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ARIZONA'S STAND ON THE SANTA FE COMPACT AND THE BOULDER DAM PROJECT ACT

By DONALD R. VAN PETTEN

THE COLORADO River and its tributaries form a system in the southwestern part of the United States, the importance of which can hardly be over-estimated. Its potentialities for power and for irrigation are of paramount importance in the industrial life of the Colorado Basin. Seven states—Arizona, California, Colorado, Nevada, New Mexico, Wyoming, and Utah—contribute in varying amounts to its flow. This vast territory may be divided into the upper and lower basins. The upper is comprised of Colorado, Wyoming, Utah, and New Mexico—states in which the vast river and the tributaries to its upper reaches rise among the mountains, where precipitation, especially in the form of snow, is heavy, and where the opportunities for irrigation are limited by the character of the terrain. The lower basin is composed of Arizona, California, and Nevada—states whose valleys possess an excellent climate and soil—where, particularly in the first two, an immense acreage is susceptible to irrigation. Of these three lower basin states, only Arizona contributes materially to the normal flow of the river. While the sources of the Colorado are all in the United States, its final channel, delta, and mouth are in territory belonging to the Republic of Mexico.

At its mouth, the river has built an immense delta from the materials eroded from the canyons, and by this means has formed a dike across the Gulf of California. This cuts

off entirely the northern end of the gulf, which forms a deep bowl below sea level, and includes the Imperial and Coachella valleys, together with a large lake at the lowest point—the Salton Sea. This body of water has an area of about 150,000 acres, and its surface is approximately 250 feet below sea level.¹

The river itself flowed down along the eastern edge of this depression, in a river bed which was being gradually built up by deposits of silt above the level of the surrounding country. In the early summer, when freshets, fed by the melting snows in the far-away mountains, came, the anxious farmer in the Imperial Valley lived under the constant apprehension of waking some fine morning to find his house and farm under water.

This catastrophe did occur in 1906, when the breaking of a main levee caused a disastrous flood which inundated 50,000 acres of farms. By 1922, due to silt deposits, the bed of the channel of the river as it flowed to the gulf was fourteen feet higher than it had been in 1906, and the levees were kept correspondingly high by the people of the Imperial Valley. Once the water poured into the valley, it could escape only by evaporation, and all the cultivated land and thriving towns would be submerged beyond hope of recovery.

The threat of such an event is realized, when it is understood that this valley is the largest single irrigated unit in the United States, and that the danger zone of the Colorado River is the home of more than 75,000 people, who have reclaimed more than one-half million acres of land, and have built more than thirty towns and villages. The value of their annual crops exceeds one hundred million dollars, and the potential value of their homes, lands and improvements is more than eight hundred millions.²

There was another unique feature of the Imperial Val-

1. Colorado River Commission of California, *The Boulder Canyon Project* (Sacramento, 1930), p. 13.

2. E. A. Hampton, "The Battle with the Colorado," *Review of Reviews*, Nov., 1922, p. 525.

ley besides its topography, which made it necessary to seek help from the national government. The main canal conducting water from the Colorado River at Yuma to the Imperial Valley, several miles to the west, crossed the international boundary into Mexico, and extended from fifty to sixty miles westward with laterals at various points which diverted water across the border again to California lands.

As a result, political and operating complications developed. The concession from the Mexican government to the Imperial Valley Water Users provided that when a foreign government became interested, the concession was automatically withdrawn, a provision that would make it necessary for another route to be chosen if the United States government became interested in the water supply for the valley. It was further required that levees be maintained on the Mexican side, and permission given by Mexican officials whenever it was necessary or desirable to transport warehouse equipment across the border; moreover, a duty was charged on each carload of rock that went across the line for the levees. There was a contract allotting Mexican soil a right to one-half of the water flowing in the main canal. It has been estimated that \$112,000,000 was spent by the Americans to maintain the levees in Mexico prior to 1922. In President Theodore Roosevelt's message to congress concerning the 1906 disaster he stated that the Imperial Valley would "never have a safe and adequate supply of water until the main canal extends from Laguna Dam."³ The problem, therefore, was two-fold: to control the flow of the river, and to settle international questions with Mexico having to do with canal and water rights. The United States government was the logical agency to undertake the solution.⁴

3. *Cong. Record*, 59 Cong. Vol. 41, Part 2, p. 1029. The Laguna Dam is several miles north of Yuma. When the canal was first built, it was considered impossible to carry it through the sand dunes which lie between the river and the Imperial Valley.

4. Winifred Smith, *The Controversy between Arizona and California over the Boulder Dam Project Act* (unpublished master's thesis, University of Southern California, Los Angeles, 1931), pp. 15-19.

THE SANTA FÉ COMPACT

The quarrel which rose between Arizona and California concerning the development of the Colorado River, was caused by political and economic rivalry. There has never been any questioning of the fact that the harnessing of the river to prevent floods, to give power, and for the purposes of de-silting was a very desirable thing, from the standpoint of both states.

Arizona always has considered the Colorado River as her greatest natural resource. For many miles, it flows through this state, and for many more miles it forms the western boundary. Although large in territory, thousands of her acres are unfit for use, and many more are in the control of the federal government as Indian reservations, forest reserves, or as federal lands. Her population is small, and her prosperity at present is dependent largely on the uncertainty of mining operations. The time is surely coming when the copper mines will be depleted. Then a change will have to be made from a mining to an agricultural economy. When that day comes, the necessity for an available supply of irrigation water and for an abundance of power for pumping and drainage purposes is imperative.⁵

Because of these facts, Arizona looked with suspicion on every move which might jeopardize her future. As far back as 1918, the Imperial Irrigation District made an arrangement with the secretary of the interior providing for an extension of the Imperial Canal to Laguna Dam, and pledged itself to build an all-American canal to the valley from that point. No construction was begun, since finances were not available. It was hoped that a board appointed in accordance with a contract between the secretary of the in-

5. Much of the material given in this paper is the result of study made by the author as a member of the Arizona house of representatives during the years 1928-1932. During the sessions of both the ninth and tenth legislatures, he was a member of the committee on agriculture and irrigation. The author is also indebted for a great deal of information to an unpublished master's thesis by Rollah E. Aston, *Boulder Dam and the Public Utilities* (The University of Arizona, Tucson, 1936).

terior and the district would report favorably for government construction of this canal.

This board did make an investigation and reported favorably on building a main canal entirely in the territory of the United States. Accordingly, the Kettner bill, providing for such a canal financed by the government, was introduced in congress in 1919. Because it did not provide for storage on the Colorado, the bill failed to pass. Congressmen did not know how adequate the water supply was, nor the number of acres susceptible to irrigation.

To obtain this data, congress approved the Kincaid Act on May 18, 1920, which provided for "an examination and report on the condition and possible irrigation development of the Imperial Valley in California."⁶ \$20,000 was appropriated by the act, and the Imperial Valley contributed \$100,000. The secretary of the interior was directed to conduct the investigations, and to make recommendations as to the feasibility of constructing a dam on the river. He was to report in detail the character and probable cost and the best location for such storage works.

Albert B. Fall of New Mexico conducted the investigation and made the report on February 22, 1922. Referring to the opposition he met with in various quarters, he stated that it had been delayed not only by "physical limitations but by human considerations."⁷ He had personally gone to San Diego, California, to hold hearings so that free opportunity might be given for the expression of different views. Mr. Fall stated that he concurred most heartily in the recommendations of the report, which were in part:

That the United States construct a high-line canal from Laguna Dam to Imperial Valley, to be reimbursed from the lands benefited.

That the government undertake the construction of a reservoir at or near Boulder Canyon to be

6. Ralph L. Griswell, "Colorado River Conferences and Their Implications," *Colorado River Development and Related Problems*, p. 12.

7. *Letter of Transmittal*, Senate Document 142, 67 Cong. 2 Sess.

reimbursed by the revenues from leasing the power privileges incident thereto.

That the Secretary of the Interior be empowered to allot the various applicants their due proportion of the power privileges and to allocate the costs and benefits of a high line canal.⁸

It might be remarked here that the Boulder Canyon damsite was not utilized in building the present Hoover or so-called Boulder Canyon Dam. It is located at the mouth of the Black Canyon. Officials of the Imperial Irrigation District reported that the selection was made by government engineers.⁹

The states concerned with the development of the river early realized that differences would arise, and that it would be best to settle those differences among themselves. One of the agencies for this purpose was the Southwest League, which emerged as a permanent organization from a conference of representatives from the seven states called by the governor of Utah in January, 1919, for the purpose of discussing the utilization of water from the Colorado River and its tributaries.¹⁰ This organization believed that the development of the resources of the Colorado River basin was basic for the future progress and prosperity of the southwest.

At one of its meetings in Denver during August, 1920, representatives from Arizona and California presented a resolution which the league passed, in which it was stated that the questions inherent in the development of the Colorado should be settled by a compact between the interested states, and that the legislatures of the states should authorize the appointment of a commission to enter into such a compact. This agreement would then be ratified by the

8. *Ibid.*, p. 21.

9. Black Canyon is nearer the mouth of the river than Boulder, and consequently nearer the metropolitan district of southern California where much of the market for power was to be found. This was a sore point with Arizona objectors who felt that much more Arizona land could be brought under irrigation if the dam were placed at Boulder—higher up the river.

10. Reuel L. Olson, *The Colorado River Compact* (Boston, 1926), p. 12.

various state legislatures and by the congress of the United States. The next year, the legislatures and the congress gave approval to the plan. In May, 1921, the various governors of the interested states requested President Harding to name a chairman of the proposed commission, and he proposed Herbert Hoover.

Santa Fé, New Mexico, was decided upon as the place of meeting, and June, 1921, as the time. The sessions of the Colorado River Commission extended over a period of nearly eighteen months, and were attended at various times by all the governors of the interested states except one, and all their attorneys-general.¹¹ On November 24, 1922, a compact was signed, subject to the ratification of the seven state legislatures and of congress.

In general, it was found that the interests of the lower basin states encroached on those of the upper basin. It was felt that the lower basin states would be able to develop their irrigable lands faster than the upper basin states. According to Supreme Court decisions the beneficial use of water establishes a priority right to its use against a later encroachment, regardless of state boundaries. To protect themselves, the upper basin states desired the compact to guarantee them a fixed amount of water, regardless of prior appropriations.

It was so arranged. The water of the river was divided between the upper and lower basin rather than among the several states, the dividing point being Lee's Ferry, one mile below the mouth of the Paria River.¹² This plan, adopted to avoid the long wrangling which would have resulted from any attempt to apportion the water among the states, was suggested by Mr. Hoover and Mr. Delph Carpenter of Colorado.

The division of water was based on data showing an

11. Herbert Hoover, "The Colorado River Problem," *The Community Builder*, March, 1928.

12. Olson, *op. cit.*, p. 21.

annual average flow of 17,400,000 acre feet.¹³ Article III, paragraph (a) of the compact apportioned to each of the basins, 7,500,000 acre feet, while paragraph (b) gave the lower basin the right to increase its beneficial use of water by 1,000,000 acre feet per year. Since the annual run-off of the river, measured at Yuma, has varied between 10,100,000 and 26,000,000 acre feet during an eighteen year period,¹⁴ it was stipulated that the states of the upper basin would not cause the volume of water flowing past Lee's Ferry to be less than a total of 75,000,000 acre feet for any period of ten consecutive years. It was further provided that if Mexico received any right to further supplies of Colorado River water by treaty, such water was to be supplied from the unapportioned surplus. But if this proved insufficient, the upper and lower basins were to bear the deficiency equally. The agreement was to remain in force forty years, but might be changed by unanimous consent of the same authority by which it was drafted.¹⁵ A bill for approval of the compact was introduced in congress December 18, 1922, but did not get out of committee. By the end of January, 1923, the compact had been ratified by all the interested state legislatures, except that of Arizona.

THE OPPOSITION OF ARIZONA

In the absence of precise data, there was general apprehension in both California and Arizona that the water supply of the Colorado would be inadequate to irrigate all the land which was susceptible. As early as 1916, Mr. E. C. LaRue, an authority on the Colorado River question, after reviewing certain investigations and surveys of the river made by the government, confirmed such a fear. Additional data collected by Mr. LaRue and others in recent years seem to indicate that this conclusion is correct.¹⁶

13. An acre foot of water is the amount of water necessary to cover one acre to the depth of one foot.

14. Senate Document 142, 67 Cong., 2 Sess., p. 220.

15. Olson, *op. cit.*, p. 40. Time later changed to fifty years.

16. Smith, *op. cit.*, pp. 110-111.

Arizona, as the weaker in wealth and population, felt that if there were not enough water for both states, she would be compelled to sacrifice her interests for those of California. Accordingly, Arizona's opposition to the compact dates from the first proposal for the division of water between the two basins rather than among the states severally. Arizona's water commissioner, Mr. W. S. Norviel, who represented Arizona at Santa Fé, felt that the water to be allotted to Arizona should be settled beyond question by the compact, and cast the only negative vote when the division between basins was proposed.¹⁷ However, he was finally won over, and a unanimous approval was given.

During the long period of the deliberations of the commission at Santa Fé, the republican governor, Thomas E. Campbell of Arizona, had been defeated for re-election by the democrat George W. P. Hunt. The latter, in presenting the compact to the legislature for action, mentioned the fact that Mr. Norviel had been an appointee of Governor Campbell, and called attention to the lack of information on the acreage in Arizona which potentially might be irrigated from the Colorado. He emphasized the need for taking plenty of time in considering ratification, as he felt that the future of the state was at stake. The legislature failed to ratify the compact by the margin of one vote.

This action did not indicate that Arizona was in opposition to the development of the river. She was most eager for it. But she felt that her only bargaining power to obtain an equitable supply of water, was to withhold her approval until the question was settled satisfactorily. At this time there was no suspicion that work of such magnitude would be undertaken without the unanimous approval of all states interested, especially in view of Arizona's great stake in the river.

Forty-three per cent of the Colorado River was in Arizona, and only two per cent in California. Thirty per cent of

17. Olson, *op. cit.*, p. 293.

the water of the river was contributed by the former, and practically none by the latter. Therefore, Arizona felt that after 300,000 acre feet for Nevada had been subtracted¹⁸ from the allotment to the Lower Basin, the remaining 7,200,000 acre feet should be equally divided between Arizona and California.

This demand seemed to California unreasonable. She countered with a proposal first to divide the water on the basis of three-fourths for herself. Another question complicated the picture. Arizona had already developed a large irrigated acreage on the Salt and Gila rivers, tributaries to the Colorado. This system yielded an annual beneficial use of 2,700,000 acre feet of water, and this was used as the basis for California's claims to the major portion of the allotment under the compact. Later, she reduced her demand to two-thirds, not counting the already developed water on the Gila water shed.¹⁹

In addition to a demand for a more equitable division of water, Arizona asked that the basis for the division of the revenue from the sale of power at the dam be determined, since most of it was being demanded by California at bargain prices. Another point contended for by Arizona was the right to tax the wholesale power sold from the powerhouse at the dam.²⁰ She further demanded that a treaty be made with Mexico definitely limiting that country's rights to water from the Colorado. Under the compact, she feared that if drought should come and the share of Mexico be unavailable from the upper reaches of the river, she would

18. This was the maximum demand of Nevada, since that state had only a limited amount of land susceptible to irrigation from the Colorado.

19. Thomas Maddock, *Reasons for Arizona's Opposition to the Swing-Johnson Bill and Santa Fe Compact* (Phoenix, 1927).

20. Arizona contended that congress had admitted the sovereignty of states over their own waters in the Federal Water Power Act, passed in 1920. The provisions of that act prohibit the use of the public lands by the federal government for building power dams unless a permit from the states in which the land is located is secured. Maddock, *op. cit.*, *passim*.

have to contribute the water she had developed and stored in her Gila irrigation system.²¹

With so many vital questions left unsettled by the compact, subject to adjudication after the development of the river had been begun, it is understandable why Arizona refused to sign until some agreement had been reached. However, it is difficult to understand why she refused to accept compromises which were offered her when she possessed the whip-hand in negotiations, before the Swing-Johnson Bill was passed.

EFFORTS AT AGREEMENT

In 1923, Arizona proposed to California and Nevada a tri-state agreement supplemental to the Santa Fé Compact, to settle the questions in dispute; but for two years, California refused to discuss the matter. At last, however, a tri-state conference was arranged for December 1, 1925, but no agreement could be made.

In August, 1927, the governors of the upper basin states called a conference at Denver for the purpose of settling the differences between Arizona and California which were delaying the development of the river. The governors of all the states concerned were in attendance, together with the various Colorado River commissioners, Interstate Water commissioners, and various advisors. The main discussions revolved around four questions: the division of water among the lower basin states, the amounts that might be claimed by Mexico, the rights of states to the banks of rivers within or bounding their territory, and the division of power revenues.

The problems concerning Mexico and the ownership of river banks were settled, as far as that conference could settle them, to the satisfaction of Arizona's delegation.²² No final determination was made with respect to the division of water. At first, California asked for 4,600,000 acre feet of

21. See Arizona Colorado River Commission, *Colorado River, International Problem* (Phoenix, 1938).

22. First Report of the Colorado River Commission of Arizona, Eighth Legislature, Fourth Special Session, *Document No. 1*, p. 5.

the water allocated to the lower basin, and offered to guarantee to Arizona the remaining 2,600,000 acre feet, after subtracting 300,000 for Nevada, and the waters of her tributary streams.²³ Arizona rejected this proposition, whereupon the governors of the upper basin states proposed that the share of water to California be 4,200,000 acre feet, to which the delegates from Arizona tentatively agreed.²⁴ They insisted on the use of language which would remove all doubt as to her responsibility for supplying Mexico from her stored water, and upon the insertion of a clause giving to California and Arizona equal rights to all unallotted water in the main stream of the river. However, California rejected this proposal, giving as her reason that such an arrangement would amend the existing Santa Fé Compact, and the pending Boulder Dam Project Act.

A final effort was made to settle questions amicably on a seven state ratification basis in February, 1930, at a conference held in Phoenix. California made the following proposals:

To Nevada, 300,000 acre feet of water. Utah and New Mexico to have all water necessary for use on areas of those states lying within the lower basin.

Arizona to have all waters of the Gila system and her other tributaries, excepting such water as reaches the main stream, also her present uses from the main stream, within the state.

California to have water now diverted in California for agricultural and domestic use in California.

Balance of water in main stream to be divided one-half to Arizona and one-half to California.

Mexican obligations to be met one-half by Arizona and one-half by California from main stream water.

23. Griswell, *op. cit.*, p. 17.

24. When the Swing-Johnson Bill was proposed, the Bratton amendment divided this difference and allotted to California a total of 4,400,000 acre feet.

All other points to be left to determination of of the Secretary of the Interior, under the Act.²⁵

Arizona rejected this proposal, on the ground that the question of power was not settled, but was left to the adjudication of the secretary of the interior, who at that time was Dr. Ray Lyman Wilbur of California, who, Arizona felt, would be prejudiced in his decision.

Mr. Charles Ward, chairman of the Colorado River Commission of Arizona during this conference countered with a twelve point power program meant to clarify the power situation which had become quite muddled. The Boulder Canyon Project Act had been so much amended to meet the questions in dispute between the states, that many of its provisions conflicted. However, California refused to agree to this program, although it contained nothing prejudicial to her rights. But by this time, the Boulder Canyon Project Act had been passed by congress, and there was no need for California to recede an inch from the position she had taken.

A great deal of enmity was generated between the two states. In Arizona, this was fanned by politicians who desired to remain in office, or gain elections, through their offer to "save the Colorado." A California congressman publicly announced his intention of introducing a measure in congress to restore Arizona to the status of a territory on the ground that she had violated the conditions under which her admittance to the union was authorized.²⁶ Governor Hunt of

25. Colorado River Commission of the State of California, *The Boulder Canyon Project* (Sacramento, 1930), p. 45.

New Mexico has certain rights to water on the Upper Gila River. However, those rights are even now in the courts for adjudication. It was probably not those lands to which reference was made since Arizona was offered "all the waters of the Gila system and her tributaries," but the small amount of territory in northwestern New Mexico draining into the Little Colorado, which in turn flows into the Colorado below Lee's Ferry, and thus comes in the Lower Basin.

26. The congressman referred to the well-known fact that President Taft vetoed congressional action admitting Arizona to the Union on the ground that her constitution permitted the recall of judges. To meet this objection, Arizona deleted this provision, was admitted, and immediately, by proper action of her electorate, amended the new constitution so that recall of judges was again permitted.

Arizona said at one time that his sense of outrage no longer permitted him to discuss the Colorado River calmly and dispassionately, and a Yuma paper quoted him as saying: "I'll be damned if California will ever have any water from the Colorado River as long as I am governor of Arizona."²⁷ He suggested to Los Angeles that if they needed water to drink, they could sip from the ocean which was next door to them.

THE BOULDER CANYON PROJECT ACT

After the feud between California and Arizona had raged for several years with no signs of abatement, certain responsible men began to canvass the possibilities of proceeding without waiting for complete agreement. Mr. Delph E. Carpenter of Colorado suggested to Mr. Hoover that a six state pact might be made, with Arizona privileged to sign whenever she cared to do so.²⁸ On this basis in 1925 Nevada, Colorado, Wyoming, New Mexico, and Utah ratified a six state compact, but California, after repealing the seven state compact ratification, made concurrence in the six state agreement subject to the declaration of the president of the United States that congress had authorized the construction of a dam on the main stream of the Colorado River at or below Boulder Canyon, of at least 20,000,000 acre feet storage capacity and further that congress had exercised its powers "to make the terms of the said Colorado River Compact binding and effective as to the waters of the said Colorado River."²⁹

In 1927, Utah decided to repeal its approval of the six state compact, but later was influenced to adhere to its original action, and eventually, all the states concerned, except Arizona, signed a six state agreement.

During all of this time, there was pending in congress a bill known as the Boulder Canyon Project bill, or the

27. Griswell, *op. cit.*, p. 17.

28. Olson, *op. cit.*

29. Grace Kight, *The Santa Fé Compact* (unpublished master's thesis, University of Arizona, Tucson, 1927), p. 29.

Swing-Johnson bill. It had been introduced on April 15, 1922, by Representative Swing of California, and it embodied the main features of the recommendations made by the investigating committee headed by Secretary Fall. The purposes of the legislation were given as follows:

1. To regulate the lower Colorado River and control the floods therein.
2. To provide storage for irrigation.
3. To secure the development of electrical power.
4. To provide homes for honorably discharged ex-service men.
5. To authorize the construction of an all-American canal.

It authorized the secretary of the interior to lease power privileges and to make allocation of power generated according to his judgment. But he was instructed to give preference to applications for power from political subdivisions. No proposed interstate agreement was mentioned in the bill, but section 9 read:

That nothing in this act shall be construed as limiting, diminishing or in any manner interfering with any vested rights of the states above said reservoir, or of the citizens of said states, to the use, within the Colorado River watershed, of the waters of said Colorado River.³⁰

Although this bill was sponsored in the senate by Hiram Johnson, and was recommended by the interior department, there was, it was felt by Arizona, little likelihood of its passage until an interstate agreement had been reached. In view, too, of the vast sum of money necessary for the work, it was expected that searching study of the problem would delay action for some time.³¹

On January 12, 1926, the interior department again

30. *Hearings*, H. R. 11449, Pt. 1, 67 Cong., 2 sess., p. 1.

31. On March 17, 1924, Dr. Hubert Work, secretary of the interior, reported that since the passage of the Kincaid act in 1920, the reclamation bureau had expended more than \$350,000 and other governmental agencies more than \$2,000,000, in the observation, survey, and study of the Colorado River.

recommended that the Swing-Johnson bill be enacted. In his message of December 6, 1927, President Coolidge advised that development proceed, and on January 21, 1928, the interior department again submitted its approval to congress.³² After a long and bitter fight, with the congressional delegation from Arizona fighting against passage, the Swing-Johnson bill, the sixth of a series of bills, passed both houses by a large majority, and was approved by the president on December 21, 1928.

The provisions of the act differed from those first stated in the bill. Two new purposes for the project were given: to provide for a domestic water supply, and to improve navigation.³³ The secretary of the interior was authorized to carry out the provisions of the act subject to the Colorado River compact which required ratification by California and five others before the act would become effective. California was required to limit her annual use of water to 4,400,000 acre feet, plus half of the surplus waters unappropriated by the compact. Provision was made for a possible later agreement among California, Nevada, and Arizona, which, if it agreed with seven conditions stipulated, would not require a re-ratification by congress.

The provisions regarding power were as follows: The secretary of the interior was given permission to lease the water for generating power at the switchboard, or to build and lease the power plants. It was stipulated that the power should be sold comparably with the cost of power elsewhere in that area. Preference was to be given states in the bidding for power, but private corporations were specifically mentioned as possible contractors for electrical energy.

The total appropriation for the project, which called for a dam 550 feet high, creating a storage for 26,000,000

32. Hiram Johnson, *The Boulder Canyon Project*, 70 Cong., 1 sess., p. 14.

33. This seemingly ridiculous motive had been added to give the United States jurisdiction over the bank of the Colorado in Arizona. It is true that in pioneer days, boats had plied on the Colorado. But none had gone above Yuma after the diversion dam had been built there to divert the waters into the canal of the Imperial Valley Water Users. Arizona fought this point bitterly.

acre feet of water, a power plant of 1,000,000 horse power installed capacity, and an all-American canal, was \$165,000,000. This money was to become available when the secretary of the interior had procured contracts for the sale of power which would return sufficient revenues for all operating expenses, maintenance, and the repayment within fifty years from date of completion, of the original cost with interest.

On June 16, 1930, Secretary Ray Lyman Wilbur stated that all the conditions necessary for obtaining the appropriation had been met. He had signed two contracts: one for "lease of power privilege executed severally by the City of Los Angeles and the Southern California Edison Company, Lt.," and another "for electrical energy executed by the Metropolitan Water District of Southern California." In addition, a contract was made with the latter organization, "for the delivery of water to be stored in the Boulder Dam reservoir."³⁴

The secretary allocated the power as follows:

State of Arizona -----	18%
State of Nevada -----	18%
Metropolitan Water District of Southern California, for pumping domestic water from river -----	36%
City of Los Angeles -----	13%
Eleven smaller cities -----	6%
Four Public Utilities serving farmlands --	9%

As some of these agencies could not make immediate use of the power assigned to them when it became available, and since the act specified that firm contracts should be made prior to making the appropriation available, certain rearrangements had to be made. It was found that the sale of 64% of the firm energy would provide the government an adequate revenue. The City of Los Angeles and the Southern California Edison Company underwrote 37% and 27% respectively of the firm power; but the two contractors

34. Wilbur and Ely, *Hoover Dam Contracts* (Washington, 1933), p. 575.

acquired title to only 13% and 9%, as had been allotted to them. The smaller municipalities were allowed one year to arrange for contracting for their 6%, but Arizona and Nevada were given the entire period of fifty years to contract for their 36%.³⁵ The contracts with the City of Los Angeles, the Metropolitan Water district and the Edison Company were closed on April 26, 1930, and provided for a revenue of \$327,000,000.³⁶ The rates obtained were 1.63 mills per kilowatt-hour for firm energy and .5 mill per kilowatt-hour for secondary energy, both delivered at transmission voltage.³⁷

Even after the bill had passed congress, the opposition of Arizona did not cease. The secretary of the interior made several efforts to bring the lower basin states into harmony. Conferences were held in March and June, 1929, with no success. The conference held in Phoenix in February, 1930, has already been mentioned. On May 14, 1930, Secretary Wilbur sent a stinging rebuke to Arizona in answer to criticism of Governor John Phillips, that the contracts had been awarded "hastily."³⁸

In 1930, at the second session of the seventy-first congress, the Arizona congressional delegation fought against the first appropriation for the Boulder Dam Project. Through fear of a filibuster, with time for adjournment near, amendments were made to the power contracts which met some of Arizona's objections.

Arizona's fight was now transferred to the courts. On October 13, 1930, after decisions of the attorney general and comptroller general had been made against Arizona's position, that state sought an injunction in the supreme court of the United States, asking that the Boulder Canyon Project Act and the Colorado River Compact be declared "inoperative and unconstitutional." The bill of complaint

35. *Ibid.*, p. 601.

36. *Ibid.*, p. 24.

37. *Ibid.*, p. 536.

38. *Ibid.*, p. 605.

alleged a violation of the sovereign rights of Arizona in the construction of a dam which would divert waters from the state for consumption elsewhere. It also denied that the stream was navigable, declaring that the purpose of improving navigation as given by congress was a "subterfuge and false pretense."

On May 18, 1931, the suit was dismissed, the court rejecting every point of the complaint. It was held that by historical evidence the river was navigable, and therefore the erection of a dam and reservoir was clearly within the powers conferred on congress.³⁹ It was also decided that Arizona had no basis of complaint against the Colorado River Compact, since she was not a signatory to it, and therefore not bound by its provisions. With regard to the interference with her rights by California and the other defendants, the court ruled: "There is no occasion for determining now Arizona's rights to interstate or local waters which have not yet been, or which may never be, appropriated."⁴⁰

This decision effectively halted further opposition by Arizona. In her fight on the Compact and on the Swing-Johnson Bill, Arizona did not stand alone.⁴¹ For a long time Utah was opposed to the plan of development. In congress, she had the assistance of many Eastern representatives, who are notoriously loathe to vote appropriations for improvements in the West. One may wonder why the Swing-Johnson Bill passed against such powerful opposition. Commenting on this matter, Professor G. E. P. Smith of the irrigation engineering department of the University of Arizona said that "if the whole narrative of the plotting, the political

39. Opinions of the Supreme Court of U. S., *Arizona vs. State of California, et al.*, cited in Wilbur and Ely, *op. cit.*, p. 665.

40. *Ibid.*, p. 673.

41. When work began on the Parker-Gila dam site for the purpose of diverting water into the Metropolitan Aqueduct which carries water across the mountains to the metropolitan district around Los Angeles, Dr. B. B. Moeur, then the governor of Arizona, called out the militia to prevent any work on Arizona soil. But after congress had specifically authorized this project, the soldiers were called home.

chicanery, the fallacious propaganda, the blunders and the reprehensible coercion shall ever be written, it will read like a succession of chapters in *Les Misérables*."⁴²

42. G. E. P. Smith, *An Equitable Basis for Solution of the Colorado River Controversy* (Tucson, Ariz., 1925), p. 6.