THE COLORADO RIVER

and the

Swing-Johnson Boulder Canyon Dam Bill

Statement of Hon. George W. P. Hunt, Governor of Arizona and Chairman of the Colorado River Commission of Arizona, Before U. S. Senate Committee on Irrigation and Reclamation at hearing in Washington, D. C., Jan. 16, 1928

BOULDER CANYON PROJECT

PHOENIX, ARIZONA
January 31, 1928

STATEMENT

of

HON. GEO. W. P. HUNT

Governor of Arizona

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STATEMENT OF GOVERNOR GEORGE W. P. HUNT, OF ARIZONA, BEFORE THE UNITED STATES SENATE COMMITTEE ON IRRIGATION AND RECLAMATION.

GENTLEMEN OF THE COMMITTEE:

I appear before your committee today in my capacity as Governor of the State and as Chairman of the Colorado River Commission of Arizona. The Commission was created by act of the Legislature of our State. It is composed of the Governor; the President of the Senate, Hon. Mulford Winsor; the Speaker of the House of Representatives, Hon. A. M. Crawford; State Senators A. H. Favour and Thomas F. Kimball; Hon. M. F. Murphy, member of the House of Representatives; Thomas Maddock and H. S. McCluskey. I shall file a copy of the Act creating the Commission.

Our purpose in appearing before your Committee today is to voice our disapproval of and opposition to the measure known as the Swing-Johnson or Boulder Canyon bill.

I have had a long career in public life as a legislator, as President of the Constitutional Convention, as Governor of the State of Arizona, and as the Minister of the U. S. Government to a foreign court. In all my experience I have never read or heard of a more outrageous, unmoral or sinister proposal than the measure you are now considering. I stand appalled that the Congress of the United States should tolerate and dignify the proposal by according it such serious consideration as to warrant Governors of States of this Union to neglect their official duties to journey to Washington to voice their opposition to this astonishing proposal to invade a State.

This bill reads like a peace treaty, which a military autocrat would impose upon a conquered and vassal people.

If you expect me to discuss this bill calmly, dispassionately and impersonally, I must disappoint you. I must leave that to other members of our Commission who have analyzed its details and who are of a more temperate frame of mind concerning it than I am.

I feel a sense of outrage.

I am one American who has an abiding faith in the institutions of our Government as founded by the fathers of this Republic.

I am firmly and unalterably opposed to the further despoilation of the States by the Federal Government.

We hear much in the way of lip service these days from Re-

publicans and Democrats alike about "States Rights." The President of the United States, in his message to Congress, men in places of power and authority in both parties discuss in an abstract way the question of the rights of the States, but when the occasion offers act and vote to destroy such rights as the States possess.

The present bill is an example. A similar measure has been introduced in the last three or four sessions of Congress. Each session the bill becomes more oppressive in its terms, more harsh in its language and more contemptuous of the rights of the States. A way might be found to make the present measure more effective, so as to eliminate one of the sovereign States of this Nation from the Union, but I cannot see how it could be accomplished.

One of the California Congressmen has publicly announced that it is his intention to introduce a measure to restore Arizona to the status of a territory. That will not be necessary if this bill is passed and made effective. Arizona, as a state, will slowly deteriorate and die of malnutrition.

Our attorneys advise me that this bill proposes to deny to Arizona all future development, unless she complies with the terms of this bill, if such development can be prevented by denying to our State the use of public lands, rights of way for irrigation works or lines for the transmission of power. This bill proposes to harass, intimidate, browbeat and starve Arizona into a surrender of her rights as a sovereign State of this Union and drive and compel her to accept the terms of a compact which would despoil the State of its heritage. Under the terms of this Bill a town would not be permitted to build a pipe line across the public domain in order to get water, unless Arizona accepts the compact.

As the Soul of France cried out against the Prussian theft of Alsace and Lorraine, so shall our voice continue to ring out in passionate protest against the plundering of our commonwealth. The voice of France was not raised in vain and some day an Arizona Clemenceau will recover our rights if we do not consent to this wrong.

Is there reason or justification for such treatment of Arizona by the Congress of the United States as is proposed in this bill?

What outrage have we perpetrated that we should be treated as a pariah and unfit for the protection guaranteed by the Constitution of the United States?

Is she rebellious—as was charged by Mr. Hoover, of California? Is it necessary to reconstruct her by authorizing her terri-

tory to be governed and her resources apportioned by carpet baggers?

What has Arizona done to merit such treatment?

So far as I can learn we have refused to ratify a compact between seven states which will afford six of them protection but leave Arizona with none.

Permit me to recite a few facts concerning this matter. I do not know all of them from personal knowledge, as I was in Siam at the time some of the events occurred.

In 1905 the Colorado river destroyed a heading and widened a canal built by the imperial irrigation project, changed its course, caused damage and loss of property and entered the Salton Sea.

The State of California has exhausted the entire unregulated low water flow of the Colorado river. She can secure no additional water until storage is provided.

In 1920, because of a contract made with the Mexican Government by the promoters of the Imperial Valley reclamation project—and the exercise of the rights acquired under that contract by American millionaire owners of Mexican lands—the Imperial Valley found itself faced with a shortage of water. This same thing happened in 1924.

In order to improve these conditions in California, that State asked Congress to appropriate money to erect a dam to regulate the floods of the Colorado river and to build a canal in California to provide for the irrigation of several hundred thousand acres of land in addition to what is now being irrigated.

Arizona did not oppose the passage of this legislation for the benefit of California. I am advised that the Governor of the State at that time was sympathetic with the project, as were many of our citizens, and perhaps had I been Governor of Arizona then I would have interposed no objections.

But the States of Colorado, Wyoming, Utah and New Mexico objected to any dam being built in the Colorado river—with Government aid or by private enterprise——until a compact was made which would discard the system of water laws which have been in effect in the semi-arid States of the Colorado river basin from the time of the coming of the Spaniards. The present law, briefly stated, is—that he who first puts water to beneficial use and continues to use it has the prior right and title to its use. The States of Colorado, Wyoming, Utah and New Mexico proposed to substitute in place of

these laws a new doctrine which they called—"equitable division of the water."

The upper States asserted that if regulatory, storage or power dams were built in the lower basin and the water was put to beneficial use, that those States would be forever stopped from irrigating and cultivating their soil. They further asserted that the major portion of the water originated in their territory and that they were entitled to the use of an equitable share of it.

Therefore, the States of the upper basin were the original opponents of legislation which seeks to harness the Colorado river. They continue to remain the chief opponents of legislation to provide for the harnessing of the Colorado river, for the control of its floods, and to make the resources of the river available for use for agriculture or power unless such legislation is predicated upon a compact which will assure to those States the right to use all of the water which they find possible to put to economic beneficial use. Arizona does not criticize them for seeking to change a law which limits their development. We do deny their right to form a confederation of States to destroy the sovereignty of Arizona and appropriate her resources.

Arizona, as a state, standing alone and in equal and fair competition with all seven of the states, does not need a compact for her protection.

Arizona, as a State, standing alone and in equal and fair competition with the seven states in the basin, will be able to obtain adequate water for her needs.

In order to meet the demands of the States of Wyoming, Colorado, Utah and New Mexico that there be reserved for their use an equitable amount of water, the seven States in the Colorado basin, with the consent of Congress, agreed to enter into a compact to divide the water of the Colorado river among the seven States. A compact was negotiated at Santa Fe, New Mexico, which required the ratification of the legislatures of the seven States and the Congress of the United States. It did not comply with the provisions of the acts of the Legislature of Arizona or of any of the other States, or the Act of Congress. These acts authorized the division of water among the States. The Santa Fe compact created two artificial entities which they called "upper division" and "lower division" States, and divided the water between them instead of among the States.

At this point I became in part officially responsible for the action of Arizona. My position was a difficult one. I had been

elected as Governor, in November, 1922, which was but a few weeks before the compact was negotiated. One of my first official acts was to submit the compact to the Legislature.

In the short time at my disposal there was little opportunity afforded to inform myself on the merits of the treaty. When I submitted the compact to the Legislature I limited myself to advising caution and that the Legislature take time for study and investigation before the State was committed to this important treaty. I sought advice from many sources, I endeavored to maintain an open and unprejudiced mind until I had the facts. The legal advice and the engineering data furnished me convinced me that there was grave doubt that the compact afforded protection to Arizona and that it probably jeopardized our interests beyond a point which any State should be called upon to go as a matter of comity and friendship between States. When some of the members of the Legislature and others who were interested urged a policy of haste and immediate ratification, I urged the Legislature not to ratify the compact. After one of the most intense battles in the history of our Legislature the resolution to ratify the compact failed to pass.

Arizona then entered upon a campaign in which the people were divided into three camps—those in favor of the compact, those against it and those who were from Missouri and wanted to be shown. I was born in Huntsville, Missouri, and I began an intensive drive to secure facts. I am advised the proponents of this measure are filling the record with extracts from some of the fervid speeches made by advocates of ratification of the compact at this time. This means nothing. They did not fully understand the question then and most of them now admit it.

During the summer of 1923 the report of the Arizona Engineering Commission was filed. Our people also had an opportunity to compare the Santa Fe compact with the Swing-Johnson bill and the "people from Missouri" were gradually convinced that the ratification of the compact meant the ruin of Arizona and the great majority of the former advocates of the compact—four of whom are members of this Commission—changed their minds concerning its adequacy to protect the interests of Arizona.

As soon as I was certain what was wrong with the compact drafted at Santa Fe, and how it could be fixed—this was late in the summer of 1923—I addressed a communication to the Governors of California and Nevada, and invited them to appoint commissioners to meet with similar commissioners representing Arizona. I suggested that these commissioners should draft a supplemental

compact which would apportion the water of the Colorado river, which would be physically available in the lower basin, after the needs of the upper basin States were satisfied, among the three States interested, and make a compact concerning hydro-electric power. The Governor of California refused to accept my suggestion. A few weeks later, I appointed a committee of two citizens of our State to wait upon the Governor of California and to discuss with him a proposal for a tri-State conference, but the Governor of California refused to receive them.

The Governor of Nevada accepted both suggestions. Later he issued an invitation to the Governor of California to meet representatives of Arizona and Nevada at Los Angeles. The Governor of Nevada and I met, but the Governor of California did not put in an appearance. The correspondence substantiating these transactions is part of your records.

Under these circumstances you cannot expect me to bear with equanimity the charge that Arizona has been an obstructionist.

In the summer of 1925, Arizona was informed that when we had withdrawn our opposition to the Boulder Canyon Dam, we could have a conference of the lower basin States to discuss a tri-State compact.

Several conferences were held with representatives of California and Nevada during the fall of 1925 and the winter of 1926-27. During all the time the conferences were in session, in Los Angeles, the Swing-Johnson bill was being considered and debated in Congress. Representatives of California were assuring the Congress that California was making an earnest effort to adjust her differences with Arizona and Nevada.

The representatives whom I had appointed reported to me that the California Commission at one time made a serious effort to find a basis of settlement, but upon orders from the representatives of California in Washington they withdrew their proposition while it was in process of being perfected to meet the constitutional provisions of the States.

In the spring of 1927 the Arizona Commission visited all the States in the basin, beginning with California, and urged the Governors to call a conference of the seven States in order to afford a forum to review the claims and needs of the States.

In compliance with that request, a conference was called at Denver, Colorado, under the leadership of Governor Dern of Utah. The conference was attended by the Governors and their advisers from all the upper basin states. The Governors of California and Nevada

attended the opening session of the conference and left Commissioners in attendance to represent those States. Arizona was represented by her Governor and the Arizona-Colorado River Commission, so that all seven States were represented in the conference at all times.

On behalf of the Arizona Commission, I offered at Denver a proposition which in all its essential features had been offered to California months before while the Swing-Johnson bill was under consideration in the Congress. It was as follows:

Arizona Proposal at the Opening Session of the Colorado River Conference at Denver, Colorado.

Arizona has the following proposal to offer for your consideration as the basis for the preparing of a compact between Arizona, California, and Nevada which will be supplementary and subsidiary to the Colorado River Compact adopted at Santa Fe:

(1). Arizona will accept the Santa Fe compact, if and when supplemented by a subsidiary compact, which will make definite and certain the protection of Arizona's interests.

(2). That before regulation of the Colorado river is undertaken, Mexico be formally notified that the United States Government reserves for use in the United States all water made available by storage in the United States.

(3). That any compact dividing the water of the Colorado river and its tributaries shall not impair the rights of the States, under their respective water laws, to control the appropriation of water within their boundaries.

(4). That the waters of the streams tributary to the Colorado river below Lees Ferry and which are inadequate to develop the irrigable lands of their own valleys be reserved to the States in which they are located.

(5). That so much of the water of the Colorado river as is physically available to the lower basin States—but without prejudice to the rights of the upper basin States—shall be legally available to, and divided between Arizona, California and Nevada as follows:

(a). To Nevada 300,000 acre feet per annum.

(b). The remainder, after such deductions as may be made to care for Mexican lands allotted by treaty, shall be

equally divided between Arizona and California.

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

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

(8). That Arizona is prepared to enter in a compact at this time to settle all the questions enumerated herein, or Arizona will agree to forego a settlement of items 6 and 7, and make a compact dividing the water alone, providing it is specified in such compact that no power plants shall be installed in the lower basin portion of the main Colorado river until the power question is settled by a power compact among the states.

The Governors of the upper States, after many days of negotiations, offered a proposal to Arizona, California and Nevada to divide the water available for use in the lower basin. In an effort to be conciliatory and effect an agreement, the majority of the Arizona Commissioners interpreted the proposal as it related to the Arizona tributaries of the Colorado river, but otherwise accepted the suggestion of the upper basin Governors. The details of this proposal will be discussed by other speakers.

California rejected the proposal made by Arizona and also the proposal of the upper basin Governors.

Arizona feels that the upper basin Governors made a splendid effort to effect an adjustment of the questions at issue and we are deeply appreciative of their efforts. Arizona objected to any provisions of the compact which would require that her projects on the Gila, Salt, Verde and Agua Fria and other streams be called upon to bear a part of the Mexican burden. Our pioneers had fought Indians, the desert, starvation, heat, lack of transportation, carpet bag federal officials, and many other difficulties, and I do not think they will now surrender, at this late day, the water rights they have perfected on Arizona streams for which pioneers have fought, bled and died, in order to establish their homes.

I do not believe the farmers of Arizona would ever consent to open their dams on the Gila and its tributaries to let water down to Mexico and hence we could not accept the suggestion of the Gover-

nors or the provisions of the compact that this burden be assumed by Arizona for them.

The Governors of the upper basin States in an effort to achieve an agreement, appointed a committee which prepared a resolution dealing with the Mexican problem. This resolution was agreed to and signed by the Governors of all seven States. If no other progress was made at Denver, a unanimous opinion was arrived at on this resolution, the principles of which I consider to be of very vital importance, if Arizona ever enters into a compact to set aside existing law. The text of the resolution will be filed with the Committee.

Secretary Kellogg advised the Governors that he thought it would not conform to the best public policy to make the changes in the Commission as suggested by the resolution, and that the Commission which is now acting would undertake to safeguard the interests of the States concerned. The frank statement of representatives of our sister State of Texas, that it is the hope of that State that the desire of Mexico for water be satisfied from the Colorado river so that the water in the Rio Grande may be available for her use, gives us scant comfort in that direction.

The Power Question

Now as to the power question. This issue was raised by the policy enunciated by California that Arizona, or Arizona and Nevada, when power was from a border development, would not be entitled to any revenue from hydro-electric power, if the project was constructed by the Federal Government. Representatives of California in this chamber have made this declaration. California officials have used even stronger language, as it was urged upon the Congress that Arizona had no rights in the Colorado river—that the resources in that river were the sole property of the Federal Government.

Arizona is under this direct threat in the pending legislation. It embraces a project which as it is designed is declared by many of our best engineers to be an economic crime. But we are under the still greater threat that if the so-called conservationists and public ownership advocates have their way, the greater part of the four million horse power of potential hydro-electric energy in our State will be developed by the United States Government, alienated from our State to enrich another State and we will be denied any revenue from this great natural resource for the maintenance of our State Government.

Against this outrage we protest—vigorously and vehemently!

To this protest you may answer—it is not the intention of Congress to build any projects with the exception of the Boulder Canyon project, and it is not the intention of Congress to go into the power business.

Who Is Going To Answer For Congress?

I find it easier to believe that if the bureaucrats, in Washington, are strengthened to the extent that this bill pretends, if made effective it will cause them to try to induce the Government to go into the power business on a gigantic scale. They are already too strong. As popular as the policy of conservation was ten years ago, I do not think the Congress of the United States would seriously have considered such a measure as that now under consideration. I do not want to be understood as being against the conservation of our resources. I introduced the first measure for the creation of a forest reserve in territorial legislature of Arizona many years ago.

Do you think the thirteen original States would have given such power over their resources as Congress is asked to authorize in the pending legislation? I think not.

I again repeat—who is going to answer to the States for the actions of Congress and assure them that the Government is not going into the power business? And I inquire—if this precedent is established what is to become of the rights of the States?

Are they to become the objects of charity of a paternal Federal Government which has robbed them of their resources by subterfuge and false representation—bolstered and sustained by legal quibbles? Are the States to be robbed of their resources under the distorted and perverted idea of conserving natural resources? Are the States to be robbed of their resources because of the advocacy of a policy of Government vs. private development? And I again want to assert that I believe in the conservation of our natural resources and I also am opposed to their exploitation for the benefit of the few.

The State of Nevada is also interested in the subject of deriving revenue from the natural resources of that State. In two brilliant and able addresses, made at Denver, Senator Key Pittman of Nevada made an argument for his State and argued the case of Arizona probably more effectively than her advocates could do it themselves. He introduced a resolution which was finally adopted by the representatives of six of the States. The representatives of California refused to vote either for or against the resolution, although they participated in the debates concerning it. The text of the resolution will be inserted in the record.

Because of the assertions of California statesmen, that we have

no rights in the power resources of the Colorado river, if the Government builds a project, Arizona asks the recognition of the right to derive a revenue from hydro-electric power generated by the use of the natural resources of our State. So there may be no question about it, we ask that if the project is a Government project that the State receive a revenue equivalent to what it would receive in taxes if the project was built and operated by private enterpise.

We demanded no fixed rate of compensation. California in one breath declared she would never recognize the right of our State to derive a revenue from the use of its natural resources and in the next breath declared she must know how much of the revenue is going to be demanded.

Upon the insistent demand of California, Arizona Commissioners submitted a proposition establishing a fixed rate, the details of which will be discussed by other members of the Commission. California Commissioners then complained that the proposed rate was too high.

Arizona does not tax any of her mines, public utilities or other industries out of existence. An effort is made to distribute our tax burden so as to encourage the development of the State. I am confident that in the matter of taxation of power our Tax Commission would so regulate the valuations on the Colorado river power as to encourage the fullest and most complete development of the river. But California asks that rates be fixed now and then complains that they are too high. She asks for special privileges and objects because the State undertakes to protect its interests in the future.

I have not endeavored to discuss the details of this problem, nor have I touched upon the legal or engineering problems. We have commissioners here who are attorneys and engineers and who are competent to do that.

We are of the opinion that the Swing-Johnson bill, in addition to outraging every principle of the rights of the States, is economically unsound. That question will also be discussed by other speakers.

In conclusion I repeat—Arizona is not the aggressor in this contest. California is asking for this legislation. The first protest against it came from the upper basin States. This bill undertakes to give those States partial protection, at least, by giving the consent of the United States to a confederation of six States against the State of Arizona, and to deny to Arizona any protection whatever. Yea—it goes further and provides that Arizona must agree to the

proposal to protect the uppper basin States, subject the dams on the Arizona streams to the burden of supplying water to Mexico in the event of a drought, and forfeiting her natural resources. It provides that, in the event she fails to do so, that the departments of the United States Government which have control of the Indian lands, forest reserve, national parks, national monuments, oil reserves, power reserves and public lands, which constitute 67 per cent of our State, are forbidden to grant any rights of way for canals or dams for the irrigation of any lands in Arizona, either from the main Colorado river or its Arizona tributaries or any rights of way for lines for the transmission of power for use in Arizona. It provides that, in order that California may be enabled to get Colorado river water and power, authority is given under the bill to the United States to condemn lands in Arizona by eminent domain for the necessary works and transmission lines in order to accomplish that end.

With this menace threatening the homes of our people we cannot sit supinely by and watch on the side lines while Congress discusses this legislation. Our Commissioners must devote every waking moment trying to arouse public sentiment against this monstrous and outrageous proposal. When we are free from its menace and not oppressed by its sinister and appalling threat our Commissioners will be free from this responsibility and will be able to resume and devote their time to treaty negotiations which were terminated by the efforts of California and the Boulder Dam lobby to rush through Congress this pernicious unmoral bill.

I understand some criticism was offered in the hearings before the Committtee of the House of Representatives because I suggested that the efforts of our Commissioners would be fully occupied in opposing this outrageous bill and the suggestion was urged that our Commissioners should cease their opposition and devote their time to negotiating with some of the representatives of California, while the locust-like horde of lobbyists for this measure swarm around the halls of Congress and its office buildings misrepresenting the facts concerning the project, villifying Arizona and her officials and conducting a campaign of slander and libel against those who have the temerity to oppose this bill.

I repeat—Arizona has sought an agreement for years. It was at our solicitation the conference was called at Denver. Arizona showed her good faith by making concessions. California did not indicate, to my mind, any intention of making an agreement at Denver, unless she was given everything she wants.

I want to close by asking this Commission and the Congress of the United States—

"Why should Arizona have the burden which this bill seeks to impose thrust upon her against her will and over her protest?

"Why, if the Congress decides to conduct a revolution against the States, should it single out one State and impose a burden upon her? Why not charge the burden of giving California what she is demanding, against all the States leaving the laws stand as they are concerning the appropriation and use of water? Why not force all the States to exempt their power projects from State taxation, in order that the Federal Government may levy a tax on them and turn the proceeds over to the building of irrigating ditches in California? Has the Congress of the United States been converted to the propaganda that California has the only climate fit to live in that it takes this method of trying to make it the only State which should grow or prosper?"

Arizona does not come here as a penitent or a suppliant. We do not come cringing on bended knees.

We come as Americans who are proud of their forefathers, their heritage, and hopeful for their posterity.

We come as representatives of a State as proud and zealous of its sovereignty, prestige and rights as the State of Virginia or Massachusetts. We do not have the eloquence of a Patrick Henry or a Daniel Webster to plead our cause. But we humbly and respectfully say to the Congress of the United States—"If you do to the least of these States what you threaten in this bill, you have taken a long step forward toward the destruction of our free and representative Government and eventually the Government of our fathers, dominated and controlled by bureaucrats will be more easily led to the next stage of destruction under an enterprising dictator."

In conclusion, I suggest this thought and warning to the advocates of Government ownership and to the zealots who have made a religion of conservation—If you establish the precedent that ownership by the Federal Government of power projects means the denial of revenue to the State Governments, in my opinion you have laid the foundation for an opposition that will retard your cause more effectively than by any policy you can adopt.

Gentlemen, I have concluded. Others, better informed on the details of this problem than I am, will discuss the engineering and legal factors concerning it.

I thank you.