basin join in the general discussion which will clarify the issues and simplify the labors of the commissioners of the states of the lower basin. The drafting and signing of the three state compact is the special and exclusive province of the commissioners for the three lower states. The other states may properly tender their services and good offices in discussing the issues and agreeing upon general suggestions to form the basis of a three state compact.
The general conference is composed of a number of participants, each of whom is especially advised on Colorado river matters and qualified and privileged to speak. The rate of progress must conform to the size of this assembly and must depend upon the method of procedure. We may take up and discuss each item before the entire assembly, but in such event we must be patient and expect to consume a long period of time. Business may be expedited by following the usual procedure of deliberative bodies in submitting various subjects for first consideration by committees or select groups, and confining the discussion in open sessions to the reports or suggestions of such committees or groups. It is for us to choose the method, and thereupon reconcile ourselves to the duties at hand regardless of the time or degree of patience required.

It is inconceivable that any of the representatives of the seven states are here in bad faith. They come for the avowed and unquestioned purpose of completely settling the remaining problems of the Colorado River in the lower basin by a three state compact and thereby permit the ratification of the Colorado River Compact. By so doing they will open the door to the construction of those works necessary to the protection and development of our territory and the well-being of the people of all seven of the interested states.

Time is of great importance if definite results are to be accomplished. Even after the general principles have been agreed to by the whole conference much labor remains to be performed in the phrasing and embodiment of those general principles in a three state compact by the commissioners for the three states of the lower
basin. It behooves us to meet the issues and to discuss and to dispose of them frankly and our procedure should be as expeditious as the importance of the occasion will permit. The first problem is to ascertain and define the issues and to agree upon general principles. These must then be embodied in a three state compact by the commissioners of those states. Nothing is gained by avoiding the issues. Avoidance but compounds the difficulties of solution. Promptness in meeting and dealing with issues simplifies the problems and assures results.

For example, our prolonged discussions have developed two well defined issues between the states of the lower basin:—(1) the equitable apportionment of the waters of the Colorado river between the three states of the lower division; and (2) the disposition of questions relative to the hydro-electric power generated by the use of those waters. All the seven states concede the necessity of the settlement of the first problem, and two of the states demand a settlement of the second. Both issues should be met and solved with due regard to the rights and interests of all of the states, if the desired three state compact is to be concluded and the ratification of the Colorado River Compact to be secured.

The principal interest of the upper states in the equitable apportionment of the waters of the river between the states of the lower basin is largely that of securing general accord among the Colorado river states upon this all important subject, as embodied in the Colorado River Compact. All seven states are vitally interested in the question of the use of water for the generation of hydro-electric power, irrespective of the agency generating the same or the methods adopted. Who shall
build the Boulder Canon Dam or how the power shall be disposed of are questions of minor consideration and local significance and involve mere details respecting one unit development. Many dams, structures and reservoirs must ultimately be built within the Colorado river basin, in order that the water may be used for the generation of power.

Utah and Wyoming are equally interested in the Flaming Gorge Reservoir to be constructed upon the Green River. The dam will be located in Utah and the greater part of the basin will be in Wyoming. This reservoir probably will be constructed by private capital, under the authority of the United States, pursuant to the terms of the Federal Water Power Act, and prior to the completion of the Boulder Canon Dam. It will be constructed solely for the generation of hydro-electric power, and those two states are brought face to face with the power issue and the solution of this general problem. This is but one example out of many that might be selected. While most of these problems are limited to but two states, and may be met as they develop, the issue is present and demands consideration and solution.

The upper states have a most vital interest in any power development upon the lower river. Such development will occur along the main river between the head of the canon at Lees Ferry and Yuma. It will be accomplished by the construction of dams with capacities so enormous that the entire flow of the river will be controlled and used for the generation of power. This, in turn, will give rise to claims of appropriation of the waters of the entire river and thereby prevent any
future agricultural or other development upon the upper river. The upper states must prevent any power development upon the lower river until their rights to future development are adequately and fully protected by a compact ratified by all seven of the states and by the Congress. The rights of these states to use the waters of their streams must be unhindered by claims of prior appropriation resulting from the use of monopolistic power structures along the lower river. Their rights must be defined by compact before the upper states dare support, or stand by and permit, any major construction upon the lower river. These states are interested in the precedent and the policy respecting the use of the waters of the river for the generation of power, which may be defined and established by compact between the three states of the lower basin.

The agency by which uses of water in the lower basin is made, whether for domestic, agricultural or power purposes, is of no moment. The hazard to the future of the upper states is the same. The power question involves one of the uses of water. Complete power development along the lower Colorado river will precede agricultural and domestic development and therefore presents the greatest menace to the very existence and future well-being of the upper states.

The two great issues thus far presented, and the minor issues which may develop, must soon pass the phase of general discussion. These problems must be dealt with systematically and expeditiously if the general principles are to be agreed upon and the commissioners of three states are to enter upon their final labors in the formulation of the necessary three state compact.

Our present progress is largely the result of the
painstaking consideration of the issue of water apportionment by the Governors of the four upper states, acting as an informal committee of the assembly. Their deliberations should continue.

The power issue presents a more complex problem. The states have certain inherent sovereign rights and the United States has certain constitutional powers which must be recognized and respected. As tersely stated by Justice Pitney for the United States Supreme Court (United States v. Cress, 37 Sup. Ct. Rep. 380, 381):

"The states have authority to establish for themselves such rules of property as they may deem expedient with respect to the streams of water within their borders, both navigable and non-navigable, and the ownership of the lands forming their beds and banks (citing authorities); subject, however, in the case of navigable streams, to the paramount authority of Congress to control the navigation so far as may be necessary for the regulation of commerce among the states and with foreign nations (citing cases)."

While the respective jurisdictions of the states and the United States are thus defined, the border line between jurisdictions, as regards the development of hydro-electric power upon navigable rivers, is still somewhat uncertain, and painstaking consideration should be given this subject by a committee of the general conference. The states may properly treat among themselves with respect to matters within their jurisdiction, but may only request of Congress action upon matters within the jurisdiction of the United States. This is true because the states are one group of sovereignties requesting action by another sovereignty upon a subject within the plenary control of the latter. For the states to attempt to treat upon matters within the jurisdiction of the United States not only would be
futile, but might destroy the desired end. A committee should carefully outline those matters within the jurisdiction of the states and present a plan of discussion of those subjects by the conference before general discussion. A consideration of these fundamental problems by a committee must be deliberate and time will be required. This prompts a suggestion that such a committee be appointed at an early date in order that they may enter upon their labors.

I, therefore, take the liberty of moving as follows:

1. That the Governors of the four upper states continue to act in the capacity of an informal committee of the assembly for the purpose of assisting in the preparation of an outline for the equitable apportionment of water between the three states of the lower basin;

2. That a committee of seven be selected, each state to designate its member, for the purpose of formulating and presenting to the conference, a plan of procedure with respect to a proper consideration of the power question, and that such committee continue for the purpose of considering all such questions.

The above motion is not made for the purpose of unduly hastening the deliberation of the conference. It should ever be borne in mind that those here assembled are discussing and considering a subject of the most vital importance to the entire future of seven sovereign states, and undue haste would be both improper and reprehensible. No one of the seven states could endure without the use of this vital element.

It is proposed to so deal with the subject as to lay a foundation for development which shall endure for all time. Consideration of a matter of such transcendent
importance may well command our best talents, and our
time and convenience are of small moment. We would be
derelicts in the performance of our duty, and unfit
to serve in our present capacity, did we not make this
a matter of first importance until the time when all
questions have been settled.

Patience, honest effort, kindness and fair consid-
eration of the rights of all can and will bring the
desired result. Impatience, undue haste and refusal
to meet and deal with each issue as it is presented
will but lead to confusion, disappointment and disaster.

The motion is offered with the hope that it may
prompt an orderly procedure and promote satisfactory
conclusion of the problems before this Conference.
RESOLUTION ORGANIZING APPROPRIATION STATES
PROTECTIVE ASSOCIATION

WHEREAS, the States of Arizona, Colorado, Idaho, Nevada, Utah, and Wyoming, have ordained and maintained within their borders from the day of their admission to the Union, the appropriation or priority system of water law, and no other; and

WHEREAS, said system is the only system of water law adapted to the economic and climatic conditions of these States, and the Government itself has recognized the system by Act of Congress and judicial decision; and

WHEREAS, certain legal departments or bureaus of the Government have been advancing of late the contention that the riparian system of water law, which is in direct conflict with the appropriation system was in effect before and when these States were admitted to the Union, and that the Government at the time of such admission had riparian water rights attached to its riparian lands in said States, and that all appropriation rights therein are granted in theory out of such alleged riparian rights with the consequence that all the now unappropriated waters, whether navigable or non-navigable within said States, are subject to the control and disposition of the Federal Government, regardless of and even against the will of the States and such departments or bureaus are seeking under their said contention, and in suits actually pending to usurp control of the streams of the States, and

WHEREAS, such contention is predicated upon a water system wholly unadapted to the States, challenges their general right to control their own streams, is unsound, utterly absurd, and must be opposed with all the energy the States can command.
THEREFORE, BE IT RESOLVED, by the Governors, their Interstate
Stream Commissioners and Advisors, of the States of Arizona, Colorado, New Mexico,
Nevada, Utah, and Wyoming, in conference assembled in Denver, on
September 1, 1937, as follows:

First: That said seven appropriation States do hereby
organize themselves into an Association to be known as THE APPROPRIATION
STATES PROTECTIVE ASSOCIATION, such States to be represented by their
respective Governors, Attorneys General, Interstate Stream Commissioners,
State Engineers, and such other persons as a majority of the Governors may
designate.

Second: That the primary purpose of the Association shall be
to protect the States against the enforcement of the utterly unwarranted
proprietary claim alleged of the Government to the waters of said States.

Third: That said Governors with full right of substitution
are hereby constituted the Executive Committee of the Association, with
power to appoint the officers thereof, adopt by-laws therefor, to raise
funds and do all things necessary to accomplish the above stated purpose
of the Association.
WHEREAS, at a conference of the seven Governors of the Colorado Basin States, together with their Interstate River Commissioners and advisors held at Denver, Colorado, on the day of September, 1927, for the purpose of considering problems connected with the Colorado River System, consideration was given to the importance and great value, both to the Nation and the Colorado Basin States of adequate and reliable river-flow and other base data required for the solution of many State, National, and International problems related to the division, administration, and utilization of the waters of the Colorado, and

WHEREAS, in order that State and Federal officials and the general public shall have the fullest confidence in the results, it is necessary that these base data be collected by an accredited Governmental Investigational Bureau which is organized primarily for the collection and making available to the public of unbiased records of facts and is not directly interested in constructing or administering specific or specific types of projects, and,

WHEREAS, large sums of money have been paid in salaries by the Federal Government and others in making estimates of the probable flow of Colorado River which have certainly been more expensive than the collection of accurate data and, of course, are liable to serious errors which may lead to costly mistakes, and,

WHEREAS, the necessity for such unsatisfactory estimates can only be obviated in the future by providing now for the collection of the data that may reasonably be required, it is in the interest of National economy to maintain the gaging stations in the Colorado River Basin on a basis that will insure adequate, reliable and continuous records;

NOW, THEREFORE, be it resolved that this conference respectfully requests the Senators and Representatives of the Colorado River Basin States to obtain the necessary Congressional action to provide for the collection of the needed river-flow data by the United States Geological Survey under the Secretary of the Interior and that, in the interests of the National Government, the Secretary of the Interior be asked to cooperate in bringing about the necessary Federal legislation.
REASONS
FOR ARIZONA'S OPPOSITION
TO THE
SWING-JOHNSON BILL
AND
SANTA FE COMPACT
BY
THOMAS MADDOCK
WITH TENTATIVE TRI-STATE COMPACT
SUBMITTED TO CALIFORNIA AND NEVADA
BY ARIZONA COMMISSION
ON FEBRUARY 7, 1927

PHOENIX, ARIZONA
REASONS
FOR ARIZONA'S OPPOSITION TO THE
SWING-JOHNSON BILL
AND
SANTA FE COMPACT

BY THOMAS MADDOCK

There is no dispute among the states as to the necessity for flood control, drought prevention and silt elimination for the Imperial Valley in California. All of the other six states in the Colorado basin have repeatedly shown their willingness to contribute their storage facilities to relieve California of the expense of these items. But each of the six states resents the subterfuge of California masking her desires to secure a monopoly of the water and power of the Colorado River behind her claims for relief from flood, drought, and silt. I doubt if any engineer would seriously contend that a flood invasion into the Imperial Valley would endanger life. It did not the last time the river returned to the old dry Alamo channel. Arguments regarding silt, drought, flood and loss of life are therefore not pertinent.

The question at issue is the division among the states of the benefits to come with the storage of water and the production of power.

It is contended that Arizona was wrong in being the only state to refuse to sign the Santa Fe Compact. As Arizona would be hurt by signing that compact she is justified in her refusal regardless of the fact that she was for awhile alone in her refusal.

There is more land adjacent to the Colorado River than water with which to irrigate it. Some land must be desert forever. Unrestrained economic irrigation development would occur probably first in Mexico, then in California, Arizona and lastly Nevada and the four upper basin states of Colorado, New Mexico, Utah and Wyoming.

The Santa Fe Compact provides no restraint on Mexico development and is considered by many authorities to indirectly give her water by restricting for forty years the amount that may be used in the United States.

The Santa Fe Compact allotted a definite amount of water to the upper basin states and nature has nearly divided it for them by the river tributaries. Their allotment is large, probably beyond the needs of the states, and they have an equal competitive chance to secure it. If the pact were signed they would not have to worry about competing in development with Mexico, California or Arizona.

The Santa Fe Compact depends upon the law of prior appropriations to divide the water in the lower basin. Between two and three million acres can be irrigated from the main Colorado in the lower basin after the upper basin demands are satisfied. Arizona has prior appropriations for about two hundred eighty thousand acres of this including over a hundred thousand acres in Indian reservation.
REASONS FOR ARIZONA'S OPPOSITION

California is now using about one-quarter of the ultimate supply of the lower basin and cannot increase this amount without storage in other states, but California has filings over thirty years old on more water than was awarded the three lower basins, plus the Santa Fe Compact. California has the population and the wealth to perfect her appropriations and take the water.

This means that Arizona with forty-three per cent of the Colorado area as against two per cent for California and with a thirty per cent contribution of the water of the river against practically none from California, would secure less than fourteen per cent of the lower basin water of the main Colorado River. The Santa Fe Compact therefore constituted an unfair division of the water in the lower basin which Arizona could not accept.

After two Arizona legislatures had refused to approve the Santa Fe Compact, California wrote Arizona, first on a three to one basis, and then on a two to one basis, reserving the larger portion for herself. Despite the difference in water contribution, Arizona offered to share the main Colorado equally with California after the state of Nevada was given the water she requested. The difference between the Arizona and California proposals is about one million five hundred thousand acres feet or enough to irrigate three hundred thirty-three thousand acres in California or five hundred thousand acres in Arizona, which, because of return flow, has a higher duty.

California's claim for water for domestic purposes is not justified. Los Angeles is using about two hundred thousand acre feet of water per year for domestic purposes and seventy thousand for irrigation in the adjacent San Fernando Valley. The report of the state engineer of California shows over eighteen thousand acre feet available at Mone Lake and Owens River where most of her present supply is secured. The water available for Los Angeles is sufficient for five times her present population. In other words, demands made by Los Angeles for Colorado water would have been met with many more times what it is at present. This would mean a city the combined size of New York, Chicago, Philadelphia, Detroit, Cleveland, St. Louis, Baltimore and Boston. This seems unreasonable.

An equal division with Arizona of the main Colorado water for practically double the amount of land that she irrigates from the Colorado at present and also provide a reasonable amount for her coast cities.

When it is remembered that California now has about six million acres under irrigation against six thousand and with one million acres against two million in Arizona and that she has about nine million potential horse power in that state against four and one-half million in Arizona, it is difficult to understand why the federal government should take the natural resources of Arizona and give them to California either directly or indirectly.

California not only demands the lion's share of a river that belongs to her but she demands cheap Arizona power to lift the water onto her land that cannot be reached by gravity, and she also demands this power be delivered to her so cheaply that she can outstrip all manufacturing competitors in the United States.

Each horse power unit of electrical energy used creates about two thousand dollars' taxable property. If Arizona and Nevada had the same provision which Molin deposed in her constitution they could hardly insist that their power be used to create wealth within their own borders. They are not doing so. Arizona and Nevada are permitting this potential wealth to go to southern California and are not suggesting the way California shall tax this wealth to provide revenue for public purposes.

Each horse power unit created in Arizona and Nevada will be worth between two and three hundred dollars. These states should possess the same right to tax the wholesale power product as California will have to tax wealth where this power is retailed. They should have a right to tax power investments the same as other property is taxed in Arizona and Nevada.

California is trying to have the Colorado River nationalized in order that power built on this river may escape taxation in Arizona and Nevada, knowing that this taxation will be reflected in her power bills.

One moment California argues that the Bouléder Canyon project will cost the United States nothing as the cost is fully incurred and will be repaid with interest. The next moment she argues that Arizona and Nevada are trying to tax a government investment. The people of Arizona and Nevada know that if the government builds a dam, say at the Bouléder site, that within a short time would come demand for a re-regulating reservoir, say at Bouléder Head, in order to increase the Bouléder power. Then more power dams would be built as they were needed until the whole river development would be under federal control and beyond state taxation. They know that the three states of California would have a greater political influence than four hundred fifty thousand in Arizona and Nevada and would secure their demands at Washington. The west which first used the Initiative, Referendum and Recall has been soured by Mr. Fall and Mr. Daughtery, and they would rather trust their own officials whom they can elect and replace than federal appointees. Today the west is seeking less rather than more federal supervision.

Arizona is not trying to solve the old question of private versus public ownership as an incident to the Colorado problem. Arizona is not asking for federal funds to develop the Columbia. Private capital is willing to make the necessary investment subject to taxation which would pay part of the cost of the state and county government. Arizona is not opposing the use of federal funds but believes that if the government desires to again go into the water business it should do so to the exclusion of the private investor. If any division of power in the lower basin is not to deteriorate to Musco Shouts then the states should receive from the sale of power an amount equal to what they would get from taxing private investment.

Arizona is asking for no more and no less than they would receive from taxing private. This claim is called royalty or some other name does not change the proposed policy. A block of free power which could be sold for the equivalent of a tax is one alternative that has been suggested.

The proposed of a tri-state supplemental agreement to the Santa Fe Compact was made by Arizona and Colorado in the spring. Intermittent negotiations have been in progress between the three states of the lower basin since the last fourteen months. But during all of this time California has been trying to block any division of the river and the tri-state agreement by passing the Swing-Johnson Bill.

Arizona has been responsible for little of the long waste of time involved. Two weeks were used in answering the California proposal of December 1st, 1925. Two weeks more in January, 1925, were used by the Arizona legislature in authorizing a new commission. Also in August of last year, the Arizona legislature avoided a committee meeting which might have injected politics into this question. The rest of the lost time is properly chargeable to California, as Nevada has always been ready to confer.

Arizona, with her citizens in the president's cabinet and in responsible positions in her ownvision service, and with her splendid industry, is the next thing to a government the other states is that Arizona's position was unfair. As people study the question, however, and study the other rule in their own condition to their own advantage, they will change their position or show where they would assume a different attitude if placed in a similar position.

Briefly, Arizona is demanding but two things: first, the same protection for her future water needs that the upper basin states are given in the Santa Fe Compact; and second, the right to tax power investments the same as other
REASONS FOR ARIZONA'S OPPOSITION

1. The bill would create a storage reservoir and would automatically increase the water flow, permitting Mexico to increase her irrigated acreage beyond the 300,000 physical and contractual limitation existing at present without notifying Mexico that her moral claims to water shall not extend to that which is created by storage within the United States.

2. The bill confirms the error made at Santa Fe of limiting the consumptive use in the lower basin to $5,000,000 acre feet, which stops further development as there will be more than this amount required for projects now built or under construction when the Gila is considered.

3. The bill by granting unlimited time to the states of the upper basin for their slow development and subsidizing the California development, would force Arizona to bear all the shortage that exists in the entire Colorado River basin between the land which is susceptible of irrigation and the available supply.

4. The bill would compel the sovereign state of Arizona to accept a law not general in character which two of our legislators have refused to ratify.

5. The bill is contrary to the recent decision of the Supreme Court which established the law of prior appropriation and beneficial use (California-Wyoming), as it abrogates it between basins and nullifies it within the lower basin by a subsidy which destroys the equality of opportunity for development by economic competition.

6. The bill pretends to favor ex-service men in securing land, while really advancing the development of a project of which most of the land is in private possession, against other projects which have a greater proportion of land still owned by the federal government. (Sec. 9).

7. The bill seeks to use Liberty Loan laws passed in a war emergency to finance a project unable to secure a national appropriation. (Sec. 21).

8. The bill uses the natural resources of Arizona and Nevada to develop California, leaving those of Utah, Colorado, New Mexico and Wyoming for the benefit of citizens of those states.

9. The bill endeavors to protect Colorado, New Mexico, Utah and Wyoming in their slow development against the quick development of California and Mexico. If successful it would expose Arizona to increased risk from a common danger. (Sec. 4).

10. The bill compels pumping projects in Arizona and Nevada to pay part of the cost of gravity projects in California.

11. The bill permits the Secretary of Interior to waste water for power production that may be needed for irrigation, and authorizes him to deliver water stored at Bonider under his own rules and regulations regardless of prior appropriation or the claims of the respective states. (Sec. 6).

12. The bill creates a unit of construction which will not be an economic part of complete development as it will be too large after storage is provided in the upper river. (See testimony of Federal Engineers La Rue, Kelly, Merrill, Stibler and Secretaries Weeks, Wallace and even Work.)

13. The bill provides water storage at a place of large evaporation due to low altitude and latitude and provides for irrigating the land which is the greatest possible distance from water origin, thus entailing the maximum evaporation loss in transit.

14. The bill tends to concentrate United States development on below-sea-level lands, in an earthquake country where seismic disturbances may cause the ocean to recoup its former territory to the maximum loss of life and property while good land in Arizona is condemned forever to the desert.

15. The bill artificially stimulates the irrigation of land where the inability to re-use the water results in a fifty per cent loss of it.

16. The bill is equivalent to issuing a license for California to construct a dam partly within the state of Arizona although the federal government has refused to grant licenses to either public or private applicants of the state of Arizona on its own streams.

17. The bill precludes the states of Arizona and Nevada from imposing a tax on water created in these states although it taxes power consumers $4.00 per horse power per year to build an irrigation canal in California and does not prohibit the city of Los Angeles from continuing a tax on power consumption of approximately $25.00 per horse power per year to enrich the treasury of that city or to absorb the additional benefits from the use of this cheaper Arizona and Nevada power.

18. The bill, while denying Arizona and Nevada the right of taxation, does not prohibit California counties from taxing transmission lines and aqueducts as they now do those owned by Los Angeles.

19. The bill assists California in adding to its fifteen million potential acres of irrigable land at the expense of Arizona which has less than one-fifth this much.

20. The bill initiates the taking, without compensation, of the water power resources of the state of Arizona to California although the potential nine million horsepower of California is about twice that of Arizona.

21. The bill is discriminatory in authorizing a six state compact to control the water of seven states by providing that California must be one of the six consenting states (Sec. 12), and allowing all of the seven Colorado River basin states to vote except Arizona. (Sec. 4).

22. The bill is discriminatory between states in that it gives the canals and power plants developed in California to the people of that state while retarding title to dams built in Arizona and Nevada by the federal government.

23. The bill attempts to validate a contract for unlimited water for the Imperial Valley which California cannot secure if limited to the utilization of her own natural resources.

24. This bill which gives California the hydro-electric power of the small state of Arizona is directly opposed to the recommendation of the commission, which recently reporting on the Great Lakes to St. Lawrence River, suggested that the water power rights of the great state of New York be recognized in the treaty between the United States and Canada.

25. The bill presuming federal ownership of rivers is directly opposed to the attitude of New York, New Jersey and Pennsylvania, whose commissioners on January 13, 1927, assumed complete ownership of the Delaware river and divided it accordingly.

26. The bill will result in endless litigation as it probably violates the United States Constitution.

The tenth amendment provides that powers not delegated to the United States by the Constitution are reserved to the states. The nation had to go to the states for authority to handle prohibition, income taxation and suffrage. In this bill the nation would usurp the state's right to the water and power of its rivers without any specific constitutional authority permitting such action.

Article 1, section 8, paragraph 1 says taxes shall be uniform. The bill
taxes Arizona and Nevada resources to pay for California development.

Article I, section 8, paragraph 2, gives congress power to borrow money on
credit of the United States, not on water power development as the bill provides.

Article I, section 8, paragraph 17, permits congress to declare war, provide
for docks, arsenals and other buildings limited to the consent of the state's
legislature to purchase the necessary land. It does not authorize the building of
dams, canals, etc., by the federal government without the consent of the
states. Such consent heretofore has been considered necessary.

TENTATIVE TRI-STATE COMPACT SUBMITTED BY ARIZONA
FEBRUARY 7, 1927

ARTICLE I.

It is recognized by the parties hereto that the unregulated normal flow of
the Colorado River is insufficient to irrigate properly the lands already under
cultivation by irrigation from the waters of said river; that the benefits within
the United States of the flood waters of said river belong wholly to the citizens
of the respective states; that without disarrangement of the treaty making power
of the United States government, the states party hereto and the Congress of
the United States, in consenting to this agreement, shall be understood as
declaring: That it is their purpose and intention to utilize, within the borders
of said states, all of the waters of the normal flow of the Colorado River
heretofore appropriated and put to beneficial use in accordance with the
laws of the states in which the same are being put to beneficial use, and
all of the flood waters of the Colorado River capable of being utilized within
the borders of the United States for any purpose by the construction of
dam or storage dams within the United States; and that all persons shall take notice
that they cannot acquire any moral or equitable claim to the waters of the Colorado River temporarily made available for use by the regulatory effect of
any dam or dams constructed in pursuance of this agreement, as it is the intention
of the parties hereto to eventually put to beneficial use within the
signatory states all of such water. Any declaration or inference contained in
or drawn from any instrument, agreement or compact, signed prior to this
agreement, which is inconsistent herewith, is hereby withdrawn.

ARTICLE II.

The states of Arizona, California and Nevada hereby agree that the water
of the Colorado River and its tributaries in such states shall be divided,
alotted and appropriated as follows:

(a) All of the water of the tributaries of the Colorado River which
flows into said river below Lee Ferry, Arizona, are hereby allotted and
appropriated exclusively in perpetuity in the states in which such tributaries
are located and may be stored in and diverted from said tributaries for use in
said states.

(b) There is hereby allotted and appropriated in the State of Nevada
for use in said state, that portion of the total amount of the water of the main
Colorado, measured at the point of diversion from said river, which can be
beneficially used for agricultural and domestic purposes, not exceeding 300,000
acres-feet annually. There is hereby allotted and appropriated for agricultural
and domestic use to each of the states of Arizona and California from the
remainder of the water available, one-half of the water of the main Colorado
River.

(c) The flow of the river shall be measured at each point of diversion

and the proportion allotted to each state shall be computed as the proportion
of the amount diverted for use in such state bears to the total flow of the
river at such point.

(d) The States of Arizona, California and Nevada hereby agree to
limit and control future appropriations and beneficial use of water in said
respective states to such an amount and in such manner as will insure that
present perfected rights in each said state will be fully protected and supplied
out of water hereby allotted to said state.

ARTICLE III.

The following rules shall apply to the use and storage of water under this
agreement.

(a) The use of water for irrigation and domestic purposes allotted in
Article II hereof shall be superior to any right of storage for power purposes
or navigation and any of said states may divert from the river the water
allotted to it at any point on the river, provided that if any state shall take
any water so allotted to it out of the main channel of the Colorado River at a
higher elevation than the highest elevation of the bed of said river in said
state, the works constructed for such purposes shall not interfere with a
beneficial development of the fall of the river in any state other than the state
taking all water at such higher elevation, and the state or states taking out
water at such higher elevation shall fully compensate the other states affected
thereby for the loss of power caused thereby in such states.

(b) The prior construction of any dam or reservoir shall not give any
priority or superior right to such dam or reservoir to the flow of the river for
the benefit of such dam or reservoir for power purposes, but the rights of all
dams and reservoirs constructed under this agreement shall be on an equality,
for power purposes, regardless of the date of construction thereof.

(c) Yearly and seasonal stored water shall be held at as high elevation
on the river as practicable in order to reduce evaporation losses and provide
regulation for power as well as for irrigation, domestic and flood control purposes

(d) Re-regulation storage for seasonal and daily variations in demand
shall be located as close to the land to be irrigated as practicable and water
for irrigation and domestic purposes shall be supplied first from the nearest
reservoir above the point of diversion of such water.

ARTICLE IV.

The territory of no state shall be entered upon for the purpose of
constructing or maintaining works utilizing the water of the Colorado River
except with the consent and subject to the laws of such state, but each of the
states hereby agree to grant all necessary permits, licenses, sites and rights of
way over lands, that may be required to carry out the provisions of Article III
and VI hereof.

ARTICLE V.

The United States recognizes the necessity for flood protection and
development of the Colorado River and hereby agrees to grant the necessary
sites, rights of way and licenses over public lands for the construction and
operation or works for the control and utilization of the Colorado River for flood
protection, irrigation and domestic uses of water and the construction of dams
for power purposes in pursuance of the provisions of this agreement.

ARTICLE VI.

Each of the states party hereto, and the United States, recognize the
acute necessity for flood and drought protection for lands now in cultivation
by irrigation from the waters of the Colorado River and hereby pledge their good faith to grant the necessary permits, licenses and sites for such construction, also rights of way to any district or agency that may be created in pursuance of the terms of this agreement for the immediate construction of a reservoir in the main channel of the Colorado River at such point as may be determined upon by the federal government, if it be a government project, or by the majority of the states party to this agreement, if by the power of the Colorado River at any point in the river which when constructed will back up the water of the river so as to limit or interfere with the construction of a dam heretofore selected by any other states for the diversion of water for irrigation or domestic purposes in that state.

ARTICLE VII.

(a) It is expressly agreed and understood that the signatory states in this compact, and their political sub-divisions, shall possess the right to derive revenue for public purposes from power developed within their territory or on their boundary.

Such revenue may be derived by any manner or kind of taxation in each state as may be provided by the state under its constitution and laws but whatever kind or manner of taxes are imposed the total revenue derived from such taxation in any state shall be limited to the amount that would be derived from a property tax, at the rate levied by such state or taxing districts, upon the said reservoir sites, the immediate appurtenant works including hydro-electric power plants and transmission lines, provided, that no dam or other works shall be built in the bed of the Colorado River at any point in the river which when constructed will back up the water of the river so as to limit or interfere with the construction of a dam heretofore selected by any other states for the diversion of water for irrigation or domestic purposes in that state.

In order that the benefits of the development of the Colorado River may be distributed among the respective states as if said development were made by the United States agrees that if it shall undertake the construction of any federal project or projects on the main Colorado River wholly or partly within any of the states party hereto, it will make provision in the sale of power or power privileges from such project or projects for payment to the respective states of the same amount per cent of revenue from the power produced by such federal project or projects as such states would derive under this agreement, if such federal project or projects had been constructed by private capital.

If in the opinion of any of the signatory states the taxes imposed by any other state upon a project constructed by the federal government or a project constructed on the boundary of two or more states are excessive, such state or states shall have the right to appeal to a board of equalization for an adjustment of the valuation limiting such taxation. The Colorado Control Commission shall constitute such board of equalization. In case of appeal, the decision of this board shall be final and binding, subject only to appeal to the federal courts.

No revenue shall be received by or paid to any state on account of taxation of a power project except to the extent the project shall have been completed and placed in operation.

TO SWING-JOHNSON BILL AND COMPACT

ARTICLE VIII.

Any state in which reservoir sites exist in the Colorado River or its tributaries, directly or indirectly, through any district or agency created in pursuance of and hereafter authorized by the laws of said state, may build dams, hydro-electric power plants and appurtenant works in such state and operate or lease the same. Where the reservoir is situated in two or more states, such dam, power plants and appurtenant works may be built, operated or leased jointly by the two or more states, or by any district or agency that may be created in pursuance of the laws of such states. Such state or states may sell or lease the power produced by such dams or power plants. The cost of the construction of all development works shall be borne by the respective states, districts or agencies created in pursuance of the laws of such states.

ARTICLE IX.

Where development works are constructed in two or more states, the entire hydro-electric plant, including dams, reservoirs, power houses and appurtenant works shall be considered a unit in all matters relating to the financing of construction, the operation lease and taxation, regardless of the location of the power plants with reference to state boundaries. All power and revenue from the sale or lease of power or valuation of such power or works for the purpose of taxation of such power shall be divided among the states in direct proportion to the present amount of fall which the river makes in each state between the dam and the elevation of the bed of the stream reached by the back water when the reservoir is filled. Where the river forms the boundary between the states, each state shall be allotted one-half of the fall which occurs in the present river bed on such joint boundary for the purpose of computing the relative proportions allotted to each state.

ARTICLE XI.

In the construction and operation of all dams and power plants for the utilization of the waters of the Colorado River, undertaken in pursuance of the terms of this agreement, the following rules shall apply:

Every dam constructed on the Colorado River shall be a unit in a comprehensive plan which will insure the maximum water for domestic and irrigation use and for the development of the maximum amount of power.

Where dams and power plants are located wholly in one state, the laws of that state shall govern such construction and operation. Where such dams and power plants are located in more than one state, the states affected shall agree upon the plans and rules and regulations for such construction and operation and upon the agency to be adopted for such joint construction and operation; provided that in the event two states are affected and they shall be unable to agree upon any such matter, the Colorado River Control Commission shall decide the question.
ARTICLE XII.

In the event the United States shall undertake the construction, financing and operation of any development on the Colorado River, for flood control, irrigation or power purposes, and requires the repayment of funds advanced for such purposes, such repayment to the government shall be made in accordance with the United States Reclamation Act and amendments thereto.

Operation and administration of the same shall be under the direction of the Colorado River Control Commission.

After all obligations to the government have been met, the entire benefits shall become the property of the state or states in which it is located.

ARTICLE XIII.

For the administration of the provisions of this compact, there shall be constituted a commission to be known as the Colorado River Control Commission, consisting of three members, one to be designated by each of the three signatory states.

Each state shall choose and fix the terms of office and salary of the members representing it.

The commission shall be allowed their necessary traveling expenses incurred in performing the duties of their office.

The commission shall have the authority to employ such assistants as may be necessary to carry out their duties.

The cost of administration shall be included in the cost of operation of the project or projects.

In case the commission is unable unanimously to agree in regard to policy or procedure, they shall call to their assistance such official of Utah and New Mexico as is charged with the engineering duties in connection with the administering of the water resources of these states. These, with said commission, shall constitute a board which shall by majority vote decide the questions in dispute.
Sept 26
Nevada Submits Power Proposal
(to be typed)
Sept 26
California submitted Power Proposal
(No copy received)
See pursue item to be copied
September 28, 1927.

To The Governors of the
States of the Upper Basin
of the Colorado River:

Gentlemen:

Arizona and Nevada are agreed upon the principle that the
States are entitled to receive compensation for the use of their lands
and waters when hydro-electric energy is generated by means of dams,
reservoirs, power plants or other works or structures wholly or partly
within their boundaries.

The two States are not in accord as to how such compensation
should be divided between them. Arizona contends that the proceeds
should be divided according to the fall in the river within each State
above the point where the hydro-electric energy is generated. Nevada
insists that the division should be equal.

In order to bring about an agreement which will end the present
controversy Arizona is now willing to adopt either the theory of
"fall of the river" or that of "equal division" so long as this rule
is to be uniform throughout the Colorado River Basin.

I am sure that an expression of opinion upon this issue from
you gentlemen, as the Chief Executives of your States, will be
exceedingly valuable in securing the establishment of a precedent which
will be most persuasive when other compacts are negotiated for a division
of the compensation received for the use of lands and waters which are
located in two States.

Yours very respectfully,

Carl Hayden, U. S. S.
September 29, 1939

Hon. Carl Hayden,
U. S. Senator from Arizona,
Denver, Colorado.

Dear Senator:

Your letter asking an expression from the Governors of the States of Colorado, New Mexico, Utah and Wyoming as to what, in their opinion, would be an equitable basis of division of compensation received for the use of their lands and waters employed in the generation of hydro-electric energy by means of dams, reservoirs, power plants or other works or structures partly within the boundaries of each of the states of Arizona and Nevada is respectfully acknowledged.

During the pendency of the above controversy before the Denver conference we have given the matter our serious consideration. Unfortunately we have found no rule by which to make an evaluation of the different physical factors contributing to the power under conditions such as are involved in this instance. We are,
however, conscious that these factors are so interdependent that each is valueless without others, and that each state is sovereign over the respective factors within its borders, subject only to such constitutional authority as is vested in the United States government. In view of these facts, as between the two states owning the banks and bed of the river -- one owning a large part of the fall of the river and the other a very large part of the area flooded, and the dam site owned jointly -- we respectfully suggest that each state should, as between themselves, share equally in the benefits accruing to them from the generation of hydro-electric power.

Very respectfully,

________________________________________

________________________________________

________________________________________

________________________________________
Suggested Action to Secure Passage by Congress of Revised SWING-JOHNSON BILL AND PRINCIPLES TO BE INCORPORATED IN SUCH BILL

Suggested Action which should Precede the Bill's Becoming Effective.

1. Completion of three state agreement between Arizona, California and Nevada, supplemental to the Colorado River seven-state compact. This agreement is to cover, among other things, water allocation and distribution of power and other benefits and revenues therefrom. Said agreement to provide for creation of Lower Colorado River Control Board with two representatives of the United States and one each from Arizona, California and Nevada.

2. Official approval by all Colorado River basin states of seven-state Colorado River Compact.

3. Approval of both the agreement and compact by the United States.

Outline of Principles to be Incorporated in a Revision of the SWING-JOHNSON Bill.

1. Provision for direct appropriation by the United States in fulfillment of its flood control obligations, of $20,000,000.

2. Compliance with state laws as to construction of works and the use and appropriation of water in which proposed projects are located.

3. Recognition of desirability of treaty between the United States and Mexico, relative to the use of the waters of the Colorado River and reservation for use within the United States of stored waters.

4. The establishment of a "Colorado River Control Fund" for carrying out the provisions of the Act and authorization of appropriations which, together with the direct appropriation for flood control, shall not exceed $122,000,000, for the initial projects.

5. Provision for repayment to the government of not to exceed $2,000,000 of all moneys appropriated, from the sale of power, contracts for water storage and reclamation of lands; and for the distribution, after the Government has been repaid, of profits from the projects among the three-states, in accordance with the three-state agreement.

6. Revenues to be allocated or disbursed in the following order:
   (a) Operation and maintenance charges
   (b) Annual interest on amounts repayable to the United States
   (c) Annual amortization payment due the United States
   (d) Revenues for distribution to states

7. Authorization of Secretary of the Interior to construct, maintain and operate a dam or dams in Colorado River on the common boundary of the states of Arizona and Nevada (at Black or Boulder Canyon), to store not less than twenty million acre feet of water; and to construct a secondary dam, in Colorado River, below said storage dam and within the common boundary of Arizona and Nevada, for the purpose of re-regulation of the river for irrigation and power benefits and to construct and equip power houses connecting with both dams.

8. Authorization for construction by Secretary of the Interior of diversion dams, canals and appurtenant works for reclamation of lands in California and Arizona, under the Reclamation Act, at such time as the reclamation of said lands shall have been pronounced by a Board of Review as economically feasible, and appropriations have been made therefor.

9. Provision for the appointment, by the President, of an Engineering Board of Review, to examine and report upon the financial, economic and engineering feasibility of the projects herein authorized.

10. Provision for diverting from the Colorado River basin, not to exceed eight hundred thousand acre feet annually, for domestic use only, in Southern California.

11. Provision for the application of the principles laid down in the Federal Water Power Act to all power features of the projects with affirmation of the principle that the United States shall refrain from entering any phase of business which can be
successfully undertaken and conducted by private and municipal enterprise.

12. Prohibition of the Federal Power Commission to issue power permits on the lower Colorado River basin is extended until March 1, 1930, or until such earlier date as the three-state agreement and the seven-state compact shall have been officially approved.