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SIXTEENTH LEGISLATURE
FIRST SPECIAL SESSION
ARIZONA STATE SENATE
2 p. m., February 16, 1944

EV. 13

REPORTER'S TRANSCRIPT
OF
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HEARING BEFORE SENATE COMMITTEE ON AGRICULTURE
AND
IRRIGATION ON SENATE BILLS NOS. 1 AND 2.

No. 1
Ratification of the Colorado River Compact

No. 2
Ratification of Contract
with
Secretary of the Interior

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HEARING BEFORE SENATE COMMITTEE ON AGRICULTURE AND
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Members of the Committee:

Senator James Minotto, Chairman,
Senator H. H. Baker,
Senator Lloyd E. Canfil,
Senator Bert J. Colter,
Senator Hubert H. d'Autremont,
Senator Norman W. Fain,
Senator V. P. Richards.

Reported by
John B. Ryan

THE CHAIRMAN: Gentlemen, this is a public hearing before the Senate Committee on Agriculture and Irrigation on the subject of the ratification of the Colorado River compact, known as Senate Bill No. 1, and the ratification of the contract between the Secretary of the Interior of the United States and the Colorado River Commission, known as Senate Bill No. 2. This meeting was called for two o'clock for the purpose of having all parties interested in this subject appear before the committee of the Senate and to speak either on behalf or against the proposed measures. The Committee unanimously agreed, since time was limited and we want to give everybody a chance to be heard, that every person would be limited to 15 minutes in the presentation of his case. The meeting has come to order and is now open, and the Chair is ready to hear the interested parties. Let the record show that the entire Committee on Agriculture and Irrigation is present at this hearing, consisting of James Minotto, Chairman, Senator Kimball, Vice Chairman, Senators d'Autremont, Canfil, Baker, Richards, Fain and Colter.

Mr. O. C. Williams, State Land Commissioner, will you please come forward, Mr. Williams?

(Thereupon Mr. O. C. Williams presented himself before the Committee.)

THE CHAIRMAN: Mr. Williams, will you please state your name?

A O. C. Williams.

Q Your position?

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A State land commissioner.

THE CHAIRMAN: Proceed.

MR. WILLIAMS: I hadn't figured on coming here to make any talk about this.

THE CHAIRMAN: Pardon me, the bill we are now considering is Senate Bill No. 2, which is the ratification of the contract between the Secretary of the Interior and the Colorado River Commission, to be approved by the Arizona State Legislature.

MR. WILLIAMS: It has been my privilege to attend most of the meetings of the Committee of Fourteen, in which this has been discussed, and under the law of the River, as the Boulder Dam Project act is known, it seems the only way we can obtain water now is by contract, and that must be through ratification of the compact and contract with the Secretary of the Interior. The many differences between the states have been ironed out with the exception of the opposition of California. It seemed their opposition was to us getting any water through any means at any time for obvious reasons, and we now have the approval of the other states of the basin and they were very helpful in working out the contract as it was finally presented to the Secretary of the Interior, and since that has been signed it would seem that the only thing for Arizona to do now is to ratify the compact and make it possible for Arizona to receive our share of the Colorado River water, which is 2,800,000 acre feet, and thus proceed with our development of the agricultural resources of this

state. That is about all I wanted to say, Mr. Chairman.

THE CHAIRMAN: Do any members of the Committee wish to ask Mr. Williams any questions.

SENATOR D'AUTREMONT: Mr. Williams, you are not interested in the legal aspects of this?

MR. WILLIAMS: No, I am not an attorney and I couldn't go into those. Mr. Carson can give you all the legal aspects.

THE CHAIRMAN: Are there any other questions you gentlemen wish to ask Mr. Williams? Thank you very much, Mr. Williams, for appearing before us.

(Thereupon, Mr. Williams was excused.)

THE CHAIRMAN: The next witness to appear before this Committee will be Mr. Hugo Farmer, a former colleague of this body, and a former member of the Colorado River Commission.

(Thereupon, Mr. Hugo Farmer presented himself before the Committee.)

MR. FARMER: Mr. Chairman, my name is Hugo Farmer. I was formerly a member of the Arizona Colorado River Commission.

THE CHAIRMAN: You reside at Yuma?

MR. FARMER: I do. The matter, as I understand it, now before your Committee is the question of the ratification by the Legislature of the contract which I understand was signed by the Secretary of the Interior on or about the 9th day of February, 1944. I want to say this, this contract

is the result of the effort of the Committee of Fourteen, representing the seven Colorado River Basin states. They worked together to frame a contract and did finally frame a contract which was satisfactory to six of those seven states. One of the reasons this was done was that the Secretary of the Interior insisted that before he would consider a contract that this must be worked out, that the other states interested in the Colorado River Basin must agree to go with Arizona on most of the terms of this contract.

Now, gentlemen, I want to say that I believe that this is a fair contract and as fair a contract as Arizona will possibly get. I think there might be some matters in it subject to criticism, but I think if we do not accept this contract and if we do not ratify the Colorado River compact, that our state will never go forward to where it should from the standpoint of development of the Colorado River. We know that under the Boulder Canyon Project Act, the Secretary of the Interior is vested with authority to control the disposition of the water in Lake Mead, the stored water, and it positively settles that none of that water will be made available to various states or parties except under a contract with the Secretary of the Interior, and of course that is why it is necessary to have a contract like you have before you today.

I will be glad to answer any questions to the best of my ability. I have looked it over pretty carefully. I

didn't have the privilege of sitting in on the consideration of all of it. I did, however, attend the meeting at Phoenix in May, 1943, when the Committee first took the matter up seriously. It had taken it up to some extent before. We had urged the Committee to take it up, but we hadn't for some reason or other been able to get the thing to a head like we did commencing last May. I might say in 1940 I went to Washington, working for appropriations for my particular project, and while there took the matter up with the solicitor for the Commissioner of Reclamation and also with the Commissioner of Reclamation and the only thing I accomplished was a statement given to me that before any contract could be framed, before they would give it serious consideration we must obtain a memorandum from the other states agreeing as to most of the terms that were to go into this contract. We endeavored to bring that to a head, but it is a long story and you have before you now, gentlemen, I believe the best contract that is possible to obtain for Arizona. If you want Arizona to go ahead from the standpoint of development of its interest in the Colorado River, I would say that you should by all means accept the present contract as it is. You will have to accept it that way, I don't think you can amend it, and you should ratify the compact. I will be glad to answer questions.

THE CHAIRMAN: Do any members of the Committee of the Senate wish to ask any questions of Senator Farmer?

A VOICE: May I ask a question of Senator Farmer?

THE CHAIRMAN: Will you state your name, please?

A. M. C. Swan.

THE CHAIRMAN: Your residence?

MR. SWAN: Phoenix, Arizona.

THE CHAIRMAN: And your occupation?

MR. SWAN: I am retired, just an Arizonan from away back.

Mr. Farmer, do you think Mr. Ickes will be the final say in this matter, or do you think the Supreme Court will have it to say?

MR. FARMER: I think Mr. Ickes is the present final say about it. I know in the case before the Supreme Court where we wanted to obtain an equitable apportionment of the Colorado River water that the Supreme Court of the United States said very definitely that we were not a party to the contract and that we were out of court. I think the first step we have to take is to go before and secure the approval of the Secretary of the Interior, who is authorized by law to execute such a contract.

MR. SWAN: Do you think that Arizona can be deprived of her rights whether or not we ratify this Santa Fe compact?

MR. FARMER: I don't think Arizona will ever obtain her rights in the Colorado River unless she takes affirmative steps to get them. She has tried litigation four different times, very unsuccessfully. I think the only way she is going to obtain development of the water of the Colorado River and benefit to the state is by taking the steps she

is attempting to take today and by the first step, which I think is the acceptance of this contract.

MR. SWAN: You would not make that as a definite statement that we will not get our water, would you?

MR. FARMER: I am not the Supreme Court, I can't exactly tell you what the Supreme Court will do. I am giving you my opinion.

MR. SWAN: Suppose the Senate does ratify this Santa Fe compact, is that going to be final do you think, or will this remain in controversy again by the opposition?

MR. FARMER: I think if the Legislature accepts this contract and then ratifies the compact, that the next step is up to someone else. I think that will put the burden on the other fellow's foot. As it is, some people of the State of Arizona have been trying to save the river for years. I am in favor of using the water of the river, making it available to our state. I don't know of any way you will do it, I would like to have you point out to me and tell me any plan that you might have that will do this thing.

MR. SWAN: By putting the water to use I think we can get more water if we do that. I think if we sign this contract we will get less water, but if we put the water to use we will get more water, if we do that, than the present signing of this compact will permit.

THE CHAIRMAN: Mr. Swan, do you want to appear before this Committee? If you do, then your statement should be

made when you appear and not in the form of questioning the witness.

MR. FARMER: May I make a statement?

THE CHAIRMAN: Certainly.

MR. FARMER: I would like to say this, that before you can put the water to use you have to get it, and you can't get it out of the river in any way except by taking the steps we are taking. The Federal Government owns the borders of the river all along. I know that under the Enabling Act they were directed or ordered to make a selection and designation of the dam sites and power sites along the Colorado River. I was in the Commissioner's office in 1936 and they showed me the map, and I have the map showing that they made those selections and designations within five years after Arizona became a state, and I know that under the Boulder Canyon Project Act they cannot take water across public land except subject to the permission by the Federal Government. I don't think I ought to go to too much length, but you cannot use the water unless you can get it, and we cannot get it except by the steps set forth in the law of the River, which is the compact and the project act, whether we like it or not.

MR. SWAN: I thank you.

THE CHAIRMAN: We have Senate Bill No. 2 before us, but since Mr. Farmer is here and this is a joint hearing on Senate Bill No. 1 and Senate Bill No. 2, if anybody wishes

to ask a question on Senate Bill No. 1, I think you should do it at this time. Thank you very much, Mr. Farmer.

(Thereupon Mr. Farmer was excused.)

THE CHAIRMAN: The Chair recognizes the distinguished ex-Governor of the State of Arizona, Honorable Thomas E. Campbell, in the gallery, and I will ask the President to escort the former Governor to the floor. The next gentleman to be heard is Mr. Don Scott. Mr. Scott is a well-known engineer and former member of the Arizona Colorado River Commission, and is appearing here in behalf of Senate Bills 1 and 2. Will you please speak first on the ratification of the compact, Mr. Scott.

MR. SCOTT: Gentlemen, I came here primarily as an observer, I didn't come out here particularly with the intention of making any lengthy statement. I think probably I could be most helpful in answering questions, but without going over the ground that has been covered by Mr. Farmer, I would like to point out this one fact that I think was not pointed out, or at least I missed it if it was, that the water that we now have below us and will get by contract and by ratification will be utilized in the State of Arizona; otherwise that water would have eventually have been utilized in Mexico. I think that is probably the predominant reason why the compact should be ratified and the contract approved. There has been a lot of work done on this contract. It is principally a legal document and I think the interests of

the State of Arizona have been very adequately protected, and personally I think it is a far better contract than we could ever hope to get at any other time. I think as time goes on it operates against the rights of the State of Arizona. I think I could be most helpful in possibly answering questions instead of trying to give a statement on the subject.

THE CHAIRMAN: Thank you, Mr. Scott. Does any member of the Senate Committee wish to ask Mr. Scott any questions?

(Thereupon Mr. Don Scott was excused.)

SENATOR BABBITT: I wish to make a suggestion. We have with us Governor Campbell, who has followed this controversy through from the time he was the governor of the state, and I would like to have Governor Campbell's impressions of this contract and compact.

THE CHAIRMAN: Senator Babbitt, I want to thank you for having taken the words out of my mouth. I was going to say that myself. Governor Campbell, we are very honored, and I think the labors we are having to undertake would not be complete without hearing from the man who has done so much for this state in all the years past.

GOVERNOR THOMAS E. CAMPBELL: Thank you, members of the Senate, for this privilege of being with you, although I didn't expect to testify here today or make any statement, but as you all know, I have been very intimately connected for many years with the question before the Senate today.

I am happy to be privileged to live long enough to see what I hope will be its eventual culmination. If I may sit down and just talk with you, not that I am a Senator or anything of that sort, but I think I can probably make it more informal and not vie with those who may follow me or who have preceded me in making an oration.

Just a little history. I chanced to be defacto governor in 1917-- you old timers know about the great contest in that year. In the spring of 1917 I received a communication one day from a man by the name of Arnold Kruckman, who was then Secretary of the San Diego Exposition, inviting all the governors of the West to a Governors' Conference for the purpose of the development of the resources of the Western States. I didn't know Kruckman, and as I had heard from none of the other governors, I just let it slide. I thought it was one of those promotional ideas to get a few governors to the exposition and so I took no interest in it at all. Several days after this I got a telegram from Dr. Rufus B. von Kleinschmidt, then president of the University of Arizona, saying in effect if I was not coming, he was there and he thought it was very important because they were discussing the resources of the seven basin states, and that he would like to represent Arizona. Of course I was very happy to wire him and tell him he was the representative of Arizona. Two governors were there, all the other states were represented, and from that conference came two things, one

was, and probably the most important, the selection of Dr. Von Kleinschmidt-- and if you knew him you know he would always take a prominent part in any gathering of that kind-- he was made president and they had to have a name and they called it the League of the Southwest. That was in 1917.

The war came on, nothing was done in 1917 except to give Mr. Kruckman the privilege to sell memberships so that he in turn could publicize the great, undeveloped resources of this western country and the great menace of the Colorado River. Nothing was done beyond that except that Kruckman, who, incidentally, now is a very important publicist representing the King group, and I read in the paper recently he attended a banquet or dinner given to our own Governor here. He was a promoter and newspaper writer and he had vision. Nothing was done in 1918 or 1919 because we were in the war, and after the war, as many of you remember, the Soldiers' Settlement Act was passed, which was a great reclamation development for the West. It looked as though something was going to be done with this great arid waste land and particularly the Colorado River. May I add at this time that the Reclamation Bureau under Arthur P. Davis had been doing a lot of work on the Colorado River, dam-sites, run-off, possible storage. For what purpose at that time? To save the lands of the Yuma Valley in Arizona and the Imperial Valley in California, because they had been spending millions of dollars annual during the flood periods of the Colorado

River to save those lands. You old-timers remember in 1905 the Colorado River got away and was simply denuding the Imperial Valley, and the result is the Salton Sea of today. It was a great hazard to those people.

Then we found out that Los Angeles, growing by leaps and bounds with the great energy and enthusiasm of that southern section of California, was looking for water. The only supply they had at that time was a part of the Owens River Valley, not too much to grow into a great big city, and they were interested in getting water and power. Where could they get it? The only place in this whole area was the Colorado River, and so they were interested.

The California Edison Power Company, a subsidiary of the greatest power company in the United States, was looking for power and taking all in Southern California to its exhaustion, and they had their eye on the Colorado River. The four northern states, conscious of the effect of prior appropriation and use of water, were also watching it, and when the Kinkead Act was passed allocating \$20,000 for drilling in the Colorado River, they were particularly interested, and the result was that by 1920 a big movement was brought about in Los Angeles. I remember it very well, and six of the seven governors of the seven basin states attended that meeting in 1920. I went there, others were there, and you know an interesting side light on the history of it-- and I hope I am not taking up too much time-- we got very little

interest over there in it, except from the San Francisco Examiner, because Chandler of the Times was not interested in the development of the Colorado River. He was getting along all right and, as you well know, anything that Chandler was for Hearst was against. I remember a man by the name of Joe Timmins, who came to see me and wanted to know all about it. He was a special writer, but even so we didn't have a very big attendance. Even Mayor Snyder of Los Angeles was a little bit skittish about giving it any interest at all until Kruckman, who was an arch-promoter, found out that William Jennings Bryan was at Riverside. He got the great commoner out and he made a 40-minute talk, holding everybody spellbound, not knowing anything about the river, which I find is a very fine thing, not to know too much about any subject-- I didn't know it then.

The interesting thing was, during that period I allowed myself in my weakness to be made president of the League of the Southwest. Kruckman was reelected, but the other six governors were made vice presidents and members of the executive committee to carry on this work to develop the resources of the seven basin states. All was fine and dandy and Mr. Kruckman was made secretary-treasurer, but after we had finished the formal part of this three-day meeting he presented about \$30,000 worth of bills that he as secretary and treasurer had accomplished. Among those was a bill from William Jennings Bryan for \$500, and about \$15 for

coming up from Riverside. We thought he came up on invitation, but at that time he was making his living at that. We had to pass the hat around to the governors and a few others and we made it up. We passed a couple of resolutions at that time that we get together later on in the fall when all the governors could be present, so in 1920-- I remember so well, late in 1920 we met in Denver, Colorado. All the governors were there except California. California has never cared very much about entering into this activity and I don't know a single governor over all these years, two decades, that ever attended a meeting with the other governors or their representatives. They thought they were sitting pretty because of the effect of the law of appropriation and prior right and beneficial use.

We met in Denver and we found out there were many angles to this utilization of the Colorado River. As was stated here awhile ago, and as our Governor stated yesterday, Arizona has never had very much, if any, rights in the Colorado River. Do you know that? It is an interstate stream, an international stream, it is a navigable stream, it is a Federal stream, and do you know, and I know you do now, that when we became a state there was reserved three miles on both sides of the river, the entire public lands so far as use was concerned, for right-of-way. You must know that, it is in the record.

When we got to Colorado we found it out. Up to that

time we were just sort of floating around with an idea. It simply meant if we were ever going to do anything with the Colorado River, that the seven basin states, six with 45 Congressmen, with only one from Arizona and two Senators, we would have to deal with the Federal Government. A lawyer of great prominence in Colorado, whose name you are familiar with, Mr. Delph E. Carpenter, who had been for years employed by the State of Colorado to protect their water interests, presented in most unusual fashion what I just told you about, that we could do nothing except go to the Supreme Court. Arkansas and Kansas and Nebraska had been in court for 15 years, and as far as the distribution of these waters was concerned there was nothing we could do unless we entered into a compact. None of us knew, at least I didn't, that there was a provision in the Constitution of the United States for states to enter into a compact, and I guess the others were as ignorant as I was.

From that floated a resolution that we asked the Congress of the United States for the privilege of considering a compact among the states, and being Chairman of this group of governors and having the urge to travel-- you know in those days I got my reputation and that was one of them-- I went back and it just happened at that time that a man by the name of Harding was president. I knew President Harding pretty well, because as president of the eleven reclamation states I was always being president of those things, I was

young in those days and I took back a couple of planks to the 1920 convention and had them passed, and one was to revive reclamation, and that is when I met the President. In fact, I assisted in writing his acknowledgment of the platform of 1920, written in Chicago, and I am not talking about the smoke-filled room now, he was already the nominee and I wasn't for him because we were all for General Leonard A. Wood.

That is when I met you, Mr. Chairman, and cooled off out at Lake Forest. It was hot that week in Chicago in more ways than one. Your Chairman invited me to cool off at Lake Forest and I certainly accepted his invitation.

George Sullivan of Utah, who was President Harding's advisor on reclamation, and myself wrote his acceptance speech on reclamation and delivered it there. He was tied in to this particular idea, the revival of the reclamation of the western lands, which had died some eight years before because of the opposition of the great middle western states saying there was too much land now in production and that we had a surplus, et cetera, et cetera.

When I got back there as chairman of this august group of western governors, Harding was very enthusiastic about it. Of course, Harding was enthusiastic about anything, he was a kindly whole-hearted man and everybody imposed upon him, maybe I did. I can see him now sitting there in his office. "Sure," he said, "I will write a special message

and recommend this because I believe, as you have told me here, Campbell, that the deeds of Presidents as well as Governors are reflected in physical things rather than in laws." I thought that was pretty good, because I didn't anticipate that he had that philosophy. He said, "You write the message and I will get somebody up on the hill to introduce the resolution." Then he said, "Just a moment, Senator Bureau of New Mexico is running again this year"-- he was appointed to succeed Fall-- and he said, "I think that would be a feather in his cap, I would like to see him introduce it in the Senate." I replied, "I think that is a good political idea, New Mexico is one of the seven basin states" and just as we were talking about it, Congressman Mondell, who was then the minority leader of the House, came in and said he would like to introduce it, and Harding said all right. They both introduced identical resolutions. Mondell, being quicker on his feet, it was passed.

It came on down and the provision was there for the Federal Government to represent, because, as I told you before, the Federal Government controls the Colorado River, don't ever forget that. It doesn't take Supreme Court decisions to tell you that, we have had several of them. They have always controlled it. It is an international stream under treaty, it is an interstate stream, it is a navigable stream, and that is the thing that has been burning me up for 20 years as a resident of this state, who has

lived with this thing. If we don't read and know and understand, whether we like it or not, that is the law of this country. We couldn't agree upon a Federal representative. Every state wanted some man from their own state and we knew how necessary it was to have someone who was impartial and someone who had leadership. Months went by, the resolution had been passed, and I got a wire one day from Harding that he would like to see me in Washington. I thought of course he wanted me to resign as Governor of Arizona and to be Secretary of the Interior, and I thought it was worth the trip. Incidentally, that was the only Federal job I was interested in, although I have had a number. I went back there and Harding says, "I want your advice, yours is the only state of the seven basin states which has not recommended somebody for Federal representative. Here is the list, you are the chairman who brought this thing to me, and now they are riding me on this thing and I want your advice and counsel." I said, "Mr. President, I am conscious of your dilemma and your responsibility. This thing is just big enough that you do not pick any of these fellows that some of the states want, because there is a great big fight in this thing here. We all want all the water in the river, and there just isn't enough to go around. This job is big enough for you to appoint as your representative a cabinet member." He says, "I think that is a good idea. What do you think of Fall?" He was then Secretary of the Interior.

I said, "Fall knows the game, I think he would be all right." He says, "You are going to stick around here for a day or two," and I said, "Sure, I am on the expense of Arizona, subsistence of five dollars a day, and I will do the best I can." The next day, Tuesday-- I have lived with these things and I could give you even the hour that I saw all of them. Tuesday morning the cabinet met, and he suggested that this matter had come up, very important to the various states, that I was there representing them, and he would like to have Secretary Fall be the Federal representative.

Secretary Fall had been disappointed in being in the job he had. He found that a man by the name of Hoover, whom he didn't like very well, had been gradually easing into the confidence of President Harding, and he said, "Well, I think that is an engineer's job, that is another job for Hoover, give it to him." That is how Hoover happened to be appointed, although a very interesting thing, and I shouldn't tell you, but this is probably the only time I shall have an opportunity in an august body of this kind to tell this story.

Mr. Hoover was there and he said, "Well, I know a good deal about it, but I also know that all the various states have recommended some of their own outstanding citizens to be the Federal representative and" he said, "I wouldn't take it unless they wanted me to." This came to me afterwards from Harding himself, he called me in that afternoon and told me what happened. He says, "Do you know Hoover?" and

I said, "I know him, but I don't think he knows me." He said, "Go and see him." By this time I was very gassy as Governor, and I know in Washington, as probably Governor Osborn has found out, and all our former governors, that when the big shots tell you to go and see some other big shot, the thing to do is to have them make the engagement, because when the White House calls up some secretary and on down the line, that Governor Osborn is there and he wants a conference and what hour will be available, it is an order, it works. He had George Christian call up Hoover, told him what time would be agreeable for a meeting with Governor Campbell, Chairman of this League of the Southwest. I went over and saw Hoover. You folks don't know him as well as I do. He shakes hands with you like it was a half warm steak, very enthusiastic. I told him why I was there. He is fast on the trigger, no palaver. He says, "Well, you were talking to President Harding." I said, "Yes, I just came from the White House." He says, "I won't take that job unless I am agreeable to all the states in the basin." I said, "Well, as you know, all the other states except Arizona have recommended someone," and he said, "Yes, I know that, and that is the reason I wouldn't take it unless they all agreed." I says, "All right, I will wire all of them; get me somebody to whom I can dictate wires." I wired all the states that Hoover was available and if they would recommend his appointment, he would accept it. That

was on Monday. In 24 hours I heard from every state, withdrawing their support of their own particular principals, except one state-- and this is historic-- that was California. Hoover was a Californian. Well, I waited until the time to see him, and I went up and saw him and said, "I heard from all the five states, and I recommend you, but there is one state I haven't heard from. I have serviced the message," and he says, "I bet I can guess." I said, "What is it?" and he says, "California." I says, "You are right, what is the matter with California?" He says, "You know Bill Stephens is Governor out there and he doesn't like me." I said, "How about this job?" He says, "Six out of seven, I will take it," and that is how Hoover was appointed the Federal representative of the Colorado River compact.

Then he called all the members of the commissions who had been appointed-- your President Keefe was in the Legislature then, that was in '21, he was speaker of the House-- they designated the State Water Commissioner as Commissioner for Arizona. Mr. Norviel was State Water Commissioner. The other states did likewise, and they met in Washington and Hoover was elected the Chairman. Then they said, "We will take this to the country."

Many of you remember about the first meeting here in Phoenix and on down to El Centro, Los Angeles, Las Vegas, New Mexico. I went with them as far as there because I still wanted to travel, although I was not a member of the

Commission, Salt Lake, Cheyenne, Denver, and much time had been consumed. Millions of words had been uttered, we had it here down in the old Columbia Theater, two or three days for and against and all that sort of thing.

Finally it was decided, as primary day was coming along for election in 1922, and some of the boys had to go back and fix up their fences, including myself, so we decided to have the final meeting after election in Santa Fe. That is exactly how it happens that you have the so-called Santa Fe compact. Why? The Commissioner from Wyoming was a candidate for governor. The Commissioner from Nevada, Scrugham, was a candidate for governor. The Attorney General from Colorado was a candidate for reelection. The representative from Utah, you know of him, Mr. Wallace, was a candidate for state chairman of the Democratic Committee and felt it very necessary to be back there to conduct the campaign. I was a candidate for reelection. We all went our devious ways and let this thing simmer. They were all elected but me. I had just returned to normalcy in Arizona, you remember that. Well, Governor Hunt took me to a trimming and was elected, but I attended the Santa Fe conference and was up there for about twelve days. I left a couple of days before the compact was signed with the understanding that Mr. Norviel and Judge Sloan, whom he had retained as his legal advisor, would remain. I thought it was a good thing to get away because we were fighting on the proposition of the million

acre feet from the Gila River. I told them unless they gave us that million acre feet it was all off so far as Arizona was concerned.

We had a very prominent partner in this at that time. You get the story, I am starting out as Governor-- coming on down the line-- all six states were watching California because California was on the river, it had the Imperial Valley, it had the prior appropriation, it had the money, and it had the votes in Congress, and so it was decided I better pull out. I came home and it was signed with the million acre feet allocated to the Gila, so I have always been conscious that we were always going to get that eventually. So that, very briefly, with one or two interludes, is the history of how the compact was signed.

I think I should add before I leave this very comfortable seat in this august body that Governor Hunt took me to a trimming in 1922, as you remember, and he would be the Governor of this state when it had to be, under the provisions of all these acts, ratified by the Legislature. I remember getting to Santa Fe on November 9th, my tail feathers drooping, because I say to you men here in all sincerity as one who has lived all his life here and has everything here that one possesses, and not much except a family, that the only time in the real interest of Arizona and its future that I should have been elected Governor of this state was the year I was defeated, because you know, friends and Senators, had I been

reelected in 1922, there is no question in my mind that that legislature in 1923 would have ratified the Santa Fe compact. In the position we held then with the other five northern states, California always opposed, we would have accomplished the job. The hundreds of millions of dollars that have been expended in these years for the development of California with the pittance toward Arizona would have been expended in this state, and we, as the Governor said yesterday, it is Federal money, we would have been enjoying that same development and the great power. Absolumentemente, as they say on the border, and so I say to you the only time it really was of real value to the State of Arizona in its constructive growth that I should have been elected Governor was the year I was defeated, so I always look upon that as one of the dark spots in this hectic life.

When I got to Santa Fe, I met Hoover and he said, "Well, too bad you weren't elected." That was pretty good for him, knowing him as I did then and since. I said, "Well, that is the fortune of war," and he said, "Well, what do you think of this telegram?" Here was a telegram to Governor-elect Hunt requesting him because of the importance of this final meeting of this Commission to attend the meeting at Santa Fe, or, if that was impossible, to send a representative. The next day the Governor wired in effect, "I am too busy to attend personally, because I am preparing to take over my new responsibilities as Governor-elect of Arizona." I have

a copy of that. "I don't know anything about the Colorado River compact or its commissions. I believe every tub should stand on its own bottom and I do not intend to put another feather in Tom Campbell's hat." That was the reply. That didn't satisfy Hoover, and we talked about it and were conscious of the fact, and so he wired him again, and the Governor wired back designating George H. Maxwell as his representative. It just happened that two or three days before that, Mr. Maxwell, as representative of the United States Reclamation Association, had appeared before this Commission which was in formal hearing and had opposed any compact based upon the fact that the Supreme Court of the United States was the place to go to divide the benefits of any interstate or international stream, as had been done in the case of Colorado and Arkansas, and Mr. Maxwell had gone home and left a brief there, which is part of the record. It just so happened, a couple of days after the second wire from Hoover to Governor Hunt in which he designated Mr. Maxwell, that Maxwell got to Phoenix that day, never returned, never appeared again, and that is the story, the true story of what occurred at that particular time.

So endeth the chapter. You know better than I do what has happened since that time.

Mr. Chairman, I do thank you for allowing me to take up your time. As you see, I am sentimental about this matter, and my hope is, as I said the other night, that a dream will

come true, a child of part of my conception will be fully clothed under the leadership of another native son. Thank you very much.

(Applause.)

SENATOR HENNING: Mr. Chairman, I would like to be sure that you have that transcribed and that it be placed in the archives of the State Senate. I think it should be preserved for record in the history of Arizona.

THE CHAIRMAN: That will be done, and the Chair would like to say that we would have lacked a great deal in considering the legislation that is before us if we had missed the history that was given to us in such an effective, dramatic and personal way by our distinguished ex-Governor Campbell, for which we are extremely grateful. Now, Mr. King, do you wish to be heard?

MR. KING: If you please.

THE CHAIRMAN: Will you give us your name?

MR. KING: Dan S. King.

THE CHAIRMAN: Your residence?

MR. KING: 340 North Fifth Avenue.

THE CHAIRMAN: Your occupation?

MR. KING: Prospector. I consider it a great privilege to be allowed to appear before the rich and powerful and make a plea for the poor man, because the prospector and the farmer and the laborer-- and I plead not only for myself, but for that mute inglorious multitude of poor men who will be

terribly disappointed and terribly injured if this crime or error, I don't know which, succeeds. I have written a letter to the Secretary of the Interior, and it expresses my opinion and I will read what I sent to him. If I had had time I would have perhaps edited it a little bit and taken a little of the Irish out of it, but it was just handed to me a few moments ago. (Reading)--

"January 28, 1944. Phoenix, Arizona. Harold L. Ickee, Secretary of the Interior, Washington, D. C.

"Dear Sir and Friend: The people of Arizona have always believed you to be an honest man of rugged, incorruptible Theodore Roosevelt type.

"If we are correct, you will not sign a 'secret' contract with that self-seeking Osborn of the Judas Iscariot, Benedict Arnold type. I believe in open covenants, openly arrived at. Osborn has never published the contract he seeks nor told the people his plans, nor how he intends to carry them out. He never said a word of this in his campaign, but is now trying to play the "superman" and make a little Hitler out of himself and steal our most precious inheritance and give it to the power trust to get wealth and power for himself. Such an important matter should be voted on by the people before you should even consider it.

"In case you should do such an unthinkable and catastrophic thing, we will fight it to the last ditch in the courts, and I do not believe that even a supreme court (handpicked

for 'yes' men, but still Americans) would rob us of our inalienable rights without due process of law.

"The only possible reason for such a monstrous criminal act would be political under the delusion that Osborn is a powerful 'Duce,' who can deliver Arizona to the fourth term and the Democrats in the next election. This would be a great mistake and would possibly deliver the state to the Republicans.

"A great many Democrats are indulging in violent talk while I, being Irish, have already acted and changed my registration from Democrat to Republican. I do not believe that Almighty God would permit such a robbery of the least of these without retribution. If he destroyed Ahab and Jezebel for robbing a poor Galilean peasant of a little vineyard of a few acres, he cannot look with tolerance upon a monster who would take what would make happy homes for thousands of people, many of them returned soldiers and widows of those who have made the supreme sacrifice, but will thrust in his cycle and reap the grapes of wrath and thrust them into his winepress.

"I belong to the lowest stratum of society and have little political influence, but what little I have, I lay upon the altar of sacrifice to the service of God and man and the State of Arizona and the government 'of the people, for the people, and by the people.' And may it always be more and more by the people. I have enlisted under the

banner of the People and will fight the Fascist abroad or at home (the worst ones for us).

"Your friend, and I hope you will be mine.

"D. S. King, 340 N. 5th Avenue, Phoenix, Arizona."

THE CHAIRMAN: The Chair would like to say that he is very glad to have heard Mr. King. He is a living example of democracy at work where a man can say what he pleases, even though others do not agree with him. Before we proceed, the Chair is pleased to announce the presence of the Governor of Arizona in this room.

MR. KING: All this talk that is going on here about Government land, if you will allow me to talk as the common people do, it is all pure poppycock. I have probably made more applications for water than any man in Arizona and prepared the plans and specifications, and we have never had a particle of trouble about getting rights-of-way for irrigation projects. The right belongs to the state. I was also an engineer in the Reclamation Service and the first thing we did was to get our lawyers out and get the right from the state, and, gentlemen, don't let anyone ever tell you that the state don't have the rights. Of course, as the ex-Governor told you, the Colorado River is a navigable stream, it is part way, yes, up to Boulder dam, but up above it is not a navigable stream. You can take water out of there any time and they are taking it out. I got into an argument with the Receiver of the Land Office and he says, "I will show you that they are taking water out,"

and he cited cases and told me who it was and where they were located, and so on. I says, "Hold on, Mr. Receiver, you made a mistake, you have gotten on the wrong side. That shows we are taking water out right now, whenever we make an application for it." After that, he wouldn't say a word.

Gentlemen, you have no idea how intensely the common people feel, and if they get woke up on this subject something is going to happen. I have talked to a good many men since the thing started, and about nine out of ten told me they were ready for anything, and to follow my example in registration if necessary, that this was a crime that they would not soon or easily forget. I don't like to talk in public, I am not accustomed to it. I am used to talking before the I. W. W.'s and places like that, but my Irish is just too much interested, I have too much sympathy, I want to follow the man who gave his life for humanity, and I want to do something for mankind and for the poor people of Arizona and for these lame men who are coming back. They could all have 20 acres of land and have it irrigated if they wouldn't sign this nefarious compact. I have surveyed thousands of acres of it here, the finest land the sun ever shown on, here in Paradise Valley and Deer Valley and between here and Tucson, all these wonderful valleys, and besides that, it was not necessary and it is not necessary for you gentlemen to sign this compact, to do anything. It is absolutely unnecessary. This contract would have been all right and they could just as well left out that part about

signing the compact. If you will put this off a year or so and let the people vote, and tell them about it, it won't hurt anything, but if you put it over now and it is confirmed by the courts, you will have something that will be an injury to every man in this audience.

THE CHAIRMAN: Thank you, Mr. King. Does anyone wish to ask a question of Mr. King? Thank you very much, sir. The Chair recognizes Mr. Charles L. Strouss, distinguished attorney of Phoenix, Arizona.

MR. STROUSS: Mr. President and members of the Senate: It has been some time since I had any intimate connection with the Colorado River matter. About eight years ago I was associated with James R. Moore as attorney for the Colorado River Commission. During that time we had one of the cases in the Supreme Court, which was unsuccessful, as were the other cases, in attempting to establish rights which we thought this state had other than under the compact or the Colorado River Project Act. My work on that case of necessity required that I study into the rights of this state, the rights under the law of the state to acquire water other than under the Colorado River Project Act or the Colorado River Compact. From my study I became convinced there is no way in which this state can get any water except by a contract with the Secretary of the Interior under the Colorado River Project Act and by ratifying the compact. At that time I studied the compact and I could find no disadvantages to this state in ratifying the compact.

With Mr. Moore I made a report to the Commission at the end of our period as attorneys, in which we analyzed the compact as we saw it and recommended that the compact be ratified, and gave our reasons for it. That has been eight years ago.

I would not attempt now to try to tell you in detail the reasons that we gave, because I haven't kept up with the question since that time, but the opinion is in writing and the Commission has it, which states why we thought at that time the compact should be ratified. As I have said, I don't think there is any possible way that any water can be taken out of that river for use by this state except by contract with the Secretary of the Interior. I think the attorneys here in the Senate who have read the decisions of the Supreme Court must be convinced that that is true, because every possible question and every possible contention on the part of this state as to a right to take water other than through the compact was presented in the different cases that were before the Supreme Court, and I think the decisions of the Supreme Court have clearly determined that there is no possible way for us to have the advantages of the water of that river except by a contract such as has been negotiated. I have to some extent since that time kept in touch with this thing in consulting with Mr. Carson in his work. When the present contract was in the progress of formation, I discussed it with him. He left with me a copy of the contract and I examined it and I think the contract is a fair contract to this state and will be of great benefit

to this state. I think that is about all I can say to you. I am only speaking from a lawyer's standpoint and from what I have decided for myself from my study of the question in the time that I was connected with the Commission.

THE CHAIRMAN: Thank you very much. Senator Babbitt?

SENATOR BABBITT: There are several questions that have been brought up regarding this contract and I think it would be well to go into them at this time. Mr. Strauss, the contract makes no provision for the exclusive water of the Gila River from the 2,800,000 acre feet allocated to Arizona. What effect, in your opinion, would that have on this 2,800,000 acre feet. Would that amount be charged against that?

MR. STROUSS: I don't believe so. I don't believe it is chargeable against the 2,800,000 acre feet. That has always been a matter of dispute, but I feel quite positive that will not be a charge against the 2,800,000 acre feet.

SENATOR BABBITT: In any event, the amount of water that has been used of the Gila River could not possibly be charged against that, could it?

MR. STROUSS: I don't think so.

THE CHAIRMAN: Does anybody else wish to ask a question of Mr. Strauss at this time? Thank you very much, Mr. Strauss.

(Thereupon Mr. Strauss was excused.)

THE CHAIRMAN: I will ask Mr. Carson to be kind enough

to appear before the Senate Committee. The Chair would like to state not only should a great deal of credit go to Governor Osborn for having accomplished something which we did not believe was possible, but I think the Governor himself mentioned in his speech that some very, very exceptionally fine work was done by the attorney for the Colorado River Commission, Mr. Carson, whom we are very happy to have here today.

(Mr. Charles A. Carson presented himself before the Committee.)

MR. CARSON: Mr. Chairman, ladies and gentlemen: This contract has been worked out in accordance with the act that you passed in the last session of the legislature under the leadership of Governor Osborn and the members of the Colorado River Commission. We have had assistance in working it out from members of the Commission, the Governor, our two United States Senators, Hayden and McFarland, Lewis Douglas, John Mason Reas, John L. Gust, Charles B. Ward, my partner, Gene Cunningham, and particularly also Mr. Hugo Farmer, a former member of the Commission, Mrs. Nellie Bush, a member of the Commission, Henry Wright, Alma Davis, and in Washington there were also there at the hearing or helping us outside Lewis Douglas, Mr. W. W. Lane, Tony Van Wagener, and the people who happened to be in Washington from Arizona at that time.

We had to proceed as we saw it through the Committee of Fourteen, which represents all of the basin states, and we had very great help from the representatives of all the basin states with the exception of those from California. We had their continued opposition at every phase of these negotiations. We had very great help from the engineers and lawyers of the Bureau of Reclamation, the Solicitor's Office of the Department of the Interior, and the entire personnel of that department concerned with such matters.

I think we have worked out a contract which does provide for Arizona all of the water that is available from the main stream of the river under the terms of the Colorado River Compact and the Boulder Canyon Project Act, and that it is fair, just and equitable. I think you all have copies, you know its provisions. I think they are plain and clear.

I also think it is very essential for Arizona that this contract be ratified as soon as possible and that the Colorado River Compact be ratified as soon as possible. In my judgment there is no other way that Arizona can get water out of the main stream of the Colorado River under any circumstances known or unknown, or foreseeable or predictable.

This contract provides in its terms that the Secretary of the Interior will deliver from the apportioned water at Lake Mead a maximum of 2,800,000 acre feet of water for use in Arizona, and in answer to your question to Mr. Strauss,

Senator Babbitt, this contract relates solely to main stream water and there is no obligation on the part of the Secretary, nor does he have authority to contract for the delivery of any water from our tributaries, nor do we by this contract submit those tributaries to his jurisdiction. They remain ours.

The Boulder Canyon Project Act provides that nobody can get water from Lake Mead except by contract with the Secretary of the Interior, and his authority under the Act is limited to the water stored at Lake Mead. It is for that reason we wrote in this article 7 (1), which you will see there provides that, "Nothing in this contract shall preclude the parties hereto from contracting for storage and delivery above Lake Mead of water herein contracted for, when and if authorized by law." The reason we had to do that was because his authority under the Act is limited to Lake Mead, but the Bureau engineers and lawyers and all of us realize that when and if engineering data can be gathered which justifies diversions above Lake Mead, it will take an Act of Congress to authorize the construction of the dams in the bed of the river, so this makes it clear we can do that.

Senator Babbitt: May I interrupt with a question?

THE CHAIRMAN: Senator Babbitt.

SENATOR BABBITT: Paragraph 13, "Agreement subject to Colorado River Compact. This contract is made upon the express condition and with the express covenant that all

rights of Arizona, its agencies and water users, to waters of the Colorado River and its tributaries, and the use of same, shall be subject to and controlled by the Colorado River Compact."

MR. CARSON: Yes, but the Compact gives the Secretary no rights as to any tributary. That is a provision that is required by the Boulder Canyon Project Act to be written into this contract. It is written in all of the Secretary's contracts. It does not subject the tributaries of Arizona to the jurisdiction of the Secretary at all.

SENATOR d'AUTREMONT: May I ask a question?

THE CHAIRMAN: Senator d'Autremont.

SENATOR d'AUTREMONT: Not even the tributaries above the dam?

MR. CARSON: No, the only provision in here where the tributary above the dam, the Little Colorado, it is provided in this contract that the obligation to deliver water at or below Boulder Dam shall be diminished to the extent that consumptive uses now or hereafter existing in Arizona above Lake Mead diminish the flow into Lake Mead.

Section 13 (c) provides as follows: "Also all patents, grants, contracts, concessions, leases, permits, licenses, rights of way, or other privileges from the United States or under its authority, necessary or convenient for the use of waters of the Colorado River or its tributaries, or for the generation or transmission of electrical energy generated

by means of the waters of said river or its tributaries, whether under this Act, the Federal Water Power Act, or otherwise, shall be upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, convenient, or incidental, and the use of the same shall likewise be subject to and controlled by said Colorado River Compact.

"(d) The conditions and covenants referred to herein shall be deemed to run with the land and the right, interest, or privilege therein and water right, and shall attach as a matter of law, whether set out or referred to in the instrument evidencing any such patent, grant, contract, concession, lease, permit, license, right of way, or other privilege from the United States or under its authority, or not, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, and the users of water therein or thereunder, by way of suit, defense, or otherwise in any litigation respecting the waters of the Colorado River or its tributaries."

Under Section 8 of the Act, "The United States, its permittees, licensees, and contractees, and all users and appropriators of water stored, diverted, carried and/or distributed by the reservoir, canals, and other works herein authorized shall be observed and be subject to and controlled

by the Colorado River Compact." So that is the provision that is required by the Act to be in the contract.

SENATOR BABBITT: I understand that, Mr. Carson, that it is required to be in the contract, but it would seem to me that would subject the tributaries to Federal jurisdiction at least as far as unused portion of the Gila River is concerned.

MR. CARSON: No, it will not subject the tributary to the jurisdiction of the Federal Government at all. Of course, the definitions of the Colorado River Compact, to which this refers, are broad enough to include all the tributaries and does include in the definitions of the Compact the word "tributaries," but we contract only, and the Secretary has jurisdiction only, over the water stored at Lake Mead or other reservoirs such as the Federal Government may build.

SENATOR BABBITT: That 2,800,000 acre feet, if it is taken out below Lake Mead, must come from the main stream in order to be chargeable against that 2,800,000?

MR. CARSON: That is right.

SENATOR BABBITT: If it comes from above Lake Mead and is taken out of the tributaries, then it is chargeable against the 2,800,000 acre feet?

MR. CARSON: That is right, but it does not interfere with anybody on the Little Colorado to appropriate all the water of the river. The only effect their appropriation would have would be in so far as it could be shown that that

use on the Little Colorado diminished the flow into Lake Mead and the corresponding obligation of the Secretary to deliver below Lake Mead would be reduced by that amount.

SENATOR BABBITT: There is one other question, just to calify this matter of dispute and disagreement of the arbitration clause. This provides in effect that where two arbitrators cannot pick or select a third arbitrator, the senior judge of the United States Circuit Court of Appeals for the Tenth Circuit should serve. What states does the Tenth Circuit comprise?

MR. CARSON: Not California. It was at my request that we did not put it in the Ninth Circuit. The Tenth Circuit Court of Appeals sits in Denver, Colorado, New Mexico, Montana, North Dakota and South Dakota.

SENATOR BABBITT: Do you know the senior Judge at the present time?

MR. CARSON: I think it is Judge Brattan, but I am not sure. There was a question there, there was a request made that it be the Ninth Circuit, and I insisted that it not be the Ninth Circuit.

SENATOR BABBITT: I think that was very good.

THE CHAIRMAN: Senator Richards.

SENATOR RICHARDS: Isn't the judge of the Eighth Circuit Judge Wilbur?

MR. CARSON: No, that is the Ninth Circuit.

SENATOR D'AUTHEMONT: Mr. Carson, did I understand in

Article 7, it says, "Delivery of water. The United States shall deliver and Arizona, or agencies or water users therein, will accept under this contract each calendar year" and so forth, that is the Government agreement that they will deliver and Arizona agencies or water users will accept?

MR. CARSON: Yes.

SENATOR D'AUTREMONT: Coming down to page 6, we have here subdivision (1) of paragraph 7, which says, "Deliveries of water hereunder shall be made for use within Arizona to such individuals, irrigation districts, corporations or political subdivisions therein of Arizona as may contract therefor with the Secretary." Now, am I right in this, this water belongs to the Federal Government. They agree to deliver to Arizona or its agencies 2,800,000 acre feet of water?

MR. CARSON: Yes.

SENATOR D'AUTREMONT: But before Arizona or the Colorado River Commission or the Water and Power Authority or yourself as an individual could get any water, you have to make a contract with the Secretary.

MR. CARSON: Except as to present perfected rights, that is true. This is a master contract and the other contracts will be subsidiary to this.

SENATOR D'AUTREMONT: So the water remaining still up there in Lake Mead, the property of the Federal Government, the obligation is simply that they will deliver that much to

us upon making a satisfactory contract with the Secretary.

MR. CARSON: That is right.

SENATOR D'AUTREMONT: Now, we want to set up a power and water authority and we vest that authority with jurisdiction over the waters of Arizona. That would not bind the Secretary from making contracts with an irrigation district regardless of our water authority being vested with all the powers, would it?

MR. CARSON: No, I don't think it would.

SENATOR D'AUTREMONT: No matter what we do under a water authority, we still cannot assume jurisdiction of 2,800,000 acre feet of water. We still must go back to the Secretary through the Reclamation Service to get water for Arizona.

MR. CARSON: Yes, I think that is a fair statement, Senator, that this contemplates there will be subsidiary contracts under this. It provides further, "as may qualify under the Reclamation law or other Federal statutes," which means that the Reclamation law requires that they conform and comply with state laws in the appropriation and utilization of water. If you wanted to turn this over for administration to a state water and power authority, there would be nothing to prevent your doing that. In the absence of such an authority with exclusive power to handle, I take it the Secretary can go ahead and make contracts with irrigation districts or other persons who have established under state law a right to the use of that water, and it binds him to deliver this quantity

of water to people in Arizona who have a right to use it.

SENATOR D'AUTREMONT: My point is that the Secretary has the right to contract with whomever he sees fit, regardless of what Arizona might set up as its authority.

MR. CARSON: No, provided they have complied with all of the Federal reclamation statutes, which takes with it a compliance with state law.

SENATOR D'AUTREMONT: I don't think I made myself clear. Does the Secretary have the right to deliver water, say a million acre feet, to the Flat Land Irrigation District regardless of the fact that a water and power authority would say, "We don't want you to."

MR. CARSON: Oh, no.

SENATOR D'AUTREMONT: Why not?

MR. CARSON: Because if you have a state water and power authority, which you would design to completely administer this, then you would provide in your act I suppose that nobody could get it except through that state water and power authority.

SENATOR D'AUTREMONT: Why does that bind Mr. Ickes when it says here-- suppose he says, "I don't want to give the state water authority 2,800,000 acre feet, I will give you one million, I want give you all of it."

GOVERNOR OSBORN: Because the Reclamation Law provides it must be done in conformity with the state law.

SENATOR D'AUTREMONT: Say that again.

MR. CARSON: Because the Reclamation Law provides that the Bureau of Reclamation must comply with state law relating to the appropriation and utilization of water. This provides that these deliveries would be made to these agencies who comply with the provisions of the Reclamation Law, which law is required to be in compliance with the state law.

SENATOR D'AUTREMONT: Then by setting up a water and power authority we can compel Mr. Ickes to deliver all the 2,800,000 acre feet of water to that authority.

MR. CARSON: Yes.

SENATOR D'AUTREMONT: Thank you.

THE CHAIRMAN: Does any other member of the Senate wish to ask a question of Mr. Carson?

SENATOR BABBITT: I would like to know how much water is surplus water, how much has been estimated to be surplus water?

MR. CARSON: Engineers estimates vary on that a great deal. I can explain it in this way, this 2,800,000 acre feet of water under Article 7 (a) of this contract is a maximum. That is arrived at in this way, the Compact provides that the upper states deliver at Lee's Ferry seven and a half million acre feet a year with the permissive use of Nevada, for which they have contracts, of 300,000 acre feet, California, 4,400,000 acre feet, which leaves 2,800,000 acre feet for Arizona on the water deliverable by firm commitments at Lee's Ferry. Now, this contract and the ratification of the

Compact do away with all disputes between all of these states and Arizona, except California. It does not entirely foreclose California's position, nor can the Secretary undertake to do so. That is controlled by the construction of the Compact, the Boulder Canyon Project Act, and the California Limitation Act. In my judgment, this means 2,800,000 acre feet. I think if California ever brought a test, we would be O. K. and would prevail in that position.

The crux of the California dispute with us is this, their limitation says they are forever limited to 4,400,000 acre feet of the water apportioned by Article 3 (a) of the Colorado River Compact, plus not more than one-half of the surplus. Article 3 (b) of the Compact also, in our view, apportions to the lower basin an additional million acre feet. Governor Campbell will remember that was written in there to compensate for the inclusion of the Gila, but California from the time it was signed refused to make that tri-state agreement and still refuses to make such agreement, and now contends that the million acre feet under Article 3 (b) is unapportioned water and hence they can use half of it. So it may be possible sometime, if they ever bring that suit and should by any chance prevail-- and I am sure they cannot prevail-- then they might reduce that 2,800,000 to 2,300,000 acre feet. Then the balance of the water that would be in the main stream of the river would be surplus. I have to come at it that way to say what the surplus would be. Taking my

estimates and figures of the water that will be available when the upper states have reached their full development and utilized all the water they can of their apportionment, I would say that the upper states cannot, in my judgment, use more than 5,000,000 acre feet of their apportionment, and there was in the river and I think is still in the river, although some of these recent reports have led some people to conclude that the river was over-estimated at the time of the Compact, I think it is still safe to figure there was 1,600,000 acre feet in the river that was unapportioned as between basins.

The Mexican treaty has now been signed and sent to the Foreign Relations Committee of the United States Senate. The State Department is not authorized under their procedure to publish that treaty. If it is published, it will be published by the Foreign Relations Committee of the United States Senate. I am reliably informed, however, that that treaty provides that the United States will deliver to Mexico a million and a half acre feet per year and limits forever Mexico's claim of right to that amount, a million and a half acre feet a year, no matter how much they might annually use prior to the full utilization of the river in the United States. That puts a ceiling on their possible claim or demand. The engineers advise me that the return flow at the border, the upper boundary and the lower boundary on the river, the Mexican boundary, when all of the water of

that river is diverted and used in the United States, every drop of that return flow at that border would be between 800,000 and 1,000,000 acre feet, which we couldn't pick up and use in the United States at all, and that that will go as a credit against that 1,500,000 acre feet. From the 4,100,000 acre feet you would deduct a possible Mexican use of 750,000 acre feet.

SENATOR BABBITT: That would leave 3,350,000 acre feet to be divided equally--

MR. CARSON: Of which we would get half.

SENATOR BABBITT: (Continuing) --between California and Arizona.

MR. CARSON: Less one-twenty-fifth that we agreed might be used in Nevada. That will make somewhere around four and a half million acre feet that would be usable in Arizona with the 2,800,000 acre feet apportioned water if my estimates on their possible use in the upper basin states is borne out, that it would not exceed 5,000,000 acre feet.

SENATOR BABBITT: That would make over 4,000,000 acre feet.

MR. CARSON: About 4,500,000 acre feet, that is the way I calculated it. That may be a long time developing. I don't know how rapidly it will develop, it depends upon a lot of physical factors and the ultimate utilization of water in the upper basin, as well as our own ability to get it out and get it on the lands.

GOVERNOR OSBORN: In addition to that, there will be a return flow which will add to this amount of surplus.

MR. CARSON: Yes, I was using the figure of 5,000,000 as their beneficial consumptive use, which of course would permit their original diversions of somewhere around 7,000,000 acre feet. There would be about that much return flow, 2,000,000 acre feet return flow if they diverted their full 7,500,000 acre feet.

SENATOR BABBITT: That would mean roughly that Arizona with this return flow could irrigate approximately a million and a half acres of land.

MR. CARSON: I should think so.

THE CHAIRMAN: The Chair recognizes Senator Fain.

SENATOR FAIN: Mr. Carson, throughout the Compact and all of the articles to date on the Colorado River, the tributaries have been ignored, have they not?

MR. CARSON: Yes.

SENATOR FAIN: Is it possible any time in the future that further development in the upper basin could go to the extent and not be restricted whereby our flow would be cut down below 2,800,000 acre feet? There is no restriction to prevent that, is there?

MR. CARSON: Yes, it couldn't be cut down except as I see it, Senator Fain, by the possible success of California's interpretation of their limitation, the Boulder Canyon Project Act and the Colorado River Compact, as I say, and I

don't believe there is any chance of their succeeding in that if they ever undertake it. The reason I say it cannot be cut down is because the upper states, under the Compact, agree to deliver at Lee's Ferry seven and one-half million acre feet a year.

SENATOR FAIN: On the other hand, the tributaries in the individual states are not controlled, and if this water was put to beneficial use in the tributaries before it arrived in the Colorado River, would there be any jurisdiction to enforce that delivery of water?

MR. CARSON: No, that is a state obligation. That obligation to deliver at Lee's Ferry binds each of the upper basin states, all of them, that if any of the tributaries flowing in above Lee's Ferry, that their delivery at Lee's Ferry shall not be less than seven and a half million acre feet a year, averaged over a ten-year period. The Secretary of the Interior has no jurisdiction over their tributaries.

GOVERNOR OSBORN: Mr. Chairman, the explanation of that is, even if the upper basin states were using all the water they could use, they have to deliver the entire seven and a half million acre feet at Lee's Ferry, even if they have to diminish their usage.

MR. CARSON: That is right, it amounts to a treaty obligation.

SENATOR HENNING: Mr. Carson, what are the lowest estimates as compared with the 15,000,000 acre feet? What

is the average lowest? Twelve or 13 million?

MR. CARSON: About thirteen. When they say that 13 million acre feet, as I understand it, Senator Henning, they have taken these recent dry years and have failed to add to that 13 million acre feet the present uses in the upper basin, which amount to about 2,600,000 acre feet.

SENATOR D'AUTREMONT: Mr. Carson, do you know where the United States will guarantee to deliver the one-half million acre feet at Mexico?

MR. CARSON: At the boundary. I am reliably informed, Senator D'Autremont, that the terms of that treaty will provide that not more than 500 cubic feet per second will be delivered through the All-American Canal up until the year 1980, and that then that will be cut down to 375 cubic feet per second. Then it provides, so I am informed, that the water deliveries will be made in accordance with the annual schedules submitted by Mexico and provides a floor on those demands that Mexico is authorized to submit in five months of the year of 900 cubic feet per second, and in seven months of the year 1,500 cubic feet per second, and provides that the United States will get credit against that apportionment of all water arriving at either the upper or lower international boundary line, both of which are below the intake of the All-American Canal, and it cuts down present deliveries through the All-American Canal in order that we might get credit for the return flow. That 900 cubic feet per second

through five months and the 1,500 cubic feet for seven months would give us credit, roughly, for a million acre feet of return flow. The California interests are fighting that treaty; in my judgment it is a very valuable treaty for Arizona. I think this is true, the Imperial Irrigation District in California built the All-American Canal over-size from Imperial down to and including Pilot Knob power plant site, and dropped the waste-way over-size to the extent of 3,000 cubic feet per second, which figures out to be a little better than 2,200,000 acre feet a year. They planned to take that water through the All-American Canal, generate power with it, and sell the water to the Mexican users at a dollar an acre foot and put the water on the Chandler lands. This treaty eliminates the possibility of that, cuts down the Mexican demand, and eliminates it further by providing that the United States will take over, own, control and operate the All-American Canal from Imperial down to and including the Pilot Knob waste-way, and it saves to the United States a lot of water. Potentially, Mexican lands could now use a great deal of water because there is now going down the river, and will for some time, to Mexico before full development is reached in the United States, probably some 8,000,000 acre feet of water a year, so this puts an over-all ceiling of a million and a half acre feet.

I was concerned in the international aspects of this situation with the possibility that Mexico might build up a use over a period of years and then seek to arbitrate on

the quantity of water it would obtain. That is when I found the provisions of the present inter-American treaty of arbitration which was signed in 1929 on behalf of the United States by Mr. Hughes and Mr. Kellogg and ratified by the Senate of the United States in 1935, and is now in full force and effect. I became more concerned about that possibility which would bind the United States to arbitrate in case that provision were ever invoked. We are already bound to arbitrate, and the provisions of the treaty setting up a court of five are in my judgment not very decisive to a hopeful result. The United States had agreed that whatever they finally concluded, would be final, binding and without appeal, so it is a question in my mind of trying to cut off the Mexican right, trying to get this contract to protect Arizona and get in under the Colorado River Compact for the protection it affords in this situation, and that is this: If you could imagine it would ever be possible for Arizona to get water out of the river without a contract or without ratifying the Colorado River Compact, relying solely on our own law of prior appropriation-- which in my judgment we cannot lawfully or legally do, or do for economic reasons-- we cannot get anywhere there with expensive projects except with the cooperation of the United States, and unless we do this we would have in the future as we have had in the past, the continued opposition of all the other states of the basin, with resultant political defeat in Washington. Even if you

would assume all that would be unfounded and we would be able to get it out and rely solely on our own law of prior appropriation, under our own law of prior appropriation we would be inferior and subordinate to the Mexican claim for water and all of the California contracts with whatever water we might later get. Arizona needs now in my judgment the protection of the Compact more than any other state in the basin. We have no rights established, we haven't been able to establish and we cannot establish them until we get a contract with the Secretary. We have been denied access to the courts in an equitable apportionment in the case brought by Mr. Moore and Mr. Strouss, and they have said you have no standing unless you have a right, and you have no right unless you have a contract. California tried to say to the United States that the United States couldn't contract with us because California wouldn't agree to a tri-state compact. They still will not agree to a tri-state compact. They say because we won't agree to a compact, "the United States cannot contract with you and there is no way you can get water, you can't get into court and get it, and you can't get it from the United States because we won't agree to the compact that Congress indicated they desired us to make." Hoping that this water would continue to flow by Arizona through the All-American Canal to the enrichment of the Imperial district and to the lands in Mexico, they then would say, "It is too bad, that water has gone to Mexico and there is no

water in the river for you." That is what we have been up against, and the only way I can figure to break that to get a right secured on a parity of 2,800,000 with the 4,400,000 in California, with the parity as to our half of the surplus with half of the surplus available in California, is to go this route, get this contract and ratify the Compact. When we do that, whatever is necessary to be let out of Boulder Dam to supply the Mexican demand, which has been so greatly reduced, will be chargeable half to us and half to California. Otherwise, it would be all chargeable to us, and all of California's contracts would be prior and superior to any right we might establish.

SENATOR BABBITT: How much water is Mexico using out of the Colorado River at the present time?

MR. CARSON: Last year they used between 1,700,000 and 1,800,000. This cuts them down.

SENATOR BABBITT: Then they would actually be getting less than they are now using under this treaty.

MR. CARSON: I think they have done an excellent job.

THE CHAIRMAN: Mr. Carson, the Chair wishes to thank you on behalf of the Committee for your very thorough explanation of both bills and for the very diligent work you have done. I want to compliment both you and Governor Osborn for having achieved so much in Washington.

The Chair will now hear from Mr. Moore.

(Mr. James R. Moore presented himself before the Committee.)

THE CHAIRMAN: Mr. James R. Moore, attorney of Phoenix, Arizona, and former attorney for the Colorado River Commission.

MR. MOORE: Mr. Chairman and gentlemen: For about two years I made an intensive study of various phases of the Colorado River controversy and with Mr. Sullivan and Mr. Strouss we filed a suit in the Supreme Court of the United States seeking an equitable apportionment of the water between the various states. As Mr. Carson stated, they threw us out of court on the ground we had no status as to water in Lake Mead in the absence of a contract.

To begin with, I want to state that I agree with everything that Mr. Carson has said. I further state that for 20 years I have been in favor of ratification of the Colorado River Compact and proceeding along the same line you are doing now. When our work was completed in 1936, in our report to the Colorado River Commission we made a recommendation that Arizona proceed to obtain a contract with the Secretary of the Interior and that contract be conditioned upon the ratification of the Colorado River Compact for the reason that we had no chance in the world to get any water from the river below Lake Mead in the absence of the ratification of the Compact. The northern states, as well as California, opposed any contract in the absence of any ratification of the Compact.

As I understand this contract it gives us 2,800,000

acre feet of water, plus one-half of what is called surplus or unapportioned water. Exactly what that is nobody knows. California now has contracts aggregating some 5,320,000 acres. That is a limitation of 4,400,000 acre feet, plus one-half of the unapportioned water, which they estimate to be some 18,800,000 acre feet of water. In the meantime, California has appropriated-- and when I speak of California I speak of California corporations-- California as a state, bear in mind, has no contract with the Secretary of the Interior. Every contract for the use of water in California has been made by irrigation districts, power districts and other users directly with the Secretary of the Interior. As I understand this contract that we have, which is proposed, Arizona in effect makes this contract and holds this water in trust for its users. Arizona has the right to determine and fix who shall hold under its contract and conditions. They require you to go to the Water Commissioner or the power authority, or whatever board you may set up to regulate that.

I don't know as there is much else I can state, but it seems to me so obvious, so logical, that there is nothing else you can do if we are going to get any benefits from the Colorado River at all. In this connection, while a great many bouquets have been thrown around, I would like to say that since 1956 not only Mr. Sullivan, Mr. Strauss and myself, but everybody connected who had any knowledge

of the Colorado River understood this route was the one to go and it was recommended in writings to the Colorado River Commission.

Governor Osborn is the only man who has been in the Governor's chair who had the vision to take hold of this thing in a practical, sensible way, and he is also reputed to be a good politician. He had sense enough to know that this noisy little bunch in Arizona who yap so loud and so often didn't amount to very much.

THE CHAIRMAN: Does any Senator wish to ask any question?

SENATOR FAIN: As I understand it, this contract is quite similar to the one under which California is now operating and they have not set up a water and power authority in their own state, but are still dealing with the Federal Government as water corporations and private agencies.

MR. MOORE: California has a Board of Public Works I believe. Anybody who wants to appropriate water in California makes an application to that Board of Public Works like we do in Arizona to the Water Commissioner. There have been applications granted by the Board of Public Works in California for the diversion and use of over 12,000,000 acre feet of water from the Colorado River for use in California. Three hundred thousand of that was contracted for by the City of San Diego, which will probably never be used, it is not economic or sound. California has the land on which to use a greater portion of the balance of it. In fact,

California has appropriated recently since Boulder Dam was constructed, by notice to the Board of Public Works, twice as much water as available under the Colorado River Compact.

SENATOR FAIN: Did the Board of Public Works deal with the Federal Government?

MR. MOORE: No. The Metropolitan Water District made an application to the Board of Public Works for a right to appropriate so much water from the Colorado River. They made a contract directly with Mr. Ickes for the delivery of that water which they had appropriated under the laws of California. That was done by the Imperial Irrigation District, the City of San Diego, and those people around Blythe, and the people who had a district in the Coachella country, and 300,000 acre feet of that was claimed for power for use at Pilot Knob. That project was killed in 1936 by the combined efforts of Arizona and all the upper basin states. In fact, the upper basin states at that time began to realize they were being placed at a disadvantage, as well as Arizona, because of the enormous use that was made in California of Federal money. The Federal Government had donated \$284,000,000 to California to make use of the Colorado River water, and a full utilization of that would have left no water in the stream to be used any other place. Arizona couldn't possibly use the water except with Federal aid. The Federal Government could see no point in years hence using money to place land under irrigation in Arizona.

in order to get the water which it needed. It would have to take it from land in cultivation in California. That is one reason why Arizona should not let any grass grow under its feet. We have wasted 20 years already, and while we have been talking about the contract and the Compact, of equal importance according to my notion is this bill to appropriate some money to find out where and when we can use that water. Time is running against us, because the Federal Government is not going to turn land in California into desert in order to irrigate an equal amount of land on this side of the river.

THE CHAIRMAN: Does anyone else wish to ask a question of Mr. Moore? The Chair would like to make this statement at this time, our Governor expressed himself on the contract and Compact when he addressed us in joint session, and I asked the Governor if he would care to make a statement to the Committee at this time and he said he could add nothing to what he said at the joint session yesterday, but he would be glad to answer any questions any member of the Committee or Senate would ask at this time. Isn't that correct, Governor?

GOVERNOR OSBORN: I said I would be glad to endeavor to answer them.

THE CHAIRMAN: I think you are very familiar with the subject. Are there any members of the Committee who wish to ask the Governor any questions at this time? It seems,

Governor, that everybody knows the answers.

SENATOR FAIN: I would like to know if any estimate has been made of the time necessary to complete surveys and so on before any actual work could be done. We know the actual work is impossible at the present time, but could the surveys start immediately?

GOVERNOR OSBORN: As to the estimate, you would have to get that answer from the Reclamation Service. The surveys have been going on since 1940 I think, they have done a tremendous lot of work.

SENATOR FAIN: They lack quite a bit of being completed?

GOVERNOR OSBORN: I would rather that the Reclamation Service give you that information.

THE CHAIRMAN: Are there any other persons who wish to be heard in connection with this proposed legislation?

(Mr. Thomas Maddock presented himself before the Committee.)

MR. MADDOCK: Mr. Chairman, does this terminate your hearing?

THE CHAIRMAN: This will terminate our hearing.

MR. MADDOCK: I would like to make one statement if I may.

THE CHAIRMAN: Will you give your name?

MR. MADDOCK: My name is Thomas Maddock. I was a member of the Colorado River Commission in 1923, '24, '25, '26, '27, '28 and part of '29, 1930, '31 and '32. Senator Richards and I rather hurriedly, after the contract was printed in

the paper, prepared a brief which has been submitted to you. We made one error in there and would like to correct it, and that was that Wilbur would be the third man in any arbitration. I want to excuse that on account of the hurry and also because of the fact that all the years I have dealt with this, that is what is usually expected, we get the worst of it from California. It was at one time written that way and I didn't catch the difference between the Ninth and Tenth Districts. Outside of that, I would like to stand on the document as submitted.

I am very sorry I haven't had a little time to digest and check some of the statements made today. I hesitate to refute something without investigation, but there are one or two statements which impressed me very strongly. One statement made by Attorney Moore was that California had no similar contract, which necessarily implies that one is not absolutely necessary upon the State of Arizona, because she is operating without one very successfully. I would like to point out one inconsistency. It does not make any difference which horn of the dilemma you take in regard to the 2,800,000 acre feet, whether it is apportioned or whether it is a part of the surplus of the river as explained to you by Attorney Carson. If it is part of the surplus, then the Secretary of the Interior has contracted 962,000 acre feet of it before it is available for him to do so, because it is not available under your Compact until 1963. On the other hand, if it is

available under Section (b) and California has taken 962,000 out of the million, Attorney Carson is not quite correct in stating they are going to get half of it, because 962,000 is greatly in excess of half a million.

The statement I caught over in the House was that the engineers estimated the reconstructed flow of the Gila at some million acre feet. In your Supreme Court decision in the first case, the Supreme Court stated itself that Arizona is now using and has perfected rights to three and a half million. I can assure you as an engineer that that is closer to being correct, I think it is larger than that. No one has considered all the water that the cities are using, all of the stock tanks, all of the innumerable uses of water except that which is diverted from the stream. All consumptive use in the State of Arizona comes under this agreement, what a cow drinks, every bit of it, and don't forget that these people who are against us will insist that it all be deducted from the amount we shall get.

I would like to leave you just a little hazier than I think maybe you are, and I do not speak in any disparagement of you. If you would put in a 60-day session on this subject I assure you you wouldn't know it completely when you got through. I put in about ten years on it. It is true the last eight or ten years I have been separated from it and I am very sorry I am not able to come up to date, but in my opinion this contract will not give you one single solitary

gallon of water out of the main Colorado. This contract provides that the Secretary can deduct from what you take out of the main Colorado what you divert below it. Attorney Carson said he has nothing to do with that. I think he is right. I also think the Secretary has nothing to do with the water after it goes out of his turbines at Lake Mead. Congress repeatedly has stated he had no power to divide water. That is the reason the Boulder Dam Act was written the way it was. If you want to check that, you can find it on page 171 and 172, I believe the notation is made in the deficiency appropriation bill-- well, you can find it, you wouldn't remember it now anyway-- House appropriation, the number of the bill and the date is in here. They said they couldn't divide the water. If the United States Congress cannot divide it, the Secretary cannot divide it. He has no power on earth but what he gets. I believe it is fundamentally sound that the Secretary has no power to make this agreement, and it is so written that you won't get any water or you have no guarantee of the surplus at all unless the Upper Basin states will decide in their graciousness that California shall have half of the surplus and Arizona shall have the other half. If you lived up there, would you? Well, think. They have the right of trans-mountain diversion. Who would have said they could have moved across a mountain range 20 or 30 years ago. I talked up at Denver and one of the men said, "We are preparing in this Compact for the

future of the State of Colorado for 150 years." I didn't blame him, I only thought we should do the same thing. I thought back 150 years and I saw four or five million people in the United States and I saw what had happened in 150 years, and I knew that sometime in less than 150 years, with all the pressure of a population coming on the people of the world, that the Upper Basin would take all the water and use it, because they can take it out, and it is the most precious thing in the world. When you depend on any supply coming to Arizona from what they don't use, I am afraid you are going to be very, very sadly disappointed.

I say that the Secretary, if he has the power to contract, has no water left to contract until 1963. I disagree that it is advantageous for us to sign this before the Mexican treaty. Today we are wide open on the treaty, six states have limited themselves, but Arizona has not. Without Arizona's limitation, the United States is not limited. The day we sign it, the United States is limited to 1963 to either fifteen or sixteen, whichever you want to make it, and it is a controversial question, as Attorney Carson has told you, whether the other million is apportioned or not, I don't know, it says we can use it. I don't want to speak for the Attorney, but he was not positive either, because it is a matter still in controversy, and it is provided in this contract that it may be limited, so I presume it must be thought it might be necessary at one time to do it. That

means if we have tied our hands that we will only take 15 or 16 million acre feet that Mexico could go to a tribunal outside the United States and say that the United States has admitted they don't need over 15 or 16 million, "Why isn't the rest available for us." Suppose you were a man from Mars or another country, wouldn't they all agree?

There is a book about that thick (indicating), I have it in my brief case. I brought down other things, an accumulation of a number of years, because I thought if I said anything there might be some question on it and I wanted to have something that we could quickly refer to and to show you that I had a reason for it.

Former Commissioner Mead, now dead, and other men made up a report after the first negotiation for the treaty with Mexico sometime in 1928 or '29. Their recommendation for Mexico at that time was 750,000, not a million and a half. So, over the years Mexico has just doubled, not the amount of her use, but the amount of her claim.

In regard to the international proposition, Justice Harmon, I believe of Ohio, went into the matter years ago, perhaps as Mr. Carson has told you, since then the treaty with Mexico might have changed this. Frankly, I hadn't heard of the treaty until today, and not having seen it I can't tell you what I think about it, but he said at that time that sovereignty implies absolute control; that Mexico can no more demand water be sent down than she can demand

that we don't let it go down; that to the last quarter inch of the border of the United States the power of the United States over its water and other resources is absolute. Without having seen the treaty I cannot speak about it.

I am sorry, gentlemen, coming down on the car last night I got my little brief all written up on other things I thought about and I would like to tell them to you if this is the last chance, I am really sorry. I want to leave this one word with you. I would like to say I do not agree with the answer given to the Senator from Pima that the Secretary had nothing to do with the waters of the tributaries or the waters that would come in below Lake Mead. That is outlined here. I think the waters that we take out of the Upper Gila and the waters they take out of the San Francisco or out of the most remote branch of the Gila are diverted from the Colorado, and if it says, "On the Colorado" or "at the Colorado," it says, "diverted from," and it doesn't make any difference how far your salary comes down from some individual, if someone diverts it up at the source until the last mail carrier delivers it, it is diverted. Therefore, from that 2,800,000 there is the absolute diversion of three and a half million and three and a half million cannot be taken from 2,800,000 and leave anything, it doesn't work out. I don't know that every one of these things we have pointed out in this document was an intended trick, but I will say after the years I have put in, I would be inclined to be

suspicious that they were.

The Santa Fe Compact is not a perfect instrument. The Boulder Canyon Act is ridiculous in its omission of Utah and New Mexico from the Lower Basin. Your Senate and House in 1939 put a bill through called the Boulder Dam Act, and you ignored those two states too. I tried to talk to the Committee, I don't think they could understand it. California promptly refused to accept the proposition and laughed at you, giving as one of the reasons the fact that you had overlooked these two states.

Look at your Santa Fe Compact. It says that your perfected rights in the Lower Basin, if any, shall be supplied out of any reservoir that has a capacity of 5,000,000 acre feet. Well, you have one at thirty, but capacity doesn't give you water, and it is not possible to irrigate the perfected rights in Arizona out of Boulder Dam anyway. They didn't mean it that way. I could go over the Boulder Dam Act and show you things that they just didn't mean. The Supreme Court with all its dignity says there is 18 million acre feet in the Colorado. That is correct. It was stated a while ago there has been a reduction in the amount of water in the last two years that brings down the average, but the total water in the Colorado and its tributaries is closer to 21 million than it is to 18 million, and the amount in Arizona is closer to three and a half or four than it is to any one million. There is almost a million acre feet used

out of the Salt alone. The Verde is 60 per cent of it. The Gila is almost 60 per cent of that, and you have all the other additional streams in addition to all the other towns and ways to use water in this state. You have another thing that will add 30 or 40 per cent to that. In dry years we got along with less. We are having one now up in our valley, getting along with less, but you have a right to use all that flows in the wet years. If your average consumption in this state is even up to three and a half million, you need to be able to use four or four and a half to bring your average up for the dry years in which you don't get it. Compile your figures. It is pitiful after all these years that no one in this state, with all the money you have expended for various departments, that no one in this state can tell you anywhere near how much water we are now using, how much is perfected. I don't believe there is any agency in the state that can tell you that. I have worked it up. That doesn't mean it is right, but I want to tell you when you go into every little stream you will be surprised how it runs up. I think the Supreme Court was pretty close on that, three and a half million. Suppose we were using three and a half, supposing California has been given 5,362,000, that is 8,862,000 either contracted it right now or in use right now. I believe I caught one gentlemen saying there was a contract with Nevada; personally I am not familiar with that. The Lower Basin must give perfected rights to Utah and New Mexico. You got more water either contracted right now, used right

now, than what is delivered under the Santa Fe Compact, call it seven and a half million and another million makes eight and a half, you are using or contracting closer to eight and a half or nine, it is gone.

Let me tell you something that I doubt you got. There are two surpluses in the Colorado River. I heard the statement they have to turn down seven and a half million acre feet every year; that is not correct. They could turn down 75 million acre feet this year and not turn a drop down for the next nine. They have to send down 75 million over recurring periods of ten each, but if they do send down seven and a half, let's say we got three or three and a half million in the other tributaries-- three and a half and seven and a half are eleven. You can use eight and a half. The Upper Basin has fulfilled its proposition and you got two to spare. The first water that goes to Mexico out of that million and a half does not split between the Upper and the Lower. They have already sent you down two million more than what you are permitted to use until 1963. Oh, yes, Charlie, many nights I have spent on that and I am sure it is right. I talked with Carpenter in 1927 or 1928, accused him of being very clever, and he said he hadn't got it yet. Delph Carpenter was the smartest and meanest man that all the Arizona delegations ever went up against. I want to apologize because I am not prepared. I will have to go by the brief and apologize for my error between the Ninth and Tenth

Circuit. I expected them to give us the worst of it. I think I can say like Caesar in the early days, "All of it I saw; part of it I was."

THE CHAIRMAN: Does anybody else wish to be heard.

SENATOR STANTON: Did Mr. Maddock ever recommend this Compact be passed?

MR. MADDOCK: The Compact came back in December. I said, "Governor, I think you made a mistake on this. It is not irrevocable, just hold this until we get California and the Upper Basin." The Governor said he could do it afterwards, and I said, "In my opinion California has the ability to take it, can sit back and refuse and just take it under the law of prior appropriation." All the Compact did was abrogate the law of prior appropriation between the Upper and Lower Basin and allow the quick development of California. The Governor and I do not agree on that. You know the rest of the history. I wrote the first article in the paper in the State of Arizona opposing the Compact and suggesting that it be held until a tri-state compact would be agreed upon. I doubt the validity of any contract with the Secretary of the Interior, but if you had a good one it might be well to sign it. I am not worried about the law of the river; what I am bothered about is the tradition of the river. I heard the statement today, and it is pretty near true, so many things that were almost true, it said, did you ever hear of any people getting water and then having it taken away from

them again? Go up to the Owens Valley and ask them what happened. There is a very good instance. It has been taken away, and it can be taken away.


All down through the years I have tried to get a tri-state compact. I wrote the first one; John Gust put it in English. I was at all the conferences with the Upper Basin states. This 4,400,000 is just a gradual creeping like our opponents have crept upon us. The first award of the Upper Basin was four million to California, 300,000 to Nevada, and the rest to Arizona. They immediately jumped to 4,200,000, and when they won out with this Boulder Dam Act they made it 4,400,000. You have been traded down the river all the time. I wish you gentlemen would read that brief.

THE CHAIRMAN: It is on the desk of every Senator, Mr. Maddock.

MR. MADDOCK: I am sorry I didn't have more time. It is what I believe in, I have done my duty, and, gentlemen, I hope you can say the same.

THE CHAIRMAN: It is now five o'clock, and unless there is someone else who wishes to be heard, this meeting is now adjourned.

I HEREBY CERTIFY that the proceedings had before the Senate Committee on Agriculture and Irrigation on Senate Bills Nos. 1 and 2, on February 16, 1944, during the First Special Session of the Sixteenth Legislature of the State of Arizona, are contained fully and accurately in the notes taken by me upon said proceedings, and that this copy, consisting of 73 typewritten pages, exclusive of this page, is a full, true and correct transcript of the same, all to the best of my skill and ability.


Shorthand Reporter.