The Colorado River Commission, so-called, is composed of a representative of the United States and a commissioner for each of the seven states, namely:

Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming,

and was formed for the purpose of formulating an interstate compact to provide for the equitable apportionment and disposition of the waters of the Colorado River within the United States of America.

The treaty making power of the states forms the basis of the legislation by the states authorizing the formation of the Commission and the national act not only authorizes the appointment by the President of a representative for the United States, but gives national consent to the states to enter into such a compact pursuant to Article 1, Section 10, paragraph 3, of the Constitution of the United States.
The treaty making powers of the states had frequently been availed of in matters respecting interstate boundaries, fisheries, and other like subjects, but this in the first instance in American history where several states are attempting to make an equitable apportionment of the benefits to be derived from the uses of the waters of an interstate stream prior to the development of conflict respecting established uses and before the construction of large enterprises which would ultimately give rise to interstate conflict.

The application of the treaty method of settlement to present or future interstate complications respecting the use and disposition of streams common to two or more states, has its origin in and is the natural outgrowth of litigation between some of the states before the United Supreme Court, and particularly the late case of Wyoming vs. Colorado involving the use and allocation of the waters of the Laramie River.

The task of presenting to the court all of the facts necessary to a fair and complete consideration of the various factors which must necessarily be considered in order to make a just and equitable distribution and allocation, between litigant states, of the waters of an interstate stream involves many difficulties and is confronted with many obstacles. Consideration of all the factors bearing upon present and future disposition
of the waters of a whole river requires years of study and leads to a cumbersome record confusing to those unfamiliar with the territory drained or served by the stream, and is embarrassed by ever changing local, local, political conditions.

of litigation

The hazards respecting rivers, upon no two of which like conditions obtain, and involving the destinies of great communities and peoples yet to be, are too great and the subject matter is of too much importance to justify resort to the substitute for war before exhausting all avenues of diplomatic consideration and settlement. The general welfare of the sovereignties, represented by the disputant states, may be better preserved by interstate compact than by hasty action before a court to the members of which the whole subject is largely a matter of first impression.

The Imperial Valley, in Southern California, is one of the most fertile and productive of the agricultural areas in the United States. The whole area is below sea level and is protected from inundation by an alluvia bar formed by deposition of silt carried thence by the Colorado River. In diverting a small part of the waters of the river through canals for irrigation of the lands of the Valley, this bar was weakened to such a degree that the whole river followed the line of least resistance and turned its course away from the Gulf of California and into the Valley. The threatened inundation of the
Valley and by continuous effort the people of the Valley have succeeded in controlling the floods which have become an ever increasing menace.

Reservoir control of the flow of the river was the natural conclusion of the careful engineering study of the flood problem. The uses of such reservoirs for generation of power and irrigation of additional lands will be necessary in order to repay the enormous cost of their construction. But such construction and uses might well give rise to preferred claims upon the entire flow of the river to the detriment of the necessary future development of the territory of the four upper states in which the river has its rise. The future growth and welfare of these states of origin will be dependent in a large measure upon further diversions and uses of those waters of the Colorado River which rise and flow within the their territory. The establishment of institutions by virtue of which a preferred right to the use of all the waters of the river might be asserted, would result in a perpetual embargo upon the future development of the upper areas unless such development and use of the waters of the river is adequately protected before the construction of the structures upon the lower river. By providing such immunity from assertions or adverse rights the upper territory will be left to its natural and normal development without materially interfering with the immediate development of additional territory on the
lower river and flood protection to the threatened areas.

In view of this situation a conference of the Governors of the seven states, whose territory is so involved, and of other interested parties, including representatives of the United States, was held at Salt Lake City, Utah, January 16-21, 1919. Governor William J. Spry, of Utah, presided at the conference. Advocates of immediate reservoir construction upon the lower reaches of the Colorado River urged united effort to secure Federal aid for such purpose. The Governors and representatives of the states in which the river has its rise demanded that the first development upon the river should occur upon the upper reaches of the stream and that the upper states should have protection against adverse claims which might result from immediate development upon the lower river. No definite programme resulted from the conference and the resolutions adopted were adverse to the endorsement of immediate lower river development. (See copy of Salt Lake resolutions here-to appended.)

Subsequent conferences of like character were held at Los Angeles where similar resolutions were adopted and it became evident that the upper states would continue to oppose the construction of the enormous works upon the lower river in order that the future necessities and general welfare of the upper territory might remain unassailed.

Upon invitation of Governor Oliver H. Grover of Colorado a similar conference was called and held at Denver,
August 25-27, 1920. Governor Thomas E. Campbell, of Arizona, presided and the general subject matter was considered and discussed.

The backbone of the continent passes in a northerly and southerly direction through the State of Colorado and four great river streams have their origin and derive their principal supply of water from the mountains of that state. For a fifth of a century the State of Colorado and its citizens have been compelled to defend the use of the waters of the streams, which rise and flow within the state, from adverse claims on behalf of neighboring states and citizens thereof. The greater part of the waters of the Colorado River have their origin within the State of Colorado and the future welfare of the state depends upon the preservation of its rights to a first use of that small part of such water supply which will be necessary to supply the necessities of its inhabitants and will be required for the irrigation of its lands.

The Governors of the seven states whose territory is involved constituted the committee on resolutions at the Denver conference. Ralph E. Carpenter, of Greeley, Colorado, for a number of years identified with litigation respecting the disposition of the waters of interstate rivers, was requested by Governor Shoup to act as a legal advisor to the resolutions committee and was called upon to formulate some method by which the rights
of the states of origin of the river could be protected in their future development without interfering with the early construction of the large reservoirs on the lower river. Mr. Carpenter recommended that the states avail themselves of their treaty-making powers and that appropriate legislation be enacted to authorize the formulation of a compact between the states fixing and determining their respective rights. He also recommended that the United States be represented in the formulation of such a compact by reason of the international character of the river. His suggestions were embodied in a resolution which was offered by Hon. E. A. Gillett, State Engineer of the State of New Mexico, acting as a representative of the Governor of New Mexico on the Committee of Resolutions. The resolution was recommended by the committee and was adopted at the conference and reads as follows:

"Resolved, that it is the sense of this conference that the present and future rights of the several states whose territory is in whole or in part included within the drainage area of the Colorado River, and the rights of the United States, to the use and benefit of the waters of said stream and its tributaries should be settled and determined by compact or agreement between said states and the United States, with consent of Congress, and that the legislatures of said states be requested to authorize the appointment of commissioners for each of said states for the purpose of entering into such compact or agreement for subsequent ratification and approval by the legislature of each of said states and the Congress of the United States."
Subsequent to the adjournment of the Denver conference bills were prepared by Mr. Carpenter for introduction before the legislatures of the seven states upon request of Governor Campbell of Arizona, Chairman of the conference. The bills were passed by the legislatures of the states and commissioners were named by the Governors in conformity with such legislation.

May 10, 1921, the Governors of the seven states, or their duly accredited representatives, and the compact commissioners already named by each of the Governors, met at the city of Denver and formulated resolutions calling upon the President of the United States and Congress to grant consent to the states to enter into a compact and to authorize the appointment of a representative of the United States to sit as a member of the said compact commission. These resolutions were presented to President Harding May 19, 1921, by the Governors of the states or their duly accredited representatives. Mr. Carpenter represented the Governor of Colorado in the presentation of the resolutions to the President and remained in Washington for the purpose of assisting in the preparation of the appropriate bills to be presented to Congress.

Appropriate bills were introduced by Mr. Mondell of Wyoming (H. R. 6821) and by Senator Burson of New Mexico. Hearing was had upon the House Bill before the Committee on the Judiciary June 4, 1921, at which time
Mr. Carpenter made a statement on behalf of the western Governors and filed a memorandum and brief concerning legislation looking to a compact upon the Colorado River in which the decisions of the United States Supreme Court and other authorities respecting the powers of the states to enter into compacts, with the consent of Congress, is discussed at length. (See H. R. 6621, Serial 6, Com. on the Jud. Con. 57, 1st Session, June 4, 1921.)

The bill introduced by Mr. Mondell passed Congress and was signed by the President, and pursuant thereto Hon. Herbert Hoover, Secretary of Commerce, was appointed by the President as the representative of the United States upon the compact commission.

The members of the commission are: Hon. Herbert Hoover, Secretary of Commerce of the United States; W. S. Norvield, State Water Commissioner of the State of Arizona; W. F. McClure, State Engineer of California; Delph N. Carpenter, Interstate Rivers Lawyer (Colorado); J. C. Scragham, State Engineer of the State of Nevada; Stephen B. Davis, Jr., Justice of the Supreme Court of the State of New Mexico; R. C. Caldwell, State Engineer of the State of Utah; and Frank C. Emerson, State En-
gineer of Wyoming.

The first meeting of the Commission was held at Washington, D.C., January 20, 1923. Hon. Herbert Hoover, representing the United States, was elected Chairman of the Commission and Clarence C. Stetson of Washington was appointed Executive Secretary. On January 30th, without definite action the Commission adjourned subject to the call of the Chairman. The Commission again met at Phoenix, Arizona, March 15, 1923, and held hearings at Phoenix, Arizona, Los Angeles, California, Salt Lake City, Utah, Grand Junction and Denver, Colorado, and Cheyenne, Wyoming, concluding the hearing at the latter city on April 2d, when a further adjournment was taken subject to the call of the Chairman, for the purpose of permitting the Commissioners to review the testimony and to prepare suggestions for a compact.

The Commission will again convene in executive session at Santa Fe, New Mexico, November 9, 1923. Several suggestions of form of compact have been prepared and it is thought a definite conclusion will be reached and a form of compact agreed upon for submission to the legislatures of the seven states and to Congress.
"The history of irrigation throughout the world has shown that the greatest duty of water is had by first using it upon the upper reaches of the stream and continuing the use progressively downward. In other words, 'The water should first be captured and used while it is young', for it can then be recaptured as it returns from the performance of its duties and thus be used over and over again.

"Attention is further directed to the fact that many of these irrigation projects, of a magnitude to be developed only by the Federal Government, can be properly carried on without interfering with smaller developments which should be undertaken by individual and corporate initiative, and we therefore urge the Interior and Agricultural Departments the adoption of a liberal and sympathetic policy in the granting of rights of way for reservoirs and ditches upon the public domain, where the same are essential to the development of such private projects.

"We further urge the liberal administration of all land laws of the United States looking to the end of placing the lands of the United States in the actual
possession and occupation of its citizens in order that the citizens may have a home and that the lands may go upon the tax rolls of the various States in which they may be located in order that they may bear their just proportion of the expense of State administration.

"Along the lines set forth in these resolutions, we pledge ourselves to a hearty cooperation with the representatives of the Federal Government in order that the desired end may be attained at the earliest possible moment consistent with a wise administration of the affairs of the Nation and of the States.

"In the carrying out of all reclamation projects in which the Federal Government may become interested, its activities should ever be in conformity with the laws of the State in which the project under development is located. In the arid States of the West the irrigation projects undertaken by or with the aid of the Federal Government should in every instance be based upon a full compliance with the laws of the State wherein the projects are located so far as the appropriation of water and other matters of purely State control are concerned."
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