

Chapter III

EVENTS INTERVENING BETWEEN EXECUTION OF THE COLORADO RIVER COMPACT AND ENACT- MENT OF THE BOULDER CANYON PROJECT ACT

A. Issues

Six years elapsed after execution of the Colorado River Compact before enactment of Federal legislation ratifying the compact and authorizing construction of the necessary storage works and of the All-American Canal. The project became a national issue during this interval. Arizona opposed it, and was joined in that opposition by the opponents of public power development, by American owners of lands in Mexico who were opposed primarily to the construction of an All-American Canal, and by others who did not believe that the project could pay for itself. The very magnitude of the undertaking constituted a source of inertia. Space does not permit a detailed account of this interesting period of conflict, but representative references may be found in the footnotes.¹

¹ Committee hearings and reports on Colorado River bills during this period (1922-28) include the following:

1922.—Hearings, House Committee on Irrigation, "Protection and Development, Lower Colorado River Basin," on H. R. 11449 (67th Cong., 2d sess.) (June 15, 1922-February 21, 1923).

1923.—Hearings, House Committee on Irrigation, "Protection and Development of Lower Colorado River Basin," on H. R. 2903 (68th Cong., 1st sess.) (April-August 1923). In addition to the formal hearings, Arizona and California each printed extracts, excerpts, and supplements.

1924.—Hearings, House Committee on Irrigation and Reclamation, "Protection and Development of Lower Colorado River Basin," on H. R. 2903 (68th Cong., 1st sess.) (February 9-May 17, 1924). (A supplement, "Information by Citizens of Arizona," was published.)

Hearings, Senate Committee on Irrigation and Reclamation, "Colorado River Basin," on S. 727 (68th Cong., 1st sess.) (December 17, 1924-January 23, 1925).

1925.—Hearings, Senate Committee on Irrigation and Reclamation, "Colorado River Basin," on S. Res. 320 (68th Cong., 2d sess.) (October 26-December 22, 1925).

1926.—Hearings, House Committee on Irrigation and Reclamation, "Colorado River Basin," on H. R. 6251 and H. R. 9826 (69th Cong., 1st sess.) (February 5-May 17, 1926); same title, hearings on H. R. 9826.

Report of the House Committee on Irrigation and Reclamation, on H. R. 9826 (69th Cong., 1st sess.; H. Rept. No. 1657 (1926)).

(1) *The Weymouth report*.—On February 28, 1924, the results of 2 years of additional work under the Kinkaid Act were embodied in a report made by Chief Engineer F. E. Weymouth of the Bureau of Reclamation to the Commissioner of Reclamation. The conclusions of this report (unpublished) were:

(a) That there was immediate need of flood protection in the lower Colorado River Basin for the Imperial Valley, attention being called to the immediate danger during each flood period that the river might break into the valley and destroy it;

(b) That there was a shortage of water in the Imperial Valley in each low-water year, there being only 3,500 second-feet or less available for the entire valley at such times;

¹ Continued

Report of the Senate Committee on Irrigation and Reclamation on S. 3331 (69th Cong., 1st sess.; S. Rept. No. 654 (April 19, 1926)).

1927.—Hearings of the House Committee on Rules, "Hearings on Boulder Dam," on H. R. 9826 (69th Cong., 2d sess.) (January 20–22, 1927).

Report of the Senate Committee on Irrigation and Reclamation, "Estimates for Irrigating Lands Under Colorado River Compact," on S. J. Res. 131 (69th Cong., 2d sess.; S. Rept. No. 131 (January 17, 1927)).

Report of the House Committee on Irrigation and Reclamation, "Protection and Development, Lower Colorado River" (H. Rept. No. 2212, 69th Cong., 2d sess.) (February 23, 1927).

1928.—Hearings of the House Committee on Irrigation and Reclamation, "Regulating the Colorado River," on H. R. 5770 (70th Cong., 1st sess.) (January 7, 1928).

Hearings of the House Committee on Irrigation and Reclamation, "Protection and Development of Lower Colorado River," on H. R. 5773 (70th Cong., 1st sess.) (January 6–14, 1928).

Hearings of the Senate Committee on Irrigation and Reclamation, "Colorado River Basin," on S. 728 and S. 1274 (70th Cong., 1st sess.) (January 17–21, 1928).

Report of the House Committee on Irrigation and Reclamation on H. R. 5773 (70th Cong., 1st sess.; H. Rept. No. 918) (March 15–24, 1928).

Report of the Senate Committee on Irrigation and Reclamation on S. 728 (70th Cong., 1st sess.; S. Rept. No. 592) (March 20, April 9, 1928).

Hearings of the House Committee on Rules, "Boulder Dam" (70th Cong., 1st sess.) (April 24–May 2, 1928).

Report of the House Committee on Rules, on H. R. 5773 (70th Cong., 1st sess.) (May 15, 1928).

Each State has also published reports stating its viewpoint:

Arizona.—"Official Report of the Proceedings of the Colorado River Conference Between Delegates Representing California, Nevada and Arizona," August 17, 1925; "The Colorado River Question" (1928); "Proposals as to a Basis for a Lower Basin Compact" (1929).

California.—"California Proposals as a Basis for a Lower Basin Compact" (1929); "Analysis of Boulder Canyon Project Act" (1930); "The Boulder Canyon Project" (1930); "Colorado River and the Boulder Canyon Project" (1931); "California's Stake in the Colorado River" (1947).

Nevada.—"Reports of the Colorado River Commission of Nevada, 1927–35" (1935); "Boulder Canyon-Lower Colorado River Power and Water Set-up" (1928), by Geo. W. Malone, State engineer.

(c) That it was practicable to build reservoirs on the Colorado River sufficient in capacity to provide reasonably uniform flow from year to year;

(d) The results of investigation of eight dam sites on the main river indicated that the most advantageous site from the standpoint of river regulation, flood control, storage for irrigation, and power development was that at Black Canyon;

(e) That the immediately urgent problems of river control and utilization of the Colorado River Basin could be solved by (a) the construction of Boulder Canyon Reservoir with a dam in Black Canyon, raising the water 605 feet and forming a reservoir of 34,000,000 acre-feet capacity; (b) reservation of 8,000,000 acre-feet at the top of the reservoir for flood control, with provision for a decrease of 4,000,000 acre-feet, depending upon upstream development; (c) provision for priority of use of remaining storage for irrigation over power; (d) construction of a powerhouse with 1,200,000 horsepower installed capacity; (e) construction of an All-American Canal from Laguna Dam to Imperial Valley.

(2) *Controversy over a "high dam."*—For some time there was controversy as to whether the storage dam should be a high, i. e., "power" dam, or a low dam built primarily for flood control. Senator Hiram Johnson and Representative Phil D. Swing led the fight for a high power-producing dam.

In a statement on July 14, 1925, Mr. Hoover said:

The high dam is urgently needed now and for the next 25 years in order to accomplish the necessary objectives at the earliest moment.

The needs of the Imperial Valley and Los Angeles are imperative, and any delay courts disaster.

Testifying before the Senate Committee on Irrigation and Reclamation, December 10, 1925, Mr. Hoover said: ²

. . . I believe the largest group of those who have dealt with the problem, both engineers and business folk, have come to the conclusion that there should be a high dam erected somewhere in the vicinity of Black Canyon. That is known usually as the Boulder Canyon site, but nevertheless it is actually Black Canyon. The dam so erected is proposed to serve the triple purpose of power, flood control, and storage. Perhaps I should state them in a different order—flood control, storage, and power, as power is a byproduct of these other works.

There are theoretical engineering reasons why flood control and storage works should be erected farther up the river and why storage works should be erected farther down the river; and I have not any doubt that given another century of development on the river all these things will be done. The problem that we have to consider, however, is what will serve the next generation in the most economical manner, and we must take capital expenditure and power markets into consideration in determining this. . .

² Hearings, Senate Committee on Irrigation and Reclamation, "Colorado River Basin," on S. Res. 320 (68th Cong., 2d sess.) (1925), p. 601; reprinted during debate on the Boulder Canyon Project Act, Congressional Record, December 8, 1928, p. 266; quoted in S. Rept. 592, 70th Cong. (1928), p. 10.

B. Ratification of the Colorado River Compact by All States Except Arizona

The compact, as executed at Santa Fe, November 24, 1922, was unconditionally approved by the legislatures of all States of the basin except Arizona, at the 1923 sessions (appendixes 215 through 220, inclusive). In several of the States, however, there was local opposition. Mr. Hoover made speeches in support of the compact in San Francisco, December 1, 1922; Los Angeles, December 6, 1922; Phoenix, December 8, 1922; and on January 21, 1923, submitted replies to a questionnaire of Congressman Hayden (appendix 205).

These efforts were successful, except in Arizona. The Sixth Arizona Legislature (1923) considered measures ranging from unconditional approval of the compact³ to a declaration that the compact was in direct conflict with the Arizona Constitution.⁴ The Senate passed a bill⁵ ratifying the compact with interpretations, by a vote of 10-9. In the House, a resolution which, as introduced, would have ratified the compact unconditionally,⁶ was amended by adding reservations, (1) requiring payment to Arizona of a royalty of \$5 per horsepower per annum in perpetuity for the use of waters of the Colorado River system; (2) limiting Mexico to 2,000,000 acre-feet per year;⁷ (3) "that the Gila River System, including the waters of said Gila River and streams tributary thereto, be not included, considered or involved in any way with the so-called Colorado River Compact,"⁸ and as amended was passed February 15, 1923.⁹ A motion to strike the reservations was defeated, 23-22.¹⁰ This measure died in the Senate.

³ H. Con. Res. 9, Sixth Arizona Legislature.

⁴ H. Con. Res. 5.

⁵ S. B. 136, Senate Journal, Sixth Arizona Legislature, p. 613. The conditions or interpretations were as follows:

"That Articles IV and VI of such 'Colorado River Compact,' as ratified and approved by this Act, are understood to mean, that the regulation and control of the Colorado River System, as in said compact defined, and limited only by the diversion and apportionment of the use of the waters thereof, for agricultural and domestic purposes, shall, as to that portion of such System, located within the area of any one of the signatory states, and including the full and unrestricted right of taxation by way of the imposition of a royalty in perpetuity or otherwise, upon electrical power generated from any structure within the boundaries of such State, be and remain, in perpetuity, exclusively, in such State."

⁶ H. Con. Res. 1 (House Journal, p. 71).

⁷ Substitute H. Res. 15 (House Journal, pp. 210-212).

⁸ H. Res. 16 (House Journal, pp. 221, 222).

⁹ House Journal, pp. 299, 300.

¹⁰ House Journal, p. 299.

Subsequently, on March 8, 1923, a measure to ratify the compact unconditionally ¹¹ failed to pass the Arizona House by a tie vote, 22-22.¹²

By this narrow margin the Compact was subjected to a quarter century of conflict.

The compact was not finally approved by Arizona until 1944 (appendix 230).

C. Negotiations Between Arizona and California

After rejection of the compact in Arizona, an interval of a year or more elapsed, followed by a series of fruitless meetings between representatives of Arizona and California, some of which are cited in the margin.¹³ By 1925 it had become apparent that no agreement could be reached on which Arizona would ratify the Colorado River compact.

D. Ratification as a Six-State Compact

During the interim between the 1923 and 1925 sessions of the legislature, Mr. Delph Carpenter of Colorado initiated the proposal that the compact be ratified as a six-State agreement without awaiting action by Arizona. He stated:

The fact that the river formed a boundary between Arizona, California, and Nevada, and also the further fact that the entire Colorado River Canyon in Arizona is held by the United States as a Federal power reserve prompted me to make the suggestion without the feeling of any hazard to any of the other States in the event that the six or more State plan should be adopted.¹⁴

¹¹ H. Con. Res. 9.

¹² House Journal, p. 564.

¹³ In April and December 1925 conferences were held between a committee appointed by the California Legislature from its membership, and representatives of Governor Hunt of Arizona. In the latter, representatives of Nevada participated.

In December 1926 these conferences were resumed.

In January 1927 the California Legislature authorized a committee to meet with Arizona, and meetings of representatives of California, Nevada, and Arizona were held in Los Angeles. These were continued in February and May.

On August 22, 1927, a conference of governors and commissioners of all the basin States met at Denver, recessing September 5, reconvening September 19, and adjourning October 5.

In December 1927 a conference on power was held by representatives of the three States in San Francisco.

In January and March 1928 conferences were resumed in Washington.

¹⁴ Communication to Mr. Charles A. Dobbel, 1933. See also testimony of Mr. Hoover, hearings of Senate Committee on Irrigation and Reclamation, S. Res. 320 (68th Cong., 2d sess.), p. 600. See also Congressional Record, Senate (70th Cong., 2d sess.), December 8, 1928, p. 266.

In furtherance of this plan legislation was enacted approving the compact as a six-State agreement, and waiving the requirement of seven-State adherence, by Colorado (appendix 222), Nevada (appendix 223), New Mexico (appendix 224), and Wyoming (appendix 226). Utah enacted a similar act (appendix 225) but it was repealed by the act of January 19, 1927 (Laws 1927, p. 1). That State's adherence to the compact as a six-State document was not effected until enactment of the act of March 6, 1929 (appendix 229).

Six-State ratification was recommended to California by Mr. Hoover. A resolution to that effect was introduced in the California Assembly March 12, 1925. However, in its place the so-called Finney Resolution was adopted by the legislature April 8, 1925 (appendix 221), which included a stipulation that California's ratification should not become effective until Congress should authorize the construction of a dam providing at least 20,000,000 acre-feet of storage capacity. This had the effect of making the compact inoperative until further legislation had been enacted by the Federal Government. Subsequent efforts to modify or repeal this condition failed by large majorities.

Mr. Hoover, testifying on the third Swing-Johnson bill, on March 3, 1926, reported the situation as follows: ^{14a}

The compact was ratified by all of the States except Arizona, whose legislature did ratify it subject to certain reservations, but approval was refused by the governor. A subsequent attempt was made to ratify the compact on a six-State basis and failed in California.

The failure to secure solution to this primary question and thus clear the road for construction in the lower basin has been largely due to the desire of some groups in different States to assure themselves as a condition of ratification that their views as to the character of engineering works and their control should be adopted.

Except for one group in Arizona, I do not believe there has been any serious challenge to the equity established by the compact.

As a method for advancing solution of this problem it has been proposed that construction under authority of the act now before the committee should not be undertaken until California unreservedly ratifies the compact on a six-State basis, and that assurances should be given to the northern States that no water rights would accrue to the citizens of any noncompact State from storage of water as the result of this dam.

If adopted, this method at least composes a very large part of the interstate water conflict, leaving only the question of Arizona to be settled. It has been my feeling that if Arizona could confine her discussions with the lower States to the water rights only, solution could be found. The difficulty is that her officials have insisted upon injecting numbers of other questions as a condition for agreement on water rights.

^{14a} Hearings of the House Committee on Irrigation and Reclamation on H. R. 9826 and H. R. 6251, p. 45.

E. The Governors' Conference, 1927

In 1925, after the failure of negotiations among Arizona, California, and Nevada, the Governors of the seven Colorado Basin States met at Denver, Colo., August 22 to September 1, and September 19 to October 5, 1927, in an effort to devise means to bring about a seven-State ratification of the Santa Fe compact. This conference produced several resolutions, the most notable being a proposal for a settlement among the States of the lower basin:¹⁵

The governors of the States of the upper division of the Colorado River System suggest the following as a fair apportionment of water between the states of the lower division subject and subordinate to the provisions of the Colorado River Compact in so far as such provisions affect the rights of the upper basin states:

1. Of the average annual delivery of water to be provided by the states of the upper division at Lees Ferry, under the terms of the Colorado River Compact

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

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

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

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

3. As to all waters of the tributaries of the Colorado River emptying into the river below Lees Ferry, not apportioned in paragraph 2, each of the states of the lower basin shall have the exclusive beneficial consumptive use of such tributaries within its boundaries before the same empty into the main stream, provided the apportionment of the waters of such tributaries flowing in more than one state shall be left to adjudication or apportionment between said states in such manner as may be determined upon by the states affected thereby.

4. The several foregoing apportionments to include all waters necessary for the supply of any rights that now exist, including water for Indian lands for each of said states.

5. Arizona and California each may divert and use one-half of the unapportioned water of the main Colorado River flowing below Lees Ferry, subject to further equitable apportionment between the said states after the year 1963, and on this specific condition, that the use of said waters between the states of the lower basin shall be without prejudice to the rights of the States of the upper basin to further apportionment of water, as provided by the Colorado River Compact.

This proposal was not accepted either by Arizona or by California.¹⁶

F. Attempts at Federal Legislation, 1922-27

(1) *The first Swing-Johnson bill.*—On April 25, 1922, to carry out the recommendations of the Fall-Davis report,¹⁷ the first Swing-Johnson bill was introduced,¹⁸ taking its name from Congressman

¹⁵ The recommendations of the four upper-basin governors appear in 70 Congressional Record 172, 70th Cong., 2d sess. (1928).

¹⁶ See Congressional Record, 70th Cong., 2d sess., December 7, 1928, p. 233, hearings, House Committee on Irrigation, "Protection and Development of the Lower Colorado River" on H. R. 5773 (70th Cong., 1st sess., 1928), p. 292; first report of the Colorado River Commission of Arizona, hearings (supra), p. 29.

¹⁷ S. Doc. 142 (67th Cong., 2d sess.), "Problems of Imperial Valley and Vicinity" (1922).

¹⁸ H. R. 11449 (67th Cong., 2d sess.).

Philip D. Swing, and Senator Hiram W. Johnson, both of California. This bill authorized construction of the All-American Canal and of a dam at or near Boulder Canyon and an appropriation of \$70,000 000 to carry out the construction work. Hearings were held,¹⁹ but the bill was not reported out.

(2) *The second Swing-Johnson bill*²⁰ was introduced December 10, 1923. It was generally similar to the first Swing-Johnson bill, but went into more detail with respect to power. It was not reported out.

(3) *The third Swing-Johnson bill*²¹ was introduced in the House December 21, 1925. This bill was submitted to Secretary of the Interior Hubert Work, and Secretary of Commerce Hoover, who suggested revisions. It would have authorized a reservoir of 20,000,000 acre-feet, thereby satisfying the requirements of the California Finney Resolution.

Following the conference with the Secretary of the Interior, the foregoing bill was redrafted and reintroduced, on February 27, 1926.²² The latter is commonly referred to as the third Swing-Johnson bill, omitting reference to the measure of December 21, 1925.²³ The revised bill increased the capacity of the proposed reservoir to 26,000,000 acre-feet, and increased the authorization for appropriation to \$125,000,000. It directed the construction of a unified power plant by the Federal Government in the place of allocation of power privileges by the Secretary of the Interior, and authorized the issuance of bonds to finance construction.

Secretary Hoover had proposed a similar plan.²⁴ Testifying on the third Swing-Johnson bill on March 3, 1926,²⁵ Mr. Hoover said:

There has been great conflict over the character and location of the first works to be erected in the river. I believe the high dam should be erected in the vicinity of Boulder Canyon, which would serve a triple purpose of flood control, water storage, and development of power as the best compromise in all these views.

There are theoretical engineering reasons for establishing storage works farther up the river and flood-control works lower down the river. They will undoubtedly both be built in time. The practical problem, however, is what we need to do for the immediate generations, and it has always seemed to me that by one construction in this locality we can accomplish three purposes of storage, flood control,

¹⁹ Hearings, House Committee on Irrigation of Arid Lands (67th Cong., 2d sess.), on H. R. 11449; in five parts (1922-23).

²⁰ H. R. 2903 (68th Cong. 1st sess.), hearings, House Committee on Arid Lands, April-August 1923 and February-May 1924; S. 727 (68th Cong., 1st sess.), hearings, Senate Committee on Irrigation and Reclamation, December 1924-January 1925.

²¹ H. R. 6251, S. 1868 (69th Cong., 1st sess.).

²² H. R. 9826 (69th Cong., 1st sess.), hearings, House Committee on Irrigation and Reclamation, February-May 1926; S. 3331 (69th Cong., 1st sess.).

²³ H. R. 6251 (69th Cong., 1st sess.).

²⁴ Department of Commerce press release, January 16, 1926.

²⁵ Hearings of the House Committee on Irrigation and Reclamation on H. R. 9826, H. R. 6251, pp. 45-46 (March 3, 1926).

and power of sufficient extent to cover the next 40 years, and being the nearest point to market for power we would have a larger economic return from works established there.

There has also been great conflict over the method of financing the problem.

* * *

* * * In an endeavor to compose this conflict Secretary Work, Dr. Mead, head of the Reclamation Service, and myself proposed a short and, I believe, a simple plan by which the Federal Government should lend its credit to the issuance of bonds that no construction work or the use of this credit should be undertaken until valid contracts had been entered upon for the sale of power, the sale of domestic water, the sale of irrigation water in an amount that would cover amortization and interest on the bond issue necessary to carry out the project. There would, therefore, be no charge upon the taxpayer in the country as a whole. I am glad to say that this proposal seems to have met almost universal approval and has further composed a great line of conflicting interest.

* * *

By these three proposals—that is, the six-State ratification of the compact as a condition before any work is undertaken, by the requirement that contracts for the sale of water and power shall amount to a safe amortization and pay interest on any bond issue, and by the settlement of the initial rate—it would seem to me that we would have three compromises on the question of conflict that would settle probably 90 percent of the differences of opinion that have existed in respect to the method of development.

The third Swing-Johnson bill was favorably reported out of committees.²⁶

The bill was prevented from coming to a vote by a filibuster on February 22 and 23, 1927.²⁷

(4) *The fourth Swing-Johnson bill* ²⁸ was introduced by Mr. Swing in the House on December 5, 1927,²⁹ and by Senator Johnson in the Senate on December 6, 1927.³⁰

The House bill was reported favorably by the House Committee on Irrigation and Reclamation with amendments³¹ on March 15, 1928, after lengthy hearings.³² The bill passed the House with further amendments May 25, 1928³³ and went to the Senate.

²⁶ Report of the House Committee on Irrigation and Reclamation (five parts), December 22, 1926–January 28, 1927 (H. Rept. No. 1657, 69th Cong., 2d sess.); report of the Senate Committee on Irrigation and Reclamation (S. Rept. 654 on S. 3331, April 19, 1926, 69th Cong., 1st sess.).

²⁷ Congressional Record, 69th Cong., 2d sess., vol. 67, pt. 4 (1927), pp. 4396–4453, 4495–4563.

²⁸ H. R. 5773, S. 728 (70th Cong., 1st sess.).

²⁹ Congressional Record, 70th Cong., 1st sess., p. 97.

³⁰ Congressional Record, 70th Cong., 1st sess., p. 341.

³¹ Report of the Committee on Irrigation and Reclamation on H. R. 5773, March 15, 1928 (H. Rept. No. 918, 70th Cong., 1st sess.).

³² Hearings of the House Committee on Irrigation and Reclamation on H. R. 5773 (70th Cong., 1st sess.).

³³ Congressional Record, 70th Cong., 1st sess., May 25, 1928, p. 9990.

In the meantime the Senate had held hearings³⁴ on the companion bill, S. 728, and it had been reported favorably by the Committee on Irrigation and Reclamation with amendments.³⁵

The committee report, presented by Senator Johnson, described the purposes of the project as follows (p. 8):

PURPOSES OF PROJECT

The project will serve four main purposes:

(1) It will relieve a very serious and ever-present flood danger to the Imperial Valley as well as other sections along the lower river both in Arizona and California. Imperial Valley occupies a sink or basin lying from 100 to 350 feet below the head of the river. It has no drainage outlet. Hence its flooding means its permanent destruction.

(2) It will end an intolerable situation, under which the Imperial Valley now secures its sole water supply from a canal running for many miles through Mexico, as well as make possible the reclamation of public lands lying around the rim of the present cultivated section of the valley.

(3) It will conserve floodwaters of the river which in addition to providing for irrigation development will make it possible for cities of Southern California to contract for and secure a domestic water supply from the water thus saved.

(4) It will create a large amount of desirable hydroelectric power, making the project a financially feasible one.

The first session of the Seventieth Congress adjourned in May 1928 after considerable debate in the Senate and an Arizona filibuster.³⁶

Before the Congress adjourned, however, it enacted a preliminary measure, next referred to.

G. Creation of the "Sibert Board" (Appendix 301) and Its First Report (Appendix 302)

During consideration of the fourth Swing-Johnson bill a joint resolution was enacted³⁷ providing for a thorough investigation of the economic and engineering features of the proposed project. Under this authorization the Secretary of the Interior appointed the so-called "Sibert board," consisting of Maj. Gen. William L. Sibert, chairman, Charles B. Berkey, Warren J. Mead, Daniel W. Mead, and Robert Ridgway. The board rendered a report (appendix 302) on December

³⁴ Hearings of the Senate Committee on Irrigation and Reclamation on S. 728 (70th Cong., 1st sess.), commencing January 17, 1928.

³⁵ Report of the Senate Committee on Irrigation and Reclamation, March 20, 1928 (S. Rept. No. 592, 70th Cong., 1st sess.).

³⁶ Congressional Record, 70th Cong., 1st sess., p. 10668, et seq.

³⁷ Act of May 28, 1928 (45 Stat. 1011).

The full legislative history of this measure was as follows:

S. J. Res. 164.—May 28, introduced by Mr. Pittman, read twice, amended, and passed Senate; May 29, taken from table and passed House; May 29, approved (Public Res. No. 65, 70th Cong., 1st sess.), 69 Congressional Record (Senate), pp. 10200, 10257-10266, 10618, 10667, 10678; 69 Congressional Record (Senate), pp. 10731-10733, 10751.

3, 1928,³⁸ which was favorable to the project. It recommended certain changes which could be accomplished without significant difficulty.

The creation of this board was preceded by the appointment by Secretary of Interior Work in 1927 of a group of "special advisers," Hon. James R. Garfield, former Secretary of the Interior, Prof. William F. Durand, of Stanford University, Hon. James G. Scrugham, former Governor of Nevada, and Hon. Frank C. Emerson, Governor of Wyoming, who were requested to report on various "engineering, legal and economic phases of the project." The individual reports of these advisers were rendered in January 1928.³⁹

H. Passage of the Fourth Swing-Johnson Bill

Upon reconvening in December 1928 the Senate adopted the parliamentary device of first substituting H. R. 5773 for S. 728 on December 5, 1928, and thereupon by consent amending H. R. 5773 by striking out all after the enacting clause and inserting in lieu thereof the language of the Senate bill, S. 728.⁴⁰ The effect was to make the substance of the Senate bill the basic document for consideration and amendment. The bill was amended during debate and passed by the Senate on December 14, 1928.⁴¹

On December 18, 1928, the House agreed to the Senate amendment, without going to conference.⁴²

The bill was approved by President Coolidge on December 21, 1928.⁴³

The act did not become effective, however, until June 25, 1929, because of conditions precedent, hereinafter referred to. On the latter date, President Herbert Hoover, by proclamation, declared the act effective (appendix 503).⁴⁴

³⁸ See appendix 302: H. Doc. 446 (70th Cong., 2d sess.), "Report of the Colorado River Board on the Boulder Dam Project." For a supplemental report, rendered April 16, 1930, see appendix 303 herein.

³⁹ These reports were printed in hearings of the House Committee on Irrigation and Reclamation on H. R. 5773 (70th Cong., 1st sess., p. 469 et seq.).

⁴⁰ Congressional Record, 70th Cong., 2d sess., p. 67.

⁴¹ Congressional Record, 70th Cong., 2d sess., p. 603.

⁴² Congressional Record, 70th Cong., 2d sess., p. 837-838.

⁴³ 45 Stat. 1057.

⁴⁴ 46 Stat. 3000. The hearings record the important part played in the drafting of this legislation by W. B. Mathews and E. F. Scattergood of Los Angeles, George W. Malone and Charles P. Squires of Nevada, Gov. George Dern of Utah, Delph Carpenter and L. Ward Bannister of Colorado, M. J. Dowd and Charles L. Childers of Imperial Valley, Francis C. Wilson of New Mexico, and Gov. F. C. Emerson of Wyoming, among others, who advised their respective congressional delegations.

The provisions of this act are discussed in the following chapter.⁴⁵

⁴⁵ The complete legislative history of the Boulder Canyon Project Act was as follows:

H. R. 5773.—December 5, 1927, introduced by Mr. Swing, referred to the Committee on Irrigation and Reclamation; January 6, 9, 11, 12, 13, and 14, 1928, hearings by committee; March 15, committee report (H. Rept. No. 918); March 21, minority views (H. Rept. No. 918, pt. 2); March 24, minority views (H. Rept. No. 918, pt. 3); May 25, passed House; December 5, 1928, substituted for S. 728; December 14, passed Senate as amended; passed House; December 21, 1928, approved (Public Law No. 642, 70th Cong.) (69 Congressional Record (House), pp. 97, 4827, 4868, 9486-9513, 9622-9658, 9662-9664, 9759-9786, 9975, 9991, 10731-10733, 10786; 70 Congressional Record (Senate), pp. 56, 67-80, 161-176, 227-245, 264-269, 277-298, 301, 312, 314-340, 381-402, 445, 458-474, 503, 517-530, 565-603, 789, 990; 70 Congressional Record (House), pp. 203, 615-621, 830-838, 862, 897, 1011, 1012-1015).

S. 728.—December 6, 1927, introduced by Mr. Johnson, referred to Committee on Irrigation and Reclamation; January 17, 18, 19, 20, and 21, 1928, hearings by committee; March 20, committee report (S. Rept. No. 592; April 9, minority views (S. Rept. No. 592, pt. 2); December 5, amended by substituting H. R. 5773 (69 Congressional Record (Senate), pp. 341, 5025, 5276-5277, 5378, 5415, 5665, 6060, 6283-6297, 6594-6595, 6806-6808, 7047, 7144; 7198, 7242-7243, 7245-7253, 7346, 7387-7397, 7432-7433, 7437, 7515-7544, 7591, 7622-7627, 7630-7638, 7696-7697, 7704, 8247-8249, 8522-8524, 8527, 9058, 9144, 9223-9224, 9429, 9433-9443, 9449-9464, 9880, 9886-9891, 10058, 10200-10202, 10206, 10257-10266, 10271-10282, 10287-10310, 10460, 10462, 10464, 10465-10513, 10516, 10545, 10555-10571, 10618, 10668).

For annotations showing the legislative history of each section of the project act, see "Analysis of Boulder Canyon Project Act," California Colorado River Commission (1930), p. 17 et seq. For the text of amendments presented but rejected or withdrawn, see *id.*, p. 39 et seq.