

ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

HEARINGS

BEFORE THE

★ COMMITTEE ON IRRIGATION OF ARID LANDS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

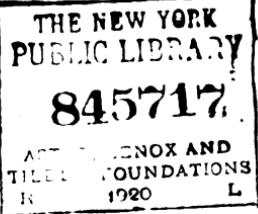
ON

**THE BILL TO ASSIST IN INCREASING THE PRODUCTIVE
AGRICULTURAL AREA OF THE IMPERIAL AND
COACHELLA VALLEYS, CALIF., AND
FOR OTHER PURPOSES**

JULY 9, 12, AND 14, 1919



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COMMITTEE ON IRRIGATION OF ARID LANDS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

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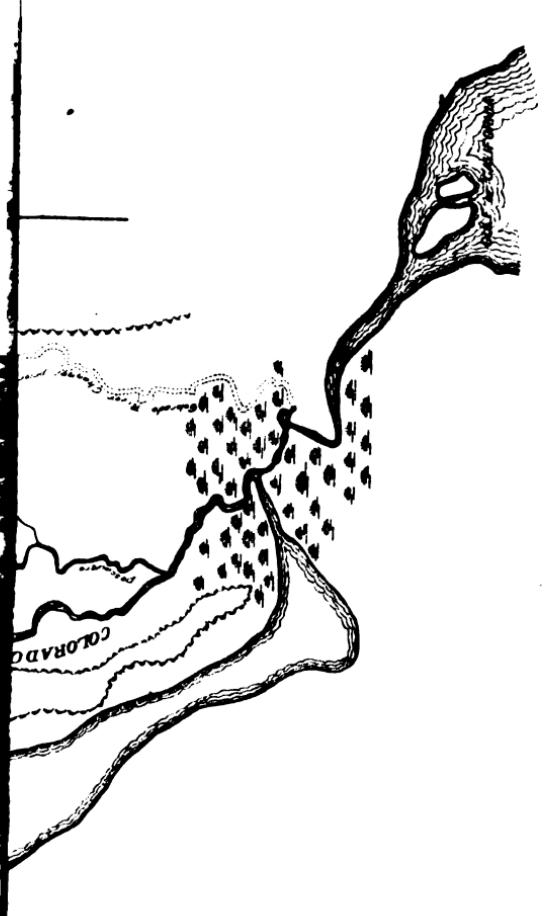
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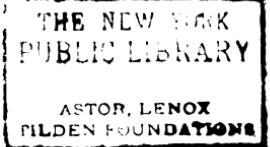
MAP OF THE

IMPERIAL AND COACHELLA VALLEY
SHOWING
ALL-AMERICAN CANAL

AND

LANDS SURVEYED





ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Wednesday, July 9, 1919.

The committee met at 10 o'clock a. m., Hon. Moses P. Kinkaid (chairman) presiding.

The CHAIRMAN. Gentlemen, we have this morning for consideration the Kettner bill (H. R. 6044) relative to the Imperial Valley, Calif., irrigation district, which bill is as follows:

[H. R. 6044, Sixty-sixth Congress, first session.]

A BILL To assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all unentered public lands of the United States in Imperial Valley and Coachella Valley, California, found by the Secretary of the Interior to be susceptible of irrigation from the canals the construction of which is provided for by section 6 hereof, shall be offered for sale by the Secretary of the Interior at \$10 per acre, plus the \$1.25 per acre Government charge under the desert land laws, for cash, or on deferred payments, at the option of the purchaser, one-fifth cash and the balance in four annual installments bearing interest at the rate of 6 per centum per annum from date of sale, patent to issue upon full payment of purchase price and upon proof of satisfactory water right therefor: *Provided*, That no purchaser shall be permitted to purchase more than one hundred and sixty acres under the provisions of this act: *Provided further*, That any person having a valid entry upon lands similarly situated but not patented may, at his option, acquire title under this act by proof of satisfactory water right and upon the payment of the \$10 per acre mentioned in this section, plus any Government charge remaining unpaid.

SEC. 2. That all moneys derived from the sale of the lands mentioned in the first section hereof in excess of the Government charge of \$1.25 per acre shall be deposited in the Treasury of the United States in a special fund to be known as the "bond guaranty fund," to guarantee the payment of the principal and interest of bonds to be deposited with the Secretary of the Treasury as hereinafter provided. No privately owned lands whose reclamation has been made possible by the construction of the irrigation works hereinafter provided for shall be permitted to benefit by said works until said lands shall have first paid into the Treasury of the United States to the credit of the bond guaranty fund the sum of \$10 per acre.

SEC. 3. That when the Imperial irrigation district and such other irrigation districts or county water districts as now are or may be organized under the laws of the State of California for the purpose of irrigating the lands referred to in the first section hereof shall have duly voted and issued bonds bearing interest at a rate to be fixed by the Secretary of the Interior, not to exceed 5 per centum per annum, in sufficient amount to cover the cost of the construction of the canals and works described in section 6 hereof, as estimated by the Secretary of the Interior, and the legality and validity of such bond issue or issues shall have been duly confirmed by the courts in the manner provided by the State laws of California, the Secretary of the Interior is authorized and directed, when he shall have found the irrigation project of said district or dis-

tricts to be feasible and the bonds offered not disproportionate to the security which will exist upon the completion of said canal, to accept such district bonds and deposit the same with the Secretary of the Treasury, who shall collect the principal and interest thereof and apply the same to the payment of the principal and interest of the certificates of indebtedness hereinafter authorized.

SEC. 4. That upon the receipt by the Secretary of the Treasury of such district bonds he shall issue certificates of indebtedness of the United States in amount equal to the face value of such district bonds and bearing interest at the same rate in such form as he may prescribe and in denominations of \$50 or multiples thereof, the principal and interest to be payable in gold coin of the United States, the principal and interest thereof to become due not less than sixty days after the due date of the principal and interest of the corresponding district bonds, respectively. Such certificates of indebtedness shall run for the same period as the corresponding district bonds, not exceeding, however, forty years.

SEC. 5. That from time to time, as funds may be required for construction purposes, such certificates of indebtedness shall be disposed of by the Secretary of the Treasury under such rules and regulations as he may prescribe, giving all persons an equal opportunity to subscribe therefor, but no commission shall be allowed, and the aggregate issue of such certificates shall not exceed the amount of the district bonds deposited with the Secretary of the Treasury, and the proceeds from the sale of such certificates of indebtedness shall be deposited in a special fund to be known as the "project fund," to and for the credit of the district or districts, respectively. Issuing said bonds, to be used by the Secretary of the Interior in constructing the canals and necessary works as provided in section 6 hereof.

SEC. 6. That any and all moneys that may at any time hereafter be in the Treasury of the United States to the credit of the project fund are hereby appropriated for carrying out the objects and purposes of this act. The Secretary of the Interior is hereby authorized and directed to expend such moneys for the construction of a canal and necessary works, entirely within the United States, connecting the present irrigation system of the Imperial Irrigation District with Laguna Dam, substantially in accordance with the plans and specifications of the joint survey made by the United States and the Imperial Irrigation District under the contract entered into by them February 16, 1918, said canal to be of sufficient size and capacity and of proper construction to supply all lands within the present boundaries of the Imperial Irrigation District, as well as all other lands within the United States susceptible of practical reclamation by gravity flow from said canal, for which lands bonds have been voted, issued, and accepted as herein provided within a time limit to be set by the Secretary of the Interior, and also for the construction of a main line canal and necessary works connecting said above-described canal with any other district or districts whose bonds have been filed with and accepted by the Secretary of the Interior under this act; said canal to be of sufficient capacity to irrigate the arid lands within said districts susceptible of practical reclamation by gravity flow from said canal.

SEC. 7. That each district shall bear its proportionate cost of the construction of the canal or canals and necessary works serving such district, and that the proportionate amount to be paid by each of said districts for the construction of the canal or canals and necessary works above described shall be fixed and determined by the Secretary of the Interior, and shall be based upon the number of acres in each district susceptible of practical reclamation by gravity flow from said canals, and such district or districts shall issue their bonds in the amount so determined by the Secretary.

SEC. 8. That should a surplus remain from the proceeds of the sale of such certificates of indebtedness issued in connection with said project after the construction of the canal and works provided for in section 6 hereof, such surplus shall be credited as payment of interest on the bonds held by the Secretary of the Treasury on account of such project until said surplus is exhausted.

SEC. 9. That if the bond guaranty fund shall be diminished by the payment under the provisions of this act of the obligations of any district, proceedings may be at once instituted by the United States Government, or any district interested in said bond guaranty fund, to compel the defaulting district to meet its obligations, and the money so collected shall be returned to said bond guaranty fund. When said bond guaranty fund shall have served its purpose of guaranteeing the payment of the district bonds accepted by the Government

under this act it shall be applied upon the payment of the last bonds held by the Government hereunder. The funds shall be applied as nearly as possible to the payment of the bonds of the respective districts in the proportion the money was derived from the lands within said districts.

SEC. 10. That the certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under the State, municipal, or local authority, and a sum not exceeding one-tenth of 1 per centum of the amount of the certificates of indebtedness issued under this act is hereby appropriated out of the said bond guaranty fund to pay the expense of preparing, advertising, and issuing the same: *Provided*, That the said bond guaranty fund shall be reimbursed for such expenditure out of the proceeds of sale of such certificates of indebtedness.

SEC. 11. That the unpatented lands of the United States within the limits of any district whose bonds are accepted by the Secretary of the Interior under this act shall be subject to the provisions of the act entitled "An act to promote the reclamation of arid lands," approved August 11, 1916 (Thirty-ninth Statutes, page 506).

SEC. 12. That all lands outside of the present boundaries of the Imperial irrigation district reclaimed by means of the irrigation works constructed hereunder shall have a water right secondary to that of the lands within the present boundaries of the Imperial irrigation district.

Mr. Kettner is here, the Imperial Valley irrigation district being in his district, and wishes to be heard, and I am sure we all want to hear him.

STATEMENT OF HON. WILLIAM KETTNER, REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. KETTNER. Mr. Chairman and gentlemen, I have here a list of the men who are representing the different water systems of the Imperial Valley: Phil Swing, judge, El Centro; W. H. Brooks, chairman of the board of supervisors, Imperial County; Fred Lack, of Brawley, banker and president of one of the water companies; Mark Rose, of Holtville; J. C. Allison, engineer of Calexico, representing also the Palo Verde irrigation district; Mike Leibert, of Seeley; and O. N. Shaw, banker of Holtville, president Wool Growers' Association of Imperial Valley.

I have carefully read the report of the Secretary of the Treasury regarding his views on this bill, and I hope to be able to convince the committee that while his views, in general, might be good, this bill is the exception to the rule. I think I will be able to convince the committee by congressional actions of the past that all of the executive officers from the President down to the different committees have made this valley the exception to the general rule, and I hope the committee will bear that in mind.

Mr. WELLING. Mr. Kettner, was it your purpose to put the Secretary's communication in the record?

Mr. KETTNER. No; not unless the committee sees fit to do so.

Mr. TAYLOR. Mr. Chairman, the bill itself ought to go into the record and the report of the Interior Department, if there is one, and if not, there ought to be one, and then the report of the Treasury Department following that report, because we want to make a complete record here.

Mr. KETTNER. Very well.

Mr. WELLING. Some of us have not seen the report.

Mr. TAYLOR. I have not seen the report and I do not know a thing about it. Mr. Kettner, I wish you would be a little more elementary

and assume that we have heard the words "Imperial Valley," and that is all we know about it, and then tell us just what you want us to do.

Mr. SMITH. Suppose you read the letter from the Secretary of the Interior.

The CHAIRMAN. Suppose you read the letter from the Secretary of the Interior and the Secretary of the Treasury also. You have both letters there.

Mr. KETTNER. The bill, Mr. Chairman, provides that the Government accept the bonds of the Imperial Valley for some \$30,000,000 as security, and exchange Government certificates therefor with which to construct the irrigation system which was recommended as far back as 1907 by President Roosevelt.

The CHAIRMAN. Did President Roosevelt recommend this scheme?

Mr. KETTNER. No; he recommended that this improvement or this work be done at that time.

Mr. SMITH. Let us have the letter from the Secretary of the Interior, Mr. Kettner.

Mr. KETTNER. I will read the letter from the Secretary of the Interior, gentlemen:

DEPARTMENT OF THE INTERIOR,
Washington, July 3, 1919.

MY DEAR MR. KINKAID: Your letter of June 19, 1919, has been received, transmitting copy of H. R. 6044, with request for report.

The bill is entitled "A bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, California, and for other purposes."

The bill proposes a means of providing a reliable water supply for a large area of irrigated and irrigable lands in the southern part of California, known generally as the Imperial Valley.

Most of the lands in the valley have been organized under a public corporation known as the Imperial Irrigation district, containing a gross area of 586,000 acres, of which 392,000 were irrigated last year.

Adjoining Imperial Valley to the northwest is Coachella Valley, containing about 100,000 acres of irrigable land, a large part of which is now being irrigated from wells. In addition, there are about 300,000 acres, mostly public land, which could be irrigated by the proposed canal system.

At present the water supply of Imperial Valley is drawn from Colorado River by a canal which heads less than a mile north of the boundary between the United States and Mexico, passing thence into Mexico and continuing in Mexico, most of the way in the channel of Alamo River for a distance of more than 40 miles, when it returns into California, and the waters are distributed to the irrigable lands in Imperial Valley.

The inlet of the main canal is so located that it is difficult to keep it open so as to secure the necessary water supply from Colorado River, because it is not practicable to build a permanent dam to divert the water into the canal. The water supply for this large area, which, in the year 1918, produced more than \$30,000,000 in crops, has, on account of this heading, been rather precarious, with frequent occasions when much loss of crops was threatened on account of shortage of water supply and considerable loss has been occasioned by this condition.

In addition to this, the water supply which passes through Mexican territory is subject to the conditions existing within that country.

In view of the dangers and uncertainties caused by these factors, which involve not only the great property values in the valley but also the lives of its population of 55,000 people who are dependent for their domestic water supply upon the flow of water from Colorado River, it has long been apparent that a more reliable diversion from Colorado River must be secured. This proposition does not contemplate the diversion of the full flow of the Colorado for use exclusively upon United States soil, for it would be entirely feasible to connect such a canal with that now in Mexico for the supply of the lands therein which are at present supplied, and the supply could be extended by storage.

Laguna Dam, forming the diversion for the lands of the Yuma project of the Reclamation Service, is about 20 miles from the Imperial Canal heading, and would form a reliable point of diversion for these lands, and it would also be practicable to carry the water supply from Laguna Dam entirely within the limits of the United States.

The United States, through cooperative contracts with the Imperial Irrigation district, the latter bearing one-half the cost, has caused a preliminary survey to be made of the possibility of diverting the water supply for the district and adjacent public lands from Laguna Dam and carrying it through an all-American canal. The report made under these contracts is to the effect that, so far as the costs can now be computed, this construction would require about \$30,000,000.

This expenditure is regarded as reasonable because of the great physical difficulties involved and because it would secure a reliable water supply for an area in Imperial and Coachella Valleys, now under irrigation, amounting to about 500,000 acres, and would bring under irrigation an additional acreage of about 400,000 acres, largely public lands.

The lands in Coachella Valley have an independent limited water supply from artesian wells, with little opportunity for expanding to the large area of adjacent irrigable lands, mostly public.

The plans under this bill would provide a practicable method for bringing water from Colorado River to the lands in Coachella Valley which would permit expansion to the adjacent irrigable lands.

It is to be observed, however, that no material addition can be made to the lands now irrigated in Imperial Valley with an assurance of an ample water supply for the entire year, because the low-water flow of Colorado River, on which these lands depend, is now in some years not more than sufficient for the lands now under ditch. Therefore, a complete water supply can not be furnished for additional lands until storage is provided. There are a number of possible reservoir sites which investigation indicates are feasible.

The irrigation of the added lands can, however, be carried out to a considerable extent, because the water supply would be ample during the entire year except in short periods in occasional years, when for about a month there may be insufficient water. As irrigation in this country is practiced practically throughout the year and crops are raised during the entire period, the lands would nevertheless have ample supply to produce certain crops sufficient for a profitable investment and enable the landowner to meet the obligations which will accrue under this bill.

It is deemed questionable whether the people of these irrigation districts could secure, through their own efforts, the necessary funds for this work, particularly as a very large proportion of the lands are undeveloped public lands.

The bill proposes a plan by which funds can be secured by the aid of the United States, a guaranty fund being designed as a protection against any demand on the Treasury of the United States.

One or more of the irrigation districts now organized are to issue bonds for the amounts deemed necessary by the Secretary of the Interior for the construction of an all-American canal with interest at not more than 5 per cent per annum. With a view to protecting against default in the required payments the unentered public lands are to be sold at not less than \$10 per acre, to be paid within four years, and \$10 shall be paid on similar terms for lands that are entered but not patented, and also by patented lands which do not have a valid water right. Such payments shall constitute a bond guaranty fund which is intended to guarantee the payment of the principal and interest on the bonds. This fund would amount to about \$4,000,000, while the interest on \$30,000,000 at 5 per cent would annually be \$1,500,000. The large increase in values of the lands involved and the valuable crops which can be raised would give ample assurance that the payments on both interest and principal will be met as they fall due, in addition to the assurance that this guaranty fund will give.

These bonds are to be delivered to the Secretary of the Interior, and are to be deposited with the Secretary of the Treasury, who is authorized to collect the principal and interest.

Upon receipt of the district bonds by the Secretary of the Treasury he is to issue certificates of indebtedness of the United States in an equal amount, bearing interest at the same rate, the principal and interest being payable in not less than 60 days after the due dates of corresponding payments for the district bonds. Accordingly the payments of the principal and interest

on the district bonds will be in the hands of the Secretary of the Treasury and available for payment of the principal and interest on the certificates of indebtedness of the United States before they become due.

In case of failure of any such payment by the district the Secretary of the Treasury is authorized to use the bond guaranty fund, and to bring suit to compel the defaulting district to meet this obligation, and the money so collected shall be turned into the bond guaranty fund.

The provisions of the bill covering the details of this procedure have been carefully worked out and it is believed will be found practicable in application to the conditions.

There are some amendments of the language which are required to make definite the proposed procedure. These are as follows, and can readily be understood without specific explanation:

Page 1, line 6, after the word "canals," insert the words "and works."

Page 1, line 7, after the word "sale," insert "to citizens of the United States."

Page 1, line 8, after the word "at," insert "not less than."

Page 2, line 3, after the word "price," insert "said land to be subject to the usual charges by the irrigation district and any other agency serving the land with water," striking out the remainder of line 3 and a part of line 4 preceding the word "provided."

Page 2, line 8, after the word "patented," insert "and not now holding a valid water right."

Page 2, lines 8, 9, and 10, strike out the words "may at his option acquire title under this act by proof of satisfactory water right and upon," and insert instead "shall make."

Page 2, line 11, before the word "plus," insert "upon like terms."

Page 2, line 11, after the word "unpaid," insert "said land to be subject to the usual charges by the irrigation district and any other agency serving the land with water."

Page 2, line 19, after the word "lands," insert "except those now holding valid water rights," and strike out the words "whose reclamation has been made possible by the construction of the irrigation works hereinafter provided for."

Page 2, line 24, after the word "acre," insert "upon the same terms as provided in section 1."

Page 3, line 4, after the word "lands," insert "hereinbefore."

Page 3, line 5, strike out "in the first section hereof."

Page 3, line 17, after the word "canal," insert the words "and works."

Page 5, lines 13, and 22, strike out the words "by gravity flow."

Page 6, lines 6 and 7, strike out the words "by gravity flow."

In order to provide for the need of storage reservoirs hereinbefore referred to, strike out all of section 9 following line 22, page 6, and insert :

"When in the opinion of the Secretary of the Interior the bond guaranty fund is no longer necessary for guaranty purposes, he may use it for the construction of a reservoir or reservoirs to provide by storage a full water supply for the lands affected by this act, and shall make such additional charges against the land requiring stored water as may be necessary to meet the cost of such storage in excess of the amounts previously paid to the United States on account of each tract of such lands as hereinbefore provided, and shall in advance make such contracts as may be necessary to insure such excess payments upon such terms which he may deem reasonable."

Page 7, line 18, strike out the words "the limits of," and insert after the word "whose," the words "boundaries and."

Page 7, line 22, after the parenthesis, insert the words "notwithstanding the district may contain more than a majority of such lands."

On page 8 add the following:

"SEC. 13. Nothing contained in this act shall be construed as modifying the terms of the contract of October 23, 1918, between the United States and the Imperial Irrigation district."

The amendments which he suggests I have put in without reading, as I do not think that is necessary now.

Mr. SINNOTT. Was the bill drawn by the Secretary or drawn in the Secretary's Office?

Mr. KETTNER. The bill was handed to me by the gentlemen from Imperial Valley.

Mr. SINNOTT. I was wondering if it was framed in the Secretary's Office.

Mr. KETTNER. I do not know. They can tell you when they appear before the committee.

The CHAIRMAN. The Secretary in his letter approves the bill, except he wants to make it more specific by some amendments which he offers.

Mr. KETTNER. The Secretary winds up his letter in this way:

The proposition involved in this bill has had consideration of this department for a number of years, and the gravity of the situation has long been recognized as one which must necessarily be met as soon as practicable.

In my opinion this bill as amended presents a satisfactory and feasible method of working out the problem, and I therefore suggest favorable action thereon.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

Hon. M. P. KINKAID,

*Chairman Committee on Irrigation of Arid Lands,
House of Representatives.*

The CHAIRMAN. It might be proper here to read at this time the communication from the Secretary of the Treasury upon this measure.

TREASURY DEPARTMENT.

Washington, June 30, 1919.

MY DEAR CONGRESSMAN: I received your letter of June 19, with the inclosed copy of H. R. 6044 introduced by Mr. Kettner, and appreciate very much the opportunity the committee has afforded me to give my official advice concerning the financial and bonding features of the bill. I had a personal visit from Senator Phelan and Congressman Kettner in relating to the matter and have given it the careful consideration which I promised them it should have.

Reluctantly I am compelled to say that the features concerning which you ask my advice are wholly untenable from the Treasury point of view. The bill imposes upon the Treasury of the United States the burden of financing an irrigation project, but attempts to avoid making an appropriation for the purpose, which would be the orderly and businesslike thing to do if the project is found by the Congress to be sound and one which the United States should undertake to finance, by directing the Secretary of the Treasury, as funds may be required for the purposes of the bill, to sell certificates of indebtedness, the principal and interest thereof to become due not less than 60 days after the due date of the principal and interest of certain irrigation district bonds provided for in the act, not exceeding, however, 40 years.

It is not difficult to see what injury to the finances of the United States would be done by this legislation. I hope before the end of the coming fiscal year that the Government of the United States will not only be meeting all its expenditures out of current revenues without further borrowing, but that it will have embarked upon the retirement of the war debt as contemplated by the express requirements of the Victory Liberty loan act. Yet under this bill, in order to avoid the appearance of an appropriation out of the public Treasury, the Secretary of the Treasury would be obligated to sell certificates of indebtedness of certain specified maturities, determined not by action of the Secretary of the Treasury in the interest of the United States but by the action of the authorities having the power under the laws of the State of California of issuing such irrigation district bonds, and to sell such certificates without reference to the cash necessities of the United States, and even though the United States might be amply provided with funds from current revenues or from loans already made to meet the necessary expenditure.

You will observe also that under the proposed bill the Secretary of the Treasury would be obliged to issue securities called certificates of indebtedness and of a maturity perhaps as great as 40 years, although under existing law and practice the Secretary of the Treasury does not issue certificates of indebtedness of a maturity greater than one year, and long borrowing is being done by the issue of bonds or notes.

I am forced to the conclusion that the credit of the United States Government would be injuriously affected and its financial operations embarrassed were this bill to become law, imposing as it does upon the Secretary of the Treasury the necessity of issuing obligations of the United States, themselves misnamed certificates of indebtedness, of maturities, and rates of interest determined without regard to the judgment of the Secretary of the Treasury as to the financial requirements of the United States as a whole and as to financial expediency in the face of the then existing market conditions, and without reference to whether the United States is already amply provided with funds or may obtain them on easier terms.

I therefore urge your committee very strongly, if it should determine that the project is meritorious, to deal with the matter in the simple old-fashioned way and make a direct appropriation of a specific amount for the purpose, leaving the Secretary of the Treasury, acting as he does in such matters under the general authority conferred upon him by Congress, to finance the requirements of the project as from time to time may be found expedient.

I notice that section 10 of the bill provides that the certificates of indebtedness which the Secretary of the Treasury is ordered to issue, shall be exempt from taxes or duties of the United States, although under the second Liberty bond act and subsequent legislation it has been the practice of the Treasury Department to issue certificates of indebtedness subject, except to a very limited extent, to Federal surtaxes and profits taxes.

It is, perhaps, not improper to observe that, although the whole burden of financing the project is imposed upon the Secretary of the Treasury under the bill, all financial matters with respect to the irrigation district bonds, which are the sole security of the United States for its investment, are to be determined not by the Secretary of the Treasury, but by the Secretary of the Interior. It is also worthy of note that section 8 of the bill provides that the surplus proceeds of sale of the certificates are to be applied to the payment of the interest on the irrigation district bonds—that is to say, the proceeds of the sale of obligations of the United States are to be used in part to pay the indebtedness of the irrigation districts.

I observe also that under the bill there is no limit whatever to the amount of irrigation district bonds which the Secretary of the Interior is directed to purchase nor, consequently, to the amount of the certificates of indebtedness which the Secretary of the Treasury must issue to finance the project.

Very truly, yours,

CARTER GLASS.

Hon. M. P. KINKAID,
House of Representatives.

Mr. KETTNER. Now, Mr. Chairman, I have here the message of President Roosevelt to the Congress of January 12, 1907. I will read an excerpt from the message, because the message itself is too long to read, unless the committee wants it read.

Mr. TAYLOR. I suppose you ought to insert in the record all that pertains to this matter, but do not read it all unless you desire to do so.

Mr. KETTNER. Mr. Chairman, I would like to read this part of it, because it has a direct bearing on the matter.

The CHAIRMAN. Read the part you wish and insert the balance of it if you desire.

(Message of President Roosevelt, found in appendix as "Exhibit A.")

Mr. KETTNER (reading):

The Reclamation Service should be authorized to take steps at once for the construction of an irrigation project, under the terms of the reclamation act, for the lands in the Imperial Valley and in the lower Colorado River Valley. The service should be in position to proceed actively with the organization of the project and the construction of the works as soon as the conditions in regard to the protection of the valley against overflow will justify expenditures for this purpose.

To accomplish this, the United States should acquire the rights of the California Development Co. and its subsidiary corporations in the United States

and Mexico, upon such reasonable terms as shall protect the interests of the Government and of the water users. The United States should obtain by convention with Mexico the right to carry water through that country upon reasonable conditions.

Most of the land in the Imperial Valley has been entered under the terms of the desert-land act or the homestead laws, and title has not passed out of the United States.

Then I would like to read another extract:

The Imperial Valley will never have a safe and adequate supply of water until the main canal extends from the Laguna Dam.

That is exactly what they are asking for, and this is what President Roosevelt recommended in 1907.

Mr. LITTLE. Mr. Kettner, is the red mark on the map up there on the Colorado River the Laguna Dam?

Mr. KETTNER. Yes; that is the Laguna Dam.

Mr. LITTLE. Why did they put it right there?

Mr. KETTNER. Because of the rock foundation. It was the only place on the river where they could find a rock foundation for a dam.

Mr. LITTLE. For how far each way?

Mr. KETTNER. I do not know, but perhaps Mr. Rose can answer that.

Mr. ROSE. There was nothing below and 6 miles above was where they found the next site.

Mr. LITTLE. What kind of a bank has it below?

Mr. ROSE. It is just simply the usual soil, mostly silt with mesas on each side, but no rock formation at all. You pass out of the canyon there into a valley which gradually opens out 50 or 75 miles and there is no rock bottom after you get below that point which they struck at all, and the next site was 6 miles above, and there was no advantage in going above.

Mr. TAYLOR. Why was there no advantage in going above this site?

Mr. ROSE. There was no advantage in going 6 miles farther up, and that was the next site.

Mr. TAYLOR. Would it have covered any more ground?

Mr. ROSE. Not an inch more, and that is why I say there would have been no advantage in going farther up.

Mr. KETTNER. Mr. Chairman, the President goes on to say:

At each end this dam is connected with rock bluffs and provides a permanent heading founded on rock for the diversion of the water. Any works built below this point would not be safe from destruction by floods, and can not be depended upon for a permanent and reliable supply of water to the valley.

If Congress does not give authority and make adequate provision to take up this work in the way suggested, it must be inferred that it acquiesces in the abandonment of the work at Laguna and of all future attempts to utilize the valuable public domain in this part of the country.

You see, Mr. Chairman, he is very emphatic in saying that this is the only solution.

Mr. HAYDEN. Mr. Kettner, is that the special message of President Roosevelt relative to the Imperial Valley situation, or is it a part of a general message to Congress?

Mr. KETTNER. It is the special message relative to the Imperial Valley.

Mr. HAYDEN. Is that the message in which President Roosevelt recommended the repayment to the Southern Pacific Railroad Co. of

the \$1,000,000 which that company expended in controlling the Colorado River so as to prevent the destruction of the Imperial Valley?

Mr. KETTNER. No; I do not think so, Mr. Hayden.

Mr. SINNOTT. When was the Imperial Valley project started, with reference to that date, 1907?

Mr. KETTNER. The Imperial Valley was started in 1899. I believe I am right, am I not, Mr. Rose?

Mr. ROSE. The first water ran in there June 19, 1901.

Mr. SINNOTT. When was the reclamation act passed?

Mr. ROSE. 1902; the Laguna Dam was completed about 1911.

Mr. TAYLOR. If there is any other message it might be well to insert it in the record.

Mr. HAYDEN. Does the entire message deal with the situation in the Imperial Valley?

Mr. KETTNER. Yes; it deals with the Imperial Valley only. It gives a full history of the Imperial Valley.

Mr. EVANS. How many acres of Government land did you say this will reclaim?

Mr. KETTNER. About 400,000 acres.

Mr. EVANS. At a cost of \$14,000,000.

Mr. KETTNER. Yes.

Mr. SINNOTT. Do you know why they did not take President Roosevelt's advice at that time?

Mr. KETTNER. I do not, Mr. Sinnott.

Mr. TAYLOR. Were there any hearings at that time, or was any bill introduced to carry out that message, or did anybody pay any attention to it?

Mr. KETTNER. I have not had time to look it up. I have been busy with the Naval Affairs Committee.

Mr. TAYLOR. Does anybody know about the history of this?

Mr. KETTNER. I presume the delegation from Imperial Valley knows.

Mr. ROSE. The United States district attorney down there killed it by saying that it was impossible at that time to spend any money in Mexico. He said that nothing could be spent out of Government money in Mexico, and that practically put an end to it.

Mr. KETTNER. Congress appropriated money and the hearings will show that it was to be spent in Mexico. The Appropriations Committee since I have been in Congress, in 1914, appropriated \$100,000 to be spent in Mexico to protect these people. The point I am trying to make is that this is an exception to the general rule. The \$1,000,000 appropriated during President Taft's administration was spent in Mexico, and President Roosevelt in this special message mentioned the fact that the money would have to be spent in Mexico.

The CHAIRMAN. For what purpose?

Mr. KETTNER. For the purpose of protecting the Imperial Valley from overflow.

Mr. SMITH. The idea is that if you build the canal in the United States you would avoid trouble and controversy between the two Governments?

Mr. KETTNER. Yes, sir; and it will also permit our Government to reclaim 400,000 acres of land which now has practically no value.

The CHAIRMAN. That condition also makes the available water supply precarious, because of having to go through Mexico. That

is true on account of the bad conditions down there, and the Secretary mentions that in his letter.

Mr. KETTNER. Yes, sir.

Mr. SMITH. Is there any controversy with Mexico over the question of securing the necessary water?

Mr. KETTNER. No, sir; President Taft in his message of June 25, 1910, states that there was a committee or a commission appointed, and they asked that a like commission from Mexico be appointed to settle the water question, but for some reason or other it was never settled.

Mr. SINNOTT. Does the Mexican Government question our right to appropriate the water on our side?

Mr. KETTNER. No, sir; they do not.

Mr. LITTLE. In view of the fact that our Government has permitted the Mexican Government to transport an Army from Chihuahua through El Paso around to the Sonora district, don't you think that they might make some arrangements with them that would be satisfactory to both sides by which we could secure such an attitude on their part toward the valley as would meet the situation in the entire valley down to the Gulf of California, and under which our Government would have enough governmental relation to it to have it enforced? It must have been a great accommodation to Mexico to permit her to transport her troops in that way, and it seems to me that a little shrewd diplomacy might secure an agreement with them under which we might have such a relation with the valley and the river as would meet all of these difficulties in a way that would be satisfactory to both sides. What do you think about that?

Mr. KETTNER. Mr. Little, that is something greatly to be desired, of course, by the people in the Colorado River section, but, knowing the Mexican people as I do, I do not believe there is much relief to be looked for in that direction.

Mr. HERNANDEZ. The trouble is you do not know with whom you are dealing down there.

Mr. KETTNER. Yes; that is true.

Mr. SMITH. Have we not been trying to negotiate with them for the last 10 or 15 years, but, because of those difficulties, they have been unable to make any progress?

Mr. KETTNER. I will explain that Lower California has been unsettled the same as the balance of the Mexican Republic. They have had a governor who has been very reasonable in some ways and very unreasonable in others. Generally speaking, however, the people have gotten along very well with him. He makes his own laws if the laws of Mexico do not suit him. If the Mexican laws suit him he complies with them, but if they do not suit him he makes his own regulations in a roundabout way. For instance, we have had a great deal of trouble regarding the importation of cotton. American people are farming most of these lands in Lower California in Mexican territory, and our State Department has had an agreement that cotton should be entered, I believe, at \$6 per bale at the Mexican frontier. He complied with the charge of \$6, and then applied a charge of \$6 for other purposes, making a total of \$12.

Mr. LITTLE. It seems to me that if our Government has proceeded in such a way as I have indicated with the Mexican Government

we ought to be able to secure in return something from the Mexican Government, or something along the lines I have indicated. If the Mexican Government is clever enough to get such privileges from us, I should certainly hope that our great diplomats would be able to secure something from them. So far as the stability of the Government is concerned I would hate to believe that our Government would encourage the Mexican Government to the extent of allowing them to transport their troops across our territory in order to meet a rebellion and not require anything at the hands of that Government. So far as respect for the laws and regulations in the Valley of the Colorado is concerned, if they did not accord to us the rights to which we are entitled it seems to me that there would be a very simple and very proper method of getting at it. There is no earthly reason why the American Government, that has such intimate and friendly relations with the Mexican Government that it will allow them to transport their troops across our territory, cannot itself have a friendly understanding about a little sandy valley there which nobody has any interest in. No Mexican cares anything about that valley. The only earthly purpose they have is to get what little water down there that you people do not use, or to give people an opportunity to rob you of that which you could use practically.

It seems to me that some of our American statesmen ought to be able to secure some method or understanding by which to meet this situation, in view of what we have done for them. It ought to be entirely satisfactory to both sides. Do you not think so?

Mr. KETTNER. If you could devise or suggest any way by which the Imperial Valley could have some permanent assurance of water they would build a memorial to you as high as the Washington Monument.

Mr. LITTLE. I think I have furnished the method, and they can go ahead and build the monument now.

Mr. SMITH. Down in Mexico, where they want to use the water—

Mr. LITTLE (interposing). Those men are mostly Americans, but if they were not and were Mexicans it should be satisfactory to both sides.

Mr. TAYLOR. Did you see this?

Mr. LITTLE. No, sir; but I have conversed with several men who were intimate with the facts personally, and they presented them to me.

Mr. BARBOUR. You might enter into an agreement with the Mexican Government to-day and to-morrow they might have a different Government.

Mr. LITTLE. What I was trying to suggest was that if we made an arrangement with the Mexican Government we would have self-respect enough to see that the arrangement made was carried out. If they once authorized the Government of Mexico to do whatever would be necessary in this respect, we would certainly see that the arrangement was enforced.

Mr. BARBOUR. The Mexican people have run over our people in the oil fields down there.

Mr. LITTLE. I was suggesting a change in that attitude.

Mr. HERNANDEZ. The trouble is that you do not know with whom you are dealing down there. It is a state of anarchy. There are some clever people in Mexico, but they are greatly in the minority,

and those clever people are really now quarreling among themselves to see who gets hold of the reins of Government.

Mr. LITTLE. If we should have a treaty with them, it would be quite immaterial to me what faction would be in control of the Government to-morrow. When you have once made a treaty with them, we should carry it out, of course. The new Government should be compelled to live up to the treaty. If we ever made a treaty with the Mexican Government covering this situation, the United States certainly would have enough self-respect to protect its rights under such treaty, no matter who succeeded to the control of the Mexican Government. I do not think anybody would care to carry on an extended argument with our Government on such a question as that.

Mr. WELLING. Suppose we let someone else solve the diplomatic difficulties and let us proceed with the bill.

Mr. LITTLE. You may need my assistance in this. It is true I have only one vote, but the question might be decided by one vote. It seems to me that this is important, and I suggest that you figure a little upon the plan I have suggested.

Mr. SINNOTT. What is the position of our Government in regard to the matter? Is it the position of our Government that we will have to come to some agreement with Mexico about the water, or does our Government think it can go ahead and take the water?

Mr. KETTNER. I am informed that that was the position of President Taft.

Mr. SINNOTT. That we could appropriate the water without consulting the Mexican Government?

Mr. KETTNER. There was some agreement that was practically consummated when President Madero was killed.

Mr. SINNOTT. We had entered into an agreement?

Mr. KETTNER. Our State Department was about to do so, I am informed.

Mr. LITTLE. Along the lines I have suggested?

Mr. KETTNER. I believe so.

Mr. SINNOTT. It is the position of our Government that we will have to reach an agreement with Mexico before we can take the water?

Mr. KETTNER. I do not think so. At the present time I think we hold a different view.

The CHAIRMAN. We have the letter of Secretary Lane—

Mr. LITTLE (interposing). We do not have to have any letter from Secretary Lane in order to go ahead if we want to.

Mr. HAYDEN. There is a treaty between the United States and Mexico which in some measure deals with the Colorado River.

Mr. KETTNER. It has to do with navigable streams, but it does not mention the Colorado River. It mentions navigable waters.

Mr. HAYDEN. That question came up in connection with the rivers and harbors bill, and my recollection is that the Colorado River was defined by treaty as a navigable stream.

Mr. KETTNER. Yes, I remember. I was a member of the Rivers and Harbors Committee at the time.

Mr. HAYDEN. You stated that President Taft entered into some negotiations with the Mexican Government.

Mr. KETTNER. He was about to do so.

Mr. HAYDEN. Something was done by him in regard to protection work in Mexico?

Mr. KETTNER. Yes.

Mr. HAYDEN. There must have been some correspondence in relation to the flood waters of the Colorado River?

Mr. KETTNER. You will find that referred to in the message of President Taft.

Mr. HAYDEN. We might put that message into the record now.

Mr. KETTNER. I do not have it with me, but I will furnish it.

(Message of President Taft found in appendix, marked "Exhibit B.")

Mr. HAYDEN. If we can get anything further from the State Department along the line of Mr. Little's suggestion, we might be able to ascertain how far the negotiations advanced and what has been accomplished.

Mr. TAYLOR. We will have to answer all of those questions about our diplomatic negotiations on the floor of the House and about the relations between the United States and Mexico in regard to the waters of the Colorado River. They will want to know what treaty obligations there were, and we will want to be in a position to answer them. We want to have all of those questions answered in this record here so that we will have the whole thing laid down on the table in front of us and will know where we are at.

Mr. HAYDEN. Would it not be helpful to have the chairman of this committee transmit a copy of the bill to the State Department with a request that they furnish us such information as is compatible with the public interest with respect to the negotiations with Mexico relative to the waters of the Colorado River?

Mr. KETTNER. I think that would be the proper way.

Mr. LITTLE. That would include the Madero agreement?

Mr. KETTNER. Yes, sir.

The CHAIRMAN. I think that is a good suggestion, and the request will be made.

(Letter of Secretary of State and extracts of treaties and other documents referred to therein found in appendix, marked "Exhibit C.")

Mr. LITTLE. I want to say that I am not suggesting this by way of a venture, or for any reason in the world except for practical purposes. We have been sending troops down to Mexico every few months for various things, and I would rather send them down there to protect the water rights of these people than for some other reasons. I see no reason, since it has been testified that we had a preliminary arrangement with one president of Mexico, why we should not have one with another. We have allowed their troops to go through our territory, and it seems to me that we could have an arrangement covering this situation. If we make an arrangement with one Government, I do not care who the next President of Mexico is, we should enforce the agreement. It would be trading water for blood. If that were done, it might give your people the relief that they ought to have.

Mr. SMITH. It seems to me that we ought to get from the State Department information as to whether there is anything in the treaty relations between the two Governments that would prevent our people from keeping this water within our own borders.

Mr. TAYLOR. I do not think that is any of their business. We have the right to appropriate water wherever we find it.

Mr. SMITH. I think it will be well to get that information as to whether or not there are any treaty relations on the subject.

Mr. TAYLOR. Other States are using water from the rivers that rise in Colorado. We try to use the water in our own State, and they try to compel us to let the water run out of our State down into their country.

The CHAIRMAN. What would be a parallel case is the situation in the Milk River Valley, in Montana, as affected by our relations with Canada? That is an analogous or parallel case.

Mr. SMITH. In that case the Government does not allow them to use the water, and there are negotiations pending about it.

Mr. HAYDEN. The storage works on the headwaters of Milk River were in the United States, and the water had to pass into Canada and out of the Dominion again for use in the United States.

Mr. SMITH. Unless this plan is adopted you can not irrigate those 400,000 acres of Government land.

Mr. TAYLOR. This bill provides for building a canal in the United States and spending our own money for irrigating our own lands.

Mr. WELLING. If Lower California was a State in the Union, or under the supervision and control of the United States Government, you would still want this California canal bill?

Mr. KETTNER. Yes, sir.

Mr. WELLING. You would have no need for it then, would you?

Mr. SMITH. You would not get the additional 400,000 acres irrigated.

Mr. WELLING. The only justification for this measure is the fact that we are having some irritating trouble or controversy with Mexico about getting water?

Mr. KETTNER. No, sir; it is impossible to irrigate the Imperial Valley with the present ditch.

Mr. WELLING. If the United States Government owned and controlled and governed Lower California, would you still want the canal?

Mr. KETTNER. Yes; to reclaim the 400,000 acres and to raise the water high enough to continue the irrigation of the Imperial Valley.

Mr. WELLING. That is the question that has been the subject of diplomatic discussion between the United States and Mexico—that is, the right to run it around through their territory.

Mr. LITTLE. If this canal should not be built, could the present works be so extended and enlarged as to cover the ground you anticipate will be reached by the canal that you now are projecting?

Mr. KETTNER. It would be impossible to enlarge them for the reason that the reclamation project known as the Yuma project would, perhaps, be affected by raising the water in the river in trying to force water into the Imperial Valley ditch.

Mr. WELLING. Is it not a fact that your present diversion dam is wearing away and eroding, and that you must move from the site your present diversion works?

Mr. KETTNER. Yes, sir.

Mr. LITTLE. Is that the dam that takes the Mexican water?

Mr. KETTNER. They take the water out of the Colorado River in the United States, and then it goes through Mexico.

Mr. LITTLE. This dam that Mr. Welling refers to will not supply sufficient water?

Mr. KETTNER. No, sir.

Mr. LITTLE. Is there any evidence that those Mexicans use in transit water that you think you ought to have?

Mr. KETTNER. They take one-half of it.

Mr. LITTLE. Is not that the immediate reason why you are asking for this new dam; that is, because of the fact that the Mexicans can take water away from you down in their country?

Mr. KETTNER. No, sir; it is because it is impossible to continue the irrigation of the Imperial Valley without encroaching on the Yuma project.

Mr. SINNOTT. The sole purpose of this bill is to secure financial aid?

Mr. KETTNER. Yes.

Mr. TAYLOR. Does the construction of this new contemplated canal imply the abandonment of the present canal entirely?

Mr. KETTNER. I would prefer that you ask that question of the engineers. I simply want to show the committee how the Government has embarrassed the people of the Imperial Valley with reference to this project. If I am correctly informed, Imperial Valley raises about as much farm products as all of the other Government irrigation projects put together.

The CHAIRMAN. Do you mean all California projects?

Mr. KETTNER. No, sir; all of the reclamation projects. Imperial Valley produced \$40,000,000 worth of farm and garden products last year.

The CHAIRMAN. You ought to be careful about comparing it with projects in other States.

Mr. KETTNER. I want to show the wonderful reclamation work that these people have accomplished, and I want to show how the Government at different times has retarded their work.

Now, Mr. Little, and other gentlemen of the committee, I hope you will give very close attention to what I now have to say, and I will close very shortly. If you will remember, the Congress, in its wisdom, established a farm loan banking system. The people of Imperial Valley hailed that with joy. They were paying from 10 to 12 and I believe as high as 14 per cent for money. They applied for loans, and there were a few loans granted there. Then the president of the farm loan bank, Mr. Joyce, of Berkeley, Calif., had an investigation made, and found that the property there was not what you would term a certainty, or a good loan. That was after full investigation by a committee. They turned down the Imperial Valley and would not permit any more loans made. That notice went throughout the country, and these people were placed in a position where they could not sell their bonds. The Government itself has taken away the limited credit they had before, because they will not permit farm loan banks to loan money in Imperial Valley, because it is considered unsafe. I have a letter that I would like to read into the record. It is from Mr. W. H. Joyce, president of the Federal Farm Loan Bank of Berkeley, Calif., and it reads as follows:

BERKELEY, CALIF., May 21, 1919.

Mr. ROBERT HAYS, Holtville, Calif.

DEAR SIR: Replying to your letter of the 18th instant, I do not know that I can add anything to my letter of May 12, as I tried to make it clear in the second paragraph that we were not sufficiently satisfied as to the water and flood conditions in the Imperial Valley to resume operations in that region.

I do not doubt that the value of the crops moved out of the valley last year is enormous. The question is, Will such values continue without interruption throughout the long period of our loans, and have we a sufficient assurance of this fact in view of the unsolved problems in that district?

Yours, very truly,

FEDERAL LAND BANK OF BERKELEY,
By W. H. JOYCE, President.

As you will see, these people are in a position where they must have help from the Government.

Mr. TAYLOR. Is the land bank out there composed of people who do not know anything about irrigation, like the one in Kansas that we have to deal with?

Mr. KETTNER. No, sir.

Mr. TAYLOR. Our Federal farm loan bank is in Kansas and they do not know anything about irrigation. Therefore, they prefer to lend their money on land in Kansas to lending it in Colorado.

Mr. KETTNER. Mr. Taylor, I would like to inform the committee that Mr. Joyce is a resident of Los Angeles, and he thoroughly understands our country, and we have nothing but irrigated lands. I do not believe there is anyone here who, if he wanted to loan money, would loan it in the Imperial Valley at the present time, because we do not know what will happen there unless the people get relief of some kind.

Mr. SINNOTT. How many acres are under the Government project there?

Mr. KETTNER. There are none at all.

Mr. SINNOTT. I mean in the project in the valley.

Mr. KETTNER. The land was originally withdrawn to be placed in a Government project.

The CHAIRMAN. That is the basis of President Roosevelt's message?

Mr. KETTNER. Yes, sir. It was restored about three years ago.

Mr. ROSE. Three or four years ago the land under cultivation that had schoolhouses and other buildings on it, or about 200,000 acres, was restored.

Mr. SMITH. How many acres are irrigated and under cultivation in the Imperial Valley?

Mr. ROSE. Our records show 410,000 acres in crops last year.

Mr. SMITH. And you have about 400,000 additional acres that could be put under irrigation?

Mr. ROSE. We have over 500,000 acres. We have a possibility of about 500,000 acres which would come under the present canal that is not now irrigated.

Mr. KETTNER. Mr. Chairman, I do not wish to take up any more of your time. I would like to have the committee call on Mr. Shaw now.

Mr. HAYDEN. You referred a moment ago to a certain report made by the Federal Land Bank. Have you any more than just the conclusions of that report as given in the letter which you read, or has

the entire report been made public to the people of the Imperial Valley?

Mr. KETTNER. Perhaps Mr. Shaw could tell you. He is a banker. Mr. Shaw, have you seen the full report of the Farm Loan Bank to the bankers of Imperial Valley, or rather to the proposed borrowers?

Mr. SHAW. I have not seen that report. Mr. Leibert can probably tell you about that.

Mr. KETTNER. Yes; Mr. Leibert, when he comes before you, Mr. Chairman, will be able to explain that, and with your permission I would like to have Mr. Shaw heard next.

I wish to thank you, Mr. Chairman, and the members of the committee.

The CHAIRMAN. We will be glad to hear Mr. Shaw.

STATEMENT OF MR. O. N. SHAW, HOLTVILLE, CALIF.

Mr. SHAW. I feel, gentlemen, that we ought to have more of an elementary explanation of the physical situation or of the physical conditions relating to Imperial Valley, so I wish to call your attention to the map, that we may thoroughly understand what we are talking about. This (indicating) is north on the map. This yellow line represents the international boundary line between the United States and Mexico, Mexico being to the South. Imperial Valley, or what is now known as Imperial Valley, was at one time an arm of the sea. It was formed from an alluvial deposit brought down by the Colorado River. As this alluvial deposit was made it finally formed a barrier across the arm of the sea, leaving the portion now known and designated as Imperial Valley, or most of it, which is within the United States, below sea level. Therefore the portion of Imperial Valley in the United States we will assume was an inland sea at one time, which finally dried up from evaporation and from other causes.

Mr. LITTLE. Some of it is there yet?

Mr. SHAW. There is some of it there in the northern section of the valley and is known as Salton Sea. Its surface is about 234 feet below sea level.

Mr. SMITH. That is the Salton Sea. I mention the name so that it may go in the record.

Mr. SHAW. Yes. The river flowing as it does across the international boundary line toward the south, flows on to the Gulf of California.

In 1891 and 1892 plans were made with a view to the formation of an irrigation project covering the district now known as the Imperial Valley. By surveys it was found that the fall of the land was toward the Salton Sea from all directions, and therefore it would be easy to bring the water from the Colorado River, which is on a high ridge, to water this lower area or Imperial Valley. I will not at this time mention any of the political phases as to the formation of water companies, only mentioning here the physical situation. The water taken out of the Colorado River at about one mile or such matter, north of the international boundary line, carried through a canal to the international boundary line, crossing the same, and was then dumped into an old arroyo or wash, known as

Alamo channel or Arroyo, that had been made by overflow water from the Colorado during flood times. The water was carried through this wash now known as the Alamo Canal, to Sharps Heading, a point approximately 50 miles west of where water first entered Mexico.

The CHAIRMAN. Pardon me, by the Alamo Canal do you mean the Alamo River?

Mr. SHAW. The Alamo Canal to Sharps Heading. The arroyo as it continues from Sharp Heading on toward the Salton Sea is called Alamo River.

Mr. HERNANDEZ. It is really an old arroyo.

Mr. SHAW. Yes; it is an old arroyo.

Mr. LITTLE. That canal was built by a company of American citizens, was it not?

Mr. SHAW. Yes; I will not say that what is now known as the Alamo Canal was built by them because it existed there previously, and I have referred to it heretofore as an old arroyo, but it was used as a means for conveying the water. From Sharps Heading water was distributed to different portions of Imperial Valley.

Mr. LITTLE. Did you say it ran through that natural channel for 50 miles?

Mr. SHAW. Yes; the length of this canal is about 50 or 60 miles. Near the boundary line on the Mexican side at Sharps Heading diversions were made through different canals carrying the water to Imperial Valley, the present irrigated area being represented by this light color [indicating]. The area of irrigable land in the Imperial Valley is about 586,000 acres on the American side, of which about 415,000 acres was in crop during the past year. On the Mexican side of the line or in Lower California water is used for irrigation purposes by interests owning lands there.

Mr. LITTLE. They are mostly Americans?

Mr. SHAW. Mostly Americans. As a matter of fact, the records made a few years ago show that the lands in Mexico were owned principally by one corporation. The records mentioned, however, that there might be as many as 21 landowners. The corporation mentioned owns about 900,000 or 1,000,000 acres of land in Lower California, Mexico; also there are other corporations there owning millions of acres.

Mr. EVANS. What would happen to those people if the water was diverted above them where you propose to take it out? What would happen to those people owning land in Mexico?

Mr. SHAW. That is just what we are coming to later. I wish to say here that in making the diversion from the Colorado River the promoters of the project made no provision for a dam or wier across the river for turning the water into their canal. They did not consider such diverting facilities necessary. Instead they assumed that as the land lying near the river was lower than the river itself there would be no difficulty in drawing water through any sort of a makeshift intake system into the California Development Co.'s canal.

Mr. LITTLE. What is the California Development Co.?

Mr. SHAW. The California Development Co. was the corporation organized for the purpose of promoting and exploiting the Imperial Valley irrigation project.

Mr. LITTLE. Is that the company which is going to build this new canal you speak of?

Mr. SHAW. No; that corporation is now out of existence.

Mr. LITTLE. Was it bought up by the Imperial Valley irrigation district?

Mr. SHAW. The California Development Co. was finally thrown into the hands of a receiver on the right and request of the Southern Pacific Co. and other heavy creditors.

The CHAIRMAN. It is all in the irrigation district, then?

Mr. SHAW. Yes. In 1911 the people of the Imperial Valley, Calif., organized under the laws of the State of California, the Imperial irrigation district, issued bonds to the extent of \$3,500,000 and purchased at receivers' sale all properties belonging to the defunct California Development Co., including its stock in a Mexican corporation which the California Development Co. had found necessary to organize as the instrument through which to act in carrying water through Mexico.

Mr. EVANS. Will you locate on the map the 400,000 acres it is proposed to reclaim?

Mr. SHAW. Yes; this colored portion around the outer edge of the valley.

The CHAIRMAN. Please name the color.

Mr. SHAW. Green, blue, and brown.

Mr. EVANS. That land is on a sort of bench or lays higher up?

Mr. SHAW. Yes. That portion as represented by the area marked green, blue, and brown.

Mr. EVANS. The old canal will not water that land, but the proposed new canal, being higher, will do so.

Mr. SHAW. Yes. I want now to get back to the diversion proposition and mention the physical difficulties that confront the Imperial irrigation district to-day. The river is a very uncertain factor. The bed of the river fluctuates up and down, depending upon scouring conditions, which are regulated somewhat by the amount of water that the river is carrying at different seasons of the year. To get a more permanent diversion we grabbed at straws, and two or three years ago built a new intake structure in the river about one mile north of our old diversion gate called the Hanlon Heading.

Mr. LITTLE. Point on the map to that.

Mr. SHAW. I would judge that to be about here [indicating], about 7,000 feet north of international boundary line.

Mr. LITTLE. Now, will you point to the temporary dam built across river at point of diversion?

Mr. SHAW. Yes [indicating on map]. We found that the new intake gate did not solve the diversion problem. Therefore, in order to make it possible to divert water at all seasons of the year and at periods of low stages of the river, we now find we will be compelled to go to the Laguna diverting dam, a dam built across the Colorado River by the Reclamation Service.

Mr. LITTLE. The main dam you are using now?

Mr. SHAW. Yes. As near as I can point to it, Mr. Little, the temporary dam is just at this point [indicating].

Mr. LITTLE. That is where they get the water that goes into the arroyo?

Mr. SHAW. Yes. Understand me to say that that temporary dam across is a temporary means of diversion. We can not build at that point a permanent diversion dam for several reasons. First, there is no rock foundation at that point upon which to build a dam. Secondly, in the portion just east of the river there exists the Yuma irrigation project, which is a United States reclamation project.

Mr. LITTLE. In Mexico or in the United States?

Mr. SHAW. In the United States. You will notice this is the Arizona-Mexico line. The boundary line between California and Mexico begins at or near this point [indicating], the point of diversion, but the boundary line between Arizona and Mexico drops about 20 miles down the river.

The CHAIRMAN. Where does that project get its water?

Mr. SHAW. The Yuma project gets its water from the Laguna Dam.

Mr. LITTLE. Where does their canal run from the Laguna Dam?

Mr. SHAW. The Yuma project canal begins at the Laguna Dam on the California side of the river and runs off in a southwesterly direction, following the line of the proposed all-American canal as indicated on the map for a distance of 10 miles to siphon drop, thence takes a southeasterly direction to the siphon at Yuma, where the water is siphoned under the river and brought up on the Arizona side and distributed to the Yuma project. You will note on the map a levee which has been built around and near the river (on the Arizona side). This levee, I believe, was built by the Yuma project. Its purpose is to prevent the overflow of the Yuma Valley by the Colorado River, which overflow would destroy the project.

Now, the banks of the river from the Laguna Dam to the gulf are more or less temporary. The river meanders. At no point, I would say, does the bank of the river, or rather the elevation of the land, exceed the elevation of the water in the river by more than 15 or 20 feet.

The Yuma project has objected to our building a temporary weir for diverting water for the reason that it menaces their position. We have, however, imposed upon their good nature for several years and built a temporary weir across the river.

Mr. LITTLE. That is a Government project, is it not?

Mr. SHAW. Yes. The temporary weir has been built with brush or by dumping rock on the sand bed of the river. I am sure you will all agree with me that a temporary brush wier is a very frail proposition to depend upon for diverting water to irrigate four or five hundred thousand acres of land whose crop production will run to \$40,000,000. Yuma has objected to our building the temporary weir out of rock, which seems to be the only kind of dam that will successfully divert the water.

Mr. HAYDEN. The objection to rock construction is that if the rock remains in the bed of the river and a flood should come down it is liable to wash around the Arizona end of the dam and destroy the Yuma project.

Mr. SHAW. Yes. When a rock weir or a weir of any sort is built in the river, it is with the arrangement and understanding that it will be removed when the flood waters of the Colorado River come down. This high water occurs usually in June or July.

Mr. SINNOTT. What is the average flow of the river?

Mr. SHAW. I am not able to answer that, but Mr. Allison, an engineer, probably can.

Mr. ALLISON. The minimum flow is about 3,000 cubic feet per second and the maximum about 200,000 cubic feet per second, and the average is about fifteen or twenty thousand cubic feet per second.

Mr. WELLING. You say you have to pull your dam out in July when the high water comes down?

Mr. SHAW. Yes.

Mr. BARBOUR. Every year?

Mr. SHAW. Every year. Then we need it immediately following the July flood in order to divert through August, September, October, the low-water months. We may not need it so badly during the winter months, however. I believe last year we were compelled to use it all the time.

Mr. WELLING. Do you not need water before July?

Mr. SHAW. The water is usually high enough in the river then, so it naturally flows into our intake canal.

Mr. WELLING. In other words, you get plenty of water until the low-water period?

Mr. SHAW. Yes. The high-water period of the Colorado River comes along in June and July, usually. The low-water period follows immediately and the river drops very rapidly, often dropping down, as Mr. Allison has said, from 50,000 second-feet to six or eight thousand second-feet in the matter of a few days. Following these floods we must put this dam in and do it quickly in order to protect ourselves from a water shortage that means ruin to our crops.

The CHAIRMAN. Let me ask at this juncture, will that be the case if you had reservoirs provided to conserve this flood water?

Mr. SHAW. It is contemplated that through the use of these reservoirs, they will be able to accumulate the waters that now come down the river at flood time.

The CHAIRMAN. What percentage of that flood water is now lost?

Mr. SHAW. Out of the river carrying from 50,000 to 60,000 second-feet, we divert in the neighborhood of 5,000 second-feet. Probabaly Mr. Allison can explain this better than I, he being an engineer.

Mr. ALLISON. Our present required diversion is about 6,000 cubic feet per second at this period of the year in the irrigation season. The river at this period is as high as 200,000 cubic feet per second, and sometimes as low as 15,000 or 20,000 cubic feet per second, except for a period in September, when we are still diverting 6,000 cubic feet and the river at that period often goes as low as 4,000 cubic feet, so that there would be a period in there of a few days when there is not sufficient flow for the lands.

The CHAIRMAN. What is the period when you would conserve water which is otherwise wasted?

Mr. ALLISON. From the period beginning about May 1 and ending normally about July 30.

The CHAIRMAN. And to what extent could water be conserved in reservoirs, if they were provided?

Mr. ALLISON. Investigations made by the United States Geological Survey and the United States Reclamation Service indicate that enough water can be conserved during this flood period to irrigate some 6,000,000 acres of land, which is far in excess of anything we need.

The CHAIRMAN. Six million acres?

Mr. ALLISON. Yes.

The CHAIRMAN. What is your water duty?

Mr. ALLISON. About 3 acre-feet.

Mr. SMITH. Did I understand you to say 6,000,000 acres?

Mr. ALLISON. There is enough water for 6,000,000 acres of land, which can be conserved by enough dams in the upper reaches of the river to catch all the flood water.

The CHAIRMAN. That would suffice for the American side and the Mexican side also?

Mr. ALLISON. When that conservation is made there is no longer a water problem in the basin of the Colorado River. There is water then for all the lands within the basin in all the States, according to these reports, which are susceptible of irrigation so far as climatic and physical conditions justify.

Mr. SMITH. Including the lands in Mexico?

Mr. ALLISON. Including the lands in the delta of Mexico.

The CHAIRMAN. That would solve any issue between Mexico and the United States.

Mr. ALLISON. Yes; that is the true, ultimate solution of the whole problem. There will be no longer any interstate difficulties or any international difficulties when that time arrives as to the water in the Colorado River.

Mr. LITTLE. Do I understand from this map before me that there are 46,000 acres of irrigable lands in the Yuma project east of the river?

Mr. SHAW. Yes, sir.

Mr. LITTLE. It is a much smaller area than you people have?

Mr. SHAW. Yes.

The CHAIRMAN. I want to establish clearly how much irrigable land there is on the American side in this valley altogether of entered lands and unentered lands, and the amount being farmed now. How much irrigable land is there on the American side?

Mr. LITTLE. You mean below the Laguna Dam?

The CHAIRMAN. Yes; below the Laguna Dam.

Mr. SHAW. About 900,000 acres.

Mr. WELLING. Of which you are now irrigating 400,000?

Mr. SHAW. Yes.

The CHAIRMAN. I thought it was 900,000 acres, and that is the figure I have had in mind after conferences with your delegation, but I gained the idea from what was stated here a while ago that it was far less than that.

Mr. SHAW. No.

The CHAIRMAN. And I wanted it clearly brought out that the amount was 900,000 acres, if such be the fact.

Mr. SHAW. Nine hundred thousand acres, of which 415,000 acres are now under cultivation.

The CHAIRMAN. And under this proposed scheme the aggregate amount could be reclaimed?

Mr. SHAW. Yes.

Mr. LITTLE. Would this scheme be used to assist the Yuma project or could it be utilized to assist it?

Mr. SHAW. Yes; it would.

Mr. SINNOTT. Probably this question is one that ought to be asked of your engineer, but what would it cost to construct storage for the 6,000,000 acres which you say there is water available for?

Mr. ALLISON. That is a matter which is under investigation. Some of the department engineers have made an estimate as low as \$50,000,000 for complete conservation, but it is an indefinite question yet, because only the preliminary work has been done.

Mr. SMITH. But you have not lands to utilize all that water.

Mr. WELLING. We have a half million acres in Utah that I want to serve.

Mr. ALLISON. It will make available water for 6,000,000 acres of land, and whether there is the supply of land for the water or not, I do not know.

Mr. SMITH. Where is there any great amount of land that could be irrigated if you provided all this storage?

Mr. ALLISON. This map which you see on the wall represents the large acreage of land. No other State in the basin of the Colorado River has any such area as that, although up through Arizona there are three or four projects which constitute probably the next largest area of land in the States bordering on the Colorado River. Up through Colorado and Wyoming there are lands under irrigation now, some of them Government projects, and all of them will be enlarged by conserving this water. They are areas which I am not able to testify to, but I believe the Government engineers have found sufficient land to warrant the expenditure for conserving all the flow of the river.

Mr. LITTLE. May I ask if there is any land susceptible of irrigation below the Mexican line along the river clear to its mouth in excess of this 900,000 acres?

Mr. SHAW. There is, I think, about 1,000,000 acres.

Mr. LITTLE. Still farther down?

Mr. SHAW. Yes. On both the east and west sides of the Colorado River.

Mr. LITTLE. Would that be reached by this dam?

Mr. SHAW. Yes.

Mr. SMITH. Is this a Government map or was it made by private engineers?

Mr. SHAW. This is a map of the Laguna Water Co.

Mr. LITTLE. How close to the head of the Gulf would the irrigable land extend if eventually the ideal could be obtained in the way of conserving this water?

Mr. ROSE. It would be irrigated right down to within a very short distance, probably 2 or 3 miles.

Mr. LITTLE. It would open up a great, splendid valley for irrigation?

Mr. ROSE. Yes; it opens up about 297,000 acres, according to the Government survey report on the Sonora side, and practically 750,000 acres on the Lower California side, which is irrigable by gravity.

Mr. LITTLE. They would have plenty of water to take care of you and to take care of them also?

Mr. ROSE. Average run-off of the Colorado River is 16,000,000 acre-feet, and the greatest use that has ever been made below the Grand Canyon has been 2,000,000 acre-feet.

The CHAIRMAN. Let me ask whether the Laguna Dam, now, has been regulating the Imperial Valley district in its use of water?

Mr. SHAW. No; it has not.

The CHAIRMAN. It, of course, has regulated the Yuma project, necessarily. Now, do I understand that the Imperial Valley irrigation district has just taken its chances and has taken the water from the river without a dam, the same as though there had been no Laguna Dam?

Mr. SHAW. They have been taking it in that way for 15 years.

The CHAIRMAN. And it has been in the power and the right all the time of a Government dam, namely, the Laguna Dam, to shut off water or to conserve water. Of course, they have wisely administered this power and with due regard to the interests of the Imperial Valley irrigation district, but have the interests of the Imperial Valley irrigation district required any consideration on the part of the Laguna Dam interests, that part of the Yuma project.

In other words, have you asked any consideration of them in the control of the water at the Laguna Dam as to your being afforded an opportunity to secure enough water, for instance, in times of stress, or when it is really dry? Have you asked any consideration of the Government about taking water from the Yuma Dam, as, for instance, when they have more than a sufficient supply?

Mr. SHAW. We have not.

Mr. WELLING. Is not your only connection with the Yuma project the fear they have that you will back up the water and injure their canal system?

Mr. SHAW. That is all; yes, sir.

Mr. WELLING. You are just catching the overflow of the Yuma Dam?

Mr. SHAW. Yes, sir.

Mr. WELLING. That is simply a diversion dam?

Mr. SHAW. Yes, sir.

The CHAIRMAN. It is not a storage dam?

Mr. SHAW. No, sir. The Laguna Dam does not provide for storage, it only provides a means of diversion. No question has arisen between the Imperial Valley irrigation district and the Yuma project over water for the reason that there has been plenty for both.

The CHAIRMAN. I want you to state that again.

Mr. SHAW. There has been no controversy between the Yuma project and the Imperial Valley irrigation district in regard to water, because there has been available sufficient water for both, except there have been times in the year when we could not get it, but that was because of physical conditions heretofore mentioned.

Mr. HAYDEN. When you do construct a dam to divert water into the Imperial Canal you imperil the Yuma project?

Mr. SHAW. They have allowed us to build a temporary weir or diversion dam, but have said to us that they could not do so much longer. In fact, they have made it stronger than that, they have a temporary injunction pending in court, I believe, forbidding us to do it. It has only been through persuasion and good fellowship that we got permission this year. Permit has been granted with the understanding that we will get away from present point of diversion immediately. Otherwise, they threaten to cut us off.

The CHAIRMAN. Then, you must provide another plan for diversion?

Mr. SHAW. Yes, sir.

Mr. HAYDEN. The only other means of diverting water from the Colorado River would be to connect with the Laguna Dam?

Mr. SHAW. Yes, sir.

Mr. HAYDEN. And a contract has been entered into between the Imperial Valley irrigation district and the United States Reclamation Service, which controls the Yuma project, which provides for a connection with Laguna Dam.

Mr. SMITH. And money appropriated for that?

Mr. HAYDEN. This is the situation: The engineers of the United States Army and of the Reclamation Service all agree that if the weir constructed at the present Imperial Canal heading is maintained it might cause a flood in the Colorado River to utterly destroy the Yuma project and would be certain to do so if the structure were made permanent. That weir has been built and then partially removed year after year. Each year the Imperial irrigation district has asked the Federal authorities to permit them to replace the weir just one more time so that they may save their crops. Finally, last year an agreement was perfected between the Secretary of the Interior and the Imperial irrigation district whereby the district agreed to build a canal from their present heading near the Mexican border up to the Laguna Dam so as to divert the water for the Imperial Valley there. In that way they will remove the present menace to the Yuma project and will also pay for an interest in the Laguna Dam.

Now, when the time came to build this connecting canal the people of the Imperial Valley say that their credit has been ruined by a report made to the Federal Farm Loan Board; that by reason of this adverse report they can not sell their bonds to raise the six or seven million dollars required to make this physical connection. Therefore, they want their bonds guaranteed by the Federal Government, not only for that sum of money, which is about \$7,000,000, but, I believe, for \$23,000,000 more with which to continue on and build an all-American canal. Now, this proposal is of interest to the United States because the Government has advanced the money to construct the Yuma project, and of interest to the settlers on the Yuma project because the present diversion dam at the Imperial heading which is such a great menace will be removed if connection is made with the Laguna Dam. The further expenditure of money for the construction of the all-American canal is solely of interest to the people in the Imperial Valley in order that they may get away from the Mexican interference with their water.

The CHAIRMAN. Suppose the Imperial irrigation district water users or ranchers had been accorded loans by the Federal farm land bank, and they had gone on pursuant to this agreement made with the Secretary of the Interior which you have referred to, then, it is not contemplated that they would come here for aid, but they would have gone on and extended the canal up to the Laguna Dam, and conveyed the water then through the Alamo Canal around through Mexico, instead of building the all-American canal, but now that they have been discredited financially, and they can not sell their

bonds if they issue them, they find it expedient to ask for this legislation.

Mr. HAYDEN. Yes; but instead of asking for enough to relieve the immediate necessities, so far as menace to the Yuma project concerned, which calls for an expenditure of about \$7,000,000 to make the physical connection between their present system and the Laguna Dam, the people of the Imperial Valley now ask for some \$23,000,000 more, or for that much more credit, in order that they may build the all-American canal.

As I understand it, there was an offering of bonds by the Imperial irrigation district that were sold below par?

Mr. KETTNER. I believe they sold as low as 70.

Mr. SHAW. At 83.

Mr. HAYDEN. How much was sold at that price?

Mr. SHAW. \$2,500,000 worth were sold at 83, and within two weeks from the time they were sold they were being resold by bond brokers for 97.

The CHAIRMAN. What are they worth now?

Mr. SHAW. I am not sure, but I think they are at par.

Mr. HAYDEN. You have paid the interest on all your bonds?

Mr. SHAW. Yes, sir.

Mr. HAYDEN. As a matter of fact, you have not tried to sell six or seven million dollars worth of bonds to carry out your existing agreement with the Secretary of the Interior, but you have simply said that inasmuch as the Federal Farm Loan Board has made an adverse report, and that inasmuch as the last time you sold bonds they sold at 83, you are afraid to go on the market and offer bonds for sale with which to raise money to do what you have contracted to do, but you are coming to Congress to get the money?

Mr. SHAW. That is the general feeling. However, the fact that they did sell at 83 does not have all to do with the question. There are other reasons that we will bring out in the course of the hearing.

Mr. HAYDEN. Nobody is more competent to do that than yourself.

Mr. SHAW. Mr. Rose can answer that.

Mr. KETTNER. Is it not a fact that some bankers have spoken to the bankers in Los Angeles, and did not the bankers tell them that they did not think they would be able to take them because the farm land banks had made this report?

Mr. SHAW. Yes, sir.

Mr. LITTLE. Do I understand that if it were not for the claim of the Yuma project up the river these people could go on and get water in the way they were doing?

Mr. HAYDEN. I do not think that it would be good engineering to do it that way.

Mr. LITTLE. It would be practicable, would it not?

Mr. HAYDEN. To divert water at the present Imperial heading will always be a menace to the Yuma project. There is always danger of cutting into the alluvial banks of a stream that has tremendous floods of water in it. When such floods occur the water will go around any permanent works in the bed of the streams. Therefore if a rock abutment is available to tie the diversion works to at both ends such a site should be used.

Mr. LITTLE. Do I understand that they could get a supply of water, or that they could supply themselves with ample water if it were not for the Yuma project?

Mr. HAYDEN. If the Imperial irrigation district had a reinforced concrete dam right where their present heading now is, and should attempt to hold the water there with nothing but alluvial soil for abutments, the first flood that came down would be sure to wash around one end of the dam. The engineers all agree that if such a permanent dam were built the pressure against the east bank of the stream would break the Yuma project levee and then the whole Colorado River might be turned through the Yuma project.

Mr. LITTLE. The reason then is that it menaces the Yuma project?

Mr. HAYDEN. Yes.

Mr. LITTLE. It would appear that they have been discriminated against physically, and discriminated against financially. Have they done anything else to them?

Mr. KETTNER. There is another feature that has been overlooked, and that is that the Imperial Valley people are required to put up a bond of \$500,000 every year for the protection of the people on the Yuma irrigation project.

Mr. HAYDEN. That bond is put up for two purposes: One purpose is to pay any loss or damage the Yuma people might suffer if the water were to break through, and the second purpose is to be sure that the dam which is put in low water will be removed whenever a flood comes along. The only way to remove such a dam is to put dynamite charges in it. As a matter of fact, they have laid a curtain of rock over the bottom of the stream, holding it above its normal bed, and that rock can not be successfully blown out. The longer this continues the greater the menace will be, and that is the reason for this insistence on the part of both the United States Reclamation Service and the people of the Yuma project that this menace be removed. Now, a way to do that was agreed upon, but the people of the Imperial Valley now say, "We have agreed to build a canal to connect with the Laguna Dam, but we can not get the money with which to pay for the work."

Mr. KETTNER. The point that Mr. Little makes is correct, that were it not for the Yuma project these people could continue irrigating.

Mr. HAYDEN. Yes, but the Yuma project is in existence. There are thousands of farmers there and millions of dollars have been invested. The Government itself is interested.

Mr. LITTLE. The Government arranges with these people a method by which they can get away from their difficulties, and then one branch of the Government turns around and says, "We do not think that you are any good anyway." If the Federal farm loan bank had said nothing about it until they had sold their bonds, then they would have gone ahead and built their connection with the Laguna Dam. It seems that nobody around there could be kept quiet long enough to do anything.

Mr. HAYDEN. I have never seen the report made to the Federal Land Bank. I would be glad to see the original text of that report. The Federal Farm Loan Board is in this position. They are charged by Congress with the proper administration of public funds, and

they should not make a loan unless they know that the money will be repaid when due. Theirs is a business responsibility.

Mr. LITTLE. If this agreement had been carried through, and they had sold their bonds it would have been all right, would it not?

Mr. HAYDEN. The Federal Farm Loan Board does not make loans on a contingency. If they issue Farm Loan bonds ample security must be behind the bonds. Instead of promoting an enterprise, they are waiting until they are certain that loans can be safely made.

Mr. LITTLE. But they do not wait. They came in and made it difficult for these men to handle their loans.

Mr. SHAW. There is one point that I want to make clear in order that there may be no misunderstanding about it. We are not here asking for a congressional appropriation of one dollar for our project, but we are simply asking Congress to say, "We have confidence in these people and in this project." We are going to carry our own indebtedness.

Mr. WELLING. You ask the Government to indorse your credit?

Mr. SHAW. We are floating bonds and asking the Government to indorse them. In addition to the bonds we are offering to put up a fund of approximately \$4,000,000 in cash to guarantee the Government against any loss in the transaction.

The CHAIRMAN. Why do you refer to some of the irrigation districts in the bill? Is it contemplated that only a part of the districts shall issue bonds?

Mr. SHAW. At the present time there are only two irrigation districts in the territory covered—the Imperial irrigation district, covering what is known as the Imperial Valley, and the Coachella County water district, covering the Coachella Valley.

Mr. LITTLE. What is the difference in the ages of the two rival projects, Yuma and Imperial Valley?

Mr. ROSE. Yuma Project had land irrigated 20 years before we had any irrigation at all in the Imperial Valley.

Mr. LITTLE. They started first?

Mr. HAYDEN. There is no Government project in the Imperial Valley.

Mr. ROSE. We started before the Yuma project was adopted by the Government, but Yuma irrigated some lands, I suppose, for 20 years before we actually started in.

Mr. HAYDEN. If the report to the Federal Land Bank of Berkeley is such a report that it injures the credit of the Imperial Valley to an extent that you can not sell your irrigation district bonds, and if it is also such a report that a Member of Congress after considering it would hesitate about furnishing the credit of the United States to you for the same purposes, what should be done? If you were a private banker and you had this adverse report of the Federal land bank before you, would you not say: "Your credit is not good"? If you, as a private banker, would not make the loan, why should I, as a Member of Congress, responsible for public funds, vote to advance the money? The reason I ask that question is this: It seems to me that it is incumbent upon you to demonstrate that the report made by the Federal land bank was not justified by the facts. You should do that for this committee before we get through, because we ought

to take the same attitude with respect to giving public credit to an irrigation enterprise that a private banker would.

Mr. SHAW. We appreciate that and are prepared to answer that question. The credit which we propose you extend to us is to be used for the explicit purpose of remedying the objection pointed out by the Farm Loan Board, namely, make our water supply secure.

Mr. KETTNER. The United States Government has spent something over \$100,000,000 in aid of reclamation projects, but here are people who have developed their own reclamation project by putting in their own time and money, and they are producing almost as much as all of the Government projects put together. Now, Congress in its wisdom gave to those people their money for 20 years without interest, and if you will give these people the interest on that they will get along. Congress gave other people on reclamation projects money for 20 years, and the Imperial Valley has had absolutely nothing, with the exception of \$1,000,000 at the time of the Colorado River flood. I can go further and show that the Department of Agriculture, when the Imperial Valley district was opened, issued a report that the land or soil was so fine that it would not raise anything. We have been handicapped by the Government from the start. You will see here both sides. That interest alone would do all of this work.

Mr. HAYDEN. I am anticipating questions that are bound to be asked before we get through, and I want to get the answers into the record.

Mr. KETTNER. These people are producing and bringing into existence greater wealth than all these other projects, and you have helped all of the others.

Mr. SMITH. What is the value of the crops?

Mr. KETTNER. They were worth \$40,000,000 last year.

Mr. SMITH. What is the assessed value of the property?

Mr. ROSE. About \$26,000,000 is the assessed valuation of the irrigation district, which does not include the personal property. The assessed valuation, including personal property, is \$35,000,000. Of course, we assess only about one-third of the actual value. In other words, lands valued at from \$150 to \$300 per acre are assessed at \$50 per acre. That is probably less than one-third of their actual value.

Mr. KETTNER. Having helped all these other irrigation projects to the extent of giving them money for 20 years without interest, can Congress with a clear conscience refuse to help these people who have been helping themselves?

Mr. LITTLE. Is it a fact that after you have hitched your system on to the Laguna Dam your water supply would be so high that the Federal Land Bank Board would lend you money?

Mr. SHAW. Yes, sir; if it were not for another problem. I would like to yield now to Mr. Rose, who will touch on other problems I have not discussed.

Mr. LITTLE. Would your whole proposition be solved?

Mr. SHAW. That would only be solving the matter of diversion of water from the river.

Mr. LITTLE. There is this practical question, that if you have not a project on which the Federal land bank people can afford to lend money on, I do not see how you could expect to get it elsewhere.

Mr. SHAW. We hope to bring out the point that this bill contemplates overcoming all of our difficulties.

Mr. SMITH. If this plan was carried out, would you have a safe and conservative project?

Mr. SHAW. Yes, sir.

STATEMENT OF MR. MARK ROSE, OF IMPERIAL VALLEY, CALIF.

Mr. ROSE. Mr. Chairman, we are operating here to-day by returning that water from a foreign country. The \$6,000,000 that it would cost the Imperial Valley to build to that dam would not add one cent to our security, because the people down here in Mexico [indicating] are in a position to take every drop of water after we have paid the \$6,000,000 for connecting with the dam. That would enable them to take more water than they are taking to-day, because it would give them a higher diversion. That does not add one cent to the value of our security and it gives only the temporary prospect of getting water from this river. We are asked to pay \$6,000,000 for a canal to make this connection [indicating] and \$1,600,000 for the privilege of using the Laguna Dam. That connection would cost \$6,000,000, plus \$1,600,000; that would be the cost of the connection with the Laguna Dam. We would receive very little benefit ourselves from that, and the land barons south of the line would receive the greatest benefit while they would not be paying one dollar; they would be in a position to take every drop of our water that they wanted to take, because it would pass from our physical and legal control.

The CHAIRMAN. The cost of that connection would be \$6,000,000?

Mr. ROSE. That would be the cost of the connection from that point [indicating] with the present system, and it would do away with our heading up here [indicating]. Under our contract with the Interior Department we are to pay \$1,600,000 for the privilege of making the connection with the Laguna Dam, making a total of \$7,600,000 which would be required of the Imperial Valley district, and it would not add one cent to our security.

Mr. WELLING. It would simply give you a safe diversion?

Mr. ROSE. It would give the men south of the line a safe diversion, and the time is coming very rapidly when there will not be enough water, because the water in the canal passes from our legal and physical control.

Mr. HAYDEN. What is the situation with respect to the contract that you have had with the Mexican Government, or with the owners of Mexican lands, which gives them the right to take all the water they want, leaving you the remainder?

Mr. ROSE. There is a Mexican company, which holds a contract or concession from the Mexican Government to carry that water through Mexico under an arrangement which provides that Mexican land can take 50 per cent of the water. They do not do that now, but if they wanted to take 100 per cent of it, we could have no way of stopping them.

Mr. HAYDEN. Why have they not taken 50 per cent of it?

Mr. ROSE. Because they have not reached that point in their development. They have taken as high as 33½ per cent.

Mr. HAYDEN. You mean that they have not cleared and leveled enough land to require it?

Mr. ROSE. Yes, sir; but they have brush heap fires burning over there all the time, with Japanese and Chinese laborers at work in every direction. The only reason they have not taken all of it is because they have not the land prepared for use. They are improving it rapidly, however, and as they improve it they take what water they want.

Mr. HAYDEN. Under that contract, the Mexican lands have the right to take 50 per cent of the water diverted out of the Colorado River, and then you say that if they took 100 per cent of it, you would have no recourse. What do they pay for the water that they use?

Mr. ROSE. They are supposed to pay 50 cents per acre-foot, but the Government takes 20 cents per acre-foot for the right to deliver the water. The real fact is that they do not pay us. That Mexican company is a purely Mexican company, and we have no rights as American citizens down there. The arrangement is between a Mexican company and the Mexican Government, and we can do nothing but go into Mexican courts to defend our rights.

The CHAIRMAN. You think there would not be enough water eventually if development should occur in Mexico? If this development should occur in Mexico, then there would not be enough water to supply all?

Mr. ROSE. No, sir.

The CHAIRMAN. How does that compare with the statement made here that there would be enough for 6,000,000 acres? That has been stated here.

Mr. ROSE. That is the difference between the natural flow and the flow which could be conserved, but there would be required from fifty to one hundred million dollars for the storage to get those 6,000,000 acres in. Of course, we have an inherent right to irrigate our lands, being Americans, and that water falling on American soil, we have a legal right to divert it, but we do not want to have it used to serve a million acres in Mexico that belong to as many men as I have fingers.

Mr. LITTLE. How far is the present outtake from the line?

Mr. ROSE. The present outtake is about 7,000 feet, but we moved it up 6,000 feet from where it formerly was. We have always diverted water in our own country.

Mr. LITTLE. What is the reason you can not bring that water in without going into Mexico?

Mr. ROSE. The crest of our dam here [indicating] is 102 feet—
Mr. LITTLE (interposing). Above sea level?

Mr. ROSE. Yes, sir. Our water surface here [indicating] is 160 feet. It is a rather high country. We would get the benefit of that diversion, and this canal would be more than 30 feet above the water surface when it got down there [indicating]; so we would have the benefit of that 30 feet coming on through. In other words, by carrying the water around here [indicating] we get that benefit. That raises the water at the boundary line 34 feet above sea level, and we would be able with this canal to deliver it 136 feet above sea level.

Mr. WELLING. A difference of 104 feet.

Mr. ROSE. A difference of 104 feet.

The CHAIRMAN. You would thereby reclaim a larger area than could be reclaimed in any other way.

Mr. ROSE. Yes; it would reclaim some 400,000 acres of land where the title yet remains in the Government. Some of it is entered and some of it is unentered.

Mr. LITTLE. How much could be reached with your present dam?

Mr. ROSE. Practically none of that outside land. This is the higher land around the valley.

Mr. WELLING. It would not be practicable at all to build from your present diversion heading an all-American canal?

Mr. ROSE. No, sir; that would be absolutely impossible.

Mr. LITTLE. Then what is your answer to the problem? You have shown that it would not help you to spend the \$7,500,000.

Mr. ROSE. Our answer is to build a canal on entirely American soil which would put the water back under our own courts and under the protection of American laws.

Mr. LITTLE. That is what this bill provides.

Mr. ROSE. Yes, sir.

Mr. LITTLE. And I asked you whether if this bill passed you would be able to offer a good, bankable security.

Mr. ROSE. Yes; absolutely.

Mr. KETTNER. He misunderstood you, Mr. Little. He thought you were referring to the \$7,500,000.

Mr. HAYDEN. Did the report of the Federal land bank, in addition to objecting on account of the fact that you could not control your water supply in Mexico, also submit as an adverse recommendation on account of the danger of a break in the levee along the Colorado River in Mexico?

Mr. ROSE. Those were the two grounds; yes, sir.

Mr. HAYDEN. Which did they lay the most stress upon?

Mr. ROSE. I judge the water question, because that is the one that we, who are familiar with the situation, lay the most stress on.

Mr. HAYDEN. That brings us to a very interesting situation. What year did the Colorado River break into the Salton Sea?

Mr. ROSE. The Colorado River was turned in in 1904 or 1905 by the California Development Co. It never broke in.

Mr. SMITH. What is that?

Mr. ROSE. It was turned in by the California Development Co. They cut the bank and let it in.

Mr. SMITH. What was their idea in doing that?

Mr. ROSE. Because they had no money to remove the silt from their original intake and opened up a gap on the American side and it silted up, and the farmers there had no money to do any considerable work with, so they came over here in Mexico and took a team and a few scrapers and cut the levee and turned it in and forgot to close it up.

Mr. SMITH. With what object in view?

Mr. ROSE. To get water for the farms down here in Imperial Valley. It had silted up at the upper end of the canal and they had no money to amount to anything to clean out the canal and they just turned the river in.

Mr. HAYDEN. How long did the river run into the Salton Sea?

Mr. ROSE. I think about 12 months.

Mr. HAYDEN. How much did it cost to stop it from running in there?

Mr. ROSE. The Southern Pacific finally stopped it and I think they claim they spent something like \$1,250,000.

Mr. HAYDEN. And how much has been spent since by the United States toward controlling the river in Mexico?

Mr. ROSE. The United States have never spent any money in stopping it. They built this Ockerson Levee down here, and the first time we had a little raise in the river, it cut its way down through the Bee River here and continued on down here [indicating] through Volcano Lake and that lowered the river all the way back and consequently the Ockerson Levee mostly never saw any water and probably never will.

Mr. SMITH. What losses did the settlers sustain by reason of that overflow?

Mr. ROSE. It would be utterly impossible for me to answer that question but it amounted to millions of dollars. In many instances, in fact, they lost all they had while some suffered a loss of part of their crops and some a total loss.

Mr. SMITH. Is the Salton Sea back to its former height?

Mr. ROSE. No; the Salton Sea had salt works back here at that time. It is sinking about 8 feet a year.

The CHAIRMAN. And that backs the water over considerable areas.

Mr. ROSE. At first the overflow spread out over quite an area but now New River channel has been cut out by that flood from the Salton Sea back into Mexico which is large enough to carry the entire Colorado River and to-day if the river should come in it would not overflow any of the lands on the American side of the line. It would simply run down the New River and possibly shut off our water supply until the Colorado River sunk down to eight or ten thousand feet which could be very easily stopped. There is no danger of any great destruction in the Imperial Valley from the Colorado River. In other words, gentlemen, in 1914, 1915, 1916, 1917, and 1918, since the district has been operating, we have spent \$889,000 building protection works and we have, from practically nothing when we started, built a splendid protection works on the Mexican side at a cost of approximately \$150,000.

Mr. HAYDEN. You have been permitted to go into old Mexico and spend this \$850,000?

Mr. ROSE. Yes; by paying heavy duties to go in there.

Mr. HAYDEN. Suppose we should have to meet this interesting situation. This bill is passed and it is determined to build an all-American canal. The construction of that canal means that the people of Imperial Valley are going to have physical control of the water. Naturally that would raise some alarm in Mexico as to whether they are going to have all the rights to water which they had previously enjoyed. Suppose the Mexicans, under such circumstances as a matter of reprisal, would prevent you from maintaining an adequate levee system in Mexico. Suppose they went that far, would not your credit be injured by that fact?

Mr. ROSE. Here is probably what would happen. It would take several years to construct an all-American canal, probably three years, and during that time we could go down there and spend four

or five hundred thousand dollars in these protection works which would protect us for 10 years. Besides that, those people down there have everything to lose by preventing us from going down there and protecting the levee. The all-American canal does not make that land worthless but it simply makes them bear a part of the burden of storage which is justly theirs, and that land does not belong to Mexicans. It belongs to some mighty good, shrewd Americans, and they are not going down there and cut that levee. The Mexicans have no interest because practically no Mexicans own any land in there whatever. It practically all belongs to the California-Mexico Land & Cattle Co.

The CHAIRMAN. Indicate on the map where that levee is built?

Mr. ROSE. That is constructed here. This is the levee we now have running from here down across here [indicating].

The CHAIRMAN. Mention the places so we will have them in the record.

Mr. ROSE. It runs from the Inter-California Railroad to Black Butte in Mexico, a distance of 16 miles.

The CHAIRMAN. And that is to guard against the waters from the Colorado River?

Mr. ROSE. Yes.

Mr. HAYDEN. If that levee in Mexico was not properly constructed and maintained, the entire flow of the Colorado River instead of going into the Gulf of California would go down the channel which you call New River, into the Salton Sea?

Mr. ROSE. I am not prepared to say that. It could. It could go either way. That levee is on a ridge and to-day it runs off here [indicating]. It might cut down here and go on to the sea or it might go the other way.

Mr. HAYDEN. In time of flood the water comes against your Mexican levee?

Mr. ROSE. Yes.

Mr. HAYDEN. If the levee broke, the current would be started toward the Salton Sea and would go in that direction normally?

Mr. ROSE. Well, I do not know that it would, but it could.

Mr. LITTLE. Is that the old river up there on the east?

Mr. ROSE. That is the old river channel to the Gulf.

Mr. HAYDEN. Prior to the break in the Mexican levee?

Mr. ROSE. Yes.

(The committee thereupon took a recess until 8 o'clock p. m.)

EVENING SESSION.

The committee reassembled at 8 o'clock p. m., pursuant to recess.

The CHAIRMAN. Gentlemen, we will proceed. Are you ready, Mr. Shaw?

STATEMENT OF MR. O. N. SHAW, OF HOLTVILLE, CALIF.

Mr. SHAW. Mr. Chairman and gentlemen of the committee, on behalf of myself and three other members of the committee who have been heard to-day, or will be heard this evening, I wish to offer this statement to be filed stating who we are and whom we represent, and I ask that this statement be filed in connection with my remarks

made this morning and that it be made a part of the permanent record. Shall I read it?

The CHAIRMAN. No; I think you can insert it. What is it about?

Mr. SHAW. It gives the names of the members of our committee and whom we represent.

I also have a telegram here from F. H. McIver, secretary of the Imperial irrigation district, which I would like to put in the record at this time.

Mr. SMITH of Idaho. Let us have that read.

Mr. SHAW. This is addressed to Phil D. Swing, who is a member of our committee. It reads as follows:

ELCENTRO, CALIF., July 9, 1919—2.32 p. m.

PHIL D. SWING,

The Washington Hotel, Washington, D. C.

Resolved, That we, the board of directors of the Imperial irrigation district, indorse and approve H. R. 6044, introduced in the House of Representatives June 17, 1919, by the Hon. William Kettner, and hereby request and urge the committee now in Washington, D. C., to use every honorable means to secure the passage of the said bill.

F. H. McIVER,
Secretary Imperial Irrigation District.

This other paper simply shows who is present here representing the district. If you want me to, I can read it.

The CHAIRMAN. Just insert it in the record.

(The paper referred to follows:)

My name is Mr. O. N. Shaw. I think the records should show the appearance and desire to state that I am president of the Imperial Valley Sheep and Wool Growers' Association, and also director of Imperial Mutual Water Co. No. 5, and am actively engaged in farming and banking in Imperial Valley. I was appointed as a representative on this committee by the directors of the Imperial irrigation district. I have resided in Imperial Valley for 12 years.

Mr. Mark Rose is a farmer residing in Imperial Valley since 1901, and has been interested there ever since. He and his family own a section of irrigated land in the valley. He is one of the members of the committee appointed by the directors of the Imperial irrigation district to visit Washington on this business. He also represents Coachella Valley and the Coachella County water district, the West Side Co., and is president of the Imperial Laguna Water Co., which have an irrigable area under the proposed canal of over one-half million acres.

Mr. Phil D. Swing, chief counsel for the Imperial irrigation district.

Mr. W. H. Brooks is a member of the committee representing the Imperial irrigation district; pioneer rancher, going to the valley in 1902; also chairman of the board of supervisors of Imperial County; engaged in farming.

Mr. Mike Liebert is also a member of the committee representing the Imperial irrigation district; resided in the valley eight years; farmer; also is a representative of the Imperial Valley Farm Bureau, and a director thereof; director of the Imperial Valley Milk Producers' Association.

Mr. R. Woodland Gates, representing the Imperial Laguna Water Co.

STATEMENT OF MR. MARK ROSE.

Mr. ROSE. Mr. Chairman and members of the committee, the testimony given before your committee by Mr. Davis, Director of the United States Reclamation Service, showed that only during the months of September and October was the discharge of the Colorado River so low that there was any danger of a water shortage; that is, when there was danger of there not being sufficient water in the river to irrigate all the lands lying within the Imperial Valley, amounting

to approximately 900,000 acres, and which lands are contemplated to be irrigated under the provisions of this bill. This testimony or statement is corroborated by Mr. C. R. Rockwood, ex-chief engineer of the Imperial Valley project, whose report covering this subject is on file with your committee in connection with a statement made by Mr. Swing in this hearing. Mr. C. K. Clark, who spent several years as chief engineer of the project, also holds the same to be true. The fact is borne out by the measurements made by the United States Reclamation Service at Yuma of the daily discharge of the Colorado River.

While it is clearly shown that September and October are the months of low discharge of the river, it does not follow that the flow might be so low as to make irrigation of all the lands in Imperial Valley impossible during this time. According to the Reclamation Service measurements made at Yuma during the 15 years from 1903 to 1917, inclusive, only three years, viz, 1905, 1910, and 1915, would there have been insufficient water in the river to have irrigated 1,000,000 acres of Imperial Valley land during month of September from the natural flow. In 1905 there would have been nine-tenths enough water to irrigate 1,000,000 acres. The same is true for 1910. In 1915 there would have been seven-tenths enough water to have covered 1,000,000 acres, while for October of the same year there was sufficient water in the river to irrigate 1,700,000 acres. During the 15 years herein mentioned the lowest discharge of the river for October would have irrigated 1,600,000 acres. Therefore, from the information herein given, we find that there is only one year out of five when there is any danger of a water shortage in September, the month of low discharge, with 1,000,000 acres under irrigation.

The fact that shortages may occur in September is not so serious as it would at first seem. All grain crops, such as barley, wheat, etc., and the early crops of corn and milo maize have been matured and harvested long before September. New fall grain crops are not planted until October or November. No vegetable crops are growing at this time of year. The only crops that might suffer would be alfalfa, cotton, and the late crops of milo maize. In the case of alfalfa the worst that could happen would be the loss of one or two cuttings of hay, but this loss would not be a serious one in a country where six to nine cuttings per year is the rule. Through more advanced methods of planting and cultivation it has been successfully proven that cotton and milo maize can be grown in Imperial Valley and brought to a full harvest even though the crop may be without water four to six weeks. Should a water shortage occur every year in September there would be nothing serious about it, for in Imperial Valley crops are grown during 12 months of the year; 11 months would be left in which to produce profitable crops.

A copy of a contract between the Interior Department of this Government and the Imperial irrigation district has been filed with your committee in connection with hearings on this bill. This contract is dated October 23, 1918. Section 15 of the contract provides as follows:

Sec. 15. It is understood and agreed that the district shall have the right at any time to extend its boundaries within the United States and water additional lands upon payment of same amount per acre as irrigable lands in present Imperil irrigation district are to pay under terms of this contract. This

right to be also available on same conditions. * * * All proceeds from payments on account of initial connection charges assessed to and collected from such new lands shall be used under the direction of the Secretary of the Interior for the construction of storage works for the benefit of the lands contributing.

Secretary of the Interior in his report on this bill to your committee has advised an amendment to section 9 whereby the money derived from the sale of the land may ultimately be used for the construction works for the benefit of the lands contributing. Mr. Davis has pointed out in his testimony that the moneys derived from the two above sources will be ample and sufficient to provide sufficient storage of water to irrigate all lands, and thus provide against a possible shortage of water that might occur as shown heretofore.

I wish to make reference to the engineers' preliminary report covering the construction of the all-American canal, which report has been filed with you.

On page 4 of said report it is shown that it would cost \$26,732,602 to build a canal and works of 9,000 second feet capacity to furnish water to all the lands of Imperial Valley (approximately 900,000 acres), while it would cost, as shown on page 5 of the same report, \$24,304,048 to construct canals and works of 6,000 second feet capacity that would only be sufficient to irrigate the 500,000 acres within the present boundaries of the Imperial irrigation district. Thus it is shown that it would be more economical for all lands concerned to build the canal with capacity of 9,000 second feet than to build the smaller canal that would only irrigate a little over one-half of the land in the valley. With this in view my contentions are that it would be unwise to provide for only partial reclamation of the un-reclaimed area of approximately 400,000 acres, but that they should be considered in their entirety. No portion should be held unreclaimed on account of a possible water shortage. It will take several years to bring about the irrigation and reclamation of the area and by that time, no doubt, storage will have been provided in case same is necessary for the full irrigation of these lands.

Some reference has been made before this committee regarding certain treaty negotiations having been carried on between this country and Mexico by President Taft during his administration. This treaty had reference especially to the waters of the Colorado River. The terms of the treaty were not in the interests of the people of Imperial Valley. The farmers of Imperial Valley were entirely ignorant of any such negotiations. Had they been aware of any arrangements being made whereby Mexico might have been given any of the natural flow of the Colorado River they would have entered a vehement protest. A treaty allowing Mexico any of the natural flow of the river could only have been made in the interest of the large private holdings in Mexico, and against the interest of the American farmer.

The CHAIRMAN. Have you finished your statement, Mr. Rose?

Mr. ROSE. I have not finished my statement regarding the reasons of our not being able to sell our bonds, the bonds to finance this proposition.

One reason outside of the Federal farm loan, which, of course, has hurt us, is this, that back in 1890 there was purchased in Lower California and Sonora some million acres of land by some very

powerful financial interests in the United States. Those interests have sought ever since the purchase and since the beginning of the Imperial Valley project to get themselves annexed to the waters of the Colorado River, and they have done everything possible to prevent any great development on the American side until they could bring that about and put to use for themselves the waters of the Colorado River—to their own beneficial use—and it will be readily seen that in floating any great quantity of bonds those people would prevent us from floating those bonds.

Mr. SMITH of Idaho. Have you any objection to giving us the names of those people?

Mr. ROSE. I couldn't give you the names of all of them. Of course, it is rather a difficult matter to get exact records in Mexico because none are kept, but as far as I have been able to find out by inquiry in Lower California, it is the Otis-Chandler interests, which includes Sherman and a great many others, and the Cudahy interests and the Mexican branch of the Southern Pacific, headed by Epes Randolph. And there is a large British syndicate that is the owner of interests there.

On the Sonora side, as far as I have been able to find out, it is Hearst and Charley Taft, William H. Taft's brother, and I understand that the Otis-Chandler interests are also interested over there. Also, a British syndicate owns a large tract on that side of the line. Now, there may be a few other small holdings.

Mr. HAYDEN. By Otis-Chandler you mean the late Harrison Gray Otis of the Los Angeles Times, and his son-in-law?

Mr. ROSE. And Sherman.

Mr. HAYDEN. That is Moses H. Sherman, of the street railway system of Los Angeles?

Mr. EVANS. What have they been doing lately—producing, farming?

Mr. ROSE. They are producing on about somewhere between one hundred thousand and one hundred and fifty thousand acres—that is, they are not producing; they are renting it principally to Chinamen and Japanese.

Mr. HAYDEN. What interest has Col. Epes Randolph?

Mr. ROSE. The Southern Pacific—that is, not the Southern Pacific—but the Inter-California Railroad, which is a branch of the Southern Pacific, owns something like sixty or seventy thousand acres down there. Besides that he is president of the Mexican road and is naturally looking to development along those roads.

Mr. HAYDEN. Does the property belong to him or does it belong to the railroad company of which he is president?

Mr. ROSE. It belongs to the railroad company of which he is president. I said the railroad company, of which Epes Randolph is president, of course.

Mr. HAYDEN. How did they acquire 60,000 acres of land in Lower California? Did they acquire it from the Mexican Government as a consideration for building the railroad?

Mr. ROSE. No; they bought it of the old Andrada grant down there.

Mr. HAYDEN. And Andrada was the original grantee from the Government of Mexico?

Mr. ROSE. Yes.

Mr. HAYDEN. Are all these people purchasers from Andrada?

Mr. ROSE. I don't think they are. There is a British syndicate that sold a portion, and probably the larger portion, of that land to the Otis-Chandler interests; but I don't know much about the early title to the land.

Mr. HAYDEN. Titles to these lands, if they came from the Mexican Government, came at the time of the Porfirio Diaz régime in Mexico, prior to the revolution?

Mr. ROSE. Yes; they had hold of them prior to that, I know.

Mr. SMITH of Idaho. Is it the contention of the Mexican Government that we have no right to keep these waters within the United States?

Mr. ROSE. No, sir; it is not. The Mexican Government—the secretary of state of Mexico sent a Mexican representative to investigate the question of the waters of the Colorado River, and he made a report to the Mexican Government which Mr. Swing, the attorney for the district, who will appear before you, has a copy of, in which he stated to his own Government—the Mexican representative himself—that Mexico had no power to stop the United States from diverting water within her own country. The only power that they had was to stop us from carrying it through Mexico.

Mr. SMITH of Idaho. That is, carrying it back into the United States after it had once been in Mexico?

Mr. ROSE. Yes; that is the only power to reclaim it. Now, Judson Harmon rendered an opinion on the question of the waters of the Rio Grande, which were covered by the same treaties, the treaties of 1848-1853, and he contended that Mexico had absolutely no right to arrest the United States from developing her own country, even if they diverted every drop of the water, although the Mexicans might have used it prior.

Mr. HAYDEN. How did Judson Harmon happen to render that opinion?

Mr. ROSE. He rendered it in the Rio Grande case.

Mr. HAYDEN. As a judge?

The CHAIRMAN. When he was Attorney General.

Mr. ROSE. He was United States Attorney General.

Mr. HAYDEN. Where can we find that opinion?

Mr. ROSE. It is in volume 21 of the opinions of the United States Attorneys General and we will file it here before we get through.

The CHAIRMAN. How were the Sonora people you speak of affected? What interests did they have?

Mr. ROSE. The Sonora people can irrigate by gravity from the Laguna Dam down through here [indicating on map] 297,000 acres, according to the Government report.

The CHAIRMAN. But they have no right to take from the Laguna Dam.

Mr. ROSE. They have no right; no; absolutely none. It is a question purely of future treaty or provisional storage.

Mr. HAYDEN. They can only divert water below the Arizona and Sonora boundary.

Mr. ROSE. For a very small portion of it—you see the bluff; this map is turned around and confuses me—as you see, carries down

and there is a portion right in there under the bluff which they might get some water on [indicating on map].

Mr. GATES. Will you permit me a moment—have you any information as to whether or not any of that water is being used at all, or has been used below the Sonora line?

Mr. ROSE. There is quite a bit of farming there. To what extent I don't know, but there is some farming done down there now from the waters furnished or coming off from the Yuma project. The Yuma people are here, and they might be able to give a more correct answer to that. I understand that they don't draw any water nor don't buy any; it is simply waste water and water which runs through the canal and is dumped in there.

That is probably one of the reasons why we can't sell our bonds—the great opposition of those people.

Mr. HAYDEN. If what you said this forenoon is true, and the Imperial irrigation district should issue six or seven million dollars worth of bonds to connect your present heading with the Laguna Dam, which, as you said this morning, would be largely for the benefit of the Mexican lands, there would be no opposition from the American owners of those lands to that part of the bond issue?

Mr. ROSE. No; that would be no benefit to us. That is the great trouble. There would be no opposition from them, of course. That would be the height of their ambition, to get us to do that; also to get the Government to permit them, even through an agency—through us as an agency—to connect with the Government dam, which would give them some color of right to the water, which this Government has never recognized.

Mr. HAYDEN. Have any representatives of the Mexican interests made any proposition to the Imperial irrigation district to bear any share of the expense of connecting with the Laguna Dam?

Mr. ROSE. Not that I know of. I think there has been some verbal talk but no money talk.

Mr. HAYDEN. Your association has received no proposition of any kind?

Mr. ROSE. Nothing but verbally. I don't think there has ever been a thing in writing. I know of nothing, and I think I would know if there was anything.

Mr. HAYDEN. Do you think there is any possibility that they would be willing to bear their pro rata share of the expense?

Mr. ROSE. Of acquiring the water right? Of that connection?

Mr. HAYDEN. Yes.

Mr. ROSE. I think they would. I believe they would pay it all if we were foolish enough to do it and allow them to get the benefit of it; but it would practically ruin us in the Imperial Valley, because it would enable those people to take practically all the water away from us, and I don't see where we would get any benefit.

Mr. HAYDEN. It being so much to their interest was the reason why I asked whether they had made any such proposition.

Mr. ROSE. I don't think they have, because they know the people of the Imperial Valley would read the handwriting on the wall and wouldn't listen to it.

Mr. KETTNER. Mr. Rose, how do you know the people of the Imperial Valley are so strongly in favor of my bill? Has there been a recent election, or have the people, by a vote, decided that question?

Mr. ROSE. There is a contract made by the Interior Department which provides for the building of this canal; and after the report was made showing the cost the contract was submitted to the people of the Imperial Valley, and it carried 5 to 2. That is, 5 out of 7.

The CHAIRMAN. How was that, Mr. Rose?

Mr. ROSE. Where this red line indicates, there was a survey made along those lines under a contract between the Interior Department and the Imperial irrigation district in which each one bore part of the expense, and a report was made of the cost, and it was submitted to vote, and it carried 5 to 2.

Mr. KETTNER. That is the all-American canal?

Mr. ROSE. The all-American canal.

Mr. LITTLE. What was the kick about of those who voted against it?

Mr. ROSE. I don't know. There are two sections of the valley, one section down on the boundary—the town of Calexico—and the other section up in the north end, where the Mexican interests control 40,000 acres, and those two sections voted against it. The central part of the valley went very strong for it. My own section went 1,117 to 9.

The CHAIRMAN. What obstacle is there in the way of going ahead with that?

Mr. ROSE. It is money. That is the question. That is what this bill is for, to enable us to get the money.

Mr. LITTLE. Why did you follow that line through?

Mr. ROSE. Well, everything slopes toward the sea from there [indicating], and that is the highest point on the southern part. Of course, this is the only place we can get through here [indicating].

Mr. LITTLE. How does it slope on the south?

Mr. ROSE. Well, here is about the division point south, sloping this way. This is the top of the ridge, practically, through here [indicating].

Mr. SMITH of Idaho. Is there enough water, Mr. Rose, from the natural flow of the Colorado River to irrigate all the land in Mexico there that could have been available for irrigation? Is that the reason that those Mexican people are satisfied to exist as they are rather than spend any money?

Mr. ROSE. There is water enough to irrigate all of the lands down in there if they were taking it all—and they are in a position to take it all after it crosses the line, because they have both legal and physical control of it.

Mr. HAYDEN. In that connection, Mr. Rose, the Secretary says in his report:

It is to be observed, however, that no material addition can be made to the lands now irrigated in Imperial Valley, with no assurance of ample water supply for the entire year, because the low water flow of the Colorado River, on which these lands depend, is now in some years not more than sufficient for the lands now under the ditch.

Then, if there was any increase of irrigation in Mexico, or if there was any material increase in the area of irrigated land in the valley itself, you are very liable to suffer from water shortage.

Mr. ROSE. Of course, there is a great difference of opinion about that. Mr. Rockwood, an engineer, who is very familiar with the river, says that there will never be any danger of shortage until you

get up to approximately a million acres. He gives the figures for that. He doesn't say in off hand, but he gives the figures in quite a long report. I have it here and will file it later on. It would take some time to go into it. That was his observation after being on the river some 26 years.

Mr. EVANS. Does the Secretary contemplate the building of a storage dam?

Mr. HAYDEN. He proceeds thereafter to talk about water storage, but the question I wanted to ask Mr. Rose was this: We had a similar situation under the Salt River project wherein a very careful engineering investigation was made, after there had been subscribed—or what we call "signed up"—about 200,000 acres of land under the project. The engineers of the Reclamation Service, taking into consideration the flow of the streams for a great many years, decided that in safety, to be absolutely sure that every acre that was within the project would get an ample water supply, that they must reduce the area by about 20,000 acres; therefore, the acreage under the Salt River project was limited to approximately 180,000 acres, and 20,000 acres that had been signed up was eliminated from the project. Now, would you have any objection, in view of this finding of the Secretary in his report on this bill, and in view of the great variance of opinion as to the available quantity of water in the Colorado River that you have just mentioned, to adding a provision in this bill to the effect that the Secretary of the Interior must determine the area of land in the Imperial Valley that can be provided with an assured water supply from the all-American canal and that no more land than he finds can be safely irrigated through it from the normal flow of the river shall be included within the project?

Mr. ROSE. I wouldn't object to that, if it doesn't delay us. Now, there is the main thing, the Imperial Valley proper as it is constituted to-day is getting up to the proposition where, if we don't get busy, we are going to suffer for the lack of water ourselves. Another thing is the Yuma people are riding us to death on their project.

Mr. HAYDEN. There is no question of delay. It will take at least two or three years to build the all-American canal if it was authorized. Now, during the course of the construction, if the Secretary secured all the data obtainable about the stream flow of the Colorado and the amount of water that could be diverted through your canal system as proposed, into the Imperial Valley, and knowing, as he states in his report, that there are going to be times of shortage, and, therefore, in order to be safe about it he should make a finding that "so many acres can safely be irrigated from the all-American canal without storage on the stream, and, therefore, I limit the acreage to that area"—just as he did under the Salt River project—would there be any objection on your part to that?

Mr. ROSE. Absolutely none, if he doesn't take into consideration any Mexican lands, but gives us the water which we are entitled to. That is all we want. There would be no objection, so far as I know.

Mr. HAYDEN. It seems to me, looking at it from the point of view of the new settler, that you had better have a less number of people on a project who have an assured water supply than to have vague and indefinite knowledge of how much land was to be furnished with water. By doing so we would avoid giving a speculative value to lands included within the larger limits of the project for which it

might turn out afterwards that there is little or no water. We had that experience in the Salt River Valley, and it seems to me it would be much better if the Secretary made a finding that—

My engineers tell me there is so much water available from the Colorado River, and, therefore, in safety, I can say that without storage there can be so many acres irrigated in the Imperial Valley, and I therefore limit the land to which water may be furnished to that area.

Mr. KETTNER. The people of the Imperial Valley are in this position: If Congress would have adopted a bill something similar to this in 1907, they were only irrigating 10,000 acres, but they waited and waited and put it off until now they are irrigating about 150,000 acres in Mexico—isn't it 150,000?

Mr. ROSE. I don't know about that. There may be 150,000—between 100,000 and 150,000.

Mr. KETTNER. Something over 100,000. Now every day and every month that we wait, Mexico is putting in more land, and it is only a question of time when the Imperial Valley is going to be short of water, because they will take the water to irrigate their own land and the Imperial Valley will go dry.

Mr. HAYDEN. The proposal I am making gives no occasion for delay. It was provided in our original Salt River water users' contract that the Secretary of the Interior should in due time fix the irrigable area of project.

Mr. KETTNER. But he can't fix the area in Mexico.

Mr. HAYDEN. He can certainly fix the area in the United States.

Mr. KETTNER. That is true, but he don't know what Mexico will take.

Mr. HAYDEN. But the point I am getting at is this: I do not think that it is right to have land included within your project with a promise of water which in time of shortage will not get any water. It would be better to leave it out of the project entirely.

Mr. KETTNER. That is true, but your main proposition is that he should fix the area that could be irrigated. He can not do that for the very good reason that Mexico is irrigating more land every year.

Mr. HAYDEN. But you hope to be able to take the control of your water away from Mexico.

Mr. KETTNER. If this bill goes through, yes.

Mr. HAYDEN. I am proposing to amend this bill to authorize the Secretary to make a finding of how much land can be irrigated in the Imperial Valley in California without storage on the Colorado River.

Mr. KETTNER. I agree with you about that.

Mr. HAYDEN. And fix the limits of that land so that anybody will know whether he is going to get water or not when the all-American canal is completed.

Mr. LITTLE. You say without storage, just where does that new dam stand?

Mr. HAYDEN. The Laguna Dam is a mere diversion dam to take water out of the Colorado River. If the storage proposition is to be taken up later a larger amount of land may be taken in, but I think it is the part of wisdom and justice to prospective settlers that the irrigable area of this project be limited in the same manner as it was done on the Salt River project. When the proper time comes, I shall offer an amendment to that effect.

Mr. ROSE. I would like to have you read the next paragraph there, Mr. Hayden.

The CHAIRMAN. Just a word there, gentlemen. Mexico claims the right, and exercises the right, I take it, of controlling absolutely all the water that is in their physical possession, under their jurisdiction, after it gets over the line, and that is what makes it uncertain for the Imperial Valley in California. Now that being the case, they are bound to concede the right of the United States to control the water absolutely within the United States, and the United States has the first possession of it as it passes through the United States, and therefore the United States has absolute control of all the water, the power to take it all out on the American side. You want to control it as soon as you can, and the point that I was going to make, and the reason that I mention this is—of course, we all concede the proposition I have made here—you will grant that at once—what difference does it make if Mexico gets possession or has possession of this water now while it is going through there? Even if it has, when you get your canal in all-American territory, you will have the right to control that water the same as though Mexico had not utilized it. Isn't that true? Certainly they acquire no right against us by the use of that water there before we use it.

Mr. HAYDEN. It might be well to have diplomatic representations made to Mexico immediately, saying that the United States recognizes that there are certain lands in Mexico which have acquired a right to water, or are perfecting a right to water, and that, in fairness as between nations, some arrangement should be made to determine the extent of such rights. The result of the negotiations would fix the amount of water to be diverted to the Mexican lands.

Mr. KETTNER. But that would be followed, Mr. Hayden, by making Mexico pay her pro rata share of the water.

Mr. HAYDEN. Certainly.

The CHAIRMAN. Your claim ought to be clearly asserted all the time, and your position should be as open and notorious as possible, and what you have not absolutely gotten control of, you should announce that you are going to control. Let them know that you are going to do that, so as to avoid any unpleasant international complications.

Mr. LITTLE. Our Government ought to be able to go to Mexico and make the arrangement, and see that these people are thoroughly protected and that the Mexicans don't take on a lot more land and consume all that water—consume it just as fast as it would be provided.

Mr. HAYDEN. In his report on this bill the Secretary of the Interior makes the statement I read and then goes on to say that under the circumstances there there should be storage reservoirs on the stream. I wanted to ask you, Mr. Rose, whether in your opinion the lands that would be included under the proposed all-American canal project would be willing to assume their fair share of the cost of such storage works, as did the lands under the Salt River project which had an adequate water supply, nevertheless they agreed to pay their full pro rata share of the cost of the construction of the Roosevelt storage reservoir. The Salt River Valley landowners agreed to pay for storage under the belief that it was worth the money for

them to do so, because it gave them an assured and regulated water supply. In connection with the entire scheme of storage on the Colorado River—of course that would take into consideration a long time to come—it has occurred to me that there should be some provision by which the lands in every new project drawing water from that stream should agree that hereafter if the Government shall undertake a program of constructing storage reservoirs on the Colorado River, such lands will be obligated to pay their pro rata share of the cost of such storage works, whatever it might be. Would the land in the Imperial Valley be willing to do that?

Mr. ROSE. The land under irrigation now?

Mr. HAYDEN. Yes.

Mr. ROSE. I think not. But the Secretary has suggested an amendment to this bill which provides for the land outside, that if they find they have not an adequate water supply when they are fully developed, that he has the right to enter into contracts then for storage facilities.

Mr. HAYDEN. I thought that the Secretary's amendment included more than just the new lands. Well, we found under the Salt River project that the old lands and the new lands had to join together and pay an equal share of the cost, because reservoir construction is expensive business. The old lands and the new lands all paid the same construction charge, regardless of the fact that the old lands with prior rights had much less need for the stored water.

The CHAIRMAN. Have you a reservoir in the Yuma project?

Mr. HAYDEN. The point I was making, Mr. Chairman, was that there must be reservoir construction in the future on the Colorado River, and if we know that that is going to happen, we should provide for that contingency. I wanted to find out whether the land-owners of the Imperial Valley who now have a fair water right and who will have an improved water right if the all-American canal is constructed, but who would still be benefited by a regulated flow—whether they would be willing to help build such reservoirs when the time comes. Mr. Rose says he thinks not.

The CHAIRMAN. You think, Mr. Rose, you will have enough water without reservoirs?

Mr. ROSE. We believe we will. We believe we can irrigate every acre of the land without any reservoirs. We have made measurements of the river and have figured it all up, and we believe that under economic diversion of the water of the Colorado River so that we can use all of the water—now, for instance, in July and August—that is our maximum use of water—there is an abundance of water, generally two or three times as much as we can use, running downstream. There is a time probably in September, when the water gets low and we have to be fairly close, but the reason we have got to be fairly close was that we could not divert with our method of diversion enough water out of the Colorado River, because we were not able to put this temporary weir in. There was such a volume of water in there that it tore the weir out and we were not able to divert it, consequently when the river got down low so that we were able to divert it, we drew twice as much water as we would have at that time, had we been able to draw what water we wanted when there was an abundance of water in the river. We believe that if we can draw water when we need it in July and August from a permanent

dam and can take all we want and can use the water, that there is water enough to irrigate every available acre in the Imperial Valley lying within the United States.

Mr. HAYDEN. The statement was made this morning that the flow of the river had been at one time or another as low as 4,000 second feet.

Mr. ROSE. Oh, lower than that.

Mr. HAYDEN. And that your minimum diversion was about 6,000 second feet.

Mr. ROSE. No; our maximum diversion in July—July being the month of maximum diversion—is 6,000 second feet.

But our water diversion requirement for September would drop down 50 per cent from our high diversion in the same month were we able to divert all the water that we wanted in the high flow of the river. I will show that to the committee before I am through. Our high use of water is at a time when there is an abundance of water in the river.

Mr. HAYDEN. This is the way it appears to me about your assistance in the construction of storage works: You must admit that you are all drawing water from the same stream and that, therefore, there is a community interest between your lands and all other lands concerned, you must further admit that the storage works are going to cost large sums of money, and the more acres you spread that cost over, reasonably and equitably, the easier it is going to be to pay the construction charges. Certainly it would be easier to finance, from a congressional point of view, a storage proposition where there were lands that were productive at the very start and where it was for the general benefit of the whole Colorado River valley. It seems to me that you ought to be willing to help in some way toward the construction of storage works that will benefit the Imperial Valley at periods of low flow in the river.

Mr. ROSE. I think this, that when Wyoming and Colorado and Utah and all the rest of the States affected agree to wipe out all water rights and say they are all on an equal basis and claim no priorities, that they will all pay for storage, I believe the Imperial Valley would frankly come in on that basis, but I don't believe the other people who have prior rights on the river would be willing to do that.

Mr. SMITH of Idaho. Why do you mention Colorado and Wyoming and Utah? They would not be benefited by this.

Mr. ROSE. They would to the same extent as the country on the lower Colorado, which has a permanent water right to the natural flow. The upper lands would be benefited just as much as the lower, who have a prior water right; but, of course, to the man coming in later, who has not a sufficient water right, that would be quite different.

Mr. HAYDEN. But you are now coming to Congress asking that an extraordinary thing be done by the passage of this legislation, and Congress must look to the development not only of the Imperial Valley, which is your particular interest, but the Colorado River Valley as a whole, and that can only be fully developed by storage. It seems to me that it would be proper to place in this bill not only the provision that your new lands but that your old lands also, which

now have a prior right to water, should pay some equitable part of the cost of the water storage based upon the benefit to them whatever it might be. It should be within the discretion of the Secretary of the Interior, when the time comes to build these reservoirs, to assess a fair part of the cost of the same to the Imperial Valley lands, because to do so will make it that much easier to build the storage works.

Mr. ROSE. Of course, my position here is a little different from that of the rest of the committee. I am president of the company, organized here to irrigate this green area; and I represent the Coachella Valley water district, which has acquired most of the land, this patented land, and where they have an irrigation district already organized, covering over 150,000 acres of land; I also represent the West Side here; and I am also a member of the Imperial irrigation district delegation here, so I am the only one here authorized to speak for the outside lands and also for the inside lands; but I think that would be the view—all my holdings to-day are inside—and I really believe that that would be the view of those people, and it would be my personal view that we have gone ahead there and stood the hardships and diverted the water, when it was there to divert, and have acquired water rights under all of the Western States' laws, and I don't believe that the people of the Imperial Valley, who did those things and made that wonderful development and who have gone through these hardships should come in and say to the newcomers, "Notwithstanding the fact that you have not gone through all this, we will come in and help pay for your water right."

Mr. HAYDEN. I was not talking about paying for a water right.

Mr. ROSE. For the completion of the water right.

Mr. EVANS. Where do they expect to get their water from in the future, if you have it over them from the old way?

Mr. ROSE. Oh, no.

Mr. EVANS. From the new way?

Mr. ROSE. They, the old lands, would retain their priority of water.

Mr. EVANS. Do they expect to participate in some manner in the cost?

Mr. ROSE. They will participate in the cost of the canal; yes, everything; but not in the storage, because there is ample water for not only those lands which now have water, but, probably, we think, for all of the rest of the lands. But if there should come a time when there was not water enough to irrigate all of these lands all the year around, the new lands possibly would have to dig up some storage money to store the water.

Mr. HAYDEN. Then as to the lands outside of the Imperial irrigation district as it exists to-day, you think that they would agree to let the Secretary of the Interior make an assessment against them in the future for storage purposes?

Mr. ROSE. Absolutely. There is no question about that.

Mr. HAYDEN. But you think that as to the land within the Imperial Valley which now has what you call a prior water right, they would not?

Mr. ROSE. I think not—the present project, which is now irrigated, of course not.

Mr. SMITH of Idaho. But they are willing to bear their proportionate share of the expense for building this canal?

Mr. ROSE. Yes, sir; and they are anxious to do it. Of course, they are willing to bond themselves for the whole amount if it is necessary to take care of the situation, and go right ahead and have it done under this act if it becomes a law.

The CHAIRMAN. How much unentered irrigable land will there be—just to refresh our memories?

Mr. ROSE. I think there is about 250,000 acres of unentered land.

The CHAIRMAN. Of irrigable land?

Mr. ROSE. Of irrigable land.

The CHAIRMAN. Which by this scheme could be reclaimed?

Mr. ROSE. Yes.

Mr. SMITH of Idaho. I thought you said 400,000 acres?

Mr. ROSE. I said unentered. There is about 150,000 acres the patent to which still remains in the United States, which has been entered but not patented.

Mr. HAYDEN. What class of entries are those?

Mr. ROSE. Those are principally desert entries, some homestead.

Mr. HAYDEN. Are they 160-acre or enlarged homesteads?

Mr. ROSE. I think the homesteads are all 160 acres. The desert entries vary from 80 to 320.

Mr. SMITH of Idaho. Where would the desert man get water to prove up?

Mr. ROSE. He would have to get it through the proposed all-American canal.

Mr. WELLING. How is he going to prove up on claims that are already made?

Mr. ROSE. He can't, until the canal is built and water brought in there.

Mr. HAYDEN. In that connection let me say that under the reclamation law as it applies everywhere else, nobody can get a water right to more than 160 acres of land. There is no limitation like that in this bill. Should there not be such a limitation?

Mr. ROSE. I don't think so, because the Government is not putting up and is not asked to put up anything under this bill.

Mr. HAYDEN. This is the argument that we must meet when we take up this bill on the floor of the House. Members are going to say: "Who is going to get the benefit of this law—a small number of land owners? If it is, why should Congress be interested in making a few men rich?" If the benefits are to be divided among the people who hold 160 acres or less, and will improve the condition of a comparatively large number of citizens, as was the case under the reclamation law, that would give this committee a better standing before the House than if it is demonstrated that a few men who own very large areas of land that are now worth absolutely nothing, and that these few men are going to make immense fortunes by reason of the passage of this bill.

It seems to me that if it is wise under the reclamation law to say that the money shall not be advanced out of the Federal Treasury to give a man a water right for more than 160 acres of land, that in this bill we should also say that the credit of the United States shall not be advanced to let any man obtain a water right for more than 160 acres.

Mr. ROSE. The men who own this 700,000 acres down in Mexico [indicating on map], own three or four thousand acres up in here

in the United States in one tract, and they control some 30 or 40 thousand acres up here in the north end of Imperial Valley [indicating]. They wouldn't want anything better than a clause like that, because you never could make them comply with it and they have got a legal water right to-day, an irrigation district, where every man has a right under the State law to the amount of water equal to the amount of taxes that he pays into that district.

Mr. HAYDEN. That may be true of the lands now irrigated. How about the east Mesa?

Mr. ROSE. That has been provided in the bill that no man shall hold over 160 acres.

Mr. HAYDEN. How about the Coachella Valley?

Mr. ROSE. I don't think there are any large holdings in there.

Mr. HAYDEN. How about the western land?

Mr. ROSE. North of the third standard is Southern Pacific land. Here is the third standard through here [indicating], but in this land south here there isn't. There are no large holdings except school sections.

Mr. HAYDEN. In connection with the Umatilla reclamation project, the Secretary of the Interior provided that there must be a limitation of area, just the same as in the reclamation law. Then he went further and said that no man could get a right to water under that project unless he placed his excess lands in the hands of the Department of the Interior in trust, the department having authority to dispose of them to actual settlers. In that way there was no chance for anybody with a large land holding to make enormous profits. The Secretary disposed of such land at a reasonable price to the settlers.

Mr. ROSE. I would not have any serious objection to that applying to east side and west side lands [indicating]. The result would be very likely that you would prevent some of these larger land holders from coming in there at all and bearing the first cost of this canal. The land would all come in afterwards.

Mr. HAYDEN. Simply provide that nobody can obtain a water right to water through the all-American canal for more than 160 acres of land.

Mr. ROSE. I have no objection to that applying to outside land, which do not now have a valid water right, and I can see where it could be applied. For if a man hasn't a water right you don't have to sell it to him, but the man inside has it and you can't take it away from him. So, I would have no objection to that, so far as it applies to lands not now having a water right.

The CHAIRMAN. I want to know about those desert land entry men where they have as high as 320 acres. That is the limit of the desert land entry. Now, they can't go singly and get water; there is no means any place to get it, so they are buying of corporations or what? How are they getting water?

Mr. ROSE. They are not getting any water, those outside. They are simply organized—here is a company organized in here [indicating]—this brown represents a company that is organized of those entrymen, and this country here in Coachella Valley [indicating] represents an area which is almost all patented land. They have artesian water in there. It is limited in amount, but they get enough to patent all of their lands, whether they have enough to irrigate

with or not. The land in here [indicating] is all withdrawn, excepting a little fraction up in here which has no water right. But this land in here, some 200,000 acres of it, has been withdrawn for the last 18 years.

The CHAIRMAN. There are some of them who have been buying water of some organizations, as I understand it.

Mr. KETTNER. Mr. Chairman, they are all mutual companies. The water companies he speaks of are all mutual companies.

Mr. ROSE. Those who get water are inside of the present district, and that land is all patented. There are few, if any, unpatented desert claims remaining in present area that is now under ditch [indicating].

Mr. HAYDEN. The people that own this 40,000 acres in one tract are now getting water for their 40,000 acres?

Mr. ROSE. Yes; a syndicate composed of the men who own this very largely [indicating], and they are getting water through No. 3 water company up here. Here is No. 3 up in through here [indicating]. They are getting water as part of the Imperial irrigation district. They are entitled to it under the State law. They pay their taxes into the district. They are annually assessed and they pay their taxes and they are entitled to water. There is no way of avoiding that. It is according to California law.

Mr. HAYDEN. They could do this very readily: The Reclamation Service could say, "We will serve water through the all-American canal to such people in the Imperial Valley as have 160 acres of land or less." The remainder of the Imperial Valley landowners could get their water through Mexico, the way they get it now.

Mr. ROSE. No; if you would deliver one bucket of water in the Imperial irrigation district every taxpayer in there would have a right to it in proportion to the amount of taxes that he has paid. It would have to be delivered to the organization who owned that system, and no matter how small it is, each taxpayer in there, under the State law, is entitled to his pro rata share of any water received.

Mr. LITTLE. But here is another supply. If the Federal Government makes another statute, what are you going to do about it?

Mr. ROSE. I don't see how they can make a statute that would interfere with the State law.

Mr. SMITH of Idaho. They can't affect the water within the State.

Mr. LITTLE. I am not talking about your water. They don't get any water in the State; it comes from Mexico. But here you ask the Government to come in and build you a ditch—that is what it amounts to, whatever argument you make about it. Now what is the reason the Government can't say under what terms they will build the ditch?

Mr. ROSE. If the Government were building it on new land they could; but here is the situation—

Mr. LITTLE (interposing). Well, what law is it that provides the Government can't say how its enterprises should be conducted?

Mr. ROSE. The State laws of California, which control the irrigation districts.

Mr. LITTLE. The State laws of California don't control any Government ditch.

Mr. SMITH of Idaho. They control the water.

Mr. LITTLE. They don't control the water that comes out of this ditch. This is an entirely different proposition.

Mr. SMITH of Idaho. After it gets into the States it is the same as any other water, under the laws of the State.

Mr. LITTLE. No; this is a Government ditch.

Mr. ROSE. They might do this. The man who has a prior right under the old ditch could enjoin all persons from diverting water through the new ditch providing he was not permitted to receive his water through the new ditch. This would complicate things a great deal.

The CHAIRMAN. Mr. Rose, right on that question, I think it is pertinent to ask you, don't you mean to go ahead if this bill should become a law, in carrying out its provisions, to proceed under the same authority that you would proceed if you did not get any Government aid, if you did not get any Government assistance at all, or if this legislation were not passed, in building the canal? That is, you would build it—the district would build it?

Mr. ROSE. No; under the bill the Government would build it.

The CHAIRMAN. Of course, you are authorized by the Government, but as I understand it, you are asking—the main purpose that you are here for is to have the Government underwrite you, as it were, or help to finance, to stand back of your bonds. You issue bonds to pay for this and the Government does not invest any money. The Government is to give you credit; that is what the Government is to do.

Mr. HAYDEN. But the money received, Mr. Chairman, from the sale of the bonds is placed in the hands of the Secretary of the Interior, and he makes the actual expenditure.

The CHAIRMAN. He is virtually a trustee.

Mr. ROSE. He could let us do it, or proceed to do it with his own machinery, under this bill.

The CHAIRMAN. I just wanted to know where you are going to draw the line. You are paying for all of this; the Government is standing back of you because you have been discredited financially, and the Government is simply lending you its credit, and I want to know where we are going to draw the line between the authority of the Government over this, further than the bill expressly provides. The bill provides here that the Secretary shall go ahead and control this in a certain way, but it is simply a trusteeship, it seems to me, rather than actual operation.

Mr. HAYDEN. I think we are in the same position, theoretically, as it is in the case of water-power legislation. The Government undoubtedly has a right to legislate with respect to its own lands, but where Congress deals with private lands to be benefited by irrigation, when public money is to be expended to improve their water supply, Congress can make it a condition of the contract and say, "Now, if you want to obtain the benefit of this appropriation of money you must agree," for instance, "that you will dispose of all your holdings of more than 160 acres. You must agree to do that and to such other conditions as the law may impose."

The CHAIRMAN. Yes; they are doing that right along.

Mr. LITTLE. Let me suggest to you, Mr. Rose—I have figured this out a little. I believe, and I think I see the fallacy of your position.

You have got a ditch which comes around through Mexico and comes out there below the Yuma project, in which you have acquired certain rights. Now, if the Sacramento River should break lose and come tearing down through there, you have no right there, and the mere fact that you settled under this law would not help you any. The ditch you are asking us to build is just as different as though the Sacramento River came through there. There isn't a foot of it that runs through your ditch. The red line you are drawing there don't come out from your ditch and you haven't got a right to use that water. You are going to acquire an entirely new right and what is more now, every one of you will start off even. The fellows that have had the old right, under the Mexican ditch, won't have any more rights under this new ditch than the fellow up here that hasn't got a bit of interest. That is the law of California and every other State.

Now, there is another thing you had better think over. When you begin to take water out of this ditch, you haven't got a right left that you have got under this old ditch. Every right you get is a new right. You all start off even.

Mr. ROSE. The bill provides that the lands within the present boundaries of the district shall have a prior right—retain a prior right.

Mr. LITTLE. That is what Mr. Hayden wants to do. He wants to specify what rights shall arise immediately. You have already provided that you shall have prior rights to other people, and the Major suggests that instead of saying you shall have a lot of prior rights, you should all start off entirely even, which would be the law unless the bill is changed.

Mr. SMITH of Idaho. Where is you filing on this water?

Mr. ROSE. Just above the present Laguna Dam, and also here [indicating]. We filed two water filings there in the early days on 10,000 second feet of water.

Mr. SMITH of Idaho. Your filing makes no provision as to which way that water shall be brought to your land, whether it shall be brought across there or down around through Mexico?

Mr. ROSE. No; the filing does not. It simply files on the amount of water, the natural flow of the Colorado River.

Mr. SMITH of Idaho. And you can bring it on the land any place you wish?

Mr. ROSE. I think so.

Mr. LITTLE. That don't include this dam you are going to draw from at all?

Mr. ROSE. No; it includes the Colorado River, and our courts have held that the changing of the point of diversion, so long as it did not work to the disadvantage of anybody else holding a right on the river, that you didn't change your status. Of course you couldn't move your point of diversion above Yuma and draw Yuma's water away from it, but you could move your point of diversion any where you pleased and retain your present water right prior to anybody who might come hereafter, but you couldn't change your status by moving the heads.

Mr. LITTLE. That might make a little difference in your rights.

The CHAIRMAN. By the way, you filed at two places. Now you have been using but one. That is the lower place!

Mr. ROSE. Yes, sir.

The CHAIRMAN. You would not claim anything by the filings that you have not been using? You claim simply under the rights which you have preserved at the place where you do divert?

Mr. ROSE. There were duplicate filings. Of course, they don't claim 20,000 second-feet of water under the filings; they only claim 10; but the claim is that the original intention of the engineers was to go up high and get water, but they didn't have the money to do so.

The CHAIRMAN. You have really used the water on the lower filing—the lower dam filing?

Mr. ROSE. Yes.

The CHAIRMAN. Now, isn't that an abandonment of the other, and don't the other outlaw in a short time for not using it? You have a statute on that in California that if you don't use it for a certain time you lose it.

Mr. ROSE. There is a question as to whether we do or do not use it. We file on it up here [indicating], and it comes on right down the river to us.

Mr. LITTLE. You say you have got this. Whom do you mean?

Mr. ROSE. The Imperial irrigation district—the people of the valley.

Mr. LITTLE. Well, has your supreme court decided that that district there, 75 miles away—or however far it is from the river—that you can go off 100 miles to the river and just file on a river not anywhere near the district and get any rights that the people intervening would be bound to respect?

Mr. BARBOUR. Yes; it is different from riparian rights, Mr. Little.

Mr. LITTLE. That was the basis of my thought, of course; but I would have to see the decision on this proposition before I agreed to the conclusion he reached.

Mr. BARBOUR. That is, that the point of diversion made no difference as to water rights so long as it did not interfere with the rights of other persons.

Mr. LITTLE. Yes.

Mr. BARBOUR. I think Mr. Rose is right about that.

Mr. ROSE. I want to say, gentlemen, I am not a lawyer, but I have kept very close track of water matters. I live in a State where probably half the products of the State are grown on irrigated lands, particularly in the southern part of the State, and I have followed the water decisions very closely, and in this particular case we looked up the question, and that is the reason I say that. That very point has been raised, of course, in our own country. Our people there very jealously guard their water right; and, naturally, they looked it up to see how it was going to affect them—changing the point of diversion.

Mr. SMITH of Idaho. If you were making a new filing, Mr. Rose, Col. Little's contention would be correct.

Mr. ROSE. Yes, sir.

Mr. SMITH of Idaho. But as you are going to work under your old filing, you don't believe that it would be?

Mr. ROSE. No, sir.

Mr. LITTLE. This morning I read part of the speech by Senator Ashurst, covering the suggested acquisition of Lower California and

this property here, and have heard rumors as to his efforts. Do you know what he is trying to do?

Mr. ROSE. I understand that he has a resolution to purchase part of Sonora, some 10,000 square miles, and Lower California. Of course that has been introduced several times in the Senate and House.

Mr. LITTLE. As a matter of fact, don't you believe that the people down there realize that the acquisition of that territory down there is inevitable for this country?

Mr. ROSE. It may be, but it will be absolutely the ruination of us until we get our water question settled so that we know where we are at, because under this Mexican company, which, of course, exists under the laws of Mexico, if you took this territory you would take the Mexican company and you would take whatever rights they have, and you would allow these people down there who have made contracts with the Mexican company for the delivery of water—you would give them the right to go into our courts and enforce them against us, and, naturally, that is what the people down there want. It would be a fine thing for them, but it would put them right into our own courts, to come right up and fight us. It would put a bunch of millionaires against a bunch of farmers in my own State, and it looks to me like it would be absolutely ruinous to us. I can see no advantage to the United States in acquiring that.

Mr. LITTLE. It would depend upon whether the treaty reserved all those rights, of course.

Mr. SHAW. Isn't it a fact that the money spent to purchase Lower California would make possible the reclamation of only a very small portion of land down there, whereas if the same money was spent for storage on the Colorado River would develop millions of acres at present within the United States?

Mr. ROSE. Three hundred million dollars, which you would probably pay for that country, and which I have heard suggested as the price, would store every drop of water and would probably irrigate 5,000,000 acres of American public lands in our own country, where it would only buy 1,000,000 acres of land in a foreign country which belongs to half a dozen men. In other words, it would be taking \$300,000,000, in my judgment, out of the United States Treasury and putting it into the pockets of half a dozen men.

Mr. LITTLE. I just wanted to take the land itself as it stands.

Mr. ROSE. Of course, you could confiscate those grants, but there were a great many Spanish grants in California, and I have never heard of one of them being canceled yet. In fact, all of southern California, the best of it, was in the boundaries of Spanish grants, and they all retained title, and I take it for granted that those people who are Americans and were taken into their own country would go into their own courts and retain theirs.

The CHAIRMAN. Let me ask you a question. It may not be very important—it will depend on what the facts are—I have been asked why the different colors were there on that map representing land? Now, will you tell us what those different colors represent?

Mr. ROSE. This color here—this is the Imperial County line, and this is Riverside County [indicating on map]. This is Coachella Valley. This dark blue represents the lands which are irrigable from the all-American canal in Riverside County, which is included in

the Coachella Valley County water district, which is an irrigation district.

The CHAIRMAN. Now, that is the dark blue. Mention another color.

Mr. ROSE. The light blue represents an area of land which is irrigable from the all-American canal lying east of the present irrigable land in Imperial County, and the Laguna Water Co., which made this map, was organized for the purpose of irrigating that land.

The CHAIRMAN. Now, there is another color. What do you call that?

Mr. ROSE. That is brown. This is organized by the Imperial West Side Irrigation Co. It is a mutual water company, organized by the proprietors and settlers on this public land over here, organized for the purpose of helping to build this canal around and irrigate this particular tract of land. That constitutes a couple of hundred thousand acres of land in the total.

The CHAIRMAN. Now, those different colors all represent irrigable land?

Mr. ROSE. Not all of the land is irrigable, but it is all under gravity flow and the great portion of it is irrigable.

Mr. LITTLE. Is there anything in your bill that would prevent the Government of the United States from bringing water out from behind the Laguna Dam and sending it anywhere down the river they wanted to?

Mr. ROSE. There is nothing in our bill, but the silt of the Colorado River which comes down there, which amounts to probably millions of cubic yards, would prevent it, because it would fill it right up. When the Laguna Dam was built it was built some 12 feet in height, and in just about a week it was about filled up.

Mr. LITTLE. Does the silt prevent you from making a storage reservoir?

Mr. ROSE. Yes.

Mr. LITTLE. Then what becomes of this other storage proposition?

Mr. ROSE. Way up the river?

Mr. LITTLE. Yes.

Mr. ROSE. Well, the Colorado River, of course, as it runs down it gets very silty. Now, from the headwaters of the Colorado River, the tributaries are clear water.

Mr. LITTLE. It isn't any more silty than other great rivers—the Nile, for example—are.

Mr. ROSE. Well, I don't know about the Nile, but I know the Colorado is very silty.

Mr. LITTLE. The Nile brings down enough mud every year to enrich the soil of all the land it reaches and overflows and that is all it reaches. Yet they have built the greatest dam in all the world there. It don't fill up with silt.

Mr. ROSE. A storage dam or a diversion dam?

Mr. LITTLE. There are three storage dams on that river.

Mr. SMITH of Idaho. How do they keep the silt out?

Mr. LITTLE. I don't know that. I never followed that up, but they do it. There is more mud comes down the Nile than any other river in the world.

Mr. ROSE. I will answer that by saying this. Mr. Little, that there is no occasion for building down here and fighting the silt when

we can go up to the headwaters of the Colorado River, up to the tributaries—and there are many of them—and there are a great many splendid reservoir sites where the water is not silty, where it is clear water.

Mr. EVANS. You mean up a few hundred miles?

Mr. ROSE. No; way up. I have talked to Mr. Davis and have had them pointed out to me, but I couldn't tell you exactly the location of them now. The committee could ask Mr. Davis to come down here and he would point them out to you very readily. He has pointed them out to me but I haven't them in mind.

The CHAIRMAN. Is there any place down along that line there where you have got a reservoir?

Mr. ROSE. No.

The CHAIRMAN. There is no place along this canal, the all-American canal.

Mr. ROSE. We have to-day a fleet of dredges, some six or eight dredges, working, pumping silt out of the canal, and we keep those working—we keep 200 men operating all the time on the first 3 miles of that canal to keep the silt out. So you see what it will do to a reservoir up there mighty quick.

Mr. LITTLE. Mr. Kettner suggests that at one dam I have mentioned they have sluice gates to take it out. I remember that now.

Mr. ROSE. Yes; they sluice it out there.

The CHAIRMAN. Then the reservoir would have to be built way up the river?

Mr. ROSE. Yes; up in the headwaters of the river.

Mr. LITTLE. They have the biggest storage dam in the world on the Nile, and they don't have any trouble about it, and it is the muddiest water in the world.

The CHAIRMAN. Proceed, Mr. Rose, with anything else that you wish to say.

Mr. BARBOUR. Could you organize under the State irrigation act of California and issue bonds provided by that act? Have you considered that, Mr. Rose?

Mr. ROSE. We are organized under the State act.

Mr. BARBOUR. That is the present Imperial Valley Co.?

Mr. ROSE. The Imperial irrigation district. And here is this district here also organized under the State [indicating]; the white and the dark blue are organized under the State.

Mr. BARBOUR. And you pay the expense do you, by assessment—that is, your original expense—by assessment of so much per acre on the land?

Mr. ROSE. Yes; a regular assessment, just like a county assessment, or a municipality.

Mr. BARBOUR. Then, after you are organized, after your works are completed, do you still raise your necessary money by assessment, or do you pay a rate per acre for water?

Mr. ROSE. We pay 50 cents an acre-foot for our water, and then in addition to that we pay an assessment, too.

Mr. BARBOUR. How is that assessed?

Mr. ROSE. It is levied. It amounted to \$1.62½ an acre this year on the lands in the Imperial district.

Mr. BARBOUR. Is that just an arbitrary amount fixed, or is it according to the benefits?

Mr. ROSE. It is an arbitrary amount fixed. Of course, there is a little variation in that. There are some lands assessed at less, but the great bulk of it is assessed at \$50 an acre, and that is the rate.

Mr. BARBOUR. But if you bonded your district under the State law for that amount you would not be able to raise money enough to carry this through?

Mr. ROSE. No.

Mr. BARBOUR. It would be too much of a burden?

Mr. ROSE. We couldn't sell our bonds. With the present high rates of interest, and with the Federal loans stopped, we couldn't sell our bonds. If we could sell our bonds we wouldn't be here at all, because that is all we are asking—a guarantee of our bonds. If it wasn't for that we would go ahead and build it ourselves.

Mr. BARBOUR. The thing that prompted that question to me was the fact that you want this all-American canal so that you can sell the bonds?

Mr. ROSE. That is it exactly. Of course, as long as the big interests are able to control the floating of bonds—and there are only a few concerns that can handle \$30,000,000 worth of bonds, and they must be Wall Street concerns, and of course those large interests are able to block us.

Mr. SHAW. Is it not a fact that certain moneyed interests of Los Angeles said that if we ratified the contract to build the all-American canal they would withdraw their loans from the valley?

Mr. ROSE. Yes; they sent representatives down there to make representations to the farmers that these large banking interests which are identified with the Mexican interests—they sent their representatives there during the ratification of this contract to tell them that the banks would withdraw their loans from the valley if the contract was ratified.

Mr. BARBOUR. I didn't catch that—if you ratified the contract for the building of the all-American dam—what was that?

Mr. ROSE. They would withdraw their loans from the valley.

Mr. BARBOUR. With whom?

Mr. SMITH of Idaho. Individual loans?

Mr. ROSE. Here is the situation: They send their money in to Los Angeles banks, where they can only get about 7 per cent on it, and they send it down there and loan it out to the farmers at 10 and 12 per cent. They have got a monopoly on it owing to conditions down there. Now, they said to the people: "If you people ratify this contract we will withdraw our loans from the valley," which was probably several million dollars that they have got in small loans, crop loans, and one thing and another, which the local banks are handling.

Mr. SMITH of Idaho. Did they do that?

Mr. ROSE. No; we all knew they would not.

Mr. BARBOUR. Who did that?

Mr. ROSE. That was Mr. Stoddard Jess. He is one of the stockholders of the Otis-Chandler Co., also president of the Banking Association of Los Angeles. He did that through Col. Holabird.

The CHAIRMAN. Are there any more questions of Mr. Rose?

Mr. ROSE. The Mexican concession that we operate under I wanted to say something on that, too—the Mexican concession which the Mexican company acquired. After Mr. Heber came back and tried

to get the United States Government to grant him 10,000 second-feet of water from the Colorado River as a private company, not allowing it to run to the landowners, and was refused, he went to Mexico City in 1904 and acquired a Mexican concession from the Mexican Government, allowing him to carry water around through Mexico, in which he agreed to leave one-half of the water that they carried through Mexico in there for the use of the Mexican land. Now, the situation is simply this regarding the development in Mexico and the use of the water: If the territory south of the line to-day—if there were no contracts made between the Mexican companies so as to give them a title so far as the use of the water is concerned, they have acquired no water right even if they enter our own courts, but here is the situation: They agreed under that concession to leave one-half of the water which they carried through. It was a toll. They never diverted any water themselves; they have simply taken one-half. If that one-half was 1,000 second-feet, they were entitled to it; if it was 100 feet, they were entitled to it; if it wasn't any, they were not entitled to any. We never agreed, nor the Mexican concession does not agree, to carry any specific amount of water or any water through there, but it does agree to leave one-half of what it does carry through.

The CHAIRMAN. Now, what have they used of that?

Mr. ROSE. They have used at the very maximum about one-third of the water that we carried through there.

Mr. LITTLE. The water that is actually used all comes out of the river in the United States?

Mr. ROSE. Yes, sir—well, there is a little diversion at Volcano during high-water period.

Mr. LITTLE. And it comes from a right that you Imperial Valley folks have yourselves?

Mr. ROSE. Yes; absolutely.

Mr. LITTLE. You could say to Mexico that none of it should go down there if you wanted to?

Mr. ROSE. Absolutely.

Mr. LITTLE. Can't you treat with them? Can't you go to them and say: "We won't let it go through there at all unless you give certain concessions"?

Mr. ROSE. If they can block us from building that canal, they don't have to treat with us. They are getting water down there free. We have built every canal in Mexico out of our own money and paid for it.

Mr. LITTLE. But suppose you just said: "We won't put any more water down there," what would become of them? They couldn't do anything.

Mr. ROSE. They would dry up, but it would dry us up also, as they are between us and the river. They would then be compelled to come to the United States Government and ask for a treaty by which they could obtain water. That is what would become of them. That is what they would have to do. They are not going to let their country go back, and if they didn't do that they would dry up.

Mr. LITTLE. Really, if you could build this present canal you would be protected if the Yuma people did not interfere.

Mr. ROSE. You can't do it. In the first place, you can't divert. It is 30 feet lower right there at the point of diversion than up here on the red line. There is 30 feet difference, and you couldn't bring your water through, and if you do, you would only strike a portion of this public land. Our heavy cost in building this canal is not from Laguna Dam to our present heading, but it is from the present heading west for about 12 miles.

Mr. LITTLE. Suppose you build this canal from your present land at the Mesa land where it strikes it, instead of coming down that natural arroyo, you build a canal of your own, where could that canal be built, how close to our line and yet serve the purpose of bringing water around to you?

Mr. ROSE. You mean how close to the line in Mexico?

Mr. LITTLE. Yes.

Mr. ROSE. Not very much closer than it is now—probably half a mile or so up at this end. Then, of course, it could be straightened out. But if you are in Mexico it doesn't make any difference whether you are in there 5 miles or 1 mile, you are subject to their jurisdiction and dictation and domination and everything else, and you can't get away from it.

Mr. LITTLE. That is where the Secretary of State ought to be able to make a deal.

Mr. ROSE. Now, I would like to say just one more word. There is this to be said about the diversion of our water here, regarding the Mexican company, the fact that we are close to Mexico down here, in my mind, doesn't make any difference. I don't see why we should be prevented from developing our land because we are close to the boundary, any more than lands up in the other 7 or 8 or 10 States which are 1,000 miles away. I don't see that the distance from the Mexican boundary makes any difference. If we are going to be stopped or restricted in our development, it looks to me like that same restriction would have to be placed all along the Colorado River.

Mr. LITTLE. Nobody suggested that.

The CHAIRMAN. There is no question about that.

Mr. ROSE. Now, there is one other thing—Mr. Sinnott suggested this. Along in 1910 an act of Congress was passed which provided for the taking out of the United States Treasury of some \$20,000,000 and loaning it to the Reclamation Service to complete their projects. It also provided that if the money was not in the Treasury to take out, they should sell short-time certificates to get it. Of course, that was to finish Government projects, reclamation projects, but I can see no difference between that and one right across the river. The fact that we have helped ourselves get as far as we have should not prohibit us from coming to our Government and asking for assistance to go further simply because the other fellow has not helped himself and they did help him. Now, that has been done and they did it to the extent of \$20,000,000 to complete those projects, and I have the bill here.

Mr. HAYDEN. You refer to the act whereby \$20,000,000 was advanced out of the Treasury to increase the reclamation fund so as to complete the 32 projects that had been started?

Mr. ROSE. Yes.

Mr. HAYDEN. That money had to be repaid by the projects.

Mr. ROSE. Yes, sir; excepting that we filed security for ours and they did not in their case. But the two acts are identical and the money came the same way, and it provided that the Secretary of the Treasury should issue certificates to get this money, the same as this bill does, however, and I don't think they ever issued the certificates. I think the Secretary advanced the money from the Treasury, but the bill directed him to sell certificates if necessary.

The CHAIRMAN. That is correct.

Mr. GATES. Can you state how many million dollars will be back of our bonds—that is, in property in the district? You stated the assessment but you did not state the total value.

Mr. ROSE. Well, the value, as accurately as I am able to give it, is probably about \$100,000,000 to-day, of actual value on the 410,000 acres, which is less than half of the area which the proposed canal will irrigate.

Mr. LITTLE. How much more would that land be worth if you had this bill through?

Mr. ROSE. It would be worth \$100 an acre more the minute the water is provided—every acre of it now in the valley.

Mr. LITTLE. And it would be that much better security?

Mr. ROSE. Yes; you go to the Yuma project and their land is selling for \$100 an acre more than ours, and there is no difference in its productive value. Our land statistics show that it produces as much and produces everything. The only difference is that Yuma has a permanent diversion and a water system all on American soil, and we have an unstable diversion and a water system in Mexico. Otherwise there is no difference. Climatic conditions and soil conditions are the same.

The CHAIRMAN. As the basis of this valuation now, do you take the selling value, the market value, or the assessed value?

Mr. ROSE. We take the selling value under present water conditions. Our land produces double what we assess it at every year, on the average.

The CHAIRMAN. That is what I wanted to know.

Mr. ROSE. We exported between \$40,000,000 and \$50,000,000 worth of farm products last year, and that doesn't say anything about the amount that we consumed and the amount that we are still producing.

The CHAIRMAN. Then the assessed value, which is the basis of the bond issue, would be \$100,000,000?

Mr. ROSE. No; the assessed value would be about \$35,000,000.

Mr. SMITH of Idaho. The actual value?

Mr. ROSE. The assessed value I stated would be about \$35,000,000, and actual value about \$100,000,000—

The CHAIRMAN. And the bonds would be \$30,000,000?

Mr. ROSE. Yes, sir.

Mr. SMITH of Idaho. You don't mention in here, Mr. Rose, in the bill—and Mr. Kettner—any limitation to the amount of bonds to be issued?

Mr. KETTNER. \$30,000,000. The Secretary's letter shows that.

Mr. SMITH of Idaho. But it is not in the bill. What does the Secretary say?

Mr. KETTNER. The Secretary's letter shows that the cost of the all-American canal will be \$30,000,000.

Mr. SMITH of Idaho. But there is nothing in the bill providing that. He might go ahead and issue bonds up to \$50,000,000.

Mr. WELLING. Assuming that the Government guarantees the bonds, have you a program for the sale of these bonds? Who is going to buy them? Have you got a market for them?

Mr. ROSE. No; the bill provides that the Secretary of the Interior can accept our bonds and file them with the Secretary of the Treasury, who shall sell Government certificates secured by them; that he shall sell the certificates in the open market and our bonds will have to be voted with a sufficient rate of interest to make them an inducement to the investor to buy.

Mr. HUDSPETH. Would those bonds have to be sold before your money was available?

Mr. KETTNER. Those bonds are held by the Government as security for the repayment of the money furnished by the sale of certificates by the Government.

Mr. HUDSPETH. But what I am getting at, Mr. Kettner, would those bonds have to sell before your money would be available for this work?

Mr. KETTNER. They don't sell them at all. The Government holds the bonds as security.

Mr. HUDSPETH. Then the Government puts the money up?

Mr. KETTNER. The Government puts the money up.

The CHAIRMAN. The Government sells its certificates that it issues and realizes money by the sale of those certificates.

Mr. HUDSPETH. And the bonds do not sell at all?

Mr. KETTNER. No; they are held as security by the Government.

Mr. ROSE. I have got just one other thing that I want to say. Thirty-five million dollars is the assessed value of this land in here [indicating]. That does not include this Coachella Valley. We don't know what that is. Of course, it probably runs into millions. That only includes this land here [indicating], and, of course, that would be doubled just as quick as you built the canal through.

Another thing, some question was raised as to the limit of the bonds. The bonds are limited to this particular project and there has been a report made, a joint report—

The CHAIRMAN (interposing). The bonds are limited to what?

Mr. ROSE. To the building of this canal here and the canal that connects up the districts, if the Secretary accepts the bonds, and it has been estimated that the cost of building that far will be about \$30,000,000.

Mr. LITTLE. How far is this going to carry that water now? Point it out to us.

Mr. ROSE. It is going to start at Laguna Dam, run southwesterly for 17½ miles to a point near the international boundary line, thence westerly for about 40 miles, connecting up with entire system of irrigating canals.

Mr. LITTLE. Well, what about the brown?

Mr. ROSE. We can't tell about that. You see we build our lateral system here [indicating].

Mr. LITTLE. All this big ditch you are talking about will water the brown land, too?

Mr. ROSE. Yes.

Mr. SUMMERS. What is the length of the red line?

Mr. ROSE. The red line is about 60 miles.

Mr. HUSPETII. All in the United States?

Mr. ROSE. All in the United States.

Mr. SUMMERS. Is it estimated that the \$30,000,000 will construct any of the laterals?

Mr. ROSE. No; the main canal. That is, with two power plants on it, and to pay for the connection with the dam.

Mr. BARBOUR. Who will control that all-American canal, Mr. Rose, if it is built, the Imperial district, the Laguna district, or jointly, or how?

Mr. ROSE. I couldn't answer that now. It is possible that all of this land will be included with the district. It is in Imperial County, and it is barely possible this will all be one district. It may not; it may be controlled by two districts.

This land [indicating] is not in any district here. Now, that land may be taken into the present district, or it may form a separate district, or it may join one, or the other may join Coachella.

Mr. WELLING. If these people in Riverside County are willing to cooperate with you, aren't you going to have a good deal of trouble with men who have already got irrigation water there?

Mr. ROSE. They organized a district and have had their attorney here but he has gone back. I hold their credentials and they have taken this matter up and are not only willing but anxious to connect, because they realize that their irrigation there at present is only about 10,000 or 12,000 acres with little chance for expansion.

Mr. WELLING. And they would rather have the gravity water?

Mr. ROSE. If they can get gravity water and get it for 150,000 acres, you can readily see what it will do for them.

Mr. SMITH of Idaho. I want to ask you one question. Do you think there would be any difficulty in selling this land, this unentered land, at \$10 an acre?

Mr. ROSE. No; the difficulty would be in keeping them off of it.

Mr. SMITH of Idaho. In that event if it is all sold you would have quite a guaranty fund right on the start.

Mr. ROSE. Yes; that would probably be filed with the Secretary of the Treasury.

Mr. SMITH of Idaho. You would have about \$4,000,000?

Mr. ROSE. No doubt he would have \$4,000,000 before he was called on to expend the full amount. They probably would not sell all of the certificates at first. If this work cost \$30,000,000 he would probably sell \$8,000,000 or \$10,000,000 and spend that, then sell some more, and by the time the \$30,000,000 had been expended you would probably have all of the \$4,000,000 and possibly more guaranty fund deposited with the Treasurer besides the bonds to the full face value of the expenditure.

Mr. LITTLE. Mr. Rose, where does the Yuma project take its water out of the river?

Mr. ROSE. They take it out right here at the Laguna Dam [indicating] and bring it down on the California side and take it under with a siphon at Yuma and run a canal around and irrigate some

40,000 acres here [indicating] and they irrigate quite a large area here [indicating].

Mr. LITTLE. Why do they go to all that trouble? Why don't they take it out on the Arizona side?

Mr. ROSE. It is a great deal more expensive. They have the Gila River to contend with and it was much more expensive. Besides that, they cover all this area here in California [indicating].

Mr. LITTLE. How much more would it have cost if they had done it the other way?

Mr. ROSE. I couldn't say.

Mr. SMITH of Idaho. They can irrigate all of that land in there by bringing it out that way.

Mr. ROSE. It would cost them a great deal more; I am quite sure of that. They have on this side a small gate. Besides that, they irrigate some 15,000 or 20,000 acres of land in California, and then they take their water through under the river in a siphon and carry it on to the other side.

Mr. LITTLE. And you allow them to take water that way?

Mr. ROSE. Well, they have never been molested from doing it. They have no legal right to do it. Of course, they could not appropriate water in California and carry it for use to another State.

Mr. HAYDEN. You do not deny the right of the Federal Government to take water out of a navigable stream and put it on its own land?

Mr. ROSE. I would where the act itself provided that nothing in the act shall interfere or be construed to interfere with the laws of the State or Territory regarding the appropriation and use of water, which the reclamation act does provide. I would certainly say they were violating the letter of the law in doing it: but nobody has ever raised the question, and I don't suppose it ever will be raised.

Mr. HAYDEN. It would not do any good now, anyway.

Mr. ROSE. I don't think anybody desires to raise the question.

The CHAIRMAN. As an interstate matter water is taken, for instance, on the Great North Platte project—North Platte in Nebraska and Wyoming—water is taken there and diverted way up the North Platte River in Wyoming and carried into Nebraska, and more land is irrigated in Nebraska than in Wyoming, but all the water comes from Wyoming.

Mr. HAYDEN. And nobody ever raised that question.

The CHAIRMAN. Without objection, gentlemen, we will adjourn now to meet at the call of the chair.

(Whereupon, at 9.45 o'clock p. m., the committee adjourned.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,

Saturday, July 12, 1919.

The committee met at 10 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. Gentleman, Director Davis is here and we are going to give him the right of way, because we all appreciate that he is very busy. Mr. Davis, the committee will hear you now.

STATEMENT OF MR. ARTHUR P. DAVIS, DIRECTOR OF THE UNITED STATES RECLAMATION SERVICE.

Mr. DAVIS. Mr. Chairman and gentlemen of the committee, I am here on your invitation, and am very glad to come and give what assistance I can. I haven't anything in particular to advance, but I am familiar with the problem of the all-American canal and have here a report that was just received yesterday from the field, from the engineer in charge, who has just submitted this final report on the surveys that have been made, and this is the map which accompanies the report [showing blue print]. This report has not yet been received by the parties to whom it is addressed.

Mr. HAYDEN. To whom is it addressed?

Mr. DAVIS. It is addressed to the commission which has it in charge.

The CHAIRMAN. What commission is that?

Mr. DAVIS. The commission is formed under a contract between the Secretary of the Interior and the Imperial irrigation district. That contract provided for the advancement of public funds to the extent of \$15,000 and of district funds to the extent of \$30,000, providing a fund of \$45,000 for making this survey. The survey was to be made, according to that contract, by or under the charge of a commission to be appointed, one member by the district, one member by the Secretary of the Interior, and one member by the University of California, which had been called in to advise on this question. That commission is composed of Mr. W. W. Schlecht, representing the Reclamation Service; C. E. Grunsky, consulting engineer, representing the Imperial irrigation district; and Mr. Elwood Mead, representing the University of California. They have made a preliminary report, which is before you in print. The engineer in immediate charge of the work is Porter J. Preston.

The CHAIRMAN. Without objection, that report will be made part of the record.

(The report of the engineers on the all-American canal and the contract between the Secretary of the Interior and the Imperial irrigation district for the building of the all-American canal are found in the appendix as Exhibit K.)

Mr. DAVIS. The map tracing on the wall, labeled "Map of the Imperial Valley showing all-American canal and lands irrigable therefrom," shows the outlines very graphically of what this scheme proposes. It proposes to take a canal from the Laguna Dam, which is now the head of the Yuma project main canal, and to follow that canal about 10 miles, enlarging it greatly, and at that point continuing on the grade to the Mexican line, and then following approximately along the Mexican line until it reaches the Imperial Valley.

The CHAIRMAN. On the north side?

Mr. DAVIS. Yes, sir; on the American side.

The largest and most expensive problem involved in this is cutting through the sand hills. There is a range of sand hills just west of the Southern Pacific main line, as shown on the map, and part of the sand hills are moving under the influence of the wind.

The CHAIRMAN. Now, how far is it across them?

Mr. DAVIS. It is about 14 miles, roughly speaking, across the sand hills. It is very indefinite on the margins, of course.

Mr. SMITH of Idaho. Did you contemplate building a tunnel through there or putting a pipe in?

Mr. DAVIS. This plan, as surveyed by the engineer, does not contemplate building tunnels, because it is much cheaper to make an open cut.

Mr. SMITH of Idaho. How will you prevent the cut from being filled up with blowing sand?

Mr. DAVIS. That would be a problem to be met, and the plan that we have for that is to plant trees on the windward side and irrigate them and stop the blowing. That is a method that has been used for many years successfully for solving a similar problem on the Suez Canal, and is also used for protecting railways in the deserts of Turkestan, although there they do not irrigate the trees; they select such trees as will grow in the desert and by caring for them and planting them persistently they create a brush cover that accomplishes the purposes very effectively.

The CHAIRMAN. If you will permit me, General, the feasibility of that remedy has been very well demonstrated in Nebraska, in the sandhills of Nebraska, just accidentally and incidentally by the putting out of trees along the highways and putting out trees along the boundary lines of lands or farms, and also in planting timber-timber culture; that is, in complying with the timber-culture law which we used to have. It has been clearly demonstrated by my own observation.

Mr. DAVIS. Yes, sir; that is true.

Mr. THOMPSON. Just a question there, Mr. Davis: Wouldn't a tunnel through there, unless it was extremely large, have a tendency to fill up from the silt of the Colorado River?

Mr. DAVIS. No, sir; it would be necessary to give the tunnel a high enough velocity to carry through all the silt that it brings in, and that is, incidentally, one of the means of keeping the canal free of sand. It also will carry through the sand that blows into it. - I was about to mention that.

Another method of protecting from sand is that in use along the Oregon Railway & Navigation Co.'s line on the Columbia River east of Portland. The method there is to build little sand fences and it is the same in theory as the method used to prevent snowdrifts on railroads throughout the country.

The CHAIRMAN. In Wyoming particularly.

Mr. DAVIS. Yes, sir; fences are built around which the snow drifts, and that same principle applies to the drifting of sand, but in all these cases, the railroads, the wagon roads, and the Suez Canal, they all lack the advantage that this canal will have and that is water at a good velocity which will carry through the sand that flows into it.

Mr. THOMPSON. Just another question, Mr. Director: What is the approximate fall from the dam toward the Coachella Valley?

Mr. DAVIS. The fall from the Laguna Dam, under this plan, to the point where the canal emerges from the high ground out onto grade in the Imperial Valley is approximately 8 feet to 100,000—that is, it is about seven-tenths of a foot to the mile, and when it emerges from the sand hills, a drop of 6 feet occurs in one place

and later two other drops of 17 and 24 feet, where it is proposed to develop power.

Mr. SMITH of Idaho. You contemplate concreting the bottom of the canal through the sand hills?

Mr. DAVIS. Alternative plans have been made. I think that that is the proper plan.

Mr. SMITH of Idaho. Wouldn't there be danger, Mr. Director, of the water running through there carrying this sand out into the canals beyond, and eventually filling them up?

Mr. DAVIS. It will do that, and that is what we want it to do. It is much cheaper to remove sand from a canal on grade than from a deep cut where it would require long transportation or else a high hoist. If we can bring it up to where there is a six-foot drop that I speak of, that can be converted into a sluice way, and it can be sliced in any direction we choose with the extra fall, and gotten rid of cheaply by the proper manipulation of the water.

Mr. SINNOTT. Mr. Davis, they are also oiling the sands along the Columbia River. They put a film of oil over the top, which makes the sand heavy so that it doesn't flow.

Mr. DAVIS. Yes; it cements it together in a sense. They also do that along the Southern Pacific Railroad west of El Paso.

Mr. WELLING. I don't recall, Mr. Davis, whether you said how deep the cut would be through the sand hills.

Mr. DAVIS. The deepest point would be about 150 feet. It would not be that deep all the way, of course. It grades off in both directions and there is only a very short distance that it approaches 150 feet, but there is a good deal of it that is over 100 feet.

Mr. WELLING. Do you know the average depth of it?

Mr. DAVIS. The average depth through there would probably be about 70 feet.

Mr. SINNOTT. How do you get water there to irrigate?

Mr. DAVIS. It would have to be pumped from the canal to irrigate the trees.

Any of these various methods could be used, and the cheapest one that could be put into immediate service would be the board fences, such as railroads use to protect themselves against snow drifts.

Mr. SINNOTT. Does the wind blow one way there?

Mr. DAVIS. Not constantly, but there are prevailing winds that are approximately from the northwest, and the sands are moving in that direction in general.

Mr. SINNOTT. When we get wind from the other direction the sand boards put the sand in on the tract, but we seldom get winds from the east.

Mr. DAVIS. Yes; they have that trouble. The Southern Pacific Co. has had trouble with sand drifting over its track in the region north of this canal, but not very serious trouble, and they have met that sometimes by moving the track. They have got plenty of country to move it in.

The CHAIRMAN. You are familiar with the provisions of the bill under consideration, Mr. Davis?

Mr. DAVIS. Yes, sir; I have had them all under consideration. The Secretary of the Interior has reported on this, I believe, has he not, Mr. Chairman?

The CHAIRMAN. Oh, yes. Will you please tell the committee why you think the relief provided by the bill is necessary or expedient? What is your judgment about that?

Mr. DAVIS. It seems to me that the assistance by the loan of the credit of the United States to the district is not only suitable and appropriate on account of the character of this proposition, it being international, interstate and involving the interstate waters and international waters, but that it is also necessary on account of the great magnitude of the work. It is the opinion of the best posted people, in which I share, that at the present time the district could not make any reasonable market of securities to such an extent as to carry this through. The United States is heavily interested too by the possession of several hundred thousand acres of public lands which this all-American canal will water and which can not be otherwise watered. That will be very valuable when reclaimed.

Mr. SMITH of Idaho. Mr. Director, has your department ever made an estimate to the House of Representatives with the hope of getting an appropriation to do this work and save all this vast amount of wealth in the Imperial Valley?

Mr. DAVIS. No, sir; we have never asked for an appropriation for the purpose. It has been so large and there has not been the urgency for it from the standpoint of the Government that there has been for some other things.

Mr. SMITH of Idaho. Didn't President Roosevelt at one time recommend action of that kind?

Mr. DAVIS. Possibly; I don't recall if he did. He strongly recommended an appropriation to assist in river control, and very strongly recommended that the Southern Pacific Co. control the river and that Congress reimburse them for the expense.

Mr. SMITH of Idaho. On account of the great wealth that necessarily could be saved if they constructed the project, and the necessity of getting immediate action, don't you think that the Committee on Appropriations would look with favor on advancing, say, \$20,000,000, just like we did 20 years ago to the reclamation fund to take care of this particular project?

Mr. DAVIS. No, sir; for the reason that the Committee on Appropriations holds that they have no power to recommend appropriations for this work without authorizing legislation, and this bill or something similar is necessary as a preliminary to getting an appropriation through the Committee on Appropriations.

The urgency of this, Mr. Chairman, is due to two facts: The waters of the Colorado River that are utilized for irrigating in Imperial Valley, are now diverted just north of the boundary, and turned into a natural channel, an old channel of the Colorado River, marked on the map as the Alamo Canal. It follows that Alamo Canal to a point labeled East Side Heading and Sharps Heading, and various points along there, where it is taken out and turned northward into the Imperial Valley. If let alone that water would follow the Alamo Canal down into the Salton Sea, which is the lowest part of any of that country. Now that water all runs through Mexico and interests in Mexico which are not responsible to the United States and can not be controlled by the United States nor by the Imperial Valley, take such water as they choose from that canal. They do that on the pretext of an existing concession that the former owners of Im-

perial Canal system made with the Mexican Government. They made it utterly without authority. Being an international question it should have been handled by the diplomatic and State authorities of the United States, and consequently it has no force in law.

The CHAIRMAN. That is, you mean the landowners made it with the Mexican Government?

Mr. DAVIS. No; the owners of the canal system. It was a Mexican corporation.

The CHAIRMAN. But they are Americans who owned that?

Mr. DAVIS. Americans were financing it, yes, sir; but it was a corporation incorporated under the laws of Mexico, and to it was granted a concession for diverting the waters of the Colorado River and carrying them through the Alamo Canal and diverting from that into the Imperial Valley, and this concession provided that one-half of the water used should be used in Mexico.

Now there are nearly 400,000 acres of land irrigated in the Imperial Valley, and about 100,000 on the Mexican side, and that on the Mexican side is rapidly growing and they have, under the terms of this concession, a right to just as much water as is used on the American side.

Mr. THOMPSON. Just a question there. Outside of this concession, is there not a treaty, an arrangement between Mexico and the United States that the Colorado River shall be kept open as a navigable stream, and the waters shall not be diverted?

Mr. DAVIS. No, sir.

Mr. THOMPSON. There is no such treaty?

Mr. DAVIS. I think not. That is my understanding. I have been told so. I haven't examined it personally. It is a legal question that I have not looked into personally, but that is my understanding.

Mr. TAYLOR. This concession that was granted, whatever it was, was that by the Mexican Government or was it the Government of Lower California?

Mr. DAVIS. It was by the Mexican Government, the National Government.

Mr. TAYLOR. The National Government of Mexico?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. That was brought about, was it not by these owners of this canal and the Americans that were interested in it?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. And the Mexican people had nothing to do with it? Wasn't it Americans that were working both sides of the road and getting a concession given by the Mexican Government for their benefit, and obligating our Government also?

Mr. DAVIS. Some of the landowners in Lower California were Mexicans at that time, and I presume some of them are yet, and it is landowners, of course, that are interested in that feature of it.

Mr. TAYLOR. Now, is there going to be any financial obligation imposed upon the Government of the United States by the abandonment of that canal and the construction of another one within our own territory?

Mr. DAVIS. In my opinion there is no financial obligation coming on the United States.

Mr. TAYLOR. Is there any liability at all?

Mr. DAVIS. No financial liability. I am inclined to think that, as to the lands in Mexico that have been cultivated, the landowners will desire to continue to cultivate them and they will try to make some arrangements for getting water.

Mr. TAYLOR. Will they try to compel us to deliver them water gratuitously for all time to come?

Mr. DAVIS. Just what they will try to do, of course, I could not predict. They have no basis for it in law, in my judgment. That is not based on my own opinion entirely, but upon the opinion of the Attorney General of the United States.

Mr. TAYLOR. Ought we not to learn, as far as we can, how far these Americans have gotten the Government or our country into any moral or legal obligation here to continue to deliver water free to those people, if any at all?

Mr. DAVIS. Yes, sir; if you have any doubt on that subject it certainly would be wise to clear it up. I have none myself.

Mr. TAYLOR. Ought we not to have the Attorney General and the Department of State to advise us as to the international obligations, if any, that will arise, or whether there will be a claim against the Government for \$100,000,000 come up from the Government of Mexico by reason of our making a change in the line of this canal, or some other unreasonable and crazy claim?

Mr. DAVIS. I don't think any claim could be made on account of the construction of the all-American canal. If, after that is constructed, it were improperly used to deprive Mexico of water, a question might arise, and that could easily be settled by turning down there such water as they might be entitled to.

Mr. SINNOTT. Does this plan contemplate the abandonment of the Alamo Canal?

Mr. DAVIS. So far as the United States is concerned, it does. That is the way I understand it. That is what I would do.

Mr. SINNOTT. But the Mexicans can use it in the way they have used it in the past?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. They could use it at their own expense hereafter.

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Now, let me ask you as to the contracting parties. It was the National Government which contracted on the one side and it was these landowners in Mexico, partly through a few Mexicans and more Americans perhaps, who promoted the making of the contract on the other side. Now, did they use the name of the American Government in anyway in making that contract?

Mr. DAVIS. No, sir.

The CHAIRMAN. And then they contracted and secured concessions of the Mexican National Government as individuals merely?

Mr. DAVIS. No, sir; it was as a Mexican corporation.

The CHAIRMAN. Oh, yes; it was a Mexican development company. That is the name of it isn't it?

Mr. DAVIS. It is a Spanish name. I don't recall it exactly. The meaning of it is the Irrigation & Land Co.

The CHAIRMAN. Now, that was owned by the landowners in Mexico; that is, that was incorporated by the landowners in Mexico, wasn't it?

Mr. DAVIS. Not entirely; not mainly. It was mainly by American capitalists, or American promoters.

The CHAIRMAN. American capitalists for the benefit of their lands in Mexico, was it not?

Mr. DAVIS. Partly only.

The CHAIRMAN. What else?

Mr. DAVIS. They desired to divert water in the Imperial Valley. That was the principal reason.

The CHAIRMAN. In the United States?

Mr. DAVIS. Yes, sir; their concession runs to that end by authorizing them to do that. That is the principal feature of it.

The CHAIRMAN. The American Government is not a party in it?

Mr. DAVIS. Absolutely not.

The CHAIRMAN. Now, the American Government is not a party to that contract?

Mr. DAVIS. Not at all; nor any Government officer.

Mr. EVANS. I would suggest, Mr. Chairman, that the articles of incorporation and their agreements—that copies of those things would be very instructive to the committee.

The CHAIRMAN. Yes; I think so.

Mr. DAVIS. These gentlemen from the Imperial Valley doubtless have those with them, and can insert them in the record.

Mr. SINNOTT. Mr. Davis, just another question: You are going to conserve a lot of water in the river, are you not—make more water available both for Mexico and the United States?

Mr. DAVIS. By the high-line canal?

Mr. SINNOTT. Yes; or by your dam.

Mr. DAVIS. Not particularly. The dam is already there. It is not a storage reservoir at all; it is simply a diversion dam. There is some waste of water running through the Alamo Canal that would be saved by the high-line canal, but not a very large quantity.

Mr. WELLING. Mr. Davis, I am getting into trouble with the suggestion you made a little while ago that we might be forced eventually to divert some water into the old Alamo Canal for use in Mexico under the grants and the agreements that have been entered into between the Imperial Valley Co. and the Mexican Government.

Mr. DAVIS. No, sir; you misunderstood my idea. I did not say that there was any such obligation; I simply said that there was no danger in going ahead and building a canal, for if it should be adjudicated that there was such an obligation it still could be fulfilled.

Mr. WELLING. Well, in that event we will have to divert water from the Colorado River at some point approximately the same as the point where it is diverted now?

Mr. DAVIS. Oh, no; we would not have to divert it.

Mr. WELLING. They will have to divert it?

Mr. DAVIS. Their only claim would be for water. All we would have to do would be to leave it in the river.

Mr. BARBOUR. There is enough in the river for both canals, the new all-American canal and the old Alamo Canal?

Mr. DAVIS. If the irrigation is not extended there is about enough.

Mr. WELLING. This is the part I am getting at, that if the water is diverted from any point in the Colorado River above the point

of the present diversion there would still be the menace which you have not spoken about yet, of imperiling the Yuma project?

Mr. DAVIS. Yes; if they put a dam in the river it would.

Mr. HAYDEN. As a practical proposition, then, in order to protect the Yuma project, if it were determined, for instance that the Mexican lands had acquired a right to use water to the extent of, say, 150,000 acres, the only safe thing for us to do would be to divert that water at Laguna Dam and carry it down to approximately opposite the present Imperial heading and then drop it into their canal?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. In that event the main canal from the Laguna Dam down to that point would have to be enlarged to such an extent as to be able to carry the water necessary not only for all the land proposed to be irrigated in the Imperial Valley but also for 150,000 acres of land, or whatever the amount might be, in Mexico?

Mr. DAVIS. What you have said is all true, but I don't think there is any possibility of such a condition arising, for this reason: Even if Mexico were adjudicated any quantity of water by international treaty or international arbitration or any other means, all that the United States would be obligated to do would be to leave that in the river so that they could take it out, and they could take it out at high water without a dam. They could not take it out at low water without a dam, but they could not build a dam without the consent of the United States, because one end of it would have to be in the United States, unless they diverted it below the line of Arizona down here somewhere [indicating on map]. There they could build a dam all in Mexico and could divert it at that point, and that would be entirely feasible.

Mr. SMITH of Idaho. But that would not take care of the land north of the river?

Mr. DAVIS. No, sir.

Mr. HAYDEN. That would mean, of course, that certain lands now in cultivation in Mexico would go back to desert.

Mr. DAVIS. If they didn't get water, certainly.

Mr. HAYDEN. And any contingency of that kind undoubtedly would lead to very loud diplomatic protests from Mexico.

Mr. DAVIS. The answer to that, Mr. Hayden, is that there is no objection on the part of anybody to the Mexican lands having water if they pay their share of the cost of getting it, and nobody can object to that from the other side.

Mr. HAYDEN. Then your idea would be that it would be entirely feasible for the owners of the Mexican lands to come to the Secretary of the Interior and provide him with money enough to increase the main canal capacity from Laguna Dam down to the Mexican border, so that the main canal would carry an extra supply of water necessary for their lands, they paying for that enlargement.

Mr. DAVIS. They paying for that enlargement their share of the operation.

Mr. SMITH of Idaho. Or the construction of the additional reservoirs that would be necessary also.

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. My idea of the matter is their rights will be determined more by the doctrine of priority of appropriation or the ex-

tent of utilization that they have made, rather than by diplomatic negotiations or any other way. It will be a question of what they have beneficially applied and their right and title will arise from that.

Mr. DAVIS. I agree with you entirely.

Mr. TAYLOR. On the question of irrigation, the priority right of appropriation and the extent of their appropriation would determine their rights, and we would not want to interfere with that.

Mr. DAVIS. I agree with that entirely, but that right carries with it the obligation to pay their share of the cost.

Mr. TAYLOR. Certainly.

Mr. HAYDEN. But the only way that such a right could be established in the United States would be through diplomatic channels.

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Now, will you permit Mr. Kettner to ask a question?

Mr. KETTNER. Mr. Chairman, in answer to a question by Mr. Smith, Director Davis stated that he did not remember the special message of President Roosevelt, and as several members of the committee wanted to know from me what action had been taken by the Reclamation Bureau, I would like to have the director read these two excerpts and see that the message is a special message bearing on the Colorado River by President Roosevelt, and nothing else.

Mr. WELLINGS. That is already in the record.

Mr. KETTNER. Yes: but several of the members wanted to know what action was taken by President Roosevelt, and as the director did not recollect such a message I would like to have him read it, these two excerpts that I have marked, and then explain it to the committee.

Mr. DAVIS. Shall I read it aloud?

The CHAIRMAN. Yes; I think you had better read it aloud.

(Mr. Davis read from pages 6 and 7 of Senate Document No. 212, Fifty-ninth Congress, second session, entitled, "Message from the President of the United States relative to the threatened destruction by the overflow of the Colorado River in the sink or depression known as Imperial Valley or Salton Sink region," dated January 12, 1917, and signed by Theodore Roosevelt, and found in the appendix herein as Exhibit A.)

Mr. HAYDEN. Was any action ever taken by way of recommendation from the Secretary of the Interior to Congress to carry out that message?

Mr. DAVIS. No; not to my recollection.

Mr. SMITH, of Idaho. That message was long before the law was passed requiring Congress to take any action in the apportionment of funds for reclamation work.

The CHAIRMAN. It was an executive matter purely.

Mr. HAYDEN. The department by that time, 1907, had already established 32 reclamation projects and there was not money enough to carry them on to completion; so there was a very good reason why the department could not undertake any new work.

Mr. KETTNER. I would like to have it plain that that message deals exclusively with Imperial Valley.

Mr. DAVIS. Yes, sir. The part of the map colored green and marked "east mesa" has been withdrawn under the powers of the

Secretary of the Interior since the spring of 1903, if I remember correctly.

The CHAIRMAN. Withdrawn from entry?

Mr. DAVIS. Withdrawn from public entry. A few small tracts along the margin of that were shown to be irrigable from existing works, and as fast as that was demonstrated those areas were released and irrigation was permitted there. The withdrawal was not, of course, for the purpose of preventing but to promote the irrigation of the lands, and they are still withdrawn. This law deals with the lands that are under withdrawal at the present time.

Mr. HAYDEN. Now, in the green area, then, there is no land except land that is now withdrawn from all form of sale or entry? Are there no pending homestead entries?

Mr. DAVIS. There may be some pending desert entries. There are a few wells put down there and I think there are a few pending desert entries and some land has been patented under those entries and some school land and railroad land has been alienated.

Mr. HAYDEN. The railroad owned the alternate sections on each side of the track for 40 miles?

Mr. DAVIS. I don't remember the width, but they own some land in there.

Mr. HAYDEN. And that being the case, practically all the east mesa would be checkerboarded with railroad land?

Mr. DAVIS. No, sir.

Mr. HAYDEN. So that the withdrawn lands would aggregate about half of the total area?

Mr. ROSE. Could I correct that? An old Union Pacific grant lapsed over there, and it doesn't—the Union Pacific grant died later and the Southern Pacific land doesn't cover one acre of land south of the third standard in there, and this entire land in here, with the exception of school sections, two out of each township, is Government land [indicating on map].

Mr. DAVIS. There are a few desert land entries there.

Mr. ROSE. Only two or three I think.

Mr. HAYDEN. That aggregates how many acres, then, of Government land?

Mr. DAVIS. I have no doubt there is as much as 100,000 acres of Government land that could be irrigated there.

Mr. SMITH of Idaho. You mean the green colored part?

Mr. DAVIS. In the green; yes, sir.

Mr. SMITH of Idaho. And probably as much more in the upper part?

Mr. DAVIS. No; not as much more. The railroad land is farther north, and then in that blue area there is a large amount of private land and some irrigation from wells.

Mr. HAYDEN. In the report of the engineers who investigated the feasibility of the all-American canal is there any discussion as to the various acreages of Government land, railroad land, State land, and land in private ownership that could be irrigated by that canal?

Mr. DAVIS. There is in this printed report but not in the engineer's report.

Mr. HAYDEN. All that data is given?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Just how is the land divided with respect to ownership?

Mr. DAVIS. It is given roughly. There isn't any detailed investigation, but it is roughly given.

The CHAIRMAN. Will you please tell at this juncture what the blue represents there as distinguished from the green?

Mr. DAVIS. The blue is the land inside of the Coachella irrigation district. That is the present organized district and extends outside of the blue, but that includes the irrigable portion.

The CHAIRMAN. And the brown, what is that?

Mr. DAVIS. The brown on the west is simply other lands that can be covered that are not on the east mesa in the north Coachella district.

Mr. TAYLOR. Can all of those lands in blue and brown be irrigated?

Mr. DAVIS. The main body of them can.

Mr. TAYLOR. And they are not irrigated now?

Mr. DAVIS. They are not irrigated now; no.

Mr. SMITH of Idaho. Is the land in brown withdrawn?

Mr. DAVIS. I doubt if there is much of that withdrawn.

Mr. SMITH of Idaho. Is there public land over there?

Mr. DAVIS. There is some.

Mr. WELLING. Coming back to the blue land in Riverside County, at least half of that land would have to be railroad land, wouldn't it, originally?

Mr. DAVIS. Yes, sir.

Mr. WELLING. And the railroad land now has gone into private ownership?

Mr. DAVIS. Yes, sir; and the balance that was public land is largely in private ownership now. There are in the northern part of that district especially a large number of wells from which irrigation is had and the land has gone into private ownership.

Mr. WELLING. Is that railroad land in Riverside County owned in large blocks now or is it in small ownership—less than a section?

Mr. DAVIS. It is usually in small ownership, I believe, but I am not informed in detail on that. Probably some of the delegation might tell you.

Mr. HAYDEN. In that connection, I understand that under the Umatilla project you had considerable areas of railroad lands that were included within the project?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. What arrangement was made with the railroad companies on the Umatilla project toward turning their lands in at a reasonable figure so that the settlers would not be compelled to pay a high price?

Mr. DAVIS. On the Umatilla project they agreed upon prices of \$20 to \$25 an acre for the raw lands and sold them at that price, and where the settlers were not able to make good on it the railroad company afterwards, when they found the conditions, made an entirely new agreement in which they canceled all of the accrued interest and one-third of the principal of their claims upon those settlers. The same railroad company, which is the Northern Pacific, made an agreement on the lower Yellowstone by which they sold all of their lands at \$2.50 an acre on the average. Some of them

were ruled nonirrigable that were under the ditches, or had to be taken up by ditches or something of that kind, so they got an average price of \$2.50 an acre.

Mr. HAYDEN. Just how was that arrangement made, by trust deed to the Interior Department?

Mr. DAVIS. It was merely a contract with the Secretary of the Interior, a contract agreement.

Mr. HAYDEN. And the Secretary then had supervision of the sale of the railroad lands?

Mr. DAVIS. Yes, sir. And they sold those lands in tracts to conform with the farm-unit plats established by the United States, and in every way took the regulations and requests of the Secretary of the Interior into consideration.

Mr. HAYDEN. Well, if it should appear that there are considerable areas of railroad land included within the area to be irrigated from the all-American canal would you think it advisable that similar provisions be made?

Mr. DAVIS. It is very advisable.

Mr. TAYLOR. You haven't done so yet?

Mr. DAVIS. No.

Mr. TAYLOR. Why not?

Mr. DAVIS. We haven't been in shape to build it. We haven't been in shape to talk business to anybody on the subject.

Mr. TAYLOR. If Congress starts to build it then they won't be so anxious to do it, will they?

Mr. DAVIS. Possibly not.

Mr. WELLING. That provision ought to be made in the bill, oughtn't it?

Mr. HAYDEN. That was the suggestion I was going to make. Would it not be wise to insert a provision in this bill that there must be some understanding of that kind with respect to the railroad lands before this project is approved?

Mr. DAVIS. I think that should be provided. I think it will be provided by executive action, if not required in the legislation.

The CHAIRMAN. It has been executive action all the time. The law authorized you to make such arrangements with regard to private lands interspersed with public lands.

Mr. DAVIS. Yes; and this bill makes provision for that by providing that they shall organize irrigation districts, and it provides that the Secretary shall require them to, and make satisfactory contracts with them that will bind all the lands in the district.

Mr. SUMMERS. Has there been any difficulty on any of the irrigation projects in the country in getting satisfactory contracts with the railroad companies? Have they been obstinate and unreasonable?

Mr. DAVIS. As a rule not. We have had some trouble, but nothing very serious. The railroad companies vary somewhat in their policy on that subject.

Mr. SUMMERS. The Northern Pacific, for instance?

Mr. DAVIS. The Northern Pacific has been the most liberal of any railroad company in the country in its attitude on that question.

Mr. SUMMERS. May I ask the committee to take note of that, in view of something that I must bring before you at a later date?

Mr. HAYDEN. To get back to the suggestion made by Mr. Welling, would it not be the part of wisdom to provide right in this bill that that very thing be done; that the Secretary be directed to obtain an agreement satisfactory to him with the owners of all large tracts of land, railroad and otherwise; that there should be a fixed price so that there would be no opportunity for the new settlers to be robbed and thus prevent this unearned increase in value from going to people who now hold such lands for speculation or otherwise?

Mr. DAVIS. I think if it is not already provided in the law it certainly should be. As I say, it already provides for districts, and satisfactory arrangements with the Secretary of the Interior may be drawn up later.

Mr. HAYDEN. Now, there is no provision in this bill, so far as I have been able to find, with respect to a limitation of the area of land for which water may be furnished any one individual. The reclamation law contains a provision that not more than 160 acres shall be irrigated for one individual, and then the Secretary is authorized to fix farm units of a less area than that. Would it not be wise to make the same provision here?

Mr. DAVIS. I think so. We have a letter from the United Spanish War Veterans' organization in the Imperial Valley, at El Centro, requesting two amendments in this bill, one of which is the limitation of ownership to 40 acres until the expiration of such time as the Secretary of the Interior may determine, when it may be increased to not exceeding 160 acres.

Mr. HAYDEN. What do you think about that?

Mr. DAVIS. I think it is wise.

Mr. WELLING. If these lands are in private ownership and a man is willing to take water for his entire holdings, what objection would there be to his having as much land as he can take care of?

Mr. DAVIS. The objection is that this is the use of public credit for very large benefit to all of the lands, and it is not just that that benefit should be largely monopolized by individuals.

Mr. WELLING. But if there is water for all and he owns the land to-day and perhaps has water for an enlarged tract to-day under the old arrangement, would you dispossess him?

Mr. DAVIS. If he already has water for a large tract he will probably not be obliged to pay for it again.

Mr. WELLING. I mean lands under cultivation to-day. There are men holding perhaps a section of land that is all under irrigation.

Mr. DAVIS. Well, I referred to the new land entirely.

Mr. Little. To what?

Mr. DAVIS. To the new land, the uncultivated land.

The CHAIRMAN. Those holding a whole section would not be required to come in. They can't avail themselves of the law without complying with the conditions, of course.

Mr. TAYLOR. Mr. Welling, we have had a lot of trouble with that matter and have gone all through it and thrashed it to a frazzle for the last 10 years.

Mr. WELLING. I am very well aware of that, Mr. Taylor, where you are dealing with new lands, but I apprehend that this situation will develop, that there are men in the Imperial Valley to-day who own a section of land, who are irrigating a section of land.

Mr. TAYLOR. They may own five sections, but they can't expect Uncle Sam to make them a million dollars for nothing.

Mr. WELLING. But they have already got their water rights.

Mr. TAYLOR. If they don't want to come in, all right.

Mr. WELLING. They are already in.

Mr. TAYLOR. But I mean if they don't want to get the benefit of the Government's money they won't be compelled to.

Mr. SMITH of Idaho. The building up of the country around them may benefit them.

Mr. TAYLOR. The building up of the country around them will enormously enhance the value of their property, and the policy of the Government is not to enhance the property of these big holdings.

Mr. WELLING. If it is a cotton plantation to-day, or a great fruit orchard or something of that sort, you wouldn't enhance the value of it. If it is desert land and unoccupied, of course you would enhance the value.

Mr. HAYDEN. Mr. Davis, the reclamation law provides that the United States shall not sell water rights to one individual in excess of 160 acres of land. Now, in practically every reclamation project adopted there were private holdings of land with existing water rights in excess of 160 acres. What have you done under that law in those cases?

Mr. DAVIS. There are a few that had no private lands, but in general your statement is true. We have provided that no one can have the benefit of a publicly developed water supply to an extent greater than enough for 160 acres. The law has required that and the law has been followed.

Mr. SMITH of Idaho. Mr. Chairman, permit me to read in right here section 12 of the twenty-year extension act pertaining to private lands:

That before any contract is let or work begun for the construction of any reclamation project hereafter adopted, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at such price as the Secretary of the Interior may designate, and if any land owner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction.

Mr. LITTLE. Mr. Director, may I ask you a question right here? Suppose some outfit had 10,000 acres in the Imperial Valley now under cultivation, with water from the present ditch, what is there in this new proposition, if this new proposition is put in force, by which the Government can escape from supplying a man with the same amount of water that he had been getting before?

Mr. DAVIS. I don't believe that he could be deprived of water, but he could be compelled to do whatever the law required in order to get water.

Mr. LITTLE. Well, now, suppose he just rested on his rights and said, "I am getting water from this ditch; I have got that right and I don't propose to pay any more for it than I have been paying. I will stop right here." Could you shut him off?

Mr. DAVIS. The United States wouldn't meet that problem, because that is a problem to be met by the district. We would make a contract with the district and it would be bound to pay the lump sum

of money and by taxation collect it from the land included in the district.

Mr. LITTLE. That don't answer my question, though. You mean that you would dodge the question so far as you are concerned and check it back to the district?

Mr. DAVIS. No; we would have a contract with the district, just like we have now.

Mr. LITTLE. You mean we can't make any law that governs it? You don't know of any way that we can make a law which will force that man to pay his pro rata share of the expense?

Mr. DAVIS. No.

Mr. LITTLE. The district has got to provide for that itself?

Mr. DAVIS. I think so, too.

Mr. LITTLE. I didn't say I thought so; I am asking you.

Mr. DAVIS. Yes, sir; we would make a contract, as I take it, such as we now make with districts under similar circumstances where we sell them stored water. There are probably nearly 2,000,000 acres of land that are not included in what we call reclamation projects, to which we sell an additional water supply from reservoirs, the Pathfinder Reservoir, is the main one, and a great deal from the Arrowrock, and in each case in the contract with the district it is provided that no individual shall receive water for more than 160 acres from that, and the United States maintains the right—reserves the right in that contract—to inspect and, if necessary, control the distribution of that water.

Mr. LITTLE. Now, if you made that contract with these people and you went down there and found that one man was drawing water for 10,000 acres what would you do about it?

Mr. DAVIS. Shut it off from the entire district until they corrected it.

Mr. LITTLE. In other words, if you punished this man at all you would have to punish the whole district.

Mr. DAVIS. We would have to punish the whole district in order to punish him.

Mr. LITTLE. Could I ask you one more question to finish my thought along that line? Apropos of that now let us suppose that these people are drawing water, as they are from this ditch down through Mexico, which you are familiar with of course, as I understand this proposition this ditch that these people propose to build will be really an entirely new ditch; instead of coming out down below Yuma it will come out from Laguna Dam; it won't run into Mexico. It won't run in the same canal at all that that water now runs in.

Mr. DAVIS. No, sir.

Mr. LITTLE. I gather from their view of it that they think that the man's water rights under the new ditch would be the same as under the old. Are they right about that?

Mr. DAVIS. No.

Mr. LITTLE. Isn't this an entirely new proposition and wouldn't it be true that that man would have no rights under the new ditch at all except such as he secured under the new ditch?

Mr. DAVIS. That is right.

Mr. LITTLE. Then there is no trouble at all about it.

Mr. DAVIS. I think so. He would still have a right to receive water, as he always has had.

Mr. LITTLE. From the old ditch?

Mr. DAVIS. Yes, sir.

Mr. LITTLE. But he don't come to this ditch with any right to water from that, does he?

Mr. DAVIS. I think not.

Mr. LITTLE. It is a very simple matter to adjust then, isn't it?

Mr. DAVIS. I don't know how simple it is. I think it can be done.

Mr. SINNOTT. You don't interfere with his status quo.

Mr. DAVIS. We don't interfere with his status quo, except, of course, we take some water out of the river above him.

Mr. LITTLE. But he has no vested right in what he shall get out of the new ditch.

Mr. DAVIS. No, except as the district has and he would have under the district, and the district would have such right as the contract gave.

Mr. LITTLE. If the district made a contract with you that they wouldn't let a man have more than enough water for 160 acres, he would be subject to that.

Mr. DAVIS. Yes, sir; absolutely.

Mr. WELLING. That might be true, Mr. Davis, if the Government built this canal, but as I understand it these gentlemen are not asking the Government to build the canal.

Mr. LITTLE. Suppose the Government doesn't build it, but simply makes it possible for it to be built under some agreement, it would be the same thing, wouldn't it, if the Government said, "Now, we will guarantee your bonds if you do so and so"?

Mr. DAVIS. Yes, sir.

Mr. LITTLE. The rule would be the same, wouldn't it?

Mr. DAVIS. Yes, sir; I think that makes no difference.

Mr. HAYDEN. As a matter of fact, the actual construction of the all-American canal, as provided in the bill, is to be done by the Reclamation Service.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. The United States, instead of advancing actual money, advances its credit, and by reason of that credit bonds are sold and the money is turned over to the United States Reclamation Service to do the work.

Mr. DAVIS. Well, that is the effect, but the actual thing done, as provided by this bill, is for the Government to sell its own securities and use that money in construction of the canal. It is simply made safe by the previous deposit of bonds of the district and the sale of the land. The Government sells the land in advance, which furnishes a reserve guaranty fund to guarantee against any one of the districts defaulting.

Mr. TAYLOR. The Reclamation Service constructs this canal itself.

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. You don't turn it over to some private people to do as they please with it?

Mr. DAVIS. No, sir.

The CHAIRMAN. You spend all that money, the Reclamation Service?

Mr. DAVIS. Yes, sir.

Mr. SUMMERS. Is the Government amply protected by the security which is proposed in this bill, in your opinion?

Mr. DAVIS. Yes, sir; as modified by the report of the Secretary of the Interior. The Secretary recommended some modifications in the bill, which I think would strengthen it, and with those modifications incorporated I think the security is ample.

Mr. WELLING. It is the understanding that if the Government undertakes the project, whether it is so stated in the law or not, regulations will be adopted by the Secretary which would absolutely forbid any one holder to have more than 160 acres of land irrigated through this canal?

Mr. DAVIS. I think that should be, but unless it is provided in the law, I couldn't guarantee that that could be done.

Mr. SMITH of Idaho. Unless the man owned the land in private ownership and has his own water supply.

Mr. WELLING. He can't get it through this ditch, though.

Mr. DAVIS. Mr. Chairman, the remarks I made about the telegram from the Spanish War veterans and what their policy would be related entirely to the new lands and not to the old lands.

The CHAIRMAN. Just one question, Mr. Director—will you state just briefly your estimate of the merits of the Imperial Valley as an irrigation proposition?

Mr. DAVIS. The Imperial Valley is a very rich tract of land. It has a semitropical climate, in which it is possible to raise products of a character and quantity that it is possible to raise in very few other parts of the world, and it is similar in climate to the Yuma Valley and similar in climate to the Salt River Valley of the Reclamation Service. The Salt River Valley project of the Reclamation Service last year produced 75 per cent more value than the total cost of the project.

The lands cultivated in the Yuma Valley last year produced an average of \$113 per acre. The Yuma Valley is more nearly comparable to the Imperial Valley than the Salt River Valley is, though they are all very similar in character. The Yuma Valley is composed of alluvial deposits, which the Salt River is not to so great an extent, and consequently it has more humus in the soil; and the Imperial Valley is more similar in character to it.

Mr. TAYLOR. What is the average depth of the soil in the Imperial Valley?

Mr. DAVIS. Nobody knows. I have never heard of any boring made to the bottom of that soil. It may be thousands of feet deep.

Mr. ROSE. We have bored 3,000 feet, and didn't strike the bottom.

Mr. LITTLE. Mr. Director, what irrigation proposition in the United States has the largest production per acre?

Mr. DAVIS. You don't confine that to Government projects?

Mr. LITTLE. No.

Mr. DAVIS. It is difficult to define what the term "project" means.

Mr. LITTLE. Well, does the Imperial Valley or the Salt River Valley or the Yuma project have the largest production?

Mr. DAVIS. If you are speaking of certain valleys, I don't know of any under any definition that produces as large an amount as the Imperial Valley does.

Mr. LITTLE. Is there any in North America that does?

Mr. DAVIS. No; and very few in the world. Of course, if you should take the entire valley of the Nile, as one project, that might be.

Mr. SUMMERS. I don't think so.

Mr. TAYLOR. Do they raise a crop every month in the year in the Nile Valley?

Mr. DAVIS. Yes; it has a climate very similar to the Imperial Valley, and a much larger area. Of course, it raises more in the entire valley, but there are many diversions there, and I wouldn't call that all one project.

Mr. HAYDEN. We have covered the question of individual holdings; now I want to ask you another question about limiting the area of the project itself, in view of the present water supply.

You will remember that under the Salt River project a board of engineers was convened for the purpose of ascertaining the average water supply derived from the flow of the streams above that project, and a definite limit was at one time set on the area that could with safety be irrigated. By reason of the raising of the water table and the development of other sources of water supply, that area has been increased since. Would it be advisable now, in view of the fact that there is no storage on the Colorado River, to limit the area of land that might be granted water rights through the all-American canal?

Mr. DAVIS. That is one way of meeting the question, but the way recommended in the Secretary's report on this bill is that the proceeds from the sale of the public lands for which this bill provides be devoted to the construction of storage, and if the bill is passed and that is carried out, that solves the question.

Mr. HAYDEN. But it will take time to get the money from the sale of public lands; to get it into the Treasury and then have it appropriated for the construction of irrigation works?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Could you with safety divert enough water at all seasons of the year from the Laguna Dam through a canal of the proposed capacity to irrigate the entire area included within the limits of the high-line canal?

Mr. DAVIS. Without storage?

Mr. HAYDEN. Without storage: yes.

Mr. DAVIS. No, sir.

Mr. HAYDEN. Then, if that is the case, would it not be wise for the Secretary of the Interior to have authority to fix a limit to the land that could be irrigated until storage is provided?

Mr. DAVIS. That might be done, but he has to sell these lands in advance and secure the funds, and it will take several years to build this all-American canal.

Mr. HAYDEN. The point I am getting at is, I want to avoid the situation that has arisen on so many projects where, after the commencement of construction, people would settle upon the land in the hope of obtaining water, and it would turn out that the water supply was not available in time to give them a supply, or that storage was necessary, and they underwent years of hardship and disappointment, which is bad both for the people and the project. Now, if the Secretary of the Interior had authority to say in advance what area could be irrigated from the all-American canal from the present unregulated flow of the Colorado River, taking into consideration the

data that you have on the flow of the stream and the size of the proposed canal, he could then determine that with safety a certain area might be included within the project and then later, when storage is developed, he could take in new lands—don't you think it might be wise to have such a provision in this bill?

Mr. DAVIS. I think it would—leaving it in the discretion of the Secretary.

Mr. HAYDEN. Absolutely so; but have it incumbent upon him to make a finding in advance of what lands could be irrigated and where they are located.

Mr. DAVIS. I think that would be wise. It would certainly create greater confidence in the project.

Mr. HAYDEN. Because if we do not do that, every acre of land now in private ownership that could possibly be irrigated from the all-American canal will be placed upon the market and the prospective purchaser will be told, "The all-American canal is going to be built; the Government has adopted the project; you are going to get water." As a matter of fact he may get water for his land and he may not. But if the Secretary of the Interior says at the outset: "Now, we propose to irrigate ultimately all of the land that can be covered by the all-American canal and its laterals, but to be perfectly sure that there will be ample water at all times for the lands in cultivation we are going to limit the area within the project to certain designated tracts of land that will get water immediately, and when storage is provided we will furnish water for the balance," there would not be the disappointment and suffering that would otherwise occur.

Mr. DAVIS. I would like to say this, too: All that you have said is true, and I agree with it; but the question is not so threatening or dangerous as you seem to think, for the reason that during the early part of the year—in fact, all of the year except the fall—there is no danger of shortage under natural conditions.

Mr. HAYDEN. That is by reason of the flood season of the Colorado River coming at a convenient irrigating season.

Mr. DAVIS. Yes, sir; the flow of the river throughout the spring months and June and July will be ample for any development that can be made before the Secretary constructs storage, even if he has the funds that this bill provides, and such shortage as might come in would only interfere with the cultivation of such crops as it would happen to strike. In other words, you could raise grain and other things on the land that is not allowed any storage water, and the provision that the Secretary might make would not interfere with the development of the land at all but it would be limited to the crops that the flow of water would permit.

Mr. HAYDEN. But clearly the Secretary of the Interior ought to have that right in the law so that no one could dispute his authority to do it.

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. You spoke about two or three other suggestions that the Spanish War veterans made. You said that you thought the first one about the limitation of acreage was a good idea; what were the others?

Mr. DAVIS. There was one other, a provision that soldiers and sailors should have preference rights.

Mr. HAYDEN. There is one other question I wish to ask you, Mr. Davis. Would it not be advisable to provide in this bill that all those who expect to obtain the benefit of the construction of the all-American canal should also be obligated to pay their fair share of the cost of future storage works, the cost to be determined by the Secretary of the Interior when the works were completed?

Mr. DAVIS. I don't see any objection to it.

Mr. HAYDEN. It is one of those matters where if it is provided in the law that the Secretary was directed to fix the charge for storage, there would be no question about his authority to do so.

Mr. DAVIS. I don't see any objection to it.

Mr. HAYDEN. As new lands come into cultivation, storage works must be constructed to provide water for them.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. And if these works are constructed the charges should apply to all the lands benefited thereby.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Lands now irrigated perhaps would not have as great a need for storage as the new lands.

Mr. LITTLE. Then the charge for the storage should be laid on the new lands, which should pay for the canal also. It would be perfectly convenient for those who divert between the lands on the east basin and the Imperial Valley, who have a perfect water right with respect to the amount paid for storage in that ditch, that all these lands should pay something for being under storage.

Mr. DAVIS. I think that they should, not but what they have a right to plenty of water, but they are certainly interested in storage to some extent. I think the charge should be laid on lands now under cultivation. They are most interested in storage.

Mr. LITTLE. You think they should, notwithstanding they are all entitled to water, but as I understood you a few moments ago, they are not all entitled to getting water from this new ditch.

Mr. DAVIS. Yes.

Mr. LITTLE. And if the community did not use the Mexican ditch their right to water there is a wholly different matter, but when they come to get water out of this new ditch which we propose to build there, would not they be obligated on that basis, these people who take water there, to include the storage obligation?

Mr. DAVIS. Well, if they pay their share upon this ditch they have a right to carry their present water rights further down.

Mr. KETTNER. Is there not an American right there? That is the keynote of the whole thing. I am not clear just what your judgment is about that matter. Now, it seems to me very important. You say if they pay their share of the new ditch they have the same rights that they have under the old ditch.

Mr. LITTLE. Yes. They have the same relation to the community as before, but, as I just suggested to you a few moments ago and you seemed to agree with me, don't you think it subjects to the obligations the community that wants it, for example, nobody can get water for any more than a quarter section of it.

Mr. DAVIS. Yes; that condition is made by law.

Mr. LITTLE. Then they would not have large entries there. Have they now?

Mr. DAVIS. I think that is through an act of Congress.

Mr. LITTLE. Then the Congress could go ahead and say everybody who took water out of this new ditch would take it subject to the obligation, an obligation to be shared with everybody else.

Mr. DAVIS. Yes.

Mr. LITTLE. Certainly if Congress should put that condition on the act creating that clause, it would not be just.

Mr. TAYLOR. Why would it not be just?

The CHAIRMAN. You do not mean you could deprive anybody of existing water rights.

Mr. DAVIS. Oh, no.

Mr. HAYDEN. But before anybody secured water out of the All-American Canal he would have to pay the water charge as fixed.

Mr. LITTLE. It would not necessarily follow that he would have the same status under the Mexican ditch that he would get under the new ditch.

Mr. DAVIS. Congress may put any condition it chooses on the new ditch.

Mr. SINNOTT. Do you know how much public land there is within the boundaries of the Imperial ditch?

Mr. DAVIS. 586,000 acres, I think it is.

Mr. SINNOTT. You mean public land in the boundaries of the Imperial.

Mr. DAVIS. Very little public land. There is a total area inside of the district of 586,000 acres.

Mr. SINNOTT. And very little public land?

Mr. DAVIS. Very little public land.

Mr. SINNOTT. Why is the paramount right to the water given to the Imperial irrigation district under section 12 of the bill? What is the reason?

Mr. DAVIS. That is the recognition of the fact that the district has been irrigating 400,000 acres of land, a recognition of the right of prior appropriation.

Mr. SINNOTT. Have they had ample water in the district?

Mr. DAVIS. No. There is often ditch trouble there. But only twice has all water been taken out of the river in that valley. The farmers and residents, I have heard, said they never had enough in any year.

Mr. SINNOTT. Why should they be given a paramount right to an increased amount of water?

Mr. DAVIS. I do not think they should get a paramount right to an increased amount unless they pay for it. But let them have a right to the same amount as they have been already using on the basis of prior appropriations.

Mr. SINNOTT. That lands outside of the district, by virtue of section 12, shall have a right secondary to that of the lands within the boundaries of the district. I do not see the reason for that.

Mr. DAVIS. The reason is that there will be some years of shortage unless storage is provided—that is, unless storage is provided for additional acreage, and the new lands naturally would suffer from that shortage.

Mr. SINNOTT. I can see why they should be given a paramount right to the same amount of water, but not to additional water.

The CHAIRMAN. You will find in there it is simply their existing right.

Mr. DAVIS. Yes; that is the effect of it, in my opinion.

Mr. LITTLE. In the recognition of their entries, it puts the responsibility upon themselves for getting this amount of water. Was that provision put in, fundamentally, at first?

Mr. DAVIS. That provision was in all of them.

Mr. HAYDEN. Would it be of advantage to the people of the Imperial Valley at this time to divide the all-American canal into two sections, primarily taking into consideration the construction of the first leg from the Laguna Dam down to the present heading, and later the construction from opposite the present heading through the sand hills into the Imperial Valley? I understand that the first leg of the canal from the Laguna Dam to where the water could be dropped into the present heading would cost about \$7,000,000; the remainder of the work about \$23,000,000, a total of \$30,000,000. What advantage would it be to the Imperial irrigation district to spend that \$7,000,000 right now—to make two bites of the cherry, so to speak.

Mr. DAVIS. It would obviate the necessity of putting a dam in at the head of their present canal.

Mr. HAYDEN. That would remove a menace to the United States reclamation project at Yuma?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. If there were difficulty about raising all the money, would you advise at least raising the \$7,000,000 to connect the present Imperial Canal with the Laguna Dam?

Mr. DAVIS. By all means.

Mr. LITTLE. As a matter of fact, Mr. Davis, is it not true that if it were not for the Yuma district these people could go ahead just as they are and avail themselves of the Yuma Dam and get enough water to keep them going all right?

Mr. DAVIS. No, sir: the Mexican lands would take it. That is the great trouble.

Mr. LITTLE. Even if they had plenty of water the Mexican lands would eventually get away with it?

Mr. TAYLOR. They would absorb it.

Mr. DAVIS. They claim a right to take half of it, but the further trouble is they might take more than half on that side of the boundary.

Mr. TAYLOR. Below Yuma the dam could be enlarged if it were not that Yuma proposes to have a greater increase of water supply down that ditch?

Mr. DAVIS. They took all the water out last fall; they dried the river.

Mr. LITTLE. No matter where the water goes, there would be an immense increase of water under the enlargement of the present dam in the working of the Yuma proposition.

Mr. DAVIS. No. They took all the water out when the river was low last fall—they took every drop out—but that is unusual.

Mr. LITTLE. The enlargement of the dam would not result in sufficient storage.

Mr. DAVIS. No storage at all.

Mr. LITTLE. With such a dam there would be a storage?

Mr. DAVIS. No, sir.

Mr. KETTNER. Mr. Chairman, I don't believe that the director understands. You are aware, Mr. Davis, that the Yuma people are holding an injunction as a club over the heads of the Imperial Valley people at the present time?

Mr. DAVIS. Yes, sir.

Mr. KETTNER. You are also aware that through the use of that club the Imperial Valley were forced to come to the Secretary and make this contract which you have mentioned?

Mr. DAVIS. That was one of the inducements, probably. They came of their own accord.

Mr. LITTLE. The court enjoined them, didn't they?

Mr. DAVIS. Their injunction was made temporary and suspended.

Mr. LITTLE. What is the benefit to the Yuma proposition by the injunction which refuses these people the right to get more water for them if they could go right on without and get it? Aren't you mistaken about that? Is it not the fact that this injunction is what interferes with them, and primarily?

Mr. DAVIS. The injunction probably had an influence, as you say, but the injunction is not operative, and never has been.

Mr. LITTLE. They fear they will put it into operation?

Mr. DAVIS. Yes.

Mr. LITTLE. The Yuma people have the injunction against these people doing anything to their dam at Yuma?

Mr. DAVIS. Yes; exactly what is the legal status I do not know. They did have such an injunction, and a stipulation was entered into that by deposit of a bond to cover all the possible damages they could enlarge and build their dam, and they have done that.

Mr. LITTLE. Is it not a fact that but for that injunction they would go ahead with their dam?

Mr. DAVIS. I do not think they would do that; and that does not keep the Mexican irrigators there who have a waterway through there, from getting water from them.

Mr. HAYDEN. Just how much of a menace to the Yuma project is this dam at the Imperial heading?

Mr. DAVIS. That is a problematical thing. We consider it a serious menace for two reasons: One is that the action of the flow there may throw the river against the levee and dam, and the river would cut down there at the old sluice and do immense damage. The other menace is in conditions of low and medium water the river is 6 to 10 feet higher now above that dam than it is below it. That means for a distance of 8 or 10 miles from the town of Yuma to the Imperial heading that river is standing from 6 to 10 feet higher than it otherwise would, and it causes seepage in the Yuma Valley.

Mr. LITTLE. And that is the reason you enjoined?

Mr. DAVIS. The Yuma people enjoined them.

Mr. LITTLE. You think they are right in doing that, or do you not?

Mr. DAVIS. I would rather not express myself on that.

Mr. KETTNER. I think, if the director does not wish to express himself, I want to say here for the Imperial Valley people that that is the main point that the Imperial Valley people are here for, and were forced into this position through this Yuma injunction.

Mr. LITTLE. That is what I was trying to bring out at Mr. Kettner's suggestion in my questions.

Mr. DAVIS. A great pressure was brought to bear by the Yuma project and the United States.

Mr. KETTNER. I can bring this out, that the director is fully aware, by the courtesy of Mr. Hayden and the two Senators in the last two years, they wanted to force an injunction a year ago, to get this injunction which would have shut off the Imperial Valley Dam.

Mr. HAYDEN. I do not think that the Senators or Congressman of Arizona acted solely from a desire to be courteous. We at all times consulted with the people of the Yuma Valley and whenever an arrangement satisfactory to them was made with respect to the time the dam should be removed, the amount of the bond, etc., we gave our consent from year to year with the distinct understanding in each case that this was positively the last time that permission would be granted to put in such a dam. Each time excellent promises were made by the representatives of the Imperial Valley. First, they were going to construct a different kind of head gate that would take care of the sand and silt so that the water would be sure to get into the heart of the Imperial Canal without a diversion wier. When that plan proved to be a failure they began to talk about connecting with the Laguna Dam. The people of the Yuma project know that they are gravely and seriously menaced from two sources: First, that the repeated construction of this rock wier will some day result in turning the entire flood flow of the Colorado River into the very heart of their project, doing incalculable damage to land worth at least \$300 or \$400 an acre. Secondly, maintaining the river at a higher level for 8 miles above this dam causes the water to seep through the banks, raising alkali on large areas of land. That damage is being done now.

Therefore, they were vitally interested in the construction of a main canal from Laguna Dam down to the present Imperial heading. There the water could be dropped back into the present Imperial Canal and carried through Mexico and thus remove a very serious menace as far as the Yuma project is concerned. That is why I ask you, Mr. Davis, whether, if it should turn out that there is not money enough to do all this work at once, and, therefore, the entire plan to build an all-American could not be carried out, is it advisable to insist upon the construction of a canal from Laguna Dam down to the present Imperial heading?

Mr. DAVIS. Yes, sir; it would be. The reason you have mentioned is not the only one. The water supply taken from Laguna Dam will be much more secure. A temporary dam such as exists at the lower heading is not secure because a sudden flood might breach that dam at any time and then it requires work and extraordinary expense to restore that in time to prevent a shortage of water in the valley, and the shortages they have had have been mostly due to what was out at the dam.

Mr. HAYDEN. In your opinion, as an engineer, it would be worth while for the people of Imperial Valley to build that connection between their present heading and the Laguna Dam, whether an all-American canal is constructed or not?

Mr. DAVIS. It would. It is a program to be considered, I think as the first step in the construction of an all-American canal, which, taken independently, would be a wise thing. There is another

reason that has been mentioned, and that is there are sluicing facilities at Laguna Dam which are not provided in their dam here.

Mr. HAYDEN. That is the present method of drawing water from the bed of the river carries sand and silt into the Imperial canal, which they must remove by expensive means, while, if connection is made with the Laguna Dam such material can be sluiced away, thus saving a great expense.

Mr. DAVIS. The most troublesome portion of the sand can be sluiced out, and we now do that for the Yuma project.

Mr. HAYDEN. I just wanted to get your opinion as an engineer whether it would be a good investment for the Imperial irrigation district to build the first leg of the main canal. The people in Yuma would like to have that done, whether anything else was ever done or not. It would be the first step, and later they could do the rest of the work. Supposing something might prevent the completion of the all-American canal, do you believe that an investment of \$7,000,000 in a canal from Laguna to their present heading would be fully justified for the Imperial people?

The CHAIRMAN. Do you believe that would be for the mutual benefit of the Imperial Valley interests and the Yuma project?

Mr. DAVIS. Yes, sir; absolutely.

Mr. HAYDEN. Do you believe that the Yuma people can continue to give the Imperial Valley permission to construct a diversion dam at the present heading of the Imperial canal, with safety to the Yuma project?

Mr. DAVIS. No; I would not say that. I do not believe that the Yuma people will ever absolutely refuse to agree to reconstruction of the dam unless the Imperial Valley ceases its efforts to get connection with the Laguna heading.

Mr. HAYDEN. That is, as long as they act in good faith in an effort to make connection with the Laguna Dam, you would be justified in allowing them still another permit. But if they cease to exhibit good faith and show a tendency to remain at their present heading and a desire to get water from there permanently, then you would be justified in using all legal means to prevent the construction of other diversion dams in the Colorado River.

Mr. LITTLE. In other words, the Yuma people can only afford to let these people linger as long as they have the present situation.

Mr. DAVIS. Yes, sir; that is the situation.

Mr. SINNOTT. Does the Alamo Canal irrigate any lands in the United States outside of the Imperial irrigation district?

Mr. DAVIS. No, sir.

Mr. SINNOTT. Is it planned that there is going to be a moral obligation on the part of the Government toward the people in the Imperial irrigation district?

Mr. DAVIS. I have not heard any such claim made by them or anyone else.

Mr. SINNOTT. Are they suffering from a shortage of water now?

Mr. DAVIS. Not now. They have at brief intervals in the past for various reasons, some breaches of the dam in the river or some leak of the dam there, and twice from a shortage of water in the river itself.

Mr. SINNOTT. I mean that it was claimed there was a moral obligation on the part of the Government that the Government had induced them to do something.

Mr. WELLING. I talked with you in your office the other day about Green River project on the headwaters of the Colorado River and the tributary waters of the Green and Grand Rivers. Most of the waters in the Colorado River come from the watershed in southeastern Utah. In view of what you have said about the lack of water now for the projects that are now involved in this scheme under the all-American canal, what about the rights of people further up the Colorado River in the State of Colorado to divert water to projects up there? We claim that water in the State of Utah.

Mr. SINNOTT. The Supreme Court has had that under consideration for two years, Mr. Welling. They have not rendered a decision yet.

Mr. DAVIS. The idea I have in regard to that, Mr. Welling, is this: That except the character of the developments was to divert water entirely outside of the Colorado basins or to store water in the low-water season, I think no obstruction could be placed in the way legally in the upper reaches of the river for the reason that they use the waters mostly in May, June, and July, when there is plenty of water for all, and the only shortage to come is immediately after that. It is partly returned by seepage and it would be very difficult to say that their water supply was depleted by diversions above that so long as it is not taken out of the basin.

I do not think any obstruction should or could be placed upon the unlimited use of water from the Colorado in these upper basins. The particulars are not sufficiently extensive to entirely get away from the reasons that I have given for that.

Mr. TAYLOR. There is a certain amount of water in the Colorado.

Mr. WELLING. I am glad to have you express that opinion. Our experience with the Colorado River in my State with the same stream waters—we use the headwaters of the stream—is that it is the very best reservoir for the waters below.

Mr. DAVIS. It is a common thing. Of course, a diversion from the headwaters of the Colorado River in August and September would deplete the waters on the lower Colorado in addition to these same projects diverting that in May, June, and July, but the return seepage would probably restore that.

Mr. TAYLOR. We found that true and worked that out in the Kansas-Colorado case and also in the Nebraska case. Under the irrigation in Colorado all of our irrigation works, hundreds of them, made a reservoir of these waters, and an enormous reservoir in the last 20 years; since we have been doing that irrigation there is three times as much water in your other State lines—in Nebraska and in Kansas and these States; there is more water to-day than in years. In other words, we have increased your normal supply in your States by reason of the storage which has made you good, permanent water supplies where the streams were dry in 50 years before we commenced the irrigation—dry at the State lines. That is the result of Cutting, and all the old-timers' testimony taken in these cases in the United States courts shows it.

Mr. DAVIS. There is another consideration that I have not yet mentioned that makes this pending bill very important. It is an indirect effect, aside from the diversion of the water supply from the Alamo, that threatens the water supply of the Imperial district. They have a menace even greater than that in the possibility of the Colorado River leaving its channel and running into the Alamo, as it did once before, and thereby submerging the entire valley in time.

As that persists it becomes more and more difficult to change, because it cuts a deep channel, and the deep channel that it did cut before has advanced from the Salton Sea up here [indicating], making an overpour at Calexico, and farther up the stream it was rapidly advancing up to a point where President Roosevelt, in a message, said he considered menaced the safety of the Laguna Dam. In that opinion I do not share, but a board of engineers had so reported.

Mr. LITTLE. Is there any place along the Alamo Canal there to build a big storage dam?

Mr. DAVIS. There is no possibility of a big one.

Mr. HAYDEN. Why did the engineers think that was a menace to the Laguna Dam?

Mr. DAVIS. Because it was cutting a deep channel.

Mr. HAYDEN. You say you did not share in that view? Why not?

Mr. DAVIS. For the reason that there is a lot of hardpan on the river here at Yuma, cutting in here [indicating].

Mr. HAYDEN. That would cause a cataract at Yuma until that hardpan was cut away.

Mr. DAVIS. Yes; until that was cut down it would distribute the fall; it would retard that until the whole Imperial Valley fills up, and when that fills up you have not got any big fall to do this cutting with at that time by cutting away this hardpan. It is really a soft rock, such as Penitentiary Hill is composed of, and the Indian school is built on it, which created rapids at Yuma that destroyed navigation. They tried to get up there on the steamboat accustomed to going up and failed. Navigation was destroyed.

Mr. HAYDEN. You speak of filling up the whole Imperial Valley. Would it be possible, if the natural flow of the Colorado River was diverted, that enough water would run into the valley to fill it up? Would not the time come when evaporation would balance the inflow?

Mr. DAVIS. Yes, sir; but the probabilities are that it would fill up enough to run out. It would have to fill up to 30 feet above the sea level before it would run out. The probabilities are it would flow out in spite of evaporation.

Mr. WELLING. It would not be much comfort to those themselves who own that land.

Mr. DAVIS. In order to properly protect the valley it is necessary to maintain and continuously reinforce works in Mexico as well, and it will eventually be necessary to throw this river down permanently to the Gulf of California so as to make a proper channel for it. It has now an unstable level. They are now increasing the height of that levee at the expense of the Imperial Valley. The Imperial Valley is subject to constant injustice from Mexican authorities charging exorbitant prices for materials, and some arrange-

ment should be made that Mexico should ask the United States to do that.

Mr. TAYLOR. Does Mexico charge an import duty for that—taking that stuff down there to this river?

Mr. DAVIS. Yes, sir; they have. This river is just as much a menace to the Mexican lands as it is to our American lands, when the Americans have to stand the expense of it, and of course it is for their interest for them to do it.

Mr. HAYDEN. If you had complete storage on the stream, the flood menace would be removed?

Mr. DAVIS. If we had complete storage it would be largely bettered and the flood menace would be removed.

Mr. HAYDEN. For that reason the lands in the Imperial Valley could be asked to contribute something to storage, because it would relieve them of the flood menace.

Mr. DAVIS. Do not misunderstand me. Storage in moderate amount would not correct the flood menace. The reservoirs might be built then. But if sufficient reservoirs were built to entirely control it, it would.

Mr. SMITH. Would the construction of an all-American canal remove the menace permanently?

Mr. DAVIS. That alone would not remove it, but it would secure the American water supply and would enable the district to exact cooperation and payment for benefits. It is the only way I see by which any collections of any kind, involuntarily or otherwise, can be made from the Mexican lands. So far as I know, it never was proposed by advocates of the all-American canal or by any of the officials of the Imperial district, to do any injustice to the owners of the lands in Mexico. All they ask is for them to bear an equal share of the burdens of protection of the water supply and maintenance from year to year and enforce that until they get an all-American canal.

Mr. HAYDEN. Would it be advisable for this committee to have before us the owners of these Mexican lands and state to them that we had in view the passage of legislation to do what you propose, and then see if any arrangement could be made with them, for instance, for enlarging the canal from Laguna Dam down to the Mexican line to provide their lands with a water supply? Would it be worthwhile for this committee to have some statement from them as to what they are willing to do in that regard?

Mr. DAVIS. If they desire to make any representations to the committee on the subject, they should be given that privilege, but so far as making any negotiations for bearing their share of the cost, I think a congressional committee is an unwieldy body to undertake that, and it would be better that it should be an executive function.

Mr. TAYLOR. What is the attitude of the American owners of this land in Mexico regarding this all-American canal? Do they want it or don't they want it?

Mr. DAVIS. I have not heard anybody say, but one of the representative owners down there has visited the Secretary of the Interior and expressed a willingness to bear the share which would equitably come to the lands of their expense of protection of the water supply.

Mr. TAYLOR. Provided they did not go ahead with that.

Mr. DAVIS. No; he did not make that a condition.

Mr. HAYDEN. I do not think there is any escape from the fact that if the all-American canal is constructed the owners of the Mexican lands will come to the United States and say, "We have under cultivation a certain area in Lower California, and in the plans for the construction of the all-American canal no provision is made for us to get our water. We can not take out water at the present heading; because it menaces the Yuma project; we are entitled to water." Our answer would be, "You are entitled to water if you pay for the canal capacity."

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. And the extra canal capacity to provide water for these Mexican lands will have to be paid for by the owners of such lands.

Mr. DAVIS. It should be.

Mr. HAYDEN. The only way to find out if they are willing to pay for their share of the extra canal capacity from Laguna Dam to the Mexican line is to say that to the Mexican land owners. Some of them reside in the United States, are American citizens, and men of wealth, according to Mr. Rose.

Mr. ROSE. I think that is the situation.

Mr. HAYDEN. It would seem to me, under the circumstances, that this committee ought to find out whether they are willing to pay for their part of the cost of this new canal.

Mr. KETTNER. Mr. Director, right there, Mr. Hayden has thoroughly gone into the subject of stipulating as to a certain amount of land on the American side, if these Americans should so conclude and the committee should see fit to take this up, naturally you would want to see these landowners in Mexico pay the same as those in the United States.

Mr. DAVIS. Yes, sir.

Mr. KETTNER. And they would want an agreement from the Mexican Government to irrigate 100,000 acres.

Mr. WELLING. I think the American Government ought to build a canal and then tell these Mexican owners they could take what was left.

Mr. TAYLOR. Gentlemen, if you want your bread, pay for it. That is right.

Mr. HAYDEN. In case representations were made by the Mexican Government to the American Government that there are certain property owners of Mexico who have heretofore enjoyed water rights to certain lands, our Government would naturally have to show a willingness to share in the use of the works that we are constructing provided the Mexican landowners were willing to put up the money. I would like to find out what could be done in that regard. This committee ought to know now, because that situation is bound to arise in course of time.

Mr. DAVIS. The only way to determine that would be to have a contract with them which it would be advisable to authorize the Secretary to make.

Mr. HAYDEN. The Secretary of the Interior could make a contract with certain American citizens owning land in Mexico whereby, as American citizens, they would give a bond to the United States to insure the payment of their proper share of the cost of the irrigation works to be constructed. We would get the money from them

in this country so we would not have to have any diplomatic dealings with Mexico.

Mr. DAVIS. No, sir; we could deliver that water to them in the United States.

Mr. SUMMERS. Is it necessary to have a levee on the Mexican side in order to ultimately protect the Imperial Valley?

Mr. DAVIS. Absolutely.

Mr. SUMMERS. Would not they be used as a strong argument for their rights.

Mr. HAYDEN. Possibly so. I had not thought of that.

Mr. SINNOTT. I may have missed the point. You are not going to abandon the Alamo Canal?

Mr. DAVIS. When the all-American canal is built the American lands are supposed to abandon it.

Mr. SINNOTT. But we will not disturb it in any way near the intake?

Mr. DAVIS. No, sir.

Mr. SINNOTT. We will leave that to the Mexicans to handle.

Mr. DAVIS. The intake is in the United States, and it is not proposed to disturb the Mexicans making use of it without the consent of the United States authorities.

Mr. SUMMERS. Could they drop down on Mexican territory and divert there just as well?

Mr. DAVIS. Not quite as well, but about as well. They could divert below the line practically as well as up there, because they have only one side of the river.

Mr. SUMMERS. Which side?

Mr. DAVIS. The west side. First, as they come down they lose grade, and they would not be able to build a dam without the consent of the United States, because it would be in Arizona, until they went below the Arizona boundary.

Mr. SUMMERS. But that would not irrigate their lands.

Mr. DAVIS. I think most of their lands now irrigated could be covered from the diversion down here. The Alamo falls rapidly there. Their diversion is at this point and the river falls here.

Mr. LITTLE. You speak of a steamboat on the Rio Colorado. What additional steamboats navigate on that river?

Mr. DAVIS. It was formerly navigable. There were three or four steamboats plying for the benefit of various settlements.

Mr. LITTLE. From where?

Mr. DAVIS. Clear down to the Gulf of California, and along up to the point where the river forms the boundary between Nevada and Arizona, but most of the traffic was between Yuma and the Needles.

Mr. LITTLE. They still take a boat from Yuma to the Gulf of California?

Mr. DAVIS. They could not at low water, but at high water they might.

Mr. LITTLE. What part of the year is there that you could?

Mr. DAVIS. Any time during the season, from the 1st of May until the 1st of August.

Mr. LITTLE. Do you know the next river below on the California side, the St. Ysabel, below the Gulf on the western side?

Mr. DAVIS. No, sir; I am not acquainted down there.

Mr. LITTLE. There is no river down there that is navigable!

Mr. DAVIS. I do not know as to that.

Mr. SMITH. In the early inception of the reclamation policy, did the service contemplate making a project at Imperial Valley?

Mr. DAVIS. Yes, sir; in the distant future, and this land was withdrawn with that in view.

Mr. SMITH. When was the Yuma project approved?

Mr. DAVIS. In 1908. Legislation, however, was obtained prior to that, authorizing the service to build a dam and divert the water across the line of direct navigation, which required legislation in order to protect it. The legislation provided for establishing reservoirs on the west side of the Colorado River and for the building of a dam at that point and diversion of water.

Mr. SMITH. The bill provides for selling anybody's land at \$10 an acre, and recognized the sale for not less than \$10 an acre?

Mr. DAVIS. Yes, sir.

Mr. SMITH. Do you think it is possible to sell this land if we secure the necessary legislation for a sufficient amount to construct this all-American canal?

Mr. DAVIS. No, sir; I do not.

Mr. SMITH. If the lands are so valuable as is claimed, it seems to me they would sell for \$40 or \$50 an acre or over; would that be sufficient?

Mr. DAVIS. \$100 an acre, and 200,000 acres would be \$20,000,000.

Mr. SMITH. There are 400,000 acres.

Mr. DAVIS. Not of public land; there is probably less than 200,000.

Mr. SMITH. The railroad people are expected to pay their proportion or share, are they not?

Mr. DAVIS. Yes; but you asked if the public lands would sell for enough.

Mr. SMITH. If the railroad lands would be required to pay the same amount for the construction of the canal?

Mr. DAVIS. It might be. I have not figured it up. It is my guess what it would sell for. Congress passed a law a few years ago authorizing the United States through the Secretary of the Interior to sell the land at Yuma Mesa to provide irrigation, and it is proposed to undertake that next fall. We have been making preparations for it and have about concluded to go ahead with the opening.

Mr. EVANS. What is the elevation of the mesa below that river?

Mr. DAVIS. The water has to be lifted 80 feet.

Mr. EVANS. I understood you said you have been making a ditch at 150 feet in the sand hills. The sand hills have a cut of 150 feet?

Mr. DAVIS. A small part of it does. That is simply the sunken part.

Mr. EVANS. How do you propose to do that with an open cut?

Mr. DAVIS. That is what is now proposed. It might be tunneled.

Mr. LITTLE. Do you think it should be better to have the Rio Colorado of Mexico back in its old bed?

Mr. DAVIS. It would be better, and I think eventually we will have to put it back there, but it may not be in its old bed. Its old bed is higher than some of the other country and it would be very likely necessary to make a new channel for that river there. If levees were placed 500 to 1,000 feet apart so the river is unable to meander, it does not attack the levees and undermine them, and if that river is to

be controlled or removed from its present channel artificially I think most likely the engineers will consider that the best thing to do is to make a straight channel down there with one on each side paved with rock and throw the river into it and that will give it a very much greater fall, because it cuts out curves, makes it shorter for the same amount of ditch, and that will make a relatively permanent improvement.

Mr. HAYDEN. You would have the advantage of the bluff on the Arizona and Sonora side, for instance.

Mr. DAVIS. Yes, sir; it might be controlled by one levee, and Mr. Ockerson tried to control it by continuing that down and reenforcing them. It does not take the meanders out of the river and it would be more difficult to protect the levee that way, but if it cuts its channel out as it now does, it would be a greater menace from year to year. And if the channel lengthened it would make a scouring action.

Mr. SMITH. That would remove the danger of overflow from the Salton Sea.

Mr. DAVIS. To a large extent. Of course, we will have another serious problem there.

Mr. LITTLE. There is a volcano lake there. How big is that?

Mr. DAVIS. Volcano lake is roughly shown on the map. I think that is about 10 miles in diameter.

Mr. LITTLE. And the water?

Mr. DAVIS. The water is mostly mud. The lake is filling up with mud because the river flows in there and settles, and that is one of the things that emphasized this menace. As it fills the lake up it is difficult for the water to get in and it is probably standing against the Volcano levee to-day menacing it, and they are building it higher each year.

Mr. SINNOTT. Do you know approximately how many entries there are on the East and West Mesa?

Mr. DAVIS. No, sir; I have not that information. I know there are some. On the East Mesa, the railroad land and school land is probably all or nearly all privately owned land. At any rate, there is school land, and there are a few desert entries that have been made. I do not know whether any of them have been patented or not on the east side. I know nothing about the west side.

Mr. SINNOTT. Do you know how many entries were made or in contemplation before any service of the Government established a reclamation project in the valley?

Mr. DAVIS. No; I do not know anything about it except that in the East Mesa it was withdrawn; no entries could be made there.

Mr. SINNOTT. When was it withdrawn?

Mr. DAVIS. It was withdrawn in 1903. But patches of it have been restored since.

Mr. SINNOTT. The year after the passage of the reclamation act?

Mr. DAVIS. Yes, sir.

Mr. KETTNER. That is land on this East Mesa and some 200,000 acres which have been restored were all withdrawn to be placed in the Yuma project.

Mr. DAVIS. With a view to building this same all-American canal practically as planned.

Mr. KETTNER. And when President Roosevelt recommended that so strongly in his message, you do not know why the Reclamation Bureau did not go ahead with it? What stopped them?

Mr. DAVIS. Lack of money.

Mr. WELLING. Congress did not do what the President recommended.

Mr. DAVIS. Yes, sir; and the heavy work here had a great deal to do with it, the great expense, with the lack of money available for that purpose. It was hard to get it.

Mr. LITTLE. What is the Laguna Selada in Mexico?

Mr. DAVIS. A big body of water which was a former overflow of the Colorado, a salt lake.

Mr. LITTLE. Is it a tidewater ditch?

Mr. DAVIS. Yes.

Mr. LITTLE. It is not on sea level, is it?

Mr. DAVIS. No.

Mr. LITTLE. Does the tide come in?

Mr. DAVIS. The tide affects the flow there.

Mr. LITTLE. How deep is it?

Mr. ROSE. In some places it is deep, but there is a section here [indicating]. There is a big one here.

Mr. HAYDEN. There is a heavy tide.

Mr. ROSE. A heavy tide. That is 12 feet above the sea level.

Mr. HAYDEN. I have been told the tides at the head of the Gulf of California were very similar to the tides in the Bay of Fundy, because the Gulf narrows and at the change of tide there is a heavy bore of water which rushes up through the channel of the Colorado River, so it might be possible to force water into the Laguna Selada at a 12-foot level.

Mr. ROSE. I notice it is.

The CHAIRMAN. This is not, then, in position.

Mr. LITTLE. This is a salt-water lake in there?

Mr. DAVIS. It is brackish; yes, sir.

The CHAIRMAN. If that is all, then, Gen. Davis, it has been very instructive, and we are very much obliged to you for the presentation of this.

Mr. DAVIS. I am under obligations to you, sir.

Mr. HAYDEN. I want to direct the attention of the members of the committee to this report, which is Water Supply Paper No. 395, The Colorado River and Its Utilization. I asked the folding room to send a copy of it to each member. You will find a very interesting study of the whole Colorado River situation in a general way. Reference is made to the Imperial Valley, beginning at page 140 of the report. I thought that it might help us to get a general idea of the subject.

Mr. TAYLOR. Might it not be well to incorporate part of it in this hearing?

Mr. HAYDEN. I shall be glad to insert some extracts from this report in the record.

The CHAIRMAN. Now, we will hear Mr. Swing.

Mr. SINNOTT. How much of a bond will this require, \$30,000,000?

Mr. DAVIS. In the neighborhood of \$30,000,000.

Mr. SINNOTT. Will that all be needed for the construction of this all-American canal?

Mr. DAVIS. The figures that the engineer has made, which are not yet approved by the board, and of course are subject to change by the board, figure the cost at about \$25,000,000 to get a canal to that point.

Mr. HAYDEN. That is to a point where water can be placed on the land.

Mr. DAVIS. No; just to the point where you can make diversion to the main canal.

Mr. SINNOTT. Is that country such that it will run that way?

Mr. DAVIS. Yes: the lowest part of the Salton Sea, and it slopes in that way. The \$30,000,000 you speak of is carrying one line there [indicating].

Mr. SINNOTT. Those are townships.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. How much?

Mr. DAVIS. \$30,000,000.

Mr. WELLING. It would have to be raised by a siphon over there.

Mr. DAVIS. No, sir; gravity all the way.

Mr. TAYLOR. How long do you estimate it will require to construct a canal—how many years?

Mr. DAVIS. Probably about three years.

Mr. TAYLOR. And how long will it take to put a dam in the river and go down to the old head gate opposite there?

Mr. DAVIS. That could be done in a short time. Of course, this could be carried on at the same time. Probably that could be done if money were made available.

Mr. SINNOTT. Did you mention the full length of the all-American canal?

Mr. DAVIS. About 40 miles from Laguna Dam to this point [indicating]. That is just a guess.

Mr. SINNOTT. What is the width and depth of that canal?

Mr. DAVIS. The canal through the sand hills would be a 140-foot bottom and 15 feet water depth. The sides slope so that the surface of the water in the canal, running full capacity, would be about 200 feet; depth, 15 feet.

Mr. TAYLOR. The water from the higher area carries sand.

Mr. DAVIS. Yes, sir; not as much at low water as at high water. It always gives trouble carrying sand.

Mr. WELLING. Added to the \$30,000,000 for the main canal, there would be some millions more for the laterals, for building diversion ditches to take the water to the high lands?

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Is it expected that the Government would conduct the construction of the laterals or leave that to the district and water users?

Mr. DAVIS. Where the land is in the district they would leave that to the district.

Mr. HAYDEN. You have no objection to dealing with the individual water user?

Mr. DAVIS. The bill does not contemplate it.

Mr. WELLING. No estimate has been made of the cost of these lateral canals.

Mr. SINNOTT. Has the East and West Mesa been organized in a water district?

Mr. WELLING. Water diverted to East Mesa and sold to water users would have to bear their share of the all-American canal and the laterals necessary to carry water out to it.

Mr. DAVIS. And their share of the storage.

The CHAIRMAN. We will hear from Mr. Swing.

STATEMENT OF MR. PHIL D. SWING, CHIEF COUNSEL IMPERIAL IRRIGATION DISTRICT IN SUPPORT OF H. R. 6044.

Mr. SWING. I assume I will not have time now to make a full statement, and I would like to take exception to one thing that Mr. Davis says, although I heartily concur in practically everything he says, and that is with reference to the one leg of the canal. At least, I want to state the point of view of the people of Imperial Valley. In our opinion the construction of the one leg of the canal would be of no benefit to our territory, and, in fact, they consider it would be an actual detriment, and I will tell you why. In fact, they call it the Mexican leg, because it would be, if completed, of benefit solely and only to the Mexican interests, because while it would afford a more adequate diversion for the water out of the river, when you had gotten it out, it would be consumed in Mexico before the increased amount ever got to the Imperial Valley. We would pay for it, but we would get none of the benefits. It would help Yuma; it would remove the menace which they complain of, resulting from the construction of these temporary weirs. It would give them a power site for the development of hydroelectric power, which they need and which under our contract they are to have, which would be at Araz, for the opening of their mesa, but it will be of particular benefit to the people of Mexico and it is what they are advocating, and they want it built down to there and then stop, and to do that would simply saddle the people of the Imperial Valley with added burdens, with bonds to pay for the cost of it, the benefit of which would be entirely taken up and consumed by new lands put in in Mexico. It would do us no good and it might give these Mexican lands a greater claim to a water right, to join hands with them and deliver them water diverted by the Government at Laguna Dam under the contract we now have with the Government. At the present time, in my opinion, they have absolutely no water right at all, and before the hearing concludes I want to quote an opinion of Attorney General Judson Harmon to that effect.

Mr. LITTLE. If this goes to the line, will not the Mexicans entirely secure the same vested rights as you people have?

Mr. SWING. I am afraid they would.

Mr. LITTLE. Which they would not get this other way?

Mr. SWING. Yes.

The CHAIRMAN. Just a moment. There is a call for a quorum. I think we had better take a recess now.

(Thereupon, at 12.15 o'clock p. m., the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee met pursuant to the taking of recess at 12.15 o'clock p. m., Hon. Moses P. Kinkaid (chairman) presiding.

The CHAIRMAN. We will now hear you, Mr. Swing.

STATEMENT OF MR. PHIL D. SWING—Resumed.

Mr. SWING. Mr. Chairman, I went to Imperial Valley in 1907 and have lived there continuously ever since. From 1907 to 1911 I was deputy district attorney of the county; from 1911 to 1915 I was elected and held the office of district attorney of the county; and since 1916 I have been attorney for the Imperial irrigation district. Everything I own and possess, and all I hope to own and possess is centered in Imperial Valley.

Mr. KETTNER. Knowing Mr. Swing as I do, I want to state what he is too modest to state, that just recently he has been selected by the governor of the State of California and appointed as superior judge of Imperial County.

The CHAIRMAN. The reporter will note the fact, and we congratulate Mr. Swing.

Mr. SWING. I would like to state to the members of this committee that this is not a real estate scheme, nor any promotors' proposition we are submitting. We represent the plain American farmers of the Imperial Valley, who are fighting for their homes and a chance to live.

Imperial Valley lies in the Salton Sea Basin in the southeastern corner of the State of California. This basin is 110 miles long by 40 miles wide. The southeastern portion of the basin sloping from the international line to the Salton Sea is called Imperial Valley. The northwestern portion beyond Salton Sea is known as Coachella Valley. This country, although of exceedingly rich and fertile soil, was formerly a barren desert for lack of water, the rainfall being very light—some years less than 1 inch.

In 1893 the California Development Co., a private corporation, was organized to exploit the possibilities of reclaiming this land by diverting and conveying the waters of the Colorado River into the valley. As a result of its efforts water was first brought into Imperial Valley for irrigation in 1901. Development followed rapidly and for a time success seemed to crown the undertaking beyond the wildest dreams of its promoters. The connection of these early promoters with Imperial Valley was ended in 1906, when, as a result of their shortsighted policy in spending insufficient money to provide ordinary safeguards for their intake, they lost control of the Colorado and allowed the whole river to break through into Imperial Valley. The Southern Pacific railroad, to protect its own investments, then took control of the company and operated the system until 1909, when a receiver was appointed. At the receiver's sale in 1916 the people of the valley purchased the system as a matter of self-defense and to prevent their sole source of water from falling into the hands of any private concern. The price was \$3,000,000.

Mr. SINNOTT. Will you tell us just what you bought there?

Mr. SWING (indicating on map). They bought the Hanlon ranch, which consists of a piece of property facing on the west bank of the

river, adjoining the boundary line on the American side. They bought the intake structure, machinery, and equipment there; they bought such portions of the system as lay in Imperial County north of the boundary line, and the canal known as Central Main, about 20 miles long, and the west of said main, 26 miles long. They bought whatever water rights the former concern had, and they bought all the stock in the Mexican Co. which was operating the system south of the line.

Mr. SINNOTT. Was that purchase made by your irrigation district?

Mr. SWING. Yes; it was purchased by us in this way: We having nothing but bonds which were of uncertain marketable value, we entered into a contract with the Southern Pacific, whereby the Southern Pacific agreed to bid the property in at whatever price we stated, we being present at the sale and directing their bidding, and they were to take our bonds for the price of which they bid in the system.

Mr. SINNOTT. They bid in?

Mr. SWING. The Southern Pacific Co. put up the cash and took our bonds.

Mr. SINNOTT. Then, you have control over that canal running into Mexico?

Mr. SWING. In a way which I will explain later on. It is a rather imperfect control.

Referring now to the Imperial irrigation district, all the land in Imperial Valley susceptible of irrigation by gravity flow from the existing system, amounting to 584,700 acres, has been organized under the laws of the State of California into an irrigation district called the Imperial irrigation district; and it is by means of this instrumentality that the people own and operate that part of their irrigation system lying in the United States. About 400,000 acres of this land has been reclaimed to date and is now the home of some 60,000 people. During the year 1918 there was shipped out of the Imperial Valley, at a conservative estimate, \$40,000,000 worth of farm products.

In this pamphlet which I have laid upon your desk is the statement in the back that Imperial Valley produced over \$50,000,000 worth of farm products in 1918. My figures are based on what was shipped out, and the difference in the figures has been estimated as what was consumed by the people in that valley themselves. I think with that explanation the statements found in this little pamphlet are quite accurate.

Mr. BROOKS. And also the difference in the statements as to the stock going in and coming out.

Mr. SWING. We are the winter-feeding ground for a great many cattle brought in from Arizona and New Mexico and fattened in an average of about three months, and then shipped out to Los Angeles and to Kansas City and sold, and I have made the allowances for that, too; we are only entitled to the additional weight put on, and we do not claim the credit for steers raised in Arizona and New Mexico.

The canal, which supplies this land with water, heads in the Colorado River at the Rockwood intake, about 1½ miles north of the international boundary, thence crossing the line almost immediately makes a long detour through Mexico and recrosses the boundary line into the United States at several points about 50 miles west of

its origin. Aside from the intake, practically all the main canals and principal works are situated in Mexico, the title and management of which are, by requirement of Mexican law, vested in a Mexican corporation called the Compania de Terranos y Aguas.

The CHAIRMAN. What distance is water conveyed in the Alamo River?

Mr. SWING. The point on the international boundary line where it recrosses into the United States is about 50 miles west of where it first crosses at the river. The canal itself is about 60 miles long. The 10 miles additional is because of the route.

The fact that the Imperial Valley's irrigation system is located almost wholly in a foreign country and subject to the caprices of the chaotic Government of Mexico has given rise to grave problems which not alone endanger its progress and prosperity but which menaces its very existence.

The predicament in which Imperial Valley finds itself is not of its own choosing, nor of its own creation. The get-rich-quick promoters of the early California Development Co. in the very beginning deliberately forged the shackles of slavery for the unborn Imperial Valley, in order to give themselves the maximum opportunity for gains with the minimum liability for their acts.

The scheme devised by these men for exploiting the Imperial Valley was as follows: The California Development Co. would divert the water from the Colorado River at a point within the United States. This would give them the benefit and protection of the laws of the United States and at the same time, as they did not care to place themselves entirely at the mercy of Mexico, the American intake gave them an effective check by means of which they could control the source of water if Mexico became unruly, for the Mexican lands are also dependent upon this system.

The physical control of the water thus diverted was then at once passed across the international boundary line to a subsidiary Mexican corporation called the La Sociedad de Irrigacion y Terrenos, the entire stock of which was owned by the California Development Co. The former company was the companion company for the old California Development Co. It went into the hands of a receiver the same time the California Development Co. went into the hands of a receiver.

Under the laws of California a corporation appropriating water for sale and distribution is subject to regulation by the State. But by getting the water out of its control and out of the United States, the California Development Co. would avoid this interference with what it considered its private affairs. The Mexican company, which at all times was beyond the reach of American laws and courts, transported the water through Mexico and back to various points of advantage on the boundary line, where the water was sold and delivered on such terms as it chose to make.

The question of who should buy the water, however, was not left to chance. On the contrary, the California Development Co., with an eye to its own interests, in advance of the arrival of the actual settlers, organized various mutual water companies, each with its own locality to serve, put in dummy directors, and then caused these dummy directors to bind their companies and their stockholders to be the future settlers, by executing whatever contracts the pro-

moters desired. In every instance these mutual companies were required to enter contracts to buy their water perpetually from the Mexican Co., and from no other source. Also the water companies were compelled for inadequate consideration to turn over their entire capital stock to the California Development Co., which, having a monopoly, required all water users to buy stock in some one of these mutual companies. To the settlers it sold the stock at the highest obtainable price.

The mutual water companies were also organized as a convenience and protection to the promoters. It saved them the friction and annoyance of having to deal with the individual water user by making these former organizations responsible for the collection of the water rentals from the settlers. Then, too, the mutual water companies were used as a buffer between the actual water user and the supplying corporation to enable the latter to further avoid any liability from loss from possible water shortages. The reason for that is that neither the California Development Co. nor the Mexican Co. made any contract with the water user direct; they only dealt with the mutual companies.

Therefore, if the farmer suffered a loss on a crop he could only sue the mutual company which was obligated to serve him with water, and if he got judgment against that company it would only be a judgment which he and his neighbors would have to pay, and probably the mutual water company would not be liable, as it could deliver only such water as it received from the Mexican corporation, and this mutual company could get nowhere with a suit because it neither owned land nor crops. Therefore its case in court would be only a case to secure nominal damages, and to get that it would have to go into Mexico where the company, with which it had a contract, existed.

The first step in the scheme to defraud American citizens and rob them of their birth right to use the waters of an American stream in reclaiming American lands to make American homes, was a contract which, on December 28, 1900—this was before there was any water drought in Imperial Valley—these promoters caused their American corporation, the California Development Co., to execute in favor of their Mexican corporation, the Sociedad de Irrigacion y Terranos, whereby the American corporation agreed “to perpetually deliver to second party a sufficient amount”—in fact, all; there was no one else to deliver it to, as you can see from the topography of the country—“of the water diverted by party of the first part from the Colorado River to enable second party to furnish water for the irrigation of the lands situated in Lower California and in the State of California, United States of America, which are irrigable by gravity flow from the system of canals so constructed.” The contract further provided that all users were to have the same water rights, Mexican lands equally with the American.

THE CHAIRMAN. How did they get a permit under those conditions?

MR. SWING. They did not have to secure a permit at that time. They just posted a notice and said “I file upon 10,000 second-feet of water and intend to put it to beneficial use.” That was the old law before the creation of the present Water Commission.

The generosity and magnanimity displayed by these gentlemen toward Mexico in disposing of the waters of the Colorado River

can be best explained by the mere statement that these same gentlemen, through their Mexican corporation, owned 100,000 acres south of the boundary line and irrigable from their Mexican canals, while their American corporation did not own a single acre in the Imperial Valley. Thus they were the beneficiaries of their own benevolence.

The right of the California Development Co. to divert and dispose of any of the waters of the Colorado was based upon an appropriation or filing made for that company under the laws of the State of California, which laws required the appropriators to put the waters to a beneficial use within the State of California. The California Development Co. did not contemplate itself putting the waters to a beneficial use. It had to rely entirely upon the use the American farmers in the Imperial Valley would make of the waters in order to perfect its title. Yet, strange to relate, this contract contains no provision to insure the return by the Mexican Co. of any of the water to the United States. As far as the California Development Co. is concerned, it ceded to the Mexican Co., without reservation, all water diverted by it. It undertook to give the Mexican Co. water, its right to which was dependent upon the water being put to use within the United States. In other words, it attempted to give away something to which it had no title.

Furthermore, in this contract this private corporation assumed the treaty-making powers of the United States, and undertook, without the consent of our Government, to appropriate all the waters of the Colorado, cede the same to a Mexican corporation, and allow this Mexican corporation to divide the water according to its own private interests, between the United States and Mexico.

Mr. SINNOTT. Do you mean they actually appropriated all the water, or made a paper filing?

Mr. SWING. A paper filing claiming 10,000 second-feet, which is in excess of the amount of water in the river eight months in the year.

The presumptiveness, as well as the utter futility, of their act must have been apparent to the promoters, as we find them on February 8, 1904, seeking congressional confirmation of their right to the waters of the Colorado River. (S. 4193.)

Mr. TAYLOR. Did they ever get it?

Mr. SWING. No, sir; the United States would have nothing to do with it. To have done so would have confirmed to these promoters a monopoly of the water, legalized this scheme to grant the same to the Mexican corporation, recognized and affirmed its division of the waters of the Colorado between the United States and Mexico, and vested the Mexican lands with equal water rights. At the hearing of the bill the settlers of Imperial Valley were represented by Hon. William E. Smythe, who protested against its passage. The bill did not become a law. When it became apparent that no favorable action was going to be taken upon this bill, the president of this company, who was here before the Committee on Arid Lands, made this remarkable statement at the close of the hearing:

I want to worship at our own altar and receive a blessing from the shrine of our own Government. Yet, gentlemen, if you compel me I will go to other sources for support.

The United States Government having repudiated the scheme of these promoters, they then turned to Mexico and on May 7, 1904, a contract or concession between the Mexican Secretary Fomento,

the secretary of the interior, and the Sociedad de Irrigacion y Terranos was entered into. This contract was approved by the Mexican Congress and proclaimed by the Mexican president June 7, 1904. This concession confirmed and perpetuated, as far as the Mexican Government could confirm and perpetuate, the scheme which these promoters had already devised.

Mr. HAYDEN. Have you a translation of that concession?

Mr. SWING. Yes.

Mr. HAYDEN. Will you put it in the record?

Mr. SWING. I will.

(Concession found in appendix as Exhibit D.)

Mr. WELLING. Have you stated that these men, now owning the Mexican concession and the Mexican land, are the same men who owned the original California Development Co.?

Mr. SWING. They were identical. By the terms of this contract—notice that this is simply a contract between the Mexican Government and the private Mexican corporation—they can change it or the Mexican Government can change it, but the district can have nothing to say about it. The Sociedad was authorized to transport through Mexico the waters of the Colorado River, diverted by the California Development Co. in the United States; also to divert the waters of the Colorado River in Mexico, should occasion require, provided always that the Mexican lands should be furnished their needs up to "one-half of the volume of water passing through said canals." It gave the concessionaire company the privilege of disposing of the other half of the water elsewhere, not naming the place, and it put them under no obligations to return any of the water to the United States. It has been variously estimated that there were between 700,000 and 800,000 acres in lower California irrigable from the Colorado River. In that connection, it is true that the river now is overflowing a large part of this land embraced in this 800,000 acres, but the Southern Pacific Railroad offered to put it back and keep it back on its old route for \$1,500,000.

Mr. SINNOTT. When you refer to Lower California, you mean in Mexico?

Mr. SWING. Yes, sir. So that they can at a reasonable cost make use of this great quantity of land which approaches approximately 1,000,000 acres.

The contract or concession also provided that the grantees should always be a Mexican corporation, subject to the jurisdiction of the Mexican courts. Rights of foreigners were never to be alleged under any circumstances, and no diplomatic foreign agents should ever make any representation relative to the contract. The company and all of its acts were subject to supervision by a Mexican inspector appointed by Secretary Formento. The contract became null and void if any foreign government or state acquired any interest in it.

Thus the exploiters of Imperial Valley sold out, as far as they were able to sell out, the rights and interests of American lands and citizens for the advantages it gave them personally and to their immense land holdings in Mexico. These men have long since passed off the scene of action, but the chains they forged will continue to bind the people of Imperial Valley in subjection to foreign interests as long as their canal system remains in Mexico.

It is unthinkable that 60,000 people living under the Stars and Stripes, together with \$100,000,000 worth of American property, should be left absolutely dependent upon what happens in a foreign country, when that country is one where anything may happen at any time. Yet the entire community of Imperial Valley is dependent upon so slender a thread as the friendship and good will of Mexico. If anything happened south of the line to cut off our supply of water, people could not live 10 days in Imperial Valley, and hundreds of thousands of head of live stock would perish through inability to get them out of Imperial Valley, and the valuation of \$100,000,000 would shrivel and shrink to almost nothing. Yet 60 miles of main canals and works lie wholly in Mexico. Its banks can be cut, the structures can be destroyed and the water can be diverted. One can easily imagine what might happen to Imperial Valley if, unhappily, unforeseen conflict should arise between the two nations. Imperial Valley could receive serious injury in a fight between two factions. Several battles have been fought right over the territory through which our canal traverses. I, myself, witnessed one from the top of a building, and they did a good deal of damage, killed quite a few people in that battle. If one faction thought it to its advantage, being outside of Mexicali, to shut the other faction off from water they would not hesitate to do it, and the Imperial Valley would suffer from the consequences. The United States should not leave 60,000 people who are entitled to its protection to such a fate.

So long as Imperial Valley is compelled to get its water by means of the present arrangement Mexican lands have the right to take one-half and the physical power to take all the water. It is estimated that there are between 700,000 and 800,000 acres in Mexico which could be irrigated by connecting with our systems. Much of this land is held in immense tracts by rich and powerful corporations who could and probably would, if conditions were stable in Mexico, in a comparatively short time put most of it into cultivation by the use of cheap Chinese and Japanese labor. Several thousands of these have already been imported for that very purpose. It is very productive, it will grow great crops, and with cheap labor and cheaper water there is nothing to prevent them from going ahead as far as their resources will permit them.

Mr. SMITH. Are these lands in Mexico farmed in great bodies?

Mr. SWING. Yes, sir.

Mr. SMITH. Are they sold out to individuals, or are they held intact?

Mr. SWING. They are leased out. These early corporations bought them at 25 cents an acre. Their lease last year on the land that was in cultivation was \$10 an acre. So you see they have made back capital investment many times over. Its natural fertility is great.

Mr. EVANS. In what way is the United States liable or bound to respect that agreement?

Mr. SWING. Not at all, not in any way. The United States have intentionally avoided having anything to do with it.

Mr. TAYLOR. Can you give any official confirmation of that statement?

Mr. EVANS. I thought we were to have copies of those agreements.

Mr. SWING. I will file a copy of the agreement. From my discussion with the Interior Department, the Department of Justice,

and the Department of State, I formed the conclusion that our Government was under no obligation to Mexico on the water matter.

(Agreement found in appendix as Exhibit E.)

Mr. TAYLOR. Would those three departments be disposed to request this committee to go on record and that Congress make a detailed disclaimer or statement as to any possibilities of that kind?

Mr. SWING. In 1901, when the California Development Co. began diverting water in the United States north of the boundary line, the Mexican ambassador, under date of November 27 of that year, wrote a protest to our Secretary of State complaining of the operations of this company—the California Development Co., which made the original appropriation and diversion for Imperial Valley—as being in contravention of the treaty between the United States and Mexico of 1848, commonly known as the treaty of Guadalupe Hidalgo, and Article IV of the subsequent treaty of 1853, commonly known as the Gadsden treaty. This protest was referred to the Department of Justice for investigation and report, and after very full and exhaustive investigations and study a report and opinion, known as the Burch opinion, was made to the Department of State, to the effect that the diversion of the water of the Colorado River by this company, being accomplished wholly within the United States, was not in conflict with the provisions of any of the treaties. Under the protection of this ruling of our Government, 400,000 acres in Imperial Valley, Calif., have been reclaimed and made the home of some 60,000 American citizens.

Mr. HAYDEN. What was the opinion by Judson Harmon to which you referred?

Mr. SWING. That was with reference to the international law relating to the Rio Grande, relating to the obligation of the United States to deliver water to lands below El Paso, in Mexico, which lands had used the water for a long period of time.

Mr. HAYDEN. Are you going to put that opinion in the record?

(It is made a part of this statement and annexed as Exhibit C.)

Mr. SWING. Yes. While I am on this question I want to add that the Mexican Government apparently has acquiesced in this interpretation of the treaties and no longer claims any right to object to diversions made within the United States. The report of Engineer Emeterio de la Garza, jr., on the Colorado River, made to the Mexican Minister Fomento, September 23, 1912, contains the following:

Every taking of water in the American territory diminishes the property which the nation has in the part of the river which traverses Mexican territory, and, consequently, causes an injury to the nation.

The Republic, however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory; thence, if waters have been taken decreasing the volume of the river to the prejudice of the Nation, the Nation has the right to close the door to the entrance of these waters into Mexican territory, because it does not have to lend itself to that which may injure it or result to its prejudice. [Italics mine.]

Mexico here claims exclusive territorial sovereignty, and that is the very statement that Judson Harmon used in support of our right to use the water, that so long as the water is in the United States we have absolute and supreme control and jurisdiction over it, and can make any disposition of it that we desire, and to say otherwise is to concede that the United States is not sovereign down to its

boundary line. What can be done in Colorado and Arizona can be done in the State of California. What difference does it make how far inside the United States you are, as to the operation of the law? If a thousand miles from the boundary line you can divert water from the Colorado River, 1 foot from the boundary line you can do the same thing, if American laws are equal.

As to the question of international law, as long as we are on this question, I will briefly read from a summary I prepared on this subject.

INTERNATIONAL LAW LAYS NO OBLIGATION UPON THE UNITED STATES TO FURNISH MEXICO WITH WATER.

The right of American citizens within the jurisdiction of the United States to appropriate and use American waters in accordance with the laws of the United States for the reclamation and improvement of American lands seems to following as a necessary corollary from the sovereignty of our Nation over its own territory.

Chief Justice Marshall, in *Schooner v. McFadden* (7 Cranch, page 136), said:

"The jurisdiction of the Nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power, which could impose such restriction."

"All exceptions, therefore, to the full and complete power of a Nation within its own territories must be traced up to the consent of the Nation itself. They can flow from no other legitimate source."

Attorney General Judson Harmon, in an exhaustive and conclusive opinion (21 Official Opinions, 274), holds there is no obligation imposed upon the United States, by international law, to restrain its citizens from making a beneficial use of American waters so long as said waters are within the United States. He held:

"The rules, principles, and precedents of international law impose no duty or obligation upon the United States of denying to its inhabitants the use of the water of that part of the Rio Grande lying entirely within the United States, although such use results in reducing the volume of water in the river below the point where it ceases to be entirely within the United States."

"The fact that there is not enough water in the Rio Grande for the use of inhabitants of both countries for irrigation purposes does not give Mexico the right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied, entirely within its own territory. The recognition of such a right is entirely inconsistent with the sovereignty of the United States over its national domain."

This view of international law has never been doubted or criticized by any American authority, and even the Mexicans recognize the force of it, and invoke this same doctrine of exclusive territorial sovereignty in their own behalf. As we have seen, Engineer Garza quotes with approval the opinion of Emilio Valazco:

"The Republic (of Mexico), however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory, etc."

Indeed, it would be a curious application of the principle of international law or the comity of nations or the doctrine of natural rights to deprive our own citizens of the means of life that it might be bestowed upon the citizens of another country. No authority has been found that holds that the proprietary country may not make use of the stream within its own territory that was necessary to maintain the comfort or life of its inhabitants. If this be not true, then the lower country would have control of the lives and property of the upper country. The fundamental principle of international law is absolute sovereignty of every nation against all others. If then our treaties with

Mexico put us under no obligation to furnish it with water, which is gathered wholly on our own soil, for its use either for navigation or agriculture, certainly no law of nations or law of right calls upon us for such a sacrifice. Humanity, common sense, self-preservation, all cry out against it.

Gentlemen, even if we wanted to continue to deliver the waters of the Colorado River into the control of Mexico, our Government, as a matter of public policy and in defense of its own interests, should insist on putting a stop to it.

Mr. HAYDEN. What was done with respect to the division of the waters of the Rio Grande between the United States and Mexico?

Mr. SWING. In 1906, in a treaty which is denounced in remarkable terms by Senator Thomas of Colorado—

Mr. TAYLOR. And by every other citizen of Colorado, I think. I know it was by me.

Mr. SWING. In that treaty the United States obligated itself to furnish to Mexico 60,000 acre-feet of water a year, and Congress was asked to appropriate \$1,000,000 to make good this treaty, and together with the \$9,000,000 furnished by the Reclamation Service with which they built the Elephant Butte Dam to supply 25,000 acres in Mexico. The treaty absolutely provides that it is not to be held, deemed, or construed as a precedent for any future cases, and I am told the people who negotiated it had the Colorado River in mind in making this reservation.

Mr. SMITH. Those cases are not analogous, because the Rio Grande River is the boundary line, and in this case the water is all taken out within the boundaries of the United States.

Mr. SWING. In the Rio Grande case it was proposed to take the water out inside the United States. One of the contentions that was made was that they had used the water 300 years in Mexico, long before it had been used in the United States. Senator Thomas made a speech on this subject, a very powerful speech, and almost every word of it applies to the situation on the Colorado River. In fact, in his concluding remarks he predicts that this situation would confront the Colorado River, which prediction was fulfilled. The speech was made on March 23 and 24, 1914, pages 5984 to 6006 of the Congressional Record. He winds up with this statement:

If the Government can take the waters of our State for a project like this, then it can enter into similar relations with Mexico concerning the peninsula of Lower California with reference to the waters of the Colorado River, and lay a like inhibition upon the States where the sources of that great river are found.

He quotes the opinion of Judson Harmon, and with your permission I will file the speech, because it contains Judson Harmon's opinion. (Opinion Attorney General Harmon found in appendix as "J.")

Mr. SINNOTT. Is that on the theory that the water belongs to the States?

Mr. SWING. No, sir; it is largely on the question of international law—that as long as the water is in the United States we can make any legitimate use of it we see fit.

Mr. EVANS. Suppose, owing to the diversion of water, those dams would break and there would be considerable damage to that territory; is there not a possibility of Mexico setting up a claim for damages against the United States upon the ground of the diversion and use of the Colorado River having caused damage from flooding Mexican soil?

Mr. SWING. If the dam should break on the American side?

Mr. EVANS. No; say, on the Mexican side. Owing to the fact that we are in agreement with them in some way, could they set up a claim?

Mr. SWING. It is just the opposite. Eighty thousand dollars' worth of claims are filed with our Secretary of State against Mexico because of the break that did occur in 1905-1906, which was the result of the action of the Mexican corporation in making an open cut to the Colorado River with the consent of the Mexican Government.

Mr. EVANS. It opens up a line of thought as to cases in which enormous damages might be claimed.

Mr. SWING. Mexico is liable to United States citizens because a Mexican corporation has maintained that dam and they have it under Mexican control. Mexico absolutely declares that Americans can not control that water on their side of the boundary, and that only a Mexican corporation can do that.

Mr. TAYLOR. That would be a matter for the league of nations to decide. [Laughter.]

Mr. SWING. I will refer to these two propositions just for a minute. I will say that before this bill was introduced I had a talk with Ambassador Fletcher. I explained our situation, and that we proposed to introduce a bill along the line of this one, and I said, "Now, will that embarrass you in your relation to Mexico in any way?" and we talked the thing over, and he said, "Go ahead with it; introduce it; we do not offer any objection." I prepared this brief on our international relationship, from which I have taken extracts, and took it around and filed it with the Department of Justice, Mr. Caldwell being the particular man to whom I was referred, and he read it over and he agreed with my conclusion.

In our treaties with Mexico the United States reserves to its citizens and the vessels of its citizens the free navigation of the Gulf of California and the Colorado River. Nothing was said about the citizens of Mexico or the vessels of citizens of Mexico. In fact, there were none there. There has never been a vessel in there that ever flew the Mexican flag; the navigation referred to is American. I got this out of Judge Burch's report, the kind of navigation that did go on there before the quantity of water was reduced by irrigation activities was the sort which consisted of tying a rope to a tree and using a pulley to drag themselves over a sand bar, and so in that sort of fashion navigating the Colorado River.

This first treaty, which is sometimes referred to as applying to the Colorado River, contains the following, in Article VII:

The River Gila and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico being, agreeable to the fifth article, divided in the middle between the two Republics, navigation of the Gila and of the Bravo below the said boundaries shall be free and common to the vessels and citizens of both countries.

Notice what rivers they are—the Gila and the Rio Bravo del Norte.

Mr. SINNOTT. What is the Gila?

Mr. SWING. It is a branch of the Colorado, which for a time was the boundary line, until the Gadsden Purchase. It says those two rivers shall be free to the citizens of both countries [reading]:

And neither shall, without the consent of the other, construct any works that may impede or interrupt, in whole or in part, the exercise of this right;

not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If for the purpose of making said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments. The stipulations contained in the present article shall not impair the territorial rights of either Republic within its established limits.

That is all relating to the Gila and to the Rio Grande, in this treaty called the Rio Bravo del Norte.

Mr. HAYDEN. That is the original treaty?

Mr. SWING. That is the original treaty.

That section, being Article VII relating to Gila and Rio Grande, was expressly repealed by the next treaty, that of 1853.

Article VI in the original treaty had this provision with regard to the Colorado River:

The vessels and citizens of the United States shall in all times have a free and uninterrupted passage by the Gulf of California and by the River Colorado below its confluence with the Gila; it being understood that this passage is to be by navigating the Gulf of California and the river and not by land, without the express consent of the Mexican Government.

This clearly distinguishes the Colorado River from the Gila or the Rio Grande. You see, they make two different kinds of provisions, one for the Colorado and the other for the Rio Grande and the Gila.

Mr. HAYDEN. Have we ever waived the right to navigate the waters of the Colorado River?

Mr. SWING. I think we have, by inconsistent acts and by voluntarily withdrawing all vessels from the river. There is no such thing as navigation for the Colorado River. We put a bar in there at Yuma, with no provision for navigation, when the Government built the Laguna Dam, and since the river broke through in 1909 it would be utterly impossible for a rowboat even to go in through there: there is no such thing as a channel, it spreads out over miles of country.

Mr. LITTLE. It still leaves the river there, does it not?

Mr. SWING. Well, you know in California we have rivers above ground and rivers below ground. That is true also in Mexico, I understand.

Mr. EVANS. I have heard about flowers without perfume, but I did not know about rivers without water.

Mr. SWING. In the Gadsden treaty, proclaimed in 1854, article 4 provided as follows:

The provisions of the sixth and seventh articles [which I have heretofore read] of the treaty of Guadalupe Hidalgo having been rendered nugatory for the most part by the cession of territory granted in the first article of this treaty, the said articles are hereby abrogated and annulled and the provisions as herein expressed substituted therefor.

Now, we have wiped the slate clean, and there is nothing that applies except what I am going to read to you now:

The vessels and citizens of the United States shall, in all times, have free and uninterrupted passage through the Gulf of California to and from their possessions situated north of the boundary line of the two countries. It being under-

stood that this passage is to be by navigating the Gulf of California and the River Colorado and not by land without the express consent of the Mexican Government; and precisely the same provisions, stipulations, and restrictions, in all respects, are hereby agreed upon and adopted, and shall be scrupulously observed and enforced by the two contracting Governments in reference to the Rio Colorado, so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty.

Mr. LITTLE. I want to go on record to the effect that we could not waive that right to the navigation of that river, just so that it will not look as though we had admitted that we could have done so.

Mr. SWING. Now, that is all as to the Colorado River—this reservation for the vessels and citizens of the United States and the agreement to treat it jointly alike, each observing identically the same provisions, stipulations, and restrictions as to that part which constituted their common boundary.

The following is a new paragraph of the same article of the Gadsden treaty in relation to the Rio Grande alone :

The several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall remain in force only so far as regards the Rio Bravo del Norte below the initial of the said boundary provided in the first article of this treaty.

It is thus provided that the Rio Bravo del Norte or the Rio Grande shall be open to the vessels of both countries, but as to the Colorado River the only provision is a reservation to the citizens and vessels of the United States.

Mr. HAYDEN. The reason for that omission was that Mexican citizens and vessels had a right to navigate the Colorado River because the navigable part of it from the Gulf of California to the mouth of the Gila was then wholly in Mexico; they did not need an express agreement.

Mr. SWING. And now Mexico has acquiesced in the obstruction of the navigation of the Colorado River, so far as they are concerned, by this concession, by authorizing a Mexican company to cooperate with an American corporation, to divert from the Colorado River in the United States 284 cubic meters per second, or 10,000 second-feet of water, and also authorized the same Mexican corporation to divert from the Colorado River in Mexico an additional 10,000 second-feet of water.

That they knew what they were doing is shown by the report of their engineer, De la Garza, made to the Mexican Minister of Fomento, and dated January 23, 1912, wherein he says:

The most reliable data which we have to date for estimating the division of the water is that the river carries 442 meters per second, and with this data I compared the quantity of water which the concession gives, that in article 1 authorized the company to pass through the Mexican territory 284 cubic meters per second of the water which it takes in the American territory, and in article 4 authorized the same company to take another 284 cubic meters per second from the Mexican territory—that is, to take in the aggregate below Yuma in both territories 568 cubic meters per second; and, as we have seen before, all the Colorado River only carried 442 cubic meters per second, so that all the water of that river is not sufficient to satisfy the concession; therefore I said at the beginning that my attention was called to the quantity of water which was being taken from the Colorado River and conceded to the company.

The conditional part which appears in article 4—that the 284 cubic meters taken from the Mexican territory shall be without prejudice to navigation—can be converted into an affirmative, in my judgment, for, with the 284 cubic meters in the Mexican territory, the Colorado River would remain completely

without water and absolutely destroyed forever for navigation from the California boundary line to the Gulf of Cortez. [Italics mine.]

Mr. HAYDEN. How did you obtain a copy of Engineer Garza's report?

Mr. SWING. From our agent in Mexico City.

Mr. HAYDEN. Then, it is a public record in Mexico?

Mr. SWING. I take it that it is, virtually.

As I say, our country itself has long since proclaimed the public policy of putting just as much of the Colorado River as possible to a beneficial use for irrigation and agriculture; and it is the proud boast of our Reclamation Service that it, together with various private enterprises, have progressed so far that when they have fully completed their projects they will consume the entire natural flow of the Colorado River during low season.

Mr. TAYLOR. Not only that, but we have enormous withdrawals of water from the Colorado River in Colorado. The county of the Grand is all withdrawn; actually a whole county in my State is withdrawn as reservoir sites to increase the waters of the Colorado River; and they expect to dam up what is known as War Canyon, which is a canyon just like the Royal Gorge, 1,500 feet straight up, and they have put a dam in there, and when completed it will cover the city of Kremmling and two or three other towns 100 feet deep under water, and they say it will ruin the whole county, but it is the finest reservoir site in the world, and it will increase the flow of the Colorado River enormously in that country. But they are holding up the development of that project just now.

Mr. SMITH. I was called out of the room for a moment, and you may already have furnished the information I desire; but I desire to propound one or two questions, and if you have answered them, you need not repeat.

The first question is, In what manner has Mexico, or have those representing the interests of the company owning land in Mexico irrigated from the Colorado River made formal demand that their alleged rights to these waters be respected?

Mr. SWING. Not at all, that I know of.

Mr. SMITH. Well, you have been introducing a lot of testimony here that would indicate that there has been some dispute raised as to whether or not Mexico has a right to those waters.

Mr. SINNOTT. Well, members of the committee have asked those questions about that.

Mr. SMITH. Well, Mexico, or those people owning the lands down there, do not make the claim that their rights to these waters be respected, do they?

Mr. SWING. No formal protest has ever been made that I know of, except the one made in 1901, that I have referred to. Of course, they doubtless will make an effort to hang on to a good proposition from their point of view.

Mr. SMITH. Well, do you concur in the opinion expressed by others before this committee that those owning lands in Mexico irrigated by the Colorado River have been instrumental in influencing the Federal Land Bank to refuse loans on lands in the Imperial Valley?

Mr. SWING. I have no information on that, as I have not kept in touch with the land bank situation, except that when I heard of the

report I wrote and tried to get a copy of it; and I received a reply stating that it was true, but they did not furnish me with a copy of the report, which was made by a Denver engineer, Mr. Whistler.

Mr. HAYDEN. Mr. Chairman, would it not be well for us to address a letter to the chairman of the Federal Farm Loan Board requesting that a copy of that report be sent to the committee?

The CHAIRMAN. Yes; I think so.

Mr. SWING. As I said and as I have attempted to show, the United States Government is not under any obligation, by treaty or contract, to permit or to continue to deliver water into Mexico any longer than it is to its advantage to do so, and if it or the district can find a better route, they are at liberty to use it.

Mr. SMITH. That fact is not disputed by those people in Mexico or by the Mexican Government, is it?

Mr. SWING. I have never heard of any dispute about it.

Mr. WELLING. Well, I submit that if they did dispute it, they would not dispute it through this committee; they would dispute it through the diplomatic channels of the country.

Mr. SMITH. Yes; but they appear not to have done so.

Mr. SWING. As long as they have the physical control of the water under this concession, they can irrigate large quantities of land; and, as I have stated, there are upward of 800,000 acres of land in Mexico that can be reached from this system. We feel that these Mexican unclaimed lands menace us like a great sponge, which threatens to absorb more and more water, until such time as they will take all of the natural flow of the river. They are worth reclaiming to the man who has control of them. They have cheap labor down there, and they have got our water, and there is nothing to prevent them going on and on; and when the time comes and the actual conflict arises, we would be compelled to resort to a Mexican court to claim even the benefits of that very unjust concession. If you throw us back upon that as our only remedy, then you will find this thing happening, that the Mexican courts, in support of the needs of Mexican lands from which they derive a revenue, will declare this concession forfeited, for one reason or another, and they will take all the water or as much as they see fit.

Mr. SINNOTT. What do you mean by "unjust concession"?

Mr. SWING. The Mexican concession to the Mexican corporation, already referred to, which gives them one-half of the water, while they pay but a fraction of the cost of getting it.

Mr. TAYLOR. And even if they are entitled to get half they can cut your part further down?

Mr. SWING. They can cut us further down. And I ask this question: Is our Government to stand idly by and complacently watch foreign lands develop by sapping the life out of an American community when the remedy is easily within its reach, without cost to the Government of a single dollar? We are here simply asking for the chance to live.

The recent war proved that divided loyalty and divided allegiance meant disaster, yet under present arrangements our international complications are such that our irrigation system must recognize two masters. The part that is American is subject to the supervision and direction of the California State engineer; that part lying in Mexico is subject to the supervision and direction of the

Secretary of Fomento at Mexico City and his duly appointed agents. We have to submit to those authorities the plans and specifications of any work to be undertaken. The State engineer of California will say, "Yes; do that, because it will benefit the Imperial Valley"; but the inspector for Mexico may say, "No; do not do that; that will put the canal down too deep in the ground, beyond the point where the landowners in Mexico can get water out." The possibility of conflict of authority is always present.

The Imperial irrigation district is the largest irrigation project in the United States. In the past three years, since it took over the system, it has expended in excess of \$2,000,000 per year.

For successful operation of such a large enterprise it should have a highly centralized organization, yet to comply with Mexican laws that part of the system lying in Mexico must be owned and operated by an independent organization. It is true the district controls the Mexican corporation through the ownership of the stock, but the dual organization at the best is cumbersome, unwieldy, and inefficient, causing waste and extravagance, and is productive of costly and dangerous delays. We have to submit the plan of the work both to Sacramento and to Mexico City and to await approval before the work is done or to consider the possibility of being fined under the Mexican law, and sometimes the work is very urgent.

The canals and works, forming, as they do, one complete and indivisible system, it is imperative, on account of its size, that it should be administered under one head, with central control.

But as intolerable as the present dual management is, Imperial Valley stands in constant danger of the complete severance of the Mexican part of the system. The concession granted in 1904, which Mexico holds to be still operative, prohibits any foreign State or Government becoming interested in the concessionnaire company; and yet the Imperial irrigation district, a legal subdivision of the State of California, whose officers are declared by the State supreme court to be public officers of the State, is now holding the entire capital stock of this Mexican company, and it has got to hold it in self-defense; and as bad, as unbearable, and as intolerable as the situation is, there is one thing that could be worse, and that would be to let go of it. It is like having a mad dog by the tail, and not daring to let go. We do not like it, but we must hold on in self-defense. And they can come in at any time they want to, in my opinion, and raise that question.

It is a fact that \$10,000 in gold was deposited in Mexico City as a guaranty to complete the system. The system has now been completed a good many years, and we are entitled to the return of the money; but the Imperial irrigation district dares not demand the money. It is just like putting up a \$10,000 incentive for them to find the fact to be that we have violated the concession, and so cause a severance. So, rather than resort to a severance of the system they have just let the \$10,000 go.

If Mexico should decide that this is a violation of the concession—and Mexico has never approved of the concession—a complete severance would follow. The effort of the two parts of the system to proceed along independent and probably conflicting lines would signalize the final and complete break-down of the whole irrigation system, and the probable destruction of Imperial Valley.

In the face of this impending disaster, the people of the valley are compelled to meekly submit to any and every demand and exaction of the Mexican Government, as well as those of its petty officers, no matter how unreasonable or unjust, and no matter how heavy or how burdensome they may be. New taxes are levied and collected, apparently, according to the exigencies of the Government—and the exigencies seem both frequent and great.

Mr. HAYDEN. Do you pay duty on materials taken into Mexico to repair the levees?

Mr. SWING. We pay a duty on everything; we pay duty on the rock that we take in there to protect their own lands; they charged us \$25,000 on the very rails over which we haul the rock that we take in there to protect them. And when we go to pay them their charges, if we do not pay in gold, and there has been no gold there in the last few years, they discount our money at 7 per cent.

Mr. SINNOTT. When did you send those rails in there?

Mr. SWING. Two or three years ago.

Mr. SINNOTT. Did you ever ask our Government for any assistance in a diplomatic way?

Mr. SWING. Not upon that proposition; but I appeared before the State Department upon a proposition of securing a waiver of duties on material for protecting the levees. I saw the Solicitor for the State Department.

Mr. SINNOTT. Mr. Breckenridge Long?

Mr. SWING. No; Mr. Baker. And he said, "If you want us to make representations to Mexico City, I will do so. It is reasonable and it is right, what you ask; and I would make representations in the matter to any other nation in the world with confidence of their being granted; but I will tell you in advance that the mere expression to Mexico of the fact that this Government is interested in this proposition and asking that it be granted as a favor would insure its being denied."

Subsequently, I received a letter sent through Ambassador Fletcher in which the Mexican officials said that it was without their power to grant the request.

We have also from time to time had "favors" asked of us, i. e. of the Mexican corporation, which it would have been very undiplomatic to have refused. We were invited at one time to build a road of a certain length in Mexico. We are not in the road-building business, and are under no obligation to build roads, yet we built the road.

At another time certain Mexican tenants down in that section above Volcano Lake who were growing cotton wanted the use of the railroad on our protective levee to haul their cotton. If the cotton came out, the Mexican Government would get \$12 or more a bale duty on it. We were requested to grant these cotton growers the favor of hauling the cotton out. We were then busy raising the protective levee; we were not in the freight-hauling business; it was a private road built for protection. And yet, as a matter of diplomacy, and because we knew the situation could become worse, we granted most graciously the favor requested, interrupting the building of the levee to haul cotton out.

The real injustice of the present arrangement is that it throws the great burden of the upkeep of the system entirely upon the American farmer, while giving the Mexican lands first claim to the water. The

Mexican lands pay about one-third as much per acre for water as the American lands. On both sides of the international boundary line the water user pays 50 cents per acre-foot for his water, which goes toward paying the general running expenses of the system; it does not completely pay them.

But on the American side the farmer, in addition to this, pays \$2 per acre a year and up to his mutual companies to maintain the distributing system, and last year paid \$3.25 per \$100 assessed valuation to the district. The Mexican landowner pays nothing that is the equivalent of this tax.

Last year the American lands paid into the district \$750,000 in taxes, which was used to pay interest on bonds; the money from the sale of the bonds having been used to make permanent improvements, most of them in Mexico, and to make general improvements during that year in the system. Most of these improvements were made in Mexico, and were just as vital to the Mexican lands as to the American lands; and yet the Mexican landowner did not contribute one cent to this cause.

Somebody asked Mr. Davis if he knew what the attitude of the Mexican landowner was. I will tell you: We were preparing last year to spend \$500,000 in raising those protecting levees in Mexico. It occurred to some one that we had never asked the Mexican landowners to contribute; it was said we had condemned them unjustly. "Why, they are Americans; they are good fellows; they will do the right thing. Let us ask them to voluntarily contribute something, because this work will benefit their lands." And one of the directors made the trip, with the consent of the rest of the board of directors, to Los Angeles to see the head of the corporation owning the most land, and asked what amount he thought the Mexican lands would contribute toward this protective work. And when he asked him how much they promised, he said, "Not one cent."

Since that time the American people of the Imperial Valley, by a vote of 5 to 2, have ratified the contract to build the all-American canal. Since that has been ratified Harry Chandler, of the Los Angeles Times, appeared in the office of the Secretary on the Interior, and in general words said, "Count me in on anything like the improvement of the Colorado River." That was the same Harry Chandler who told one of the directors of the Imperial irrigation district that there was nothing doing, when it came to their bearing any portion at all of the cost of protective work to protect his own lands. They will only do what they have to do, and this American canal is necessary before we can get any just settlement.

Do you know that they charged us for the right of way for the land on which we built these canals and for the borrow pits from which we get material for the protective works to serve their own lands? If this bill is passed, gentlemen, there is a probability that we can get together with those fellows; they will be just as reasonable as it is necessary to be and no more.

Mr. HAYDEN. Aside from Mr. Chandler, who are the other American citizens interested in this land?

Mr. SWING. The Cudahy people are one interest.

Mr. TAYLOR. Do you mean the Cudahy Packing Co.?

Mr. SWING. Yes; it is called the Imperial Development Co. down there.

Mr. TAYLOR. Who else?

Mr. SWING. The Southern Pacific Railroad Co.

Mr. BARBER. No; that is the Southern Pacific Land Co.

Mr. TAYLOR. It is a subsidiary company of the Southern Pacific Co., is it?

Mr. SWING. Yes, sir.

Mr. BARBOUR. Yes: the Southern Pacific Co. operates the railroad and the Southern Pacific Land Co. owns the land.

Mr. SWING. Then there is an English syndicate down there.

Mr. HAYDEN. Does that syndicate have any representative in the United States?

Mr. SWING. I met Col. McLean here.

Mr. TAYLOR. Who is Col. McLean?

Mr. SWING. He said he represented this English syndicate.

Mr. TAYLOR. Is he an Englishman?

Mr. SWING. He talked like one.

Mr. HAYDEN. And who else?

Mr. SWING. Well, the Colorado River Land Co.; and they have another organization, too, but controlled by the same people: they own a great quantity of land through there. There are about 20 small landowners.

Mr. EVANS. You are speaking of Mexican lands now?

Mr. SWING. Yes, sir. When I say "small landowners" I mean 2,000 or 3,000 acres each. There are about 20 small owners in there holding lands that were subdivided; but outside of that it is mostly owned by the Otis-Chandler Syndicate.

Mr. EVANS. I did not understand your statement about those people not paying their share of the cost. Would not those people be liable in a lawsuit for not maintaining the protection works and holding their water together?

Mr. SWING. If so it would have to be in a Mexican court; what is done down there is done by authority of the Mexican Government. That would be a very poor remedy.

Mr. LITTLE. Is it not a fact that this corporation which is distributing the water down there could quit business without being subject to any penalty?

Mr. SWING. Exactly. It is just like a street railroad; so long as it operates it must observe the conditions of its franchise; but whenever it desires it can quit, and the concession will only be forfeited.

Mr. TAYLOR. Has not our Government guaranteed or has not that private corporation agreed it would furnish water, and could they not be required to do it?

Mr. SWING. Absolutely not: there is no American corporation now existing which has any legal obligation, or has ever contracted to deliver water.

Mr. LITTLE. The acquisition of water rights does not include any duty by which a man must keep on supplying water?

Mr. SWING. No, sir. It is a "rake-off," if you gentlemen know what I mean by that. [Laughter.] It is a duty on the transportation of water through Mexico—paid not in cash, but in water.

Mr. TAYLOR. It is just handing them half of your water on a silver platter, as I see it.

Mr. LITTLE. If you do not go through there, you do not owe them anything.

Mr. SWING. Exactly. And on the other hand, the American lands have put into the irrigation system, through the district organization in excess of \$7,500,000—\$6,000,000 in bonds and \$1,500,000 raised in direct taxes—all of which has been used—\$3,000,000 to purchase the system, and the balance to improve it and add to it. The Mexican lands, which get the greater benefit from the resulting works, paid not one cent of this.

The American farmers put up all the money for buying the system, for building 36 miles of new canals and works in Mexico, which make possible the reclamation of over 100,000 acres of new land in Mexico, for constructing the annual temporary diversion wiers to get the water out of the river, and for building a fleet of dredges to get the silt out of the canals and keep them open; and in return they get what water the Mexican lands do not use or waste. The American farmers suffer and have to prorate their water in times of shortage; the Mexican lands are never short. This condition is becoming more aggravated every year. So much for the Mexican situation.

Now, the Yuma situation I will discuss as briefly as I can. If Mexico threatens us from the south, just as grave a danger exists for us on the east, where the Yuma project threatens to prevent us from getting any water at all out of the river. The circumstances are these:

In 1909 the Colorado River, at a point about 20 miles south of the California boundary line, broke through its west bank and began flowing down the Bee River into Volcano Lake. The fall toward the lake was much greater than the grade of the old bed of the river toward the Gulf, and the river at once started scouring and cutting down its bed. The recession of grade continued steadily upstream until it finally reached our heading, lowering the bed of the stream to such an extent that it became and is now impossible to get water out of the river and into our canal in low-water season without the aid of a weir or diversion dam.

The Federal Government undertook to put the river back in its old channel, which would have restored the bed to its former elevation and would have left us free to get the water without the use of this weir.

Mr. HAYDEN. What is the nature of the works at the intake?

Mr. SWING. It is an immense structure. These two photographs at the top [indicating card containing photographs] show the present intake structure, which we built at an expense of about \$300,000, and \$200,000 more to connect it with the old canal. This [indicating photograph] represents Hanlon headgate, which was abandoned, and which is now used merely as a check should the river break into the canal, which parallels the river. [Passes photographs among members of committee.]

Mr. LITTLE. Does the same corporation which owns that system own the new one?

Mr. SWING. Yes, sir; it is the Imperial irrigation district, which the people own.

Mr. LITTLE. Would it avoid any possible complication to have two different corporations own the different systems?

Mr. SWING. I do not think any complications follow.

Mr. LITTLE. Well, I do not know that they would.

Mr. SWING. I say the Federal Government undertook to put the river back in its old channel. I do not want you to think that I am ungrateful to our country. But the fact is we received no benefit from this work. This money was expended, of course, and the spirit in which it was expended is appreciated; but the results were nothing.

Mr. LITTLE. When was the first water taken to the Imperial Valley?

Mr. SWING. In 1901.

Mr. KETTNER. When was the first water taken into Yuma?

Mr. SWING. Do you mean through the Yuma system?

Mr. KETTNER. No; I mean through this.

Mr. SWING. I think that was about 1911 that the siphon was completed and put in use for carrying water from Laguna Dam to the Yuma project.

The dam that the Government built was breached in 1911, the very year that it was completed, and the river has run right through it ever since.

The CHAIRMAN. In what year was that new passage made by the river?

Mr. SWING. The river broke in 1909, and the work was prosecuted down to 1911; then they pulled up stakes and left.

Mr. HAYDEN. The first break was closed in 1906.

Mr. SWING. That was by the Southern Pacific; the Government never put in any money on that.

The CHAIRMAN. When that work was done, was it deemed adequate to meet the danger?

Mr. SWING. No; the Government work was a complete failure.

The CHAIRMAN. The Government simply gave up the remedy—gave up the job.

Mr. SWING. Yes, sir. It was recommended by the President the year following that they renewed the undertaking; but, largely through inability to get anywhere with the Government of Mexico on an agreement to let our country go down there and spend the money, they finally gave it up; and it appeared that it was not as dangerous as it was at first thought to be.

Mr. LITTLE. How far is it from the California State line to the Gulf of California?

Mr. SWING. About 60 miles, I believe.

Mr. SMITH. If this all-American canal is built, will it be necessary to build the levees above Volcano Lake to protect the lands of the Imperial Valley?

Mr. SWING. They must be maintained; yes, sir.

Mr. SMITH. In that case, you would have to get a permit from the Mexican Government, would you not?

Mr. SWING. Well, I can not imagine anybody refusing to allow you to improve their property.

Mr. HAYDEN. They have not refused heretofore, but they have penalized you.

Mr. SWING. Yes; they profit two ways; first, the protection derived from it when completed; and, second, the taxes and duties they collect while the work is going on. They collect duties on the material that goes into the protection work. We have had as many as 500 men down there working, and all at once a crowd of Mexicans will show up and claim that the night before there was a head tax im-

posed and the company must pay it; the men do not pay it; the company must pay it; the men will not stand for holding it out of their pay.

Mr. ROSE. There is a \$5 tax on mules, in addition to the tax on men, is there not?

Mr. SWING. Whatever they can tax; yes.

Mr. SMITH. When you speak of your company, do you mean the irrigation district?

Mr. SWING. Yes; the Imperial irrigation district.

The CHAIRMAN. Is it the local governor who imposes these duties?

Mr. SWING. It is a very interesting situation. Whichever one you are talking to, it is always the other one who has done it; he says, "I am your friend, and I will try to get it cut down." With these Carranza people and the others, it seems to me, it is a game of catch-as-catch-can; each one is trying to get all he can out of the Americans.

Mr. LITTLE. Do they get any of the proceeds of those taxes in Mexico City?

Mr. SWING. Yes, sir. The understanding seems to be that the right to local taxes is with the local government, and the right to general taxes and duties rests with the general government, and each one is free to take what he can in his own field.

Mr. BARBOUR. And Cantu is supposed to be the best governor they have?

Mr. SWING. Yes.

Mr. WELLING. Is Mexico supplied with water from this system?

Mr. SWING. Yes; absolutely. And as to Volcano Lake levee and the suggestion that Mexicans might cut it, you might just as well suggest that they would cut their own throat. The very first place hit would be Gov. Cantu's capital; and the whole city of Mexicali would be wiped out; it is hanging right over the edge of New River now. The last person that would permit that levee to be broken would be Gov. Cantu and his Mexican officers.

Mr. LITTLE. As a matter of fact, if you neglect this project, the project will continue; you are not going to tear the whole dam down, are you?

Mr. SWING. We have put about \$7,000,000 in the Mexican system; they can have it, with out blessing; so they can not say that we have done them an injury.

Mr. TAYLOR. Is there any way by which we can make them pay for it?

Mr. SWING. Not that I know of.

The CHAIRMAN. The dam that you have built in there is on the American side, is it?

Mr. SWING. Yes, sir.

The CHAIRMAN. And you have done much for the damming of the river?

Mr. SWING. Yes, sir; lots of money has been spent on it.

I was just explaining to you, in connection with this work on the Bee River, the progressive backing up and increasing deeper and deeper each year, as the river worked back past our headgate, so that in short season it was and is impossible to get water without the aid of a diversion dam.

The people of Imperial Valley have done all in their power to meet this new problem. In 1916 they employed the best consulting engineers they could get—Mr. George G. Anderson, of Denver, and Mr. C. E. Grunsky, of San Francisco—and, on their recommendation, voted and have since expended \$2,500,000 in constructing a new reinforced-concrete intake, 6,000 feet upstream from their old gate, building dredges to lower the bed of their canal, and, in general, altering and improving their system in an endeavor to meet the new conditions.

Here [indicating] are photographs of 5 dredges; in addition to those there are 5 others. We have a fleet of 10 dredges, which we have operated in endeavoring to meet this altered condition.

Mr. KETTNER. May I ask Mr. Swing a question?

The CHAIRMAN. Certainly.

Mr. KETTNER. This new work was undertaken and the services of these engineers were secured by the district so as to be able to comply with the wishes of Yuma, were they not?

Mr. SWING. For the very purpose of so arranging our canal system that we could get water without the necessity of using a weir in the river, because Yuma was objecting to it, and we were just as anxious as they to avoid the use of it, because it is an uneconomic waste to put up a \$100,000 weir one month and a few months later blow it up with dynamite. And these engineers recommended in their report that if we voted \$2,500,000 and expended it in accordance with their recommendations, we would be able to get all the water we wanted without any artificial diversion; and we believed them. But we found that engineers could be mistaken.

The CHAIRMAN. What year was that?

Mr. SWING. They were employed first in 1916, in September. The district only got possession of the system on June 20, 1916. The old board was recalled in September and the new board went in in September, and the same month that they went in they hired these two engineers, and in the same month they made their report. And then the district started out to get the petition to authorize the bonds, and it took five months to get the petition signed—you have to get the consent of 51 per cent of the landowners—and in August they sold the bonds, and following that work was started in December, 1917, and they pushed it in every way they could, trying to get that thing into shape, thinking that they would be out of Yuma's way when this thing was finished, and they spent money lavishly to accomplish that end.

Mr. WELLING. We have been told time and again that the only engineers who made mistakes were the Government engineers; that private engineers never made a mistake.

Mr. SWING. Your question needs no answer. But I simply want to show you that we tried in good faith, and we put up our hard-earned money trying to meet this condition. We were laymen, and we had to take the advice of engineers, and we got the best engineers we could on the Pacific coast and we did just what they told us to do and we found too late that they were mistaken; the new works have proven inadequate.

Mr. HAYDEN. The structure at the intake was of reinforced concrete?

Mr. SWING. Yes, sir.

Mr. HAYDEN. And the bed of the river having lowered below the floor of the intake, there is no way to get the water into it?

Mr. SWING. Yes, sir. They figured that the river would soon cease to scour its bed because of the silting up of Volcano Lake and consequent lessening of the grade of Bee River. Instead of that it went right on digging that channel. When they started to build this immense structure the top section part was 12 feet below the surface of the water, but by the time they got through they were not able to get water into it.

As I stated, it is still necessary to put in these weirs each summer in order to get out sufficient water to save the crops in the Imperial Valley. These weirs are built under a permit from the War Department, and subject to the supervision of an engineer of that department. The Imperial irrigation district puts up one bond of \$25,000 to the War Department as a guaranty to remove the weir when ordered to do so and another bond of \$500,000 to the Interior Department and to the Yuma County Water Users' Association jointly as a guaranty that we will pay for any injury to any property of the United States or to any settlers on the project resulting from the construction of the weir or its maintenance.

Mr. LITTLE. Who required you to give that bond?

Mr. SWING. The War Department directly, upon representations being made to them by interested parties.

Mr. LITTLE. I was asking the other day if they had done anything else to you.

Mr. SWING. Pictures of these weirs are shown here [indicating photographs], and I wish you would look at them. They explain why Yuma is afraid of them, and why the cost us a lot of money.

These weirs are built by first constructing a trestle or bridge across the river. On this bridge is laid a railroad track over which trainloads of rock are run out over the river and dumped until the water is raised high enough to flow into our canal. Before the high-water season, the trestle is removed; and on notice from the United States Weather Bureau of rising water, the dam is blown out and demolished by the use of great quantities of dynamite. It costs the district in excess of \$100,000 annually to build and destroy these weirs.

To this procedure for getting our water Yuma most strenuously and vehemently objects, as constituting a menace to their valley. They contend that the putting of large quantities of rock in the river each year, although widely scattered when the dam is destroyed, will in time build up a bar in the bed of the river, constituting such an obstruction as may cause the river, during high water, to break in on their valley. They also claim that the weir, by holding up the water elevation in the river, causes the water table under their land to rise, to the injury of their crops.

The people of Yuma earnestly believe that the construction of these weirs threatens the life of their project, and to this extent are interested in the passage of this bill, which is the only way we can remove the danger to them.

They are also interested, as I said this morning, in this contract which was made with the Secretary of the Interior, which gives them cheap hydroelectric power to be developed by this canal, for

the purpose of raising the water 80 feet onto their mesa, 40,000 acres of which, I think Mr. Davis said, they hope to open this fall.

To make their objection more pointed, they have secured a temporary injunction from the Arizona courts, prohibiting our irrigation district from constructing these weirs; and while this has been modified from time to permit the building of weirs during the war, they now threaten to make their injunction permanent. I will file a copy of this injunction and papers relating to it and ask to have them made a part of the record.

(Papers found in appendix as Exhibit F.)

Mr. HAYDEN. And also a copy of your last War Department permit, please.

Mr. SWING. Yes, sir.

(Papers found in appendix as Exhibit F.)

Mr. SMITH. What court granted that injunction?

Mr. SWING. It is the superior court of the county of Yuma, State of Arizona; and after the injunction was issued, which was right at the time we had to get the weir built, they compelled us to stipulate that the trial of the case when it came on should be conducted and concluded in their local State court, and should not be removed to the Federal court.

Mr. SMITH. And you had to make that concession?

Mr. SWING. We submitted to the jurisdiction of their Yuma court, by stipulation, as the price of getting the weir put in at that time.

Mr. HAYDEN. The jurisdiction of the State extends to the median line of the stream, does it not?

Mr. SWING. Yes, sir.

Mr. HAYDEN. The Arizona authorities can not prevent any obstruction beyond the California line which is the middle of the stream; that is, it could only go halfway across?

Mr. SWING. Yes, sir.

Mr. SMITH. Is it not an unusual thing to have a stipulation of that kind entered into and not have the privilege of appealing to a higher court?

Mr. HAYDEN. The landowners under the Yuma project were in a desperate situation, and wanted protection.

Mr. SWING. We were also in a desperate situation and wanted water.

The CHAIRMAN. You signed it, and it is valid?

Mr. SWING. It is valid, in our opinion and that of our attorneys. So we know what they mean when they say that they intend to make the injunction permanent, because it being in their own courts we do not doubt their ability to get favorable court action. But both the Interior Department and the War Department concur with the Yuma project in their attitude. They have served formal notice upon the Imperial irrigation district by letter, copies of which I will file and ask to be made part of this record, in which they say that unless we make real progress in getting away from the place where we are and eliminate the necessity for the temporary weirs—and it is just because of the failure of the Ockerson levee that we have to use them—they will refuse us any further permits to build these weirs.

(Letters found in appendix as Exhibits H and I, respectively.)

And then along comes the Federal farm-loan bank, which says, "Because of this uncertainty of your getting water out of the river when you need it the worst, due to the objection of the Government and of Yuma your country is unsafe for investments, and we will not make you any loans," and all private investors took notice of that, and our bonds became unsaleable. One branch of the Government objects to our getting water where we are because it endangers the Yuma project. Yet when we try to get the money to move our intake to another place we find another branch of the Government has made it impossible for us to finance the change by declaring that we have an uncertain water supply, because the first branch of our Government is threatening to prevent our getting water where we are. We can not stay and get water and we can not move because we can not get the money. Only you can help us, and we ask your assistance.

I will now show you various proposed remedies which do not solve our problem: Imperial Valley has one of the best water rights on the Colorado River, its filing or appropriation under the laws of California having been made in 1899; yet it is helpless to protect itself against junior and subsequent appropriators. Any court would recognize the right of the valley to the full amount of water that it has been putting to a beneficial use for the last 18 years. But no American court would take cognizance of the quantity of water used in Mexico. So what would it benefit Imperial Valley if it got a favorable decision for the quantity of water which it has been using in Imperial Valley if on the way home from the court they were held up and robbed of half of it; and that is exactly the situation we are in. We have got a right to so much water, but we can not get home with it, because we are robbed of it on our way through Mexico.

In a way Imperial Valley has been made to feel the pinch of necessity through the admirable activity of the Reclamation Service and through private irrigation schemes up the river. This is no criticism. I wish, with other American citizens, to pay due respect to the enterprises up the stream. But when you start discussing how much or how little water there is at the point where we take it out, remember that not we alone have diminished the flow of water in the river; it has been diminished also by many other projects.

As I just pointed out, so long as we remain in Mexico we are unable to get the benefit of our legal rights to the waters of the Colorado River. For the same reason, so long as we remain in Mexico we can not better our position by undertaking storage because if we begin building storage we must build enough for everybody on both sides of the international boundary line, and that is too great a burden even for the Imperial Valley. If we built storage, we would have no way of policing the stream and preventing upstream diverters from taking all they need. So, too, in Mexico, for the concession provides that Mexican lands are entitled to their needs "up to one-half of the volume of water passing through said canals," no distinction being made between the natural flow and stored water. There are upward of 800,000 acres of land in Mexico which can reach our canals, and if we want to reclaim this empire in the United States, which contains 900,000 acres, by storage we would have also to provide storage for 800,000 acres in Mexico and to pay for it.

With regard to the purchase of Lower California, personally I have no objection to our country buying it, if our officials think that is the thing to do. But I do object to their saying they are doing it on behalf of Imperial Valley, because it will not solve our problem. It will leave this 800,000 acres to claim the benefit of it, a drag upon our system; and, in our opinion, the purchase of Lower California without building this canal would have the effect of vesting those lands with a water right which they do not now possess.

Mr. HAYDEN. That is, provided the treaty contained the same terms relative to property rights as the treaty of Guadalupe Hidalgo?

Mr. SWING. Yes, sir.

The CHAIRMAN. In that event, do you not think the Government would have to indemnify you?

Mr. SWING. We are not in a position to make the Government do anything.

Mr. LITTLE. If they put a great burden on your Imperial Valley corporation, the Government would have to indemnify you, would they not?

Mr. SWING. I doubt if I can make anybody else believe that.

Mr. LITTLE. You have got one man to believe it to start with.

Mr. SWING. Thank you. However, from the President's recent statement and from my knowledge of Mexican public opinion, I do not anticipate the early acquisition of Lower California. With regard to a treaty with Mexico, a treaty with that country to settle the water problems on the lower Colorado River has been discussed ever since Roosevelt was President, and from the information I have received from our State Department it will in all probability continue to be discussed for years to come before it is ever realized.

Why should Mexico want to treat us for meeting the problems of the lower Colorado River? They are eminently satisfied with the situation as it is. Their reply to us is, "Gentlemen, we have nothing to discuss." And why should we want to undertake to discuss a treaty with the conditions as they are? They hold all the cards in their hands. Any treaty which we undertook to negotiate at this time would be upon the basis of the status quo or the conditions as they are. We want a treaty negotiated on the basis of conditions as they will exist after the completion of the all-American canal.

And I say to you gentlemen that if you want to perform a service for your country pass this bill. Then your diplomats will have something to trade upon in a treaty with Mexico. The way it is now what can you expect them to gain for you and your country and your constituents if they approach Mexico in the attitude of a man with his hat in his hand?

Behind that map on the wall is a picture, dated 1907, made by the United States Reclamation Service, and on it is a black line drawn across from the Colorado River to the Imperial Valley, and it is marked "All-American canal route." That was the plan of the Reclamation Service in 1907. When Mr. Smythe appeared before the Arid Lands Committee in 1904 he declared that the all-American canal, in his opinion, was feasible and urged Government control of the Imperial Valley irrigation system. It has been on the program ever since, and eventually it is going to be built, because that land is valuable, and the United States Government wants to see its public domain reclaimed and put to productive use. Yet, if the Government

waits and then later builds a canal by itself to reclaim your own land, gentlemen, it will cost you within two and a half million dollars as much to build such a canal to reclaim that land outside our district as it would cost to build the canal now of sufficient size to reclaim all the land both within and without the district. That is the report of the board of engineers, that the difference between building a canal of capacity sufficient to serve either just the lands inside of the district alone or just the land outside of the district alone, is only two and a half million dollars less than to build a canal big enough to reclaim all the lands. Therefore it is economy, both to the district and to the Government, to now join hands and cooperate and do this thing now when it is needed and when it will do the most good and when it can be done most cheaply.

Such a canal would give the present irrigated land in Imperial Valley an adequate source of supply of water. The present canal, aside from the fact that it is located in a foreign country, is only a makeshift, an old watercourse adopted in the beginning as a temporary expedient because of lack of funds of the promoters. It has an unscientific grade, too great in places, where it scours and digs up its bed, too slight in others, where it deposits its scourings and silt, necessitating maintaining a fleet of dredges to remove the silt.

The canal is too small for present demands, which demands are increasing each year. A new canal would soon have to be built anyway in order to serve the larger needs of the district. This would cost millions of dollars itself.

Mr. EVANS. How much would the Colorado River reclaim, on the average, if it was all used, which it will be?

Mr. SWING. I can not answer that question. I am limited in my knowledge of the engineering situation. But I will say this: I heard an eminent engineer, who had long been acquainted with the Imperial irrigation district and who had been once in charge of it, himself say that 50 per cent of the water taken in at our intake was lost in Mexico by use, seepage, and by evaporation before it got back to the American boundary line.

The present canal wastes a high per cent of the water it carries through seepage and evaporation. In places its banks are poorly defined and the water spreads out for miles in lagoons and sloughs, resulting in great losses, which ought to be saved and which could be saved by a properly constructed canal.

The new plan will give us the advantage of the Government desilting works and so solve one of our expensive problems, and largely do away with the necessity of maintaining a fleet of dredges, 10 now being operated for that purpose.

It is feasible from an engineering point of view, as shown by the joint survey already made by the United States and Imperial irrigation district.

It is feasible financially. The \$30,000,000 which it costs is now backed by \$100,000,000 worth of assets, representing the present reclaimed portion of Imperial Valley. These values themselves will be greatly increased upon the completion of the all-American canal as a result of the feeling of increased confidence and security resulting from having a permanent diversion and having our system all

on American soil. Also this canal makes possible the reclamation of 500,000 additional acres now too high to be reclaimed. When reclaimed this new land will be as productive and as valuable as any in Imperial Valley. On the basis of irrigating 900,000 acres, which is the report of the board of engineers, the cost would be less than \$35 per acre.

The 400,000 acres now under cultivation produced in excess of \$30,000,000 annually. The other 500,000 acres when fully reclaimed will produce no less. It is surely a good financial proposition which will preserve and continue an existing annual production of 100 per cent of the investment required, and at the same time add a new and additional production also of 100 per cent per year on the investment.

The construction of the canal is feasible, legally, as there is no treaty or other obligation which binds either the United States or the district to continue to carry its water through Mexico if a better route can be secured.

The Imperial irrigation district has made all necessary arrangements to begin this great undertaking up to the point of financing it. On October 23, 1918, a contract was concluded with the Secretary of the Interior settling the terms on which the district might use the Laguna Dam and auxiliary works. The district is to pay the Government \$1,600,000 for the privilege. A joint survey costing \$45,000—\$30,000 paid for by the district, \$15,000 paid for by the Government—has now been completed. Work can be begun at once as soon as we get the money.

Mr. WELLING. Have you a copy of that contract?

Mr. SWING. It is included in this pamphlet I have filed with you.

Mr. LITTLE. What could you afford to pay the Yuma people?

Mr. SWING. I do not think the Government would recognize any contract we might make with Yuma to use the dam and canal, the title to which the Government claims.

Mr. LITTLE. The Government could.

Mr. SWING. Their canal as it stands has a capacity of only 1,800 second-feet. That is the constructive capacity.

Mr. LITTLE. Would it not be cheaper to enlarge that and unite the two projects?

Mr. SWING. The Government claims the structure, and they fixed the terms and conditions upon which they will permit us to use the Laguna Dam at \$1,600,000.

Mr. KETTNER. And the whole structure costs \$1,700,000?

Mr. SWING. Yes, sir.

Mr. BARBOUR. Have they said that?

Mr. SWING. Yes, sir. That is all water that has passed under the bridge. We had to go up there. We have to get away from where we are; we had to accept any terms they might impose.

Mr. LITTLE. Is that what you are going to pay them?

Mr. SWING. That is what we are going to pay them.

Mr. WELLING. That does not go into the Treasury of the United States. It goes to the credit of the Yuma project, does it not?

Mr. SWING. I do not know. Our job is to find the money and deliver it to the United States, and we are going to do it.

Mr. LITTLE. The Government is going to charge you \$1,600,000 for getting water out of the Yuma Dam?

Mr. SWING. Yes, sir.

Mr. BARBOUR. As a permanent proposition?

Mr. SWING. We buy an easement in the works, the right or privilege to use the works; yes, sir.

Mr. LITTLE. Would it not pay you to let the land lapse back to the Government and take it out again?

Mr. SWING. We have got it, and we like it, and we want the chance to stay with it. We do not want to be dried up, and if we can stick there, we will pay anything the Government says, and we will not argue about it. We think they have the best of the argument.

This contract, as I say, absolutely settles the terms satisfactorily to the Yuma people, and we have agreed to it.

Mr. SINNOTT. Why did they say it was reasonable for you to pay within \$100,000 of the cost of that structure?

Mr. SWING. Mr. Davis is not here and I do not like to quote him. I do not know whether you, Mr. Hayden, were in Mr. Lane's office or not when the matter was being discussed. Mr. Davis said, in effect, "There is no reason why we should sell something that is profitable for less than it is worth. Some work we have done has not been profitable; we can not get returns out of it. If we can get returns out of this, we ought to do it. It is a good business proposition." That is about the statement he made.

Mr. BARBOUR. I read here that you pay \$1,600,000 merely for the right to connect on to the Laguna Dam.

Mr. SWING. Yes, sir. That is it exactly.

Mr. WELLING. The title to the dam remains in the United States?

Mr. SWING. Yes, sir.

Mr. KETTNER. I hope the committee will not overlook the point that while the Imperial Valley people will have to pay \$1,600,000 only to connect with Laguna Dam, that is, within \$100,000 of its cost, the Government reserves the right to irrigate this 200,000 acres that they reclaim in case this committee passes this law in addition to that.

Mr. SWING. Yes. This is just for the land inside of the district. If any other project is formed outside of the district and it wants to use the Laguna Dam, it must go up and make such terms and pay such prices as they and the owner of the dam may agree upon.

Mr. WELLING. I want to get some information for myself from the chairman or some other member of the committee who understands irrigation law—I do not understand much about it. As I understand it, the total cost of each one of these projects we have established in the country is assessed against that particular project.

The CHAIRMAN. You are right about that.

Mr. LITTLE. They did not assess this dam against the Yuma project. They only charged \$100,000 against it.

Mr. WELLING. The total cost of the Yuma project, dam and all, is assessed against the Yuma project?

The CHAIRMAN. That is right.

Mr. WELLING. And the farmers under it have to pay for it. Now, what I want to get at is this: If the Imperial irrigation district relieves the Yuma project of \$1,600,000 of its indebtedness, is that going to be subtracted from the amount collected by the Government from the farmers of the Yuma project?

Mr. HAYDEN. That is the understanding which the farmers of the Yuma project had at the time this all-American canal contract was

entered into by the Secretary of the Interior with the Imperial irrigation district. The representatives of the Yuma Water Users' Association appeared before Secretary Lane and said: "We are charged with the total cost of the Laguna Dam." My recollection is that it cost much more than \$1,700,000, but whatever the sum was they said, "If we are to share the use of that dam with the Imperial irrigation district, whatever sum they pay for such use should be deducted from our reclamation charge."

Mr. WELLING. In other words, the Government should not charge them both for it?

Mr. HAYDEN. Certainly not. So the Secretary of the Interior agreed that the sums paid by the Imperial irrigation district for the right to connect with the Laguna Dam should be credited to the Yuma water users.

Mr. LITTLE. Who fixed the amount?

Mr. HAYDEN. The Secretary of the Interior.

The CHAIRMAN. Just the same as where there are several units under one large project, you develop one unit first, and if you develop more units they would all be attached to that one unit, and if you develop another unit of equal size it would be equally divided and reduce the cost of the first, and if you extend the project over a greater area and create new units you will still diminish pro rata the tax levied.

Mr. HAYDEN. The only interest of the United States is that there shall be a return to the reclamation fund of the sum of money heretofore expended in building the Laguna Dam. It is immaterial to the Government whether that money comes from the people of the Yuma project or not, so long as the full amount is repaid.

Mr. LITTLE. Who fixes the basis? On what theory is it fixed?

Mr. HAYDEN. My recollection is that the total cost of the Laguna Dam, the head gates and sluicing works in connection therewith, and the canal which would be used in part by the Imperial irrigation district, aggregated about \$2,000,000, and that the Imperial irrigation district was to be charged for the larger part of this cost, based upon the proportional irrigated area between the two projects. I shall verify my recollection of the facts and bring them to the committee.

Mr. TAYLOR. I want to ask Mr. Hayden a question. When the Yuma project was completed it was known definitely by the Government then how much they had to charge A, B, and C and other buyers on that project per acre for land to pay for the project?

Mr. HAYDEN. Yes, sir. And public notice was issued saying "Your charge shall be so many dollars per acre."

Mr. TAYLOR. After the Government has liquidated \$1,600,000 of that indebtedness on the project by selling it to the Imperial irrigation district, is it going back to the purchasers of land under the Yuma project and say to them, "Now, we have reduced the price of this project by \$1,600,000, and it will reduce the price of your lands so much, \$5 or \$10 an acre"?

Mr. HAYDEN. The Secretary of the Interior has agreed that as the money is paid in by the Imperial irrigation district the annual construction charge on the Yuma project shall be reduced by that amount. It is easily prorated per acre, and that is as it should be.

Mr. TAYLOR. Let me say that there are some people who want to add to one of our Colorado projects on the south side of the Grand River, and Mr. Davis said to them the other day that the Reclamation Service will charge them \$300,000 for connecting with the dam that is built in the Grand River right below where I live.

Mr. LITTLE. What did the dam cost?

Mr. TAYLOR. I do not know what it cost, but I think he charged them about one-third.

Mr. SMITH. The gross construction cost of the Yuma project is \$9,000,000.

Mr. SWING. I do not mention that to make any point out of it. I simply say that, in our opinion, it appeared to us at the time that it was more than a pro rata charge for what we were getting. But we made no objection at all at any time, and we do not now. It is a question of getting somewhere, and the Secretary says, "I assess you so much." We said, "All right; we will pay." And I say that is all water that has passed under the bridge. We have no choice. We have to go there.

We recognized the Yuma prior water rights up to one-fourth of the water in the river, arranged the question of the division of the power, so that Yuma gets cheap hydroelectric power, practically at cost, and we are now ready to go ahead, except for the question of finances. Mr. Davis said they have just completed the final report on the survey, and they are now ready to commence work. I want to correct him in one respect. He said \$30,000. It is \$45,000 which was expended upon this survey, \$30,000 having been put up by the Imperial irrigation district and \$15,000 by the Secretary. That is found on the first page of the pamphlet on file. That does not make much difference, but it is just that much more detailed and a much more carefully made survey.

As I said, it is now largely a question of finance, and the Imperial irrigation district, as Mr. Davis correctly says, can not swing that big a financial proposition by themselves.

Twenty years ago, as you men from the West know, the irrigation idea ran away with people. As at one time before banking laws were perfected there was wildcatting in banking; you and I know that 20 years ago there was wildcatting in irrigation projects. Those wildcat propositions have brought grief to many people and have put fear into the investor, so that anything that is now marked "water bond" or "water district bond" or "irrigation district bond" finds a very slow sale and cold market in the Eastern States by men who have in the past suffered through such investments.

It is a fact that you may say there is nothing in a name, but there is something in a name. The school bonds and the municipal bonds of the Imperial Valley sell to careful bond buyers who investigate the assets back of the proposed bonds. They have sold at a premium, very high, since Imperial Valley has been on the map. And yet when you offer irrigation district bonds, and they are named, it seems to depress them in the market.

The laws have since been perfected, but still we have found little market for our bonds outside of the State of California, and that is a limited market where it would be impossible to absorb a bond issue of this size.

Then, too, in our particular buyer looks at the case the bond map and sees from a glance that our water is delivered by us out of all physical and legal control and possession; not only the water but the works are out in a foreign country, and a foreign country whose reputation for stability is not very good. That decries at once our credit and depresses the market for our bonds, as you can very readily see. This and our annual controversy with Yuma and the Government over our diversion gives our bonds a black eye.

And the additional fact, if anything additional were needed, was the decision of the Federal farm-loan bank to withdraw from Imperial Valley. While it was not made public in the sense of publication, yet you know how those things pass among financiers through the underground railway. I found that all the financiers of the Pacific coast knew of it before I did. And it makes it impossible for us to float any considerable amount of bonds such as those.

In conclusion, I say that the construction of the all-American canal is absolutely necessary. It is necessary if we are to get our irrigation system out of a foreign country and under the protection of a stable government, if we are to get it out of Mexico and under the Stars and Stripes. It is necessary if the Imperial irrigation district is to be permitted to conduct its affairs on a business basis with an efficient organization and central management. It is necessary if 60,000 people and crops on 400,000 acres are not to be left dependent upon an uncertain intake, but are to have an adequate supply of water based upon a permanent diversion. It is necessary if we are to end our annual controversy with Yuma, which threaten either to destroy their country or our own. It is necessary if the United States is ever to undertake the reclamation of 500,000 acres of land now too high to be irrigated from any existing canal or from the district's intake, fully one-half of which is unentered public land now worthless, but with water could be made into homes for 100,000 people. It is necessary if our Government is going to save an entire American community from ruination and prevent its very life being sapped out by a foreign country. It is necessary if you are going to save Imperial Valley from the menace of 800,000 acres of foreign land which threaten to drain our canals of water and leave our homes and farms to divert to the desert.

The all-American canal must be built, gentlemen, and we have the necessary assets, we have the potential wealth, but it is difficult, if not impossible, for us to realize the cash upon them without your assistance.

You can do this thing for us, you can make a success of this great undertaking, you can free 60,000 American citizens from the domination and tyranny of Mexican control, you can remove from Yuma a menace that threatens their project. You can give to Imperial Valley an adequate and permanent source of supply of water and remove the constant threat of their drying up and reverting to the desert. You can make possible the reclamation of a veritable empire and turn a half million acres of worthless desert into one of the most productive communities in the world. You can prevent the spoilation, by foreign lands, of a sturdy American community and make secure for all times to come the right of American farmers to use American water on American soil for the making of American homes.

You can do all this, gentlemen, without the cost to the United States Treasury of one single dollar. You can do it by merely saying to the financial world, "We have confidence in those people and in their country."

Is that asking too much, gentlemen, on behalf of a people who on their own resources, and God knows how small they were, by their pluck and courage, and God knows how great these were, with indomitable spirit and determination fought the forces of nature, and God knows how hostile they were, fought and conquered and won for themselves and for their posterity and for the American people forever an empire rightly and truly named Imperial. Before the advent of these hardy pioneers this country was known as the land that God forgot. Since they reclaimed it and made it what it is the popular author, Harold Bell Wright, in his novel, *The Winning of Barbara Worth*, refers to it as "the land God holds in the hollow of His hand." Will you give just and fair recognition to these people for what they have done? Will you help them to hold what they have won? Will you help others to reclaim these outside lands and make new homes for thousands of people and add another empire to our Nation's resources.

In the name of these people whom I represent, in the name of thousands who desire a chance to earn a home for themselves, in the name of what I conceive to be right and just, I ask your favorable action upon this bill.

Mr. SINNOTT. I want to ask a few questions. What is the present indebtedness of the irrigation district?

Mr. SWING. \$6,000,000.

Mr. SINNOTT. What is the assessed valuation of the property?

Mr. SWING. The Imperial irrigation district's assessed valuation is about \$25,000,000. It assesses only land, and it assessed that at the highest rate, \$50 an acre; from that down to \$5 and \$1. The market value will average \$150 per acre.

Mr. SINNOTT. What is the aggregate?

Mr. SWING. I think \$25,000,000 is the aggregate, according to their last assessment. This is on the land only within the district. The proposed project will embrace more than 900,000 acres.

Mr. SINNOTT. Have you tried to sell bonds sufficient to construct this all-American canal?

Mr. SWING. No, sir. We have not actually voted or undertaken to put them on the market. We have made tentative inquiries.

Mr. SINNOTT. How long would it take to construct this all-American canal?

Mr. SWING. Mr. Davis answered that question this morning. I think he said three years.

Mr. SINNOTT. You were going to explain your purchase and control over that canal here. Did you do that?

Mr. SWING. Yes, sir; through the ownership of the stock of the Mexican Co.

Mr. SINNOTT. I wish you would explain what justification there is for giving the Imperial district the preference right to the water under section 12.

Mr. SWING. I think it is the law, based upon prior appropriation and use, and it is common, ordinary justice to those people who went down there when the odds were all against them, who tried out this

periment at the time the United States Government itself, in a published pamphlet, declared it was doomed to failure, who risked everything they had, put the best part of their lives into it, to try it out, and now, having won, I say it is not fair nor just to say to them, " You have got to divide it with somebody who comes in after having waited for you to try out the experiment." There is only one place I know of where it says a man who comes in at the eleventh hour shall be made equal unto the first, and that is in the Bible; and, as you remember, it was there denounced as unjust, resulting in the first labor strike in the history of the world as a protest against it.

Mr. SINNOTT. How much water will be needed to irrigate the district, and how much water will the canal carry?

Mr. SWING. The all-American canal?

Mr. SINNOTT. Yes. There will be a great surplus of water there over what you need?

Mr. SWING. Yes; there is no question about that. I can only refer to that in general terms, but it will be later presented very completely. I know this; I know the times when we were needing water it was running past our intake, and if we could have gotten it we could have used it. I know that even after that we wasted it and lost it through this poor canal system in Mexico.

Mr. SINNOTT. Of course, according to the contention of some, we will have to predicate any legislation that we pass upon the proposition that we are going to improve Government land, and there is a lot of Government land there to improve, as I have been informed, in the east and west mesa. A serious objection might be made to giving the Imperial district the preference right to the water over this public land upon which we will have to predicate this legislation.

Mr. LITTLE. Is there any analogy between assisting you and giving all these land grants to the railroads that were built out in the West?

Mr. SWING. I think there is some analogy.

Mr. LITTLE. If that was justifiable, do you think this would be, even if there was not any public land?

Mr. SWING. I do.

Mr. EVANS. What is your expectation of the increase in population, acreage, and security?

Mr. SWING. Inside of the district?

Mr. EVANS. Yes; acreage and security?

Mr. SWING. The existing security will be greatly enhanced, and 500,000 additional acres will be added. I can say most conservatively that the district is not 50 per cent developed, in my opinion. The holdings will, by natural process, be subdivided. If the all-American canal is built, the population of Imperial Valley will doubtless be tripled in the next 10 years.

Mr. SMITH. Are there any large farms in there now, farms of a thousand acres?

Mr. SWING. There are a few, probably a half a dozen. Of course, I am leaving out this large syndicate in the north end, which is selling land on the market as fast as it can in quarter sections and half sections.

Mr. SMITH. It has thirty or forty thousand acres?

Mr. SWING. Yes.

Mr. HAYDEN. If you have accurate figures as to the amount of State land, railroad land, Government land, and land in private ownership, particularly the land in private ownership, it will be highly desirable to place them in the record.

Mr. SWING. I will be very glad to do that.

Mr. TAYLOR. We want to have the data there to answer any charge of land grabbing, or speculation, or benefiting some large landowners, real estate jobbers, and all that sort of thing.

Mr. WELLING. I would like to ask you the present estimated cost of water per acre in the Imperial district?

Mr. SWING. You mean the cost of the system to the land?

Mr. WELLING. Perhaps I do not state it correctly. We buy our water right for an acre of land up in our State. Do you own it down there?

Mr. SWING. It is a dual proposition; yes, sir. They first pay from \$20 to \$30 an acre for what they call a share in these mutual water companies.

Mr. WELLING. What is it worth now?

Mr. SWING. It is worth that.

Mr. WELLING. \$20 to \$30 a share?

Mr. SWING. Yes, sir.

Mr. WELLING. That is a primary charge, and then there is an annual charge each year?

Mr. SWING. Yes, sir.

Mr. WELLING. What is the annual charge each year under this project now?

Mr. SWING. \$2 an acre. This is to the mutual water companies.

Mr. WELLING. I mean the total cost to the farmer. If I had a farm of 40 acres, what would I have to pay for the use of the water for a year?

Mr. SWING. I will have to give it to you in two sections. The first charge is from \$20 to \$30 per acre for what we call water stock in the mutual water company, and \$2 an acre per year assessment on that.

Mr. WELLING. I want the annual maintenance.

Mr. SWING. Then, in addition to that, his land is bonded by \$6,000,000 worth of Imperial irrigation district bonds, and in addition to that he pays an annual irrigation-district tax. This last year was \$3.25 per hundred, which would be \$1.62 per acre.

Mr. WELLING. Can not somebody tell the aggregate cost per acre of annual rental?

Mr. TAYLOR. How much does the farmer have to pay in cold cash a year?

Mr. ROSE. They pay 50 cents an acre-foot for that water, and on the average use about 3 acre-feet of water per acre per year, which amounts to \$1.50. That is the water charge. In addition to that, they have the maintenance of their system, which averages about \$2 per acre per year. That gives you \$3.50. Then, in addition to that, you have about \$1.50 to \$1.65 irrigation-district tax, which runs it up to about \$5 or possibly \$6 per acre per year.

The CHAIRMAN. The tax mentioned by Mr. Swing is paid on the bonds. That is paying the bonds off. And the bonds represent the \$20 an acre which was the cost of the permanent water right.

Mr. ROSE. No; that \$20 was paid the mutual water company in cash.

THE CHAIRMAN. Not the permanent water rate, but the substitute for it.

MR. ROSE. The bonds represent the purchase of the system and the improvement of the main system. We have two separate systems, the diverting system, operated by the district, which brings the water from the river to the valley, and the distributing system, operated by the mutual companies, which delivers the water to the farmers. The \$2 per acre per year represents the maintenance of the distribution system and is paid to the mutual companies, and also 50 cents an acre-foot for 3 acre-feet of water per year, or \$1.50 water charge, together with the \$1.625 paid to the irrigation district as interest on bonds and for the maintenance of the diverting system.

MR. WELLING. I want to know this: How many people are there there, or are all the people there, satisfied with the project, and can they live under a project that charges them \$6 a year in annual maintenance charge per acre?

MR. ROSE. Yes. They could live under it if it were \$10 or \$12 a year, if they could get their water, and do well. There are approximately 60,000 people living in Imperial Valley now.

MR. WELLING. Have the engineers submitted an estimated cost—I mean now the initial cost per acre under this enlarged project—providing all this colored section of the map comes into your project?

MR. ROSE. They have an estimate on the main canal, and that would be \$33 per acre, which would amount to about \$1.65 interest per year per acre, and the outside lands they would have to pay for their own distribution system, as we did on the 500,000 acres inside, they would have to build their mutual water companies system.

MR. WELLING. The twenty-five or thirty million dollar all-American canal would represent a cost of an additional \$30, did you say, per acre?

MR. ROSE. About \$33 per acre.

MR. WELLING. Have the engineers given any estimate as to the annual maintenance charge per acre of that land under the all-American system?

MR. ROSE. They have not. In discussing the matter they have, of course, figured that it would really decrease our maintenance charge, because it would relieve us from maintaining that old river bed through Mexico and give us a good, well-built canal, provide a means for desilting the water by sluicing methods and so eliminate the necessity for maintaining a fleet of dredges, 10 in number; it would also do away with the cost of building and maintaining the temporary weirs in the Colorado River—some \$100,000 per year.

(Thereupon, at 4. 55 o'clock p. m., the committee adjourned.)

**COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,**
Monday, July 14, 1919.

The committee met at 8.40 o'clock p. m., Hon. M. P. Kinkaid (chairman) presiding.

THE CHAIRMAN. Director Davis, there was something you had in order to complete your statement, was there not?

STATEMENT OF HON. ARTHUR P. DAVIS, DIRECTOR OF UNITED STATES RECLAMATION SERVICE—Resumed.

Mr. DAVIS. Yes; Mr. Chairman, at the convenience of the committee I have one or two little things that I would like to speak of.

Following my testimony on Saturday last the attorney for the Imperial irrigation district took issue with one of the opinions that I had expressed concerning the wisdom of building this so-called first leg of the canal from Laguna Dam to Pilot Knob without having assurance that the all-American canal would be built, and I expressed the opinion that it would be a wise move, and from that he differed and I thought it only fair to give the reasons for my opinion. I have no criticism to make of the difference of opinion because he is entitled to his opinion as I am to mine.

Mr. SINNOTT. From Laguna Dam to where?

Mr. DAVIS. To Pilot Knob.

Mr. SINNOTT. At the present intake?

Mr. DAVIS. About there, right about there [indicating on map], where the canal strikes the Mexican line.

When I was in Imperial Valley, I think, the last time I was there—and if I remember rightly it was the autumn of 1916—possibly Mr. Swing can correct that date, but I remember it was in the autumn anyway—various people interested in the valley told me that they had suffered from shortage of water that year, and the estimates of the losses due to the shortage of water varied in my hearing—in discussions by people who were acquainted in the valley—all the way from five to twelve million dollars, and some very good judges said they thought there was no doubt but what the losses of crop that had been planted and cultivated were at least \$7,000,000 that year. That was sufficient, or about sufficient, to make the connection between the Laguna Dam and Pilot Knob, which would have assured them the water supply. The only reason that water was short was because they couldn't put it into the canal. By bringing it to Pilot Knob it would be on a high line and could be dropped into the Imperial Canal, no matter how badly the canal is silted up. It would have to go back into the valley because there is nowhere else for it to go. If they diked it off from the river it couldn't go back there. They had a dam in the river then just as they have had since, and that dam was breached a few times, I think, and of course when it breached they were short of water. The head of the canal had silted up so that when the canal was in full commission they couldn't get a full canal, and if they had had the connection they would have been saved, and that, you see, pays for the connection in one year. Now, if they could pay 10 per cent per annum that would be a good investment.

Mr. SINNOTT. What would be the cost of that connection?

Mr. DAVIS. About \$7,000,000. That is, roughly speaking.

I don't want anything that I have said or that I will say to be construed in any kind of opposition to this bill, because I am very heartily and very strongly in favor of its passage, and I can not too strongly commend the general spirit and intent of this bill, but I am here to give the facts, and so far as pertinent, opinions, and when they are attacked, of course, I want to give the reasons therefor in fairness both to you and myself.

Mr. HAYDEN. A question of fact was raised the other afternoon. The statement was made by Mr. Swing that the cost of the Laguna Dam was \$1,700,000, and that the Imperial irrigation district was required to pay \$1,600,000 for the privilege of connecting with it, implying that they were to pay within \$100,000 of the entire cost. I stated at the time that I was sure there were other features connected with the works at Laguna which would be of use to the Imperial irrigation district, which ran it up to a much larger sum of money. I wondered if you had the figures as to what those features cost and on what basis the division was made whereby the Imperial irrigation district was required to pay \$1,600,000?

Mr. DAVIS. Yes, sir; I am glad that came up, because I would like to explain it. The same thing has been stated at other times, and I had about a year ago occasion to make a showing before the department on that point.

At page 67 of the Sixteenth Annual Report of the United States Reclamation Service you will find a tabulation of project costs from the books of the Reclamation Service. Of the items that are there tabulated there are properly chargeable to this feature that we are talking about, either in whole or in part, seven items, and I will read them as to the total of each item and the amount charged in this \$1,600,000:

Examination and surveys, \$172,544.80, of which are charged to this feature, \$25,000.

In the preliminary work there is a charge of \$167,514, and only \$5,000 of that is charged to this feature.

The diversion dam at Laguna between the abutments, \$1,749,041.32. Of course, that all has to be charged to this feature because it doesn't relate to any other.

The headworks, sluiceways, gates, etc., \$352,334.25. That feature has to be divided, because not all of it is available for use for the Imperial Valley. The sluiceways are available on the California side; on the Arizona side they are not charged in at all, and the gates are not charged in at all, because additional gates will have to be installed for the valley. Only \$75,000 of these items were charged to the common account.

The lands, right of way, buildings, etc., on the project cost \$173,153.09, of which only \$33,000 is charged to this feature.

Of the telephone system, costing a total of \$12,175, only \$2,000 is charged to this feature.

Of unadjusted accounts for plant, machinery, etc., amounting to \$200,910.18, only \$90,000 is charged to this feature.

Summary of items common to Yuma project and Imperial Valley.

Item:	Cost (round figures).
Examination and surveys (part)-----	\$25,000
Preliminary work (part)-----	5,000
Dam between abutments-----	1,750,000
California sluice works (part)-----	75,000
Lands and buildings-----	33,000
Telephone system (part)-----	2,000
Plant accounts (part)-----	90,000
Total to be prorated between Yuma project and other lands-----	2,000,000

Such a statement necessarily involves some estimate. Fundamental costs are from Reclamation Service books, but some of these must be prorated between various features of Yuma project, just as the total here given is prorated between the project and Imperial Valley. The division is considered liberal to the new lands and a higher figure could readily be defended.

Mr. SINNOTT. What do you mean by this feature?

Mr. DAVIS. The Laguna Dam and accessories.

Mr. SINNOTT. Is that charged to the district? Do they have to pay for that? When you mention "this feature" you meant what?

Mr. DAVIS. Laguna Dam and the headworks. That is the works that will be of common benefit to the Government project and Imperial Valley, footing up \$2,000,000, in round numbers. Most of those items, all but one of them, had to be prorated, and different judges will differ as to just exactly what pro rata to charge to the Laguna Dam or to feature that is used by the Imperial Valley, but the benefit of every doubt was given to the Imperial Valley and a total of \$2,000,000 was necessary to prorate between the people using that dam, the Imperial Valley, and the Yuma project. The Yuma project in its completion is estimated to cover 120,000 acres. There are 586,000 acres, I believe, in the Imperial district, not all of which is irrigable, but certainly over 500,000 acres are irrigable, so that there is more than four times as much land irrigable in the Imperial district as there is in the Yuma project, and they are charged just four times as much; that is, they pay four-fifths according to the contract.

But that is not the whole story. The charge of \$1,600,000, which is made in the contract to the Imperial district, is spread over a period of 20 years and in graduated payments, and its present worth is less than half of that amount. On a commercial basis it would cost the district more than three times as much as the charge against them if they had to put in their own dam, headings, sluice works, and everything, and we don't consider that an oppressive charge, especially as they never have taken any of the risk of the dam washing out or anything. It has had 10 years' trial now, and they have never taken any of the risk or never assumed any of the uncertainties connected with the early history of that dam. They are given a tried product at cost just about divided by two; that is, on terms that amount to only half the cost, practically.

Mr. SINNOTT. Four-fifths of the \$2,000,000 would be \$1,600,000. That is the way you arrive at it?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. I don't think there is any complaint, Mr. Davis, about the amount at all that you fixed. I think they just wanted to get in the record the basis upon which you determine it.

Mr. DAVIS. Yes, sir; that is my purpose in reading this.

Mr. TAYLOR. Now, Mr. Davis, as to the quantity of water in the Colorado River, do we understand that the amount there is sufficient to warrant this expenditure to irrigate this new land without storage reservoirs?

Mr. DAVIS. No, sir.

Mr. TAYLOR. And if not, how much do you contemplate expending on the storage reservoirs, and how many different reservoirs, and what can you say about the storage feature that you fear will be necessary, and how large and to what extent? Give us a statement, if you can, on that matter.

Mr. DAVIS. The contract between the Imperial irrigation district and the United States provides for a certain payment for connection with the Laguna Dam, and other things, and provides also that lands outside of the Imperial district may be given this same privilege, and the money which they pay for that privilege shall be devoted to the construction of storage works. That is the contract between the district and the United States, so that the east mesa and the west mesa—whatever lands are taken in addition to the Imperial district under this—will pay what the Secretary of the Interior may determine is a just charge for the similar privileges, and that money will be devoted to the construction of storage works.

In this bill there is a proviso that the public land that is to be taken in, mostly on the east mesa, may be sold at \$10 per acre. The Secretary has recommended that the term be used "not less than \$10 per acre," so that it may bring more than that. He also recommends that the proviso be made that the moneys received from the sale of that public land be expended in storage works, invested in storage works.

So, with those two together, there is ample provision. Both are very rough and neither can be figured accurately at the present time, but I am satisfied that if this legislation is passed in the way recommended by the Secretary of the Interior, that the storage feature will be taken care of, both in the interests of the present Imperial irrigation district and the Yuma Valley, as well as to a greater extent the interests of the new land that demand this storage, because if 300,000 or 400,000 acres of additional land is put under irrigation without storage it will threaten the water supply of the whole valley, because we all know the pressure that comes upon anyone getting water to help out the fellow that is short.

Mr. TAYLOR. You don't contemplate that this entire proposition will in any manner interfere with whatever appropriations of water there may be on the Colorado River and its tributaries already developed, do you?

Mr. DAVIS. Absolutely not. My position is—and I do not understand it to be questioned or combatted at all by any of the Imperial Valley people—that no diversions, either heretofore or hereafter to be made on the Upper Colorado River that do not take the water out of the basins are really antagonistic to any material extent to the interests of the Imperial Valley and the Yuma project. Representing the Yuma project on behalf of the Government, which is interested in that, I take that position on its behalf, and the same thing applies to the Imperial Valley.

Mr. TAYLOR. Are there any irrigation works in use from the Colorado River in the State of Nevada?

Mr. DAVIS. There may be on tributaries of the Colorado River, but very small amounts.

Mr. TAYLOR. Most of it comes from Wyoming, Colorado, and Utah?

Mr. DAVIS. Yes, sir; very little of the water of Colorado comes from Nevada, but there are some tributaries there from which a little irrigation is done. But the use of water on the headwaters, so long as the water is not taken out of the Colorado River basin, and so long as it is not stored during the low-water month is as beneficial as it is harmful. In the long run, I think it will be beneficial

to the extent that it can be done on the lower lands, because the season of high water is May, June, and July; the highest water of the year comes in those three months, and irrigation will begin in May in those upper regions when there is plenty of water for everybody and a surplus for storage usually, and continue at an increasing extent during June and July.

Now, those months are months of abundant water and will not deprive the lower valley of its water supply because there will be plenty for everybody, and that land irrigated profusely in those months of high water will begin to yield return seepage, as a rule—it nearly always does—and in considerable quantity, and that will come in later, one, two, three or four months later, and it is true that there may be irrigation in August and September on those upper branches that would divert water that otherwise might get down to the lower river and has been appropriated. But roughly speaking that will be very nearly compensated for by the return seepage from the application in May, June, and July, and then when the month of October comes, which is really the lowest water month in the Imperial Valley and in Yuma, they don't irrigate at all in those upper valleys and there will still be this return seepage which will help them out at the time of the year that they need it the worst. So, I figure there is certainly no antagonism between irrigation in the upper valleys and irrigation in the lower valleys, provided—always provided—that the water is not taken out of the basin and kept out; and provided also, that storage reservoirs are not built and used for storage during the low-water months. They should store their water during the high-water months.

Mr. TAYLOR. There isn't very much possibility, is there, Mr. Davis, of their taking the water away from that watershed?

Mr. DAVIS. The Reclamation Service is doing it in one instance.

Mr. TAYLOR. Of course, Denver has got a little bit that they run down from the head of the Colorado River, which is the Grand up there, and they run down 20 miles and take a tunnel into Denver.

Mr. DAVIS. That is very insignificant.

Mr. TAYLOR. That is very small.

Mr. DAVIS. Yes; there are no large opportunities that I know of for diverting water from the Colorado basin. The only one of any consequence has already been carried out by the Reclamation Service. That is in Utah; the storage of water from the head waters of the du Chene and Strawberry Creek, where the water is taken through the Wasatch Mountains, in a tunnel into Spanish Fork Valley.

The CHAIRMAN. Let me ask if I am correct in the inference that if the all-American canal were constructed without any reservoirs being constructed at the time, if the water supply would be sufficient so long as the public lands were not developed, not irrigated? That is, sufficient for just what is now being used within the Imeprial Valley?

Mr. DAVIS. No, sir; it would not be—oh, for what is now being irrigated?

The CHAIRMAN. Yes.

Mr. DAVIS. Yes, sir; there would be water enough. They have never been seriously short of water there due to lack of water in the river. There have only been two years and for short periods in those two years when all the water has been taken out of the river.

The CHAIRMAN. Then it is mainly because it is contemplated that the remaining public lands, unentered lands, ought to be developed, or should be developed, that the reservoirs should be provided?

Mr. DAVIS. No, sir; there is considerable acreage still inside of the Imperial irrigation district that has never been irrigated, and there is a large amount of private land outside of the district that is to be covered under the provisions of the bill by the all-American canal, besides the public lands. The area of private land is greater than the area of public land that is to be taken in as new land.

The CHAIRMAN. Then this private land that has never been re-claimed, and these remaining public lands were not rendered necessary to provide reservoirs?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. You spoke a moment ago about the amount of money that might be raised from the sale of public lands at not less than \$10 an acre, and from a charge upon the private lands for reservoir purposes. Have you any rough estimate of how much money could be derived from that source that might be thus made available for the construction of reservoirs?

Mr. DAVIS. No, sir; I haven't made any estimate. I could briefly now outline about what I think it would be.

There would be, roughly speaking, we will say about 400,000 acres of land taken in—additional land taken in, which would make connection at Laguna Dam. If the same rate is given to those lands for connection with the Laguna Dam that the Imperial irrigation district pays, that would be \$1,600,000; and if there are 200,000 acres of public land—I don't think there are quite that much, but assuming that—at \$10 that would be \$2,000,000 more. That would make \$3,600,000. And if it could be sold for more than \$10 there would be that much more.

Mr. HAYDEN. Then, of course, you would put the same charge for reservoir construction on private lands that are now without water that you would put on public lands?

Mr. DAVIS. Yes, sir; that is true.

Mr. HAYDEN. That will give you another \$2,000,000?

Mr. DAVIS. Yes, sir.

Mr. WELLING. Well, you wouldn't sell this—there would be an additional revenue from the cost of the water that was placed on these public lands. A man wouldn't get the land at \$10 an acre with the water furnished him at that price?

Mr. DAVIS. No; he would have to pay his proportion of the cost of the canal system and all that.

Mr. WELLING. That would be a very great deal more than \$10 an acre, wouldn't it?

Mr. DAVIS. Yes; but that would be a charge against the district in which he would have his land. That would be charged to the land, \$10, or \$20, or whatever it might be fixed at, and then he would be in a district which would be bound up in a contract to repay this money; these bonds that this bill provides for, that would pay for the water.

Mr. SINNETT. This bill contemplates a bond issue of \$30,000,000, about?

Mr. DAVIS. I think, about that.

Mr. SINNOTT. Well, is that just for the American canal, or does that include anything else?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. Just for the American canal?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. How much more will the storage reservoirs cost to irrigate the East and West Mesa?

Mr. DAVIS. There are quite a large number of storage reservoirs in the basin, and we haven't any definite plan. We know that there are a number of feasible reservoirs, and depending on which one is selected and how much storage is provided there. Each one of them has a variety of costs. We can build it various sizes in many cases.

Mr. SINNOTT. Could you tell approximately what it would cost to build the necessary storage dams to make certain water for the Imperial Valley and the East and West Mesa and that other land?

Mr. DAVIS. I could not give that, at present, exactly, but I think there is no doubt but what the proviso of the funds made by the contract in this bill would be sufficient to provide storage enough for this purpose.

Mr. HAYDEN. That could be roughly estimated at between \$5,000,000 and \$6,000,000?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. Reading this section 2 very hurriedly, I may not have concluded properly, but it seems to me that the bill requires that the money from the sale of lands shall be deposited in the Treasury of the United States to guarantee the bond issue. Is that the theory of the bill?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. It might not be available for this other purpose you speak of.

Mr. DAVIS. Yes, sir; the Secretary of the Interior has reported upon this bill such amendments which provide for what I have been describing, that that money be put in as a guaranty fund and be available for the construction of storage at such time as the Secretary may determine that it is not longer required as a guaranty fund.

Mr. SINNOTT. Mr. Davis, if you are going to irrigate these privately owned lands and the East and West Mesa, and so on, what is the reason or justification for giving the Imperial irrigation district a preference right to the water in section 12?

Mr. DAVIS. They are the earliest irrigated. It is the theory of priority of appropriation.

Mr. TAYLOR. That is a recognition of the quantity of water that they have up to the present time appropriated.

Mr. SINNOTT. Why do you recognize their rights to any more than the water that they have appropriated at the present time? Why do you go beyond that?

Mr. DAVIS. Well, I don't think it does go beyond that. Their appropriation at the present time is ample for the lands now irrigated.

Mr. TAYLOR. They have got the appropriation, but they don't get the water.

Mr. SINNOTT. You are going to increase the water supply in the all-American canal.

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. And why do you give them a preference right over their present appropriation when you will need the water for these public lands?

Mr. DAVIS. We don't give a right over their present appropriation. Their present appropriation is sufficient, and secures the right in that appropriation. That is all.

Mr. SINNOTT. Well, this section 12 gives all the others the right secondary to that of the lands within the present boundaries of the Imperial irrigation district?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. That would be a secondary right to any additional flow that may be put into this all-American canal.

Mr. DAVIS. It puts the risk upon the new lands, of course. If the additional supply was made adequate and ample for all, the secondary feature would be innocuous. It would not hurt anybody. If it were not ample for all, it would mean that the new lands would stand the shortage of water.

The CHAIRMAN. It means this, does it not, that they have the first right to the extent of the water which they now enjoy?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Is not that a good reason why it would be well to amend the bill so as to provide that the Secretary of the Interior shall make a finding as to what area of land can be irrigated with safety from the present unregulated flow of the Colorado River, and not allow any water to be put on any other lands until the necessary storage works are constructed?

Mr. DAVIS. Well, I don't think that is necessary for this reason: The development in a new region of that kind is not very rapid, and certain crops can be raised on the lands without storage, because there is always plenty of water in the early summer and there are certain crops of short season that can be made profitable there, and will probably be planted there by preference first, anyhow. It would not be wise to plant alfalfa nor trees nor cotton without storage, because late water might be short and they might fail; but grain could be raised without risk, to a certain extent, and so could millo maize and things of that kind. And that is really about as good a way to start in as any, and the shortage of this water supply for the acreage contemplated would only occur about one year in three anyway. But, of course, one year in three can be fatal. If they plant crops that require late water, there might be a shortage.

Mr. HAYDEN. It seems to me that, looking to the best interest of the settler who may come into that country that he ought to have some kind of assurance that he is going to get water.

Mr. DAVIS. Absolutely.

Mr. HAYDEN. And if the prospective settler can not have that assurance, he ought not to be encouraged in any manner to go on the land. The best way to regulate that is to lodge authority in the Secretary of the Interior to limit the area of the project to such lands as he is sure that there will be an ample supply of water available.

Mr. DAVIS. There certainly would be no harm in lodging that authority with the Secretary of the Interior, because I am sure he would not use it with indiscretion.

Mr. HAYDEN. But it seems to me that such authority should be specifically granted to the Secretary of the Interior in this bill, because if such a finding is not required of the Secretary the owners of every acre that can possibly be irrigated from the high line canal will immediately take it for granted that there is to be an ample water supply, and proceed accordingly. Fictitious property values will be created, people will go upon the land to their sorrow, if there is not water enough for all.

Mr. DAVIS. That is a possibility, of course. It could be guarded against by giving the discretion to the Secretary, and under that he could undoubtedly make limitations on what crops could be allowed to be planted on these lands.

Mr. HAYDEN. That would be perfectly feasible to arrange in the terms of the contracts between the settlers and the Secretary.

Mr. DAVIS. Yes, sir. I think it would be very wise until storage is provided to prevent the planting of crops that would require storage.

Mr. TAYLOR. A lot of them go to planting orchards and go broke.

Mr. DAVIS. Or cotton or alfalfa.

Mr. SUMMERS. But there is something on back, it seems to me. **Mr. Director,** beyond the planting of crops, that Mr. Hayden has alluded to many times, and that is that the innocent purchaser may purchase land, believing that he is going to have an ample water supply, when it is impossible that he can have it.

Mr. DAVIS. Yes, sir.

Mr. SUMMERS. That is a very sad and unfortunate thing in connection with many of these districts.

Mr. DAVIS. That is true.

Mr. HAYDEN. Certainly we have had sad experiences enough on other projects that we ought to be careful in this case to see that nothing like that happens again.

Mr. DAVIS. Yes, sir.

Mr. WELLING. Mr. Davis, something was said here the other day about the unusual waste of water aside from that water that is diverted for beneficial purposes in Mexico to-day. I think it was said that as much as 20 or 30 per cent of the water diverted from the Colorado River, from their present headings, was lost by evaporation and seepage before the water crossed again into the United States and into the Imperial Valley. Do you know anything definitely about the loss of water in that way?

Mr. DAVIS. Not very definitely, but I think it is probably fully as large as that—probably larger. There is a large loss.

Mr. WELLING. Then there would be a very appreciable gain in the amount of water for use on these high lands by running into a canal that would conserve the water?

Mr. DAVIS. That is true. It is now spread out on very wide sand bars and through jungles, and so forth, and there would be a material gain in that respect.

Mr. TAYLOR. They don't practice conservation with water very much down there anyhow, do they?

Mr. DAVIS. Well, they do not when they have got plenty, but when the water runs short they are more careful.

Mr. TAYLOR. I mean down in Mexico.

Mr. DAVIS. No; that is true.

The CHAIRMAN. Is that all, Mr. Davis?

Mr. DAVIS. Yes; I believe so, unless Mr. Sinnott has something to ask. He indicated early in the evening that he had something.

Mr. SINNOTT. No; you have answered that.

Mr. WELLING. We asked Mr. Swing—some member of the committee did—to discuss the Secretary of the Treasury's report.

**STATEMENT OF MR. PHIL D. SWING, OF EL CENTRO, CALIF.—
Resumed.**

Mr. SWING. I had two or three things that I wanted to bring up before beginning the discussion of the report of the Secretary of the Treasury.

Relating back to the building of one leg of the canal, when Mr. Davis was in the Imperial Valley in 1916, there were about 60,000 acres in cultivation in Mexico. Last year there were 100,000, and our force undertaking to forecast the demands to be made upon the system estimated that between 30,000 and 40,000 additional acres would be put into crops in Mexico in the current year. So when Mr. Davis says that if we can once get the water out of the river into the canal it is bound to run into the Imperial Valley, he means with the qualification provided it is not diverted in Mexico—whether they use it or waste it. As Mr. Davis very pointedly said, a great amount of water is lost in there through the fact that the waterway is very inefficient. I know from our records that 5,500 second-feet have been running into the canal at Hanlon's heading, and crossing the boundary line into the United States at the other end of the canal were only 2,600 second-feet, and that condition kept up for a number of days—15 or 20 days—until the old sloughs and lagoons in through there finally got filled up before we could begin to feel the increase in the amount of diversion.

Mr. SINNOTT. How much was it, then, when they got filled up?

Mr. SWING. Well, I don't know exactly. I kept track of it during those 15 or 20 days, because we were on our toes waiting for the increase to get down to us after we had gotten our weir completed, and it took the increase that long to get down there, although water will run that distance in less than 3 days. And that is another reason for these shortages which we have had there. If we could have gotten the water during the months that it was in the river, in July and early August, then when the river did fall we would have been in shape to have tided it over; but having gotten behind at a time when there was plenty of water, the orders pile up and it takes a couple of months, or maybe all summer, before we ever do get caught up.

Mr. SINNOTT. How much water do you usually get when the canal is well saturated and the lagoons are filled up?

Mr. TAYLOR. What percentage of loss is there?

Mr. SWING. Oh, it varies greatly from—I will just read a few here from the district's daily reports; here is 37, 35, 34, 26.

Mr. TAYLOR. Per cent?

Mr. SWING. Yes; 24, 29, 27, 25, 26, 17, 20 per cent—that is, through the present canal in Mexico.

Mr. SINNOTT. How much water does it take for ample irrigation of the district?

Mr. SWING. Well, that varies every month, Mr. Sinnott. I will introduce just a little bit later a chart showing our water usage for every year since 1908—this is January [indicating chart]—running from January to December and developing to the peak load in the middle of the year. Highest along about the 1st of July.

Mr. SINNOTT. How much do you need for your peak load?

Mr. SWING. This is in acre-feet, and I have always used second-feet. I don't know how they translate that—245,000 acre-feet—I don't know what that would be in second-feet.

Mr. DAVIS. That is the amount used in July?

Mr. SWING. Yes; that is the peak load.

Mr. DAVIS. No; that is the total. That is 247,000—about 248,000 acre-feet of water used in the month of July in that year—what year is that?

Mr. SWING. 1918.

Mr. DAVIS. That is the maximum amount ever used in a month, so far as constructed, 248,000 acre-feet in a month.

Mr. SUMMERS. Two hundred and fifty thousand acres would be about 20 or 22 inches for that month?

Mr. SWING. No; it would be less than a foot. You see, there is nearly 400,000 acres irrigated.

Mr. SUMMERS. I thought it was 250,000 in the Imperial Valley.

Mr. SWING. No.

The CHAIRMAN. How much was used for the year? That is, on the general average, how much is necessary for the irrigation for the valley?

Mr. SWING. I can read from these daily reports just a few—this happens to be the record of 1917.

Mr. SINNOTT. All I wanted to do was to compare your peak load with your intake there, your 5,500 second-feet.

Mr. SWING. The actual sales—here is July 6, 4,500 second-feet; July 7, 4,400 second-feet; July 8, 4,400 second-feet; July 9, 4,300 second-feet.

Mr. HAYDEN. Mr. Sinnott wants to know how much water there was at the intake on those days.

Mr. SWING. All right. July 10, 4,400 second-feet, 138,000 feet in the river.

Mr. HAYDEN. How much water came into the intake?

Mr. SWING. 5,500 feet.

Mr. HAYDEN. You lost, then, practically 1,000 second-feet passing through Mexico?

Mr. SWING. Yes, sir; that was 13 per cent loss.

Mr. WELLING. Was that loss occasioned, and will it be occasioned, as you go on and refer to other figures, by wastage, or will it also include the water that is diverted for irrigation purposes?

Mr. SWING. It is wastage.

Mr. SINNOTT. Some of it is for irrigation, probably in Mexico?

Mr. SWING. No; the figures I am reading are for the total water used on both sides of the line. I am giving figures of both actual sales and the difference is wastage.

Mr. SINNOTT. Both in Mexico and in the United States?

Mr. SWING. Yes, sir. Here is July 11, diverted 5,254 second-feet, and delivered to the United States 4,407; wastage, 847, or 16 per cent.

Mr. SINNOTT. That is sufficient for my information.

Mr. SWING. I am going to file these records in case anybody wants to refer to them. It is the daily figures covering 16 months--every day as compiled by the Imperial irrigation district.

I want to square myself with the committee on this \$1,600,000 we are to pay the Government. As I said before, it was not a matter of any importance to the district. The Secretary of the Interior said that is your share, and we never disputed it. The only thing that I said to you was that I had seen statements that the dam had cost less than \$1,700,000.

Mr. SINNOTT. Well, it was due to the curiosity of the members of the committee that we brought that out.

Mr. SWING. I picked up a report of the Reclamation Service for the year 1912-13, and on page 66, taking the dam showing excavations, rock in dam, concrete bore, paving, etc., giving all the items of the dam, the total cost is \$1,672,830.40. I didn't add the sluice works and canal because the canal there from the dam down as now constructed is of a capacity of 1,700 or 1,800 second-feet, and the sluice works were built of a capacity sufficient only for the Yuma project, and our contract calls for us enlarging all those structures, building our own capacity, which we are to use, so as to not in any way interfere with Yuma, and I didn't think we were getting anything in the way of a canal, etc., so I considered the dam only, which is, as I said, given here in the reclamation report as less than \$1,700,000.

Mr. SMITH of Idaho. You are reading from the report of 1912?

Mr. SWING. Yes, sir; the dam was then completed. Mr. Davis says I am mistaken, so I will have to admit it. However, I got my information from official reports, as I found on page 140 of the La Rue Report on the Colorado River, published in 1916, the statement that the Laguna Dam was constructed at a cost of about \$1,673,000. So if I was in error I back up to the proposition that I was misled by figures which are published in Government documents.

Mr. TAYLOR. The Imperial Valley is not complaining about the amount?

Mr. SWING. No, sir. I now want to put into the record a little bit supplementing what Gen. Davis said regarding the adequacy of the water supply, and the first thing I would like to read is from the letter of Mr. Lane to the effect that:

The water supply would be ample during the entire year, except in short periods, in occasional years, when for about a month there may be insufficient water. As irrigation in this country is practiced practically throughout the year and crops are raised during the entire period the lands would nevertheless have ample supply to produce certain crops sufficient for a profitable investment and enable the landowner to meet the obligations which will accrue under this bill.

Mr. SINNOTT. What lands is he referring to?

Mr. SWING. All within the proposed project.

Mr. SINNOTT. Within the entire project?

Mr. SWING. That is the way I read it.

Mr. SINNOTT. Outside of the district?

Mr. SWING. Yes, sir; inside and outside, both. I now submit these two diagrams, this one officially prepared by the district indicating the amount of water used in every month since 1908 and showing that the peak load comes in May, June, and July, and the early part of August and then falls rapidly away during the month of September and very rapidly during the month of October, which are the two short months for the supply in the river. It is visual and it saves a whole lot of figuring.

Mr. HAYDEN. That chart represents not your demand for water, but the amount of water that you have been able to obtain?

Mr. SWING. It represents actual sales, for which we have gotten the money—actual deliveries.

Mr. HAYDEN. I understand; but you could not sell water that you did not have. If the river ran so low that the water could not be diverted into the canal, you could not sell it, and, of course, it would not show on the chart. If there was storage on the stream and water could have been furnished in that particular month of October, the additional sales would show on the chart?

Mr. SWING. No, sir; I think that you will find there all the way through from the early years, before the peak load became so great, that it is more a matter of crops, and that the decline of the water line is not a result of shortage, but is a result of the change of crops. That is my observation.

Mr. HAYDEN. That might be readily checked by comparing the sales per acre of water on the Yuma project and in the Imperial Valley, where the conditions are practically the same. The peak of water sales would be at about the same time if the conditions were alike, and the low sales would likewise be at about the same time.

Mr. SWING. I say unequivocally, without any hesitation at all, from my actual knowledge that the decline in September and October is not the result of water shortage. You can see where there was a water shortage. Here in June [indicating] there was one, but from July 1 on it was not the result of water shortage at all; it is natural decline, resulting from a change of crops. And the same rise and fall shows in those years when there was no shortage at all. The high peak, Mr. Hayden, is particularly due to the cotton crop. Then after the bolls have formed they use less water. Now, for general comparison purposes only I submit this diagram from the La Rue Report, a chart showing the flow of the river at Yuma [indicating chart]. You see that the peak will rise and fall in that part of the year, coinciding almost exactly with the peak demand of our people for water. When there is the greatest demand for water, that is the time that there is the greatest amount in the river.

The CHAIRMAN. Mr. Swing, you say that the difference is due to the change of crops. Do you mean that one kind of crop requires more water, or what?

Mr. SWING. Yes; at different times during the year different crops come on. Barley is planted in winter.

The CHAIRMAN (interposing). Well, one kind of crop will consume more water than another.

Mr. SWING. Yes, sir; and different areas will be in crop at different times.

The CHAIRMAN. That is, alfalfa, for instance, will consume more water than milo maize.

Mr. SWING. Yes, sir. Cotton calls for a great deal of water, and when the bolls have been formed the amount of water begins to fall away very rapidly. Also there are more acres in crop at one time of the year than at another.

Mr. SINNOTT. Mr. Swing, do you expect to use more water under this new project in the district than you are now appropriating at your intake—more than 5,500 feet?

Mr. SWING. No, sir; I think that amount of water will supply every acre that is irrigable in the district if we can deliver it into the valley.

I want to quote from the report of C. R. Rockwood, formerly chief engineer of the Imperial irrigation district, the engineer who conceived this entire project, who was instrumental in putting it onto the ground, and who has been connected with the Colorado River and the Imperial Valley for about 26 years. He says:

In my first report on this project, made in 1893, I stated that the Colorado River would furnish sufficient water for the irrigation of every available acre on this watershed. Since that first report the development in the valley of the Colorado and the work done by the Government furnishes a mass of data that permits of a more intelligent study of the great question. The measurements of the discharge of the river at Yuma made by the United States Reclamation Service gives us accurate information as to the quantity of water available for irrigation. The reports of Imperial Water Co. No. 1 give the actual use of water in our valley over an area sufficiently large to permit us to safely assume that the duty of water per acre is determined for the entire irrigable area.

Imperial Water Co. No. 1 is one of 14 mutual water companies organized to distribute water to the farmers and getting their water from the Imperial irrigation district. It is the largest of the 14.

Mr. TAYLOR. Let me interrupt you there, Mr. Swing. How many acres do you irrigate by a cubic foot of water per second of time?

Mr. SWING. Per second of time?

Mr. ROSE. I think it shows up to about 110 acres in the district. That is at our peak time. Now, of course, as the water runs down—August, September, and October—that decreases, but I think the peak load is about 110.

Mr. SMITH of Idaho. How many acre feet are required in the irrigation season?

Mr. SWING. I am going to come to that in just a minute. It is about 3 acre feet per year per acre [reading]:

The investigations and surveys made by various interests allow us to determine that area with some degree of accuracy. Investigations and surveys made by the Government show the feasibility of storage when required. The following tables, 1 and 2, show the duty of water, the available supply, and the area that is irrigated by it. Imperial Valley Water Supply Co., Table No. 1, showing area under cultivation and water used in Imperial Valley Co. No. 1 during the years 1910 to 1914, inclusive, from the 1914 report of Mr. Ray S. Carbury, superintendent. Also in column 6 the duty of water per acre as deducted from use in No. 1.

Now, I won't read all of these, but I will file it with the reporter.

(The paper referred to follows:)

TABLE No. 1.—*Areas under cultivation and water used in Imperial Water Co. No. 1 during the years 1910 to 1914, inclusive, from the 1914 report of Mr. Ray S. Carberry, superintendent; also, in column 6 the duty of water per acre as deduced from the use in No. 1 Mutual Water Co.*

Year—	1910	1911	1912	1913	1914	Maximum used per acre.
Acres in crop—	90,911	99,572	100,681	100,796	105,902	
Water used:						
January.....	11,569	11,843	17,735	14,595	17,059	0.177
February.....	14,460	10,965	18,869	17,336	13,321	.189
March.....	24,802	22,844	29,647	27,560	27,967	.296
April.....	26,439	24,941	30,112	29,914	33,273	.317
May.....	24,974	27,871	29,618	35,717	41,916	.399
June.....	26,360	29,995	36,125	38,241	45,481	.437
July.....	18,453	29,424	34,475	42,879	50,740	.483
August.....	19,607	33,011	34,834	41,037	42,392	.404
September.....	22,474	28,778	28,494	31,556	37,197	.354
October.....	18,521	22,819	25,657	27,015	24,277	.265
November.....	14,064	16,872	17,549	17,256	14,668	.175
December.....	14,638	15,342	15,007	14,243	9,928	.160
Acre-feet per acre per year.....						3.656

Mr. Rockwood shows that in Imperial Water Co. No. 1 during these years the duty of water was 3.65 acre-feet of water per acre per year. He shows a little further on by his own statement that that is relatively high.

Mr. J. C. Allison, who was before the committee in the first hearing, testified, I believe, that the duty of water in Imperial Valley throughout was about 3 acre-feet.

Mr. SMITH of Idaho. The reason it is high is because you irrigate constantly during the year, practically.

Mr. SWING. Yes, sir.

Mr. SMITH of Idaho. Ordinarily it is about $1\frac{1}{2}$ or 2 acre-feet a year.

Mr. SWING. Mr. Allison has been connected with the system for a long while—was for six years chief engineer—and I think he is well qualified to make that statement.

The report to the Secretary of the Interior of Joseph Jacobs, D. C. Heney, and Dr. Elwood Meade gives the duty of water in Imperial Valley for the year 1915, compiled from actual data, as being 2.72. So, Mr. Rockwood, in assuming that it is 3.65 for the purpose of his discussion, has given the best of it against his own report. He is exceedingly conservative.

Table No. 2 shows the minimum discharge of the Colorado River at Yuma in any calendar month during the 10-year period from 1905 to 1914, inclusive; the mean monthly discharge for the same period; the areas that the minimum and mean monthly discharge would irrigate if all of it was applied to the land (taking his statement of 3.65 as the duty of water). The measurements being taken at Yuma, of course, mean water available below Yuma, which is practically Imperial Valley.

(The paper referred to follows:)

TABLE No. 2.

	Minimum discharge.	Mean discharge.	Amount required per acre.	Minimum discharge will irrigate—	Mean discharge will irrigate—	Total used, 1914.
	Acre feet.	Acre feet.	Acre feet	Acres.	Acres.	Acre feet.
January.....	331,000	558,577	0.177	1,870,000	3,381,000	44,000
February.....	424,000	741,635	.189	2,238,000	3,924,000	38,000
March.....	818,600	1,297,769	.296	2,763,000	4,380,000	78,000
April.....	1,060,660	1,618,757	.317	3,344,000	5,106,000	94,000
May.....	1,670,000	2,763,975	.356	4,185,000	6,927,000	113,000
June.....	2,550,000	4,657,211	.437	5,846,000	10,657,000	127,000
July.....	902,000	2,840,610	.483	1,872,000	5,880,000	135,000
August.....	580,000	1,328,166	.404	1,435,000	3,287,000	121,000
September.....	367,000	861,841	.354	1,036,000	2,434,000	168,000
October.....	429,000	784,915	.265	1,619,000	2,960,000	78,000
November.....	467,000	599,548	.175	2,670,000	3,426,000	46,000
December.....	428,000	653,902	.160	2,800,000	4,087,000	34,000

Now, Mr. Rockwood has the months listed from January to December; then he has the minimum discharge for those 12 months in 10 years; that is, he takes the lowest January in 10 years and the lowest February, and so on down. Then he takes the mean for all 10 years.

Mr. SINNOTT. Could you give us the figures there on the lowest?

Mr. SWING. The lowest month in all 10 years would be September, when the discharge, the minimum discharge, was 367,000 acre-feet.

Mr. TAYLOR. Let me interrupt you there. Are there any diversions or any canals on the Colorado River below this Yuma Dam, in Mexico, that are older or prior creations that we would have to permit water to go down to supply?

Mr. SWING. None at all.

Mr. TAYLOR. No ditches below whatever?

Mr. SWING. None at all.

Mr. TAYLOR. During that 60 miles from there on down to the Gulf of California there is no irrigation at all?

Mr. SWING. Not at all. Mr. Rockwood continues [reading]:

The river duty as shown in Table No. 2, columns 4 and 5, does not take into consideration the very considerable loss by seepage and evaporation that will occur in carrying the water from the river to the land. While data is obtainable from the records of the California Development Co. that will give an approximation of the present loss, the percentage of loss that this data would give is undoubtedly in excess of the percentage that we may expect five years from now. Our main canal through Mexico is an old river bed (the Alamo) that for many miles is shallow and wide. Eventually the Alamo will be partially abandoned as our main trunk canal, and where retained will be confined and forced to run in a deep, narrow channel, reducing thereby much of the present loss from seepage and evaporation.

Loss by evaporation is a negligible quantity, being less than 1 per cent. The loss by seepage can, if the necessity ever arises, be almost entirely eliminated by cementing our canals and ditches.

Mr. Rockwood next shows the areas which may be watered without storage. His table, compiled from Reclamation Service data, is as follows:

TABLE NO. 3.

[Showing the ultimate area that may, without storage, be irrigated by the minimum and mean discharge of the river.]

Month.	Minimum.	Mean.
January.....	Acre-s.	Acre-s.
February.....	1,498,000	2,705,000
March.....	1,700,000	3,129,000
April.....	2,210,000	3,504,000
May.....	2,675,000	4,085,000
June.....	3,348,000	5,542,000
July.....	4,072,000	8,525,000
August.....	4,498,000	5,880,000
September.....	1,148,000	2,630,000
October.....	829,000	1,947,000
November.....	1,295,000	2,378,000
December.....	2,136,000	2,740,000
	2,240,000	3,270,000

The figures given in Table 3 show that the mean flow of the river in each calendar month is sufficient for the irrigation of the entire irrigable area below the Grand Canyon.

When the entire 1,700,000 acres is under cultivation, some storage will be necessary to furnish an absolutely safe supply for the months of July, August, September, and October. The months during the past 10 years in which the flow has fallen below the requirements are shown below:

TABLE NO. 4.

[Showing the amount of water required to irrigate 1,700,000 crop acres in July, August, September, and October, and the months in which the flow has fallen below the need.]

	July.	August.	Septem- ber.	October.
Water required.....	Acre-ft. 979,000	Acre-ft. 824,000	Acre-ft. 721,000	Acre-ft. 540,000
Discharge:				
1905.....		744,000	386,000	494,000
1906.....		699,000	.....	.....
1908.....		678,000	.....	.....
1910.....	904,000	592,000	367,000	429,000
1911.....		.....	530,000	.....
1912.....		.....	582,000	.....
1913.....		580,000	525,000	.....
1914.....		.....	591,000	.....

There has been only one July in the past 10 years in which the flow has been insufficient to irrigate 1,700,000 crop acres, and as out of a total possible area under canal of 1,700,000 it is not probable that more than 1,500,000 will actually be in crop in any one year, we may assume that the July water supply is safe for the entire area.

The August supply is safe until the area under canal reaches 1,200,000 acres. When the entire 1,700,000 is under canal there will be without storage a shortage one year in three. September is safe for 1,000,000 acres under canal, and during the 10 years covered by these observations in only two, viz., 1905 and 1906, would there have been any shortage with 1,200,000 under canal.

The lowest October month would have furnished water for 1,400,000 acres under canal. The greatest amount of stored water required to have furnished an ample supply for 1,700,000 acres in crop in the lowest recorded month would have been for July 75,000 acre feet, August 244,000, September 354,000, and October 111,000, while the greatest yearly shortage, that of 1910, would have required 772,000 acre-feet. In no other year would the shortage have exceeded 440,000 feet.

Mr. SMITH of Idaho. It seems to me this data is of a technical character and does not go to the merits of the bill. We all believe, I think, after hearing Director Davis, that his proposition is feasible

from an engineering and economical standpoint, and I think, in view of the lateness of the hour, that Judge Swing had better proceed to answer Secretary Glass.

Mr. TAYLOR. I don't think we need to go into these technical details. Nobody questions that.

Mr. SWING. I will ask leave to read his conclusions, which are very brief. His résumé is:

My deductions, then, from this study are:

First. That with 2,000,000 acre-feet of stored water the supply from the Colorado will safely irrigate every available acre below the Grand Canyon, including all lands in Mexico.

Second. Without storage, the supply is safe for 1,200,000 acres under canal.

Third. Without storage and the entire irrigable area below the Grand Canyon under canal, the worst that can happen in any year will be the loss of one or two cuttings of alfalfa on a part of the land.

In conclusion, I desire to say that it is my opinion that even without storage and with all the irrigable lands below the Laguna Dam under canal there never will be a serious shortage if we have so perfected our distributing system that we can take all of the water from the river during the low periods and conduct it to the land without unnecessary waste.

This was Mr. Rockwood's report, dated May 24, 1915, to the board of directors of the irrigation district.

Mr. TAYLOR. You don't happen to have collected, do you, any data as to the water that flows through the entire Colorado River from the mouth up, 1,500 miles, to show the quantity of the water and where it comes from, and what States, and the capacity of the various rivers and the various lengths up and down, have you? I Won't ask you to go into it.

Mr. SWING. No. There is a paragraph in here, Mr. Taylor, that I would just like to read regarding that proposition.

Mr. TAYLOR. I may say that at my home town on the Grand River we have kept a rating every day now for about 20 years, so I could get that, I guess.

Mr. SWING. This is what Mr. Rockwood says about upstream diversions, and if the committee will bear with me just a minute, I will read it:

The irrigable lands on the highest reaches of the river and its tributaries in Arizona, Colorado, Utah, and Wyoming will draw water only during the summer, when the supply is more than ample for all needs. Not only would a large area under irrigation above the Grand Canyon diminish the violence of our floods but all such lands become reservoirs that will by natural means increase our low-water flow. It is not probable that the irrigated area on the Colorado watershed above the Grand Canyon will ever reach 500,000 acres. I wish it were four times as great, as such a body of land under water would help materially to solve our flood and silt problems, and would make other storage unnecessary.

That is our point of view in the Imperial Valley.

Mr. SINNOTT. Mr. Swing, how much more water will you deliver to the district through the all-American canal without the storage reservoirs than you are delivering now?

Mr. SWING. You mean, how much can we get into the valley?

Mr. SINNOTT. Yes.

The CHAIRMAN. You mean how much will be saved?

Mr. SINNOTT. No; how much will be delivered to the valley through the all-American canal.

Mr. SWING. Well, I don't know how to answer that.

Mr. SINNOTT. How much more than you are taking now?

Mr. SWING. Well, the old canal's capacity is reached now. It is 6,000 second-feet, the maximum capacity, and this proposed canal will carry 8,000 second-feet or more.

Mr. SINNOTT. Why do you want that preference right to that additional 2,000 feet?

Mr. SWING. I said to the valley. I don't mean to the district.

Mr. SINNOTT. I mean to the district. What I had in mind was—

Mr. SWING (interposing). Well, I don't know that we would ever need—

Mr. SINNOTT (interposing). What I am getting at is you need about 5,500 second-feet in the district.

Mr. SWING. Yes, sir.

Mr. SINNOTT. Now, if the canal will deliver more water than that, why do you want a preference right on that?

Mr. TAYLOR. It might not be in the river to put into the canal.

Mr. SWING. Well, it is just a question that if you have title to a piece of land you would like to look at the deed to it. You may know you own it, but it is just the way people feel about it.

Mr. SMITH of Idaho. In the event of a shortage, you want those that are getting water now to get theirs first?

Mr. SWING. Yes, sir.

Mr. SINNOTT. You don't want a preference right to any more than 5,500 second-feet?

Mr. SWING. No, sir.

Mr. SINNOTT. Any more than is necessary to irrigate your irrigation district?

Mr. SWING. No, sir.

Mr. SUMMERS. As a matter of fact, about 4,000 is as much as you have been using, isn't it, on the American side?

Mr. SWING. I suppose so. The actual usage of the land, 4,000 would be as much as we have actually put on the land itself.

Mr. SINNOTT. We are going to be criticized for giving you a preference right to more water than you need.

The CHAIRMAN. Just a moment—am I correct in understanding you that you mean by claiming this preference right merely to preserve your existing rights?

Mr. SWING. That is all. Mr. Sinnott, we could not possibly, under the laws of California, claim 1 acre-foot of water more than we could put to beneficial use. We could not get it in there and turn around and sell it to someone else on the outside. We can only claim that amount of water that we can actually put to beneficial use.

Mr. TAYLOR. It would add, wouldn't it, to the value and availability of your bonds of this district to know that you have got this water, and absolutely know that if there is any gamble or any chances on anything it is on the outside?

Mr. SWING. Yes, sir.

Mr. SUMMERS. If you will pardon me, in answer to Mr. Taylor, that don't seem to me possible, because you are not going to sell these bonds. You are only going to deposit them with the Treasurer of the United States.

Mr. SMITH of Idaho. The Secretary is going to sell them, though.

Mr. TAYLOR. But then the Government of the United States is putting up \$30,000,000 on the district itself; my impression is that this original area and that this original appropriation of 5,500—

whatever it is—second-feet, that that ought to carry a prior right, that they are really entitled to a prior right, the recognition of a prior right. I know we are awfully jealous in Colorado of preserving our prior rights, and we never whack up with a junior right. When we own it, we own it, and that is all there is to it; and if there is anybody that takes chances it is the newcomer, rather than the old settler.

Mr. SUMMERS. It was only that one feature, as to whether it needed to be reserved to them, because of helping the sale of their bonds. I thought in this case that that did not apply.

Mr. TAYLOR. Possibly not. I don't know.

Mr. SWING. Mr. Glass, in his report to the chairman of the committee, criticized the feature of financing provided in the bill and suggests a direct appropriation. I believe from my canvass of the situation that it would be absolutely impossible at this time to put through a proposal to appropriate the cash out of the Treasury for this project. I think that he put this up against the impossible when he said that is the route to travel.

Secondly, if the appropriation was made, in the condition in which the United States Treasury is in now, Mr. Glass would have to do almost identically the thing that is provided in this bill: He would have to sell certificates of indebtedness to get the money to comply with the appropriation. I just noticed in to-night's paper—in the Star—this article:

TREASURY OFFERS NEW CERTIFICATES—SERIES T-8, DATED JULY 15, 1919, ARE PAYABLE MARCH 15, WITH INTEREST—EXEMPT FROM TAXATION.

The Treasury Department announced to-day that "The Secretary of the Treasury, under the authority of the act approved September 24, 1917, as amended, offers for subscription, at par and accrued interest, through the Federal reserve banks, a limited amount of Treasury certificates of indebtedness, series T-8, dated and bearing interest from July 15, 1919, payable March 15, 1920, with interest at the rate of $4\frac{1}{2}$ per cent per annum. Applications will be received at the Federal reserve banks. Bearer certificates with one interest coupon attached will be issued in denominations of \$500, \$1,000, \$5,000, \$10,000, and \$100,000."

The certificates will be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States or by any local taxing authority, except estate or inheritance taxes or graduated additional income taxes and excess profits and war profits taxes.

The interest on an amount of bonds and certificates authorized by the act, the principal of which does not exceed \$5,000, owned by any individual, partnership, association, or corporation, shall be exempt from surtaxes, excess profits, and war profits taxes.

I think it is well known that on account of the great expenditures during the war and the obligations outstanding that the Treasury is not in a condition where it will have an actual surplus in the near future, and that any appropriation must call for some method of financing by borrowing the money from outside sources. The method followed in this bill is not different particularly from that followed in the \$20,000,000 loan from the General Treasury to the reclamation fund. Section 2 of that act provides almost word for word the method that is provided in here:

SEC. 2. That for the purpose of providing the Treasury with funds for such advances to the reclamation fund, the Secretary of the Treasury is authorized

to issue certificates of indebtedness of the United States in such form as he may prescribe and in denominations of \$50 or multiples of that sum; said certificates to be redeemable at the option of the United States at any time after three years from the date of their issue and to be payable five years after such date, and to bear interest, payable semiannually, at not exceeding 3 per centum per annum; the principal and interest to be payable in gold coin of the United States. The certificates of indebtedness herein authorized may be disposed of by the Secretary of the Treasury at not less than par under such rules and regulations as he may prescribe, giving all citizens of the United States an equal opportunity to subscribe therefor, but no commission shall be allowed, and the aggregate issue of such certificates shall not exceed the amount of all advances made to said reclamation fund, and in no event shall the same exceed the sum of \$20,000,000. The certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority; and a sum not exceeding one-tenth of 1 per centum of the amount of the certificates of indebtedness issued under this act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same.

Now, back of that \$20,000,000, of course, was an intangible lien of the United States upon the property within the projects on which the money was to be expended; back of the advances which the United States makes to us are the bonds of the district, which is a legal lien upon the land, so it gets back not very different from the method which has heretofore been followed in financing the reclamation projects, and it is the method which would have to be followed if a direct appropriation was made, because we would have to go outside the Treasury to get the money. It seems to me that the people on the California side of the river ought to be treated not very differently from the way the people on the Arizona side have been, and we are simply trying to find a way where under the existing conditions of the Government it can be financed, whereby the Government, by declaring its confidence in the people and their project, can encourage private capital to come out and invest its money in the proposition.

Mr. SINNOTT. These bonds that are issued, will they be preferred security over present indebtedness or subordinate to the present indebtedness?

Mr. SWING. Neither. The California law provides that they shall be equal.

The next provision of the Secretary of the Treasury—he objects that the maturities of the United States Government certificates of indebtedness are determined not by the Treasurer according to the exigencies of the case or the money market, but are determined by an organization in California acting under California law. That is, the bill provided in its present form that the United States certificates of indebtedness should follow as to rate of interest and as to time of maturity the bonds offered by the district, the idea being to make the district stand on its own bottom, and that the Government would not be called upon to pay anything until the district was ready to pay its obligations to the Government; but in view of the criticism and to meet it I think that might be amended and leave it entirely to the discretion of the Secretary. He can fix the date to suit himself.

Now, I think that that can be met by an amendment, and I am willing that it should be. Amend section 4 to read:

SEC. 4. That upon the receipt by the Secretary of the Treasury of such district bonds he shall issue certificates of indebtedness—

Now, he objects to the name; I never thought that he was obliged to use that name; he can use any name that he wants to, and in order to meet that we put in this—

issue certificates of indebtedness, bonds, or notes of the United States in such form as he may prescribe and in amount equal to the face value of such district bonds and bearing interest at a rate—

Before it said "at the same rate"; now we have amended it to say—
at a rate to be determined by him, not exceeding, however, the rate of interest borne by the district bonds and in denominations of \$50 or multiples thereof, the principal and interest thereof to become due on dates to be fixed and determined by him.

If he wants to he can leave them to fall due at the same time as the district bonds, but if in his wisdom as a financier handling the United States end of it he wants them to fall due sooner, it seems to me it meets his objections to leave it discretionary with him.

Mr. SMITH of Idaho. What are the terms of the bonds you propose to have issued on your district?

Mr. SWING. They begin falling due in installments every year after 20 years. Our State law provides that the outside limit is 40 years.

Mr. SMITH of Idaho. But you don't mean to have them all run 40 years?

Mr. SWING. No; it provides that they must begin falling due within 20 years and must all be due by 40 years. There is a graduated scale provided which must be followed, but they can begin by making them payable sooner.

Mr. SMITH of Idaho. They could be made payable two or three or four years.

Mr. SWING. Yes, sir. The law fixes an outside limit.

Mr. SMITH of Idaho. Well, that isn't set out in the bill, and probably if the Secretary was advised in regard to your plan he might look with more favor on the proposition.

Mr. SWING (reading):

Such certificates of indebtedness, bonds, or notes shall run not to exceed the period provided for in the corresponding district bonds.

His next objection was as to the name, and the name "certificate of indebtedness" is reserved by him under his present practice for short-term securities, and bonds and notes are for long terms, so we have amended that by putting all three names in, and he can take his choice as to what they shall be designated as.

Section 10 of the bill provides that the certificates of indebtedness that the Secretary of the Treasury is ordered to issue shall be exempt from taxes, and he calls attention to the fact that some exception has been made. It is all right if the committee desires to put on the proviso that has been put on these war bonds. The general provision that I find that has been heretofore used is as follows:

Certificates will be exempt both as to principal and interest from all taxation now or hereafter imposed by the United States, any State or any of the possessions of the United States, or by any local taxing authority, except State or inheritance taxes, or graduated additional income taxes and excess profits and war-profits taxes. Interest on an amount of bonds and certificates authorized by the act, the principal of which does not exceed \$5,000, owned by any individual, partnership, association, or corporation, shall be exempt from surtaxes, excess profits and war-profits taxes.

That provision would meet that suggestion of the Secretary.
Then he says:

It is perhaps not improper to observe that, although the whole burden of financing the project is imposed upon the Secretary of the Treasury under the bill, all financial matters with respect to the irrigation-district bonds, which are the sole security of the United States for its investment, are to be determined, not by the Secretary of the Treasury, but by the Secretary of the Interior.

Now, it seems to me that the answer to this criticism is that he ought to have confidence in the Interior Department. They have a department which is familiar with the work, and the law provides that the Secretary of the Interior shall accept the bonds of these districts to an amount sufficient to cover the cost of it when he shall have determined that their irrigation scheme is feasible and that the bonds offered are not disproportionate to the security which will exist when the canal is completed. Now, it is 99 per cent an engineering proposition. If it is feasible any man can estimate the rest of it, and the Interior Department already has the necessary machinery. In order to transfer this work to the Treasury Department, he would have to organize a new agency for the very purpose of making this investigation, making this determination, and it seems to me that as between two coordinate branches of the Government there ought to be some cooperation existing.

Mr. SINNOTT. According to his theory, the Secretary of the Treasury should supervise all the other departments of the Government.

Mr. HAYDEN. The Secretary of the Treasury has a very efficient agency right at hand in the Federal Farm Loan Board. [Laughter.]

Mr. SWING. I can not entirely agree with you. Then he proceeds:

It is also worthy of note that section 8 of the bill provides that the surplus proceeds of sale of the certificates are to be applied to the payment of the interest on the irrigation-district bonds; that is to say, the proceeds of sale of obligations of the United States are to be used in part to pay the indebtedness of the irrigation district.

Now, he didn't quite catch the drift of that, because although section 8 provides that any surplus shall be applied by the Secretary upon the payment of district bonds held by him, section 3 provides that the money received by the Treasurer from the districts, or on account of their bonds, shall immediately be applied by him upon the payment of the United States Government certificates. What we are trying to do is when the project is completed to simply trim down the outstanding indebtedness, both of the Government, and also ours, which is the foundation for it. But I am willing, and I take the suggestion to pull the cart up on the horse, instead of backing the horse into the cart. They get to the same place in the end. I propose this amendment:

Such surplus shall be credited as payment on the principal and interest of the certificates of indebtedness, bonds, and notes of the United States issued hereunder, and a similar credit applied on the district's bonds held by the Secretary of the Treasury on account of such project.

You arrive at the same point, but if it is preferable to have it worded the other way, I see no reason why it should not be done.

Now, in his last objection he says he sees that there is no limit whatever to the amount of irrigation-district bonds which the Secretary of the Interior is directed to accept. Now, there is this limit: It is

but one project; a survey has been made, and as near as engineers can make estimates, they have made the estimates; the districts have no uncontrolled authority to vote an unlimited amount of bonds; the Secretary of the Interior will accept only those bonds which he finds are backed by security and by a feasible project, and which when taken together will equal the cost of the canal. It seems to me that there is a limit, because it is limited to the one project.

Mr. HAYDEN. Why not fix a limit of \$30,000,000 or \$35,000,000 and be done with it?

Mr. SWING. I have no objection if that will answer his argument. Make it \$35,000,000.

Mr. ROSE. Make it "not to exceed."

Mr. SWING. Not to exceed \$35,000,000. I think that the Secretary of the Treasury—the principal thing that I fear from his report is the fact that he has made an adverse report. The reasons he gives, I think, are reasons that can be met by amending the bill, but I think that hurts its prospects, because somebody will say, "Secretary Glass reported against your bill," but if they will consider the report and if these amendments are made, I think to a very large extent the objections are met.

Now, I want to refer to the amendments suggested by Secretary Lane. I have read them over very carefully and compared them with our bill and the purpose we intended to carry out, and I find each and every one of them very helpful and beneficial, and our entire committee concur in each and every one of them and join in the request that they be made. I think they strengthen the bill and make it a better bill, and we concur heartily with each and every one of them.

I have received this resolution of the board of directors of the Imperial irrigation district indorsing this bill and I will ask that it be made a part of my statement:

Resolved, That we, the board of directors of the Imperial irrigation district, indorse and approve H. R. 6044, introduced in the House of Representatives June 17, 1919, by the Hon. William Kettner and hereby request and urge the committee now in Washington, D. C., to use every honorable means to secure the passage of the said bill: Be it further

Resolved, That the secretary be instructed to forward a copy of the above resolution to each member of the committee now in Washington, D. C.

As secretary of the board of directors of Imperial irrigation district, I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said board and appearing on the minutes of July 8, 1919.

[SEAL.]

F. H. McIVER, *Secretary*.

Mr. HUDSPETH. You state you are going to issue not to exceed \$35,000,000 of bonds. What would be the cash value of your lands upon which those bonds would be issued?

Mr. SWING. I believe I am warranted in saying that the present cash value of the irrigation lands alone, which are only 400,000 acres—

Mr. HUDSPETH (interposing). I mean irrigated to-day; not what you propose to irrigate.

Mr. SWING. No; what is there now—is conservatively worth \$100,000,000. I think that value itself would be increased when the canal is completed.

Mr. SMITH of Idaho. Your total production last year was \$40,000,000?

Mr. SWING. What was shipped out of the valley has been estimated at \$40,000,000 for last year.

Mr. HUDESPETH. You mean the products of that valley?

Mr. SWING. That was the statement prepared by the commercial agent of the Southern Pacific and furnished me as I was leaving.

Mr. HUDESPETH. Of this proposed district?

Mr. SWING. Of the present Imperial irrigation district. We think we have the assets, but it is hard to realize the cash on them.

Mr. SINNOTT. Are you familiar with what is known as the Smith bill, introduced by Mr. Addison T. Smith. It is frequently referred to as the Chamberlain-Smith bill. Would that bill meet your situation?

Mr. SWING. I have not read the bill introduced by Mr. Smith this year very carefully, Mr. Sinnott; it is somewhat different from the bill as heretofore introduced.

Mr. SMITH of Idaho. As a matter of fact, whoever drew this bill must have read it carefully, because this is almost a copy of it.

Mr. SWING. The one you introduced in the last session of Congress?

Mr. SMITH of Idaho. Yes.

Mr. SWING. Yes; the provisions of that bill I am familiar with and favor.

Mr. SMITH of Idaho. Now you propose then to amend section 3 so as to provide that the amount shall not exceed in the aggregate \$35,000,000—not to exceed?

Mr. SWING. Yes; I think that will be a good amendment in view of the Secretary's criticism.

Now, there are two other members of the delegation who would like to have 10 minutes a piece. I think they could be disposed of in 15 minutes a piece anyway, if you want to hear them to-night. That will conclude the statements on behalf of our delegation.

The CHAIRMAN. Who will you have first?

Mr. SWING. We would like to have Mr. Brooks.

The CHAIRMAN. We will be glad to hear you, Mr. Brooks. Give your name and residence and occupation.

STATEMENT OF MR. W. H. BROOKS, EL CENTRO, CALIF.

Mr. BROOKS. Mr. Chairman and members of the committee, my name is W. H. Brooks, pioneer rancher of Imperial Valley, Calif., post office address, El Centro, Calif.

Mr. SWING. You are chairman of the board of supervisors of Imperial County?

Mr. BROOKS. Also chairman of the board of supervisors; yes.

The CHAIRMAN. How long have you lived in Imperial Valley?

Mr. BROOKS. I have live there, I think, about 16 years.

The CHAIRMAN. Have you been irrigating land during this time?

Mr. BROOKS. Yes; my occupation has been ranching.

The CHAIRMAN. And that includes raising crops by irrigation?

Mr. BROOKS. Yes, sir.

Mr. SWING. You have been a rancher all the time you have been there?

Mr. BROOKS. I have been ranching there all the time and we do no ranching there except by irrigation.

The CHAIRMAN. Proceed with your statement.

Mr. BROOKS. Mr. Chairman and gentlemen of the committee, when I went to Imperial Valley in 1902, it was a desert. We had to go about 30 miles into Mexico to get cottonwood poles to make a framework for shade for ourselves and our horses. We had to go 15 miles to get brush to put on this framework.

There was no railroad there at that time. Now the railroad company is selling \$50,000 of tickets per month and large per cent of the travel goes out by auto.

Last year we shipped 18,000 cars of produce from the valley. We shipped 600,000 pounds of turkeys last year. Think of it gentlemen, about 40,000 turkeys being shipped annually from a place where a few years before there was nothing.

We have a man with us, I believe, that hauled the first dairy cow into the valley.

We last year produced 7,000,000 pounds of butter and have 20,000 dairy cows and 40,000 beef steers on feed.

Our assessed county valuation, \$35,859,028, or about one-third of its market value.

Very often the land produces more than its value in one year. There have been cases where the landlord has offered a deed to the land for the crop that was on the land, and there have been many cases where the tenant has lost his crop for lack of water when there was a good supply in the river.

This condition is caused by the unsettled condition of our water supply.

We not only have the unsettled condition, but we have the unsanitary condition to contend with.

Who wants to drink from a stream when he knows that there are 7,000 Chinamen, Japs, and Mexicans camped on that stream a few miles above in Mexico? And we have nothing to say as to what they shall do to or with this water in Mexico. Shall we let this go on and on, and let these Japs and Chinamen take in more land and use more water until we are not only prevented from developing our new land but are cut short on the land we now have water for?

We are using our hard-earned money to build weirs, enlarge canals, and build structures to get more water. This water goes into Mexico and those people take what they want to use or waste, and we get what is left. We now have nearly 60,000 people depending absolutely on the water that makes this circuit through Mexico. If we can build an all-American canal it will be but a short time and we will have several times 60,000 free, prosperous Americans building homes and schoolhouses on land watered by water that has never touched a foreign soil and water that 7,000 Japs and Chinese have not used to bathe in.

If we do not get the all-American canal some day there will be a serious water shortage. Then, some red-blooded, free Americans will ask themselves: "Why should our crops burn up, and our stock perish, when, just across an imaginary line, these Jap, Mexican, and Chinese tenants of American millionaires are getting water that we have turned into our canal?" Will they abandon their homes and walk out or will they take their guns, cross this imaginary line, and undertake to defend that which they have paid for and which they believe to be rightly theirs and which is necessary to their actual life?

Now, gentlemen, as a pioneer rancher—and I, like many of my neighbors, have every dollar we possess invested in the Imperial Valley—I would ask you to think seriously of this matter, and I know you will. We are beggars but not paupers. All we want is a chance to help ourselves. We have proved that we can produce the stuff. Now we want help so that we can make this water system permanent and not have to throw our earnings away on the temporary work or abandon all that we have done in the past 18 years.

Now, I have here a report—a crop report. This report was taken from the Southern Pacific commercial agent at El Centro. He kept account of the amount that was shipped out, the produce that was shipped out in carload lots. Now, this doesn't take in the produce from Coachella or what was consumed in the valley; it was just his report from shipments; and I will file this report with you. I will just sketch over a few of the items that are of note here.

Now, of alfalfa we have something over 100,000 acres, and 1,884 carloads were shipped out last year.

In cotton there were 85,000 bales shipped out, amounting to \$11,900,000.

Cotton seed amounted to \$2,305,000.

Millo maize amounted to \$3,025,000.

Our cantaloupe crop amounted to \$4,974,750.

Mr. TAYLOR. Where do you ship this produce to, mostly?

Mr. BROOKS. It goes all over the United States. You are eating our cantaloupes right here in Washington and have been for the last month. We are shipping them now. This year we shipped something like—I believe Mr. Shaw has the exact figures.

Mr. SHAW. The last report showed about 7,000 carloads of cantaloupes, valued at \$9,000,000. That was the heaviest crop we shipped.

Mr. TAYLOR. Did you use Rocky Ford seed? [Laughter.]

Mr. BROOKS. That is right.

Now I will give you a few of the summaries. Forage and grain crops and cotton amounted to 6,517 cars, valued at \$19,781,113.

The vegetables amounted to 6,251 cars, valued at \$5,973,812.

The live stock amounted to 3,943 cars, valued at \$6,335,000.

The poultry amounted to 60 cars, valued at \$380,000.

The total output, as we have it, is \$37,557,465.

Now I will file this with you, gentlemen.

(The paper referred to follows:)

Crop production, Imperial Valley, Calif., 1918.

	Estimated acreage.	Shipped out.		Value.
		Quantity.	Cars.	
FORAGE AND GRAIN CROPS AND COTTON.				
Alfalfa.....	100,386		1,884	\$339,120
Bardv.....	65,761		750	1,568,150
Cotton.....	85,000 bales		1,133	11,900,000
Cotton seed	42,000 tons		968	2,305,000
Cotton seed hulls	1,036 tons		103	16,500
Cotton seed cake	3,060 tons		153	171,360
Cotton seed oil	1,170 tons		139	158,043
Millo maize.....	125,673		1,216	3,625,600
Wheat.....	4,110 tons		137	304,140
Total.....			6,517	19,781,113

Crop production, Imperial Valley, Calif., 1918—Continued.

	Estimated acreage.	Shipped out.		Value.
		Quantity.	Cars.	
VEGETABLES				
Asparagus.....	384	28		\$56,875
Cantaloupes.....		4,422		4,974,750
Lettuce.....	3,676	919		547,237
Onions.....		660 tons	55	27,500
Green peas.....		144 tons	37	57,600
Tomatoes.....		1,260 tons	105	105,000
Mixed vegetables.....		2,268 tons	189	94,500
Watermelons.....			475	94,600
Cabbage.....			21	15,750
Total.....			6,251	5,973,812
FRUITS				
Grapes (table).....	1,500	2,028 tons	169	202,800
Grapefruit.....		48 tons	4	8,000
Oranges.....			3	3,000
Pears.....			6	6,000
Dates.....		5 tons		7,500
Total.....			182	226,500
LIVE STOCK.				
Hogs.....		71,000 head	1,709	2,130,000
Sheep.....		142,800 head	1,020	1,428,000
Cattle.....		55,350 head	2,214	5,535,000
Total.....			3,943	9,093,000
Less estimated number of cattle shipped into the valley for feeding purposes and reshipped and included in above, 44,300 head, at estimated value.....				2,758,000
Net total.....				6,335,000
LIVE-STOCK PRODUCTS.				
Butter.....		7,000,000 pounds	357	3,990,000
Wool.....		550 tons	22	440,000
Total.....			379	4,430,000
MISCELLANEOUS.				
Honey.....		750 tons	29	300,000
Manure.....		16,380 tons	819	131,040
Total.....			848	431,040
POULTRY.				
Turkeys.....		600,000 pounds		180,000
Other poultry and poultry products; estimated.....				200,000
Total.....				380,000
SUMMARY.				
Total value of farm products shipped out of Imperial Valley, 1918, as shown by the railroad records, and as shown in detail above:				
Forage and grain crops and cotton.....			6,517	19,781,113
Vegetables.....			6,251	5,973,812
Fruits.....			182	226,500
Live stock.....			3,943	9,093,000
Live-stock products.....			379	4,430,000
Miscellaneous.....			848	431,040
Poultry and poultry products.....			60	380,000
Total.....			18,180	37,557,465

¹ Decks.

No estimates are herein made covering production for home consumption.

Further facts taken from the railroad records:

Total number of cars of freight loaded and shipped out of the Imperial Valley 1918, 18,682.

To care for freight and passenger traffic in Imperial Valley the Southern Pacific Co. maintains six passenger crews, two passenger trains from valley to Los Angeles each day, and two passenger trains from Los Angeles to valley each day.

Each passenger train carries two, and sometimes three, standard Pullman, operating 100 per cent space occupied.

Each passenger train carries two coaches, operating 85 per cent space occupied.

Valley ticket sales amount to approximately \$50,000 per month or \$600,000 per year.

One mixed train crew.

One switch crew.

Four local freight crews.

Ten station agents.

Special stock train from valley to Los Angeles Tuesdays and Fridays each week.

SAN FRANCISCO, CALIF., June 20, 1919.

ESTIMATES,

Agriculture, Washington:

Estimate value of all crops, Imperial Valley, Calif., only, 1918, twenty million dollars; dairy products, two and one-half millions; live stock, eleven and one-half millions. Former years slightly less account lower prices.

KAUFMAN,
Assistant in Crop Estimates.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF MARKETS,
Washington, D. C., June 24, 1919.

Mr. O. N. SHAW,

Washington Hotel, Washington, D. C.

DEAR SIR: Am sending you herewith supplemental figures on shipments of live stock and cantaloupes from the Imperial Valley, Calif. During the period May 1, 1918, to June 23, 1918, shipments of live stock from the Imperial Valley were as follows: Cattle, 2,214 cars; hogs, 709 decks; sheep, 1,020 decks; horses and mules, 164 cars; and mixed stock, 6 cars. Loadings for May, 1917, to April 30, 1918, were furnished you in previous communication.

The carload shipments of cantaloupes this season to June 22, inclusive, amounted to 5,591 cars.

Very truly, yours,

C. W. KITCHEN,
Assistant in Market Surveys.

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF MARKETS,
Washington, D. C., June 20, 1919.

Mr. O. N. SHAW,

Washington Hotel, Washington, D. C.

DEAR SIR: Reference is made to your conversation with Mr. Kitchen, of this office, yesterday afternoon concerning the available statistics regarding the shipments of agricultural products from the Imperial Valley in California. The following figures represent reports made to this bureau by railroad officials concerning the movement of fruits and vegetables and live stock. Figures are not available on any other products. The figures represent car-lot shipments only.

	1917	1918		1917	1918
Apples.....	1	.....	Mixed fruit and vegetables.....	2	1
Apricots.....	5	.....	Onions.....	111	46
Asparagus.....	34	28	Oranges.....	1	.....
Cabbage.....	4	21	Peas.....	49	24
Cantaloupes.....	5,744	4,405	Pears.....	4	.....
Dried corn.....	.....	3	Potatoes.....	6	.....
Green corn.....	1	.....	Tomatoes.....	61	91
Grapefruit.....	1	.....	Watermelons.....	504	432
Grapes.....	122	156	Mixed vegetables.....	3	.....
Lettuce.....	431	875			

Shipments of live stock from May 17, 1917, to April 18, 1918, inclusive, were as follows: Cattle, 1,731; hogs, 673; sheep, 372; horses and mules, 282.

I trust that you have secured from the Bureau of Crop Estimates information concerning production of cotton, alfalfa, and other important agricultural products. If we can be of any further assistance to you, do not hesitate to call upon us.

Very truly, yours,

WELLS A. SHERMAN,
Specialist in Market Surveys.

Crop statistics of Imperial Valley for 1919.

[Taken from Southern Pacific Co.'s records.]

	Value.
Lettuce, 1,069 cars	\$650,000
Cantaloupes, 7,500 cars	9,000,000
Watermelons, 1,000 cars	240,000
Barley, estimated 60,000 acres, yield 35 bushels to the acre, 2,100,000 bushels	2,520,000
Wheat, 40,000 acres, estimated yield, 1,600,000 bushels	3,000,000

Milo maize, estimated 150,000 acres.

Cotton, estimated 140,000 acres.

There were 3,306 acres of winter vegetables planted 1919. If water conditions are stabilized it is estimated by a survey already made that there will be from 8,000 to 10,000 acres next year.

Coachella reports 417 cars of onions shipped, 1919, 540 crates per car, at \$3 per crate f. o. b. valley, value, \$675,540.

There is one thing I would like to speak about, Mr. Davis's remarks that he made a few minutes ago. He said it would be dangerous to plant alfalfa. Well, now, I have raised alfalfa ever since I can remember, and I have raised it there in the valley for the last 16 years, and I don't consider that a shortage of water for two months on alfalfa there in the valley in the summer time is any detriment to it at all, except you just lose that time on the alfalfa. I have let my alfalfa go dry there a number of times during the summer months, during July and August, but if you put water on it again, as soon as cool weather comes on, it will strike right out and grow just as though nothing had ever happened to it.

The CHAIRMAN. How long does it take to produce a crop of alfalfa there?

Mr. BROOKS. It depends on the time of the year. Now, early in the season we let it grow about 30 to 35 days. Along in May and June we can get a good crop of alfalfa in 25 days.

The CHAIRMAN. Then you might lose a whole crop by being out of water?

Mr. BROOKS. You might lose one or two crops, but still you could raise five or six crops.

The CHAIRMAN. And that would be enough for the year, anyhow?

Mr. BROOKS. That gives a person all he wants to do.

Mr. BARBOUR. You mentioned the fact that the railroad had come in there since that country was developed, and you also mentioned the fact that the majority of the travel in and out of the valley was by automobile. Are there State highways in the valley?

Mr. BROOKS. Yes, sir.

Mr. BARBOUR. The regular paved California highway?

Mr. BROOKS. It is not paved all the way, but it is paved practically all the way. For a little way through the mountains it is not paved.

Mr. BARBOUR. Where does that highway go to?

Mr. BROOKS. It goes to San Diego.

Mr. BARBOUR. Now, what are the plans of the State of California under this recent bond issue that we voted about two weeks ago out there, what are the plans in the Imperial Valley? Aren't they going to build a lot more of highways down in your country?

Mr. BROOKS. Yes; there is one to be built, and they are working on it now, and that is to go down from Colton and down through the Coachella Valley.

Mr. BARBOUR. And connects with Los Angeles?

Mr. BROOKS. Yes, sir.

Mr. BARBOUR. With highways leading clear to the northern end of the State and also to Arizona?

Mr. BROOKS. Yes, sir; and through to Yuma, Ariz.

Mr. BARBOUR. I just wanted to bring that out to show that the State of California has confidence in that country down there.

Mr. BROOKS. Yes; they have promised us that that will be one of the first pieces built out of this next bond issue.

Mr. ROSE. They have already built a part of it now.

Mr. THOMPSON. Are you to have a trunk-line railroad from San Diego to the East through there?

Mr. BROOKS. They expect this year to get through. There is something like 9 miles, I believe, that they have got to finish on the San Diego road, and that will connect through from San Diego with us at El Centro. Then they can either go out by Niland on the Southern Pacific, or they can loop down through Mexico and come out by Yuma.

Mr. BARBOUR. From San Diego?

Mr. BROOKS. Yes, sir; from San Diego.

Mr. BARBOUR. What system is that? Is it the Rock Island that is building that road?

Mr. BROOKS. I think now the Southern Pacific owns it, do they not?

Mr. BARBOUR. It is pretty hard to tell just which one of those roads does own it.

Mr. BROOKS. It was started by the Spreckles people, but I think the Southern Pacific owns it now.

Mr. SMITH of Idaho. Do you have any trouble with disease among cattle, sheep, and hogs down there in that hot country?

Mr. BROOKS. Very little. They did have a little cholera in there a few years ago, but I think they have practically eliminated it.

Mr. SMITH of Idaho. How about the cattle?

Mr. BROOKS. They are very healthy, too. They told us when we first went in there that a hog couldn't live there, but I never saw hogs

do better in any country. In fact, when I used to raise hogs there a number of years ago I would let them harvest my grain. I would put in 100 or 200 acres of barley, and when it got ripe I would just turn the hogs into it, three or four or five hundred head of hogs.

Mr. HUDPETH. You don't have the cattle tick?

Mr. BROOKS No, sir.

Mr. THOMPSON. Do you have sheep in there, too? Do you raise sheep?

Mr. BROOKS. Yes, sir; Mr. Shaw can tell you about sheep. I don't raise sheep, myself, but he is president of the Sheep Association.

Mr. HUDPETH. You never have any frost? You raise crops the year around?

Mr. BROOKS. Yes; in some years we have frost. I have seen winters there that went through without a bit of frost, but we usually expect frost from about the first of December until the last of January. We may get frost any time during those months, but other years I have seen it where there wasn't a speck of frost, and I have cut a good crop of alfalfa hay between Christmas and New Year's.

Mr. SHAW. Those frosts may occur one day in three weeks, or one day in a month in the winter.

Mr. BROOKS. Yes.

Mr. SHAW. But one frost during a year is not sufficient to kill vegetation.

Mr. HUDPETH. I didn't think when I was there in August that you would ever have any frost there. [Laughter.]

Mr. BROOKS. It didn't feel like it here in Washington when I came here a few weeks ago, either.

Mr. SMITH of Idaho. The unsanitary condition of the water going in there is because it runs through Mexico. Now, if this all-American canal is built, will you stop the water from going through Mexico?

Mr. BROOKS. Yes; we will keep it on American soil, and we can control it.

Mr. SMITH of Idaho. But how will you get rid of it?

Mr. BROOKS. The water that we use won't go into Mexico.

Mr. SMITH of Idaho. I know, but the water will come down to irrigate the lands of Mexico. It will come down the Alamo River, won't it?

Mr. TAYLOR. It won't have to come back up into the United States.

Mr. SMITH of Idaho. How will they get rid of the surplus?

Mr. SHAW. It might come down to this point [indicating] and cross through a waste gate, provided here [indicating]. A gate is dropped into the Alamo River and it has a free run from there on to the Salton Sea, and the water is not taken out of that river except at one small diversion dam which doesn't amount to a great deal, irrigating a small section of land, but this is primarily a drainage canal to carry off any surplus water.

The CHAIRMAN. Is that all you have, Mr. Brooks?

Mr. BROOKS. I think that is all, Mr. Chairman.

The CHAIRMAN. We will hear your next witness, then.

STATEMENT OF MR. MIKE LIEBERT, OF SEELEY, CALIF.

Mr. LIEBERT. Mr. Chairman and gentlemen of the committee, the Imperial County Farm Bureau is an organization covering the entire county of Imperial, Calif. The purposes of this organization is to foster the best interests of the farmer in his every endeavor. It aims to improve and provide for his needs in social life; acts as the instrument for the conveyance and exchange of ideas and knowledge relating to soil and crop culture; and last, but not least, proper consideration is given to the various phases of his financial needs.

As a member and director of this county-wide organization, which it is my pleasure to have been chosen to represent in this hearing before your committee, I beg to say that the question of farm loans has been demanding its most serious consideration.

Much money is needed to defray the expenses incurred in leveling, ditching, and providing the land with water for irrigation that paying crops may be produced. Funds must be on hand or provided for defraying living expenses of the family while the initial reclamation work is being done. One can not appreciate the serious meaning of all this unless he has gone through the experience of entering upon a tract of barren desert land and pioneering it through the development stage until same becomes a crop-producing farm.

Having settled with my family upon such a tract of land in Imperial Valley eight years ago, I claim to be in position to know something of the many hardships encountered; I know something of the reclamer's needs in a financial way; I know the assistance he must have to weather the storm successfully. Ofttimes he is compelled to borrow funds to tide him over this expensive and non-producing period. His borrowing is usually done through regular banking channels. To secure the necessary credit he gives as security a mortgage on his chattel property. This mortgage may even include his scant household goods. These loans are usually made with the understanding that they will be retired with funds derived from a loan made against the land as security. However, such loans on the land can not be made until, by virtue of the United States land laws having been complied with, the title has passed to the entryman from the Government.

Therefore when the farmer acquires title his first duty and obligation is to obtain a loan on his land. Accordingly, after Congress had passed the Federal farm loan act the farmers of Imperial Valley asked the farm bureau to take such steps as would be required that provision might be made at once for their taking advantage of its benefits. Some farmers needed funds to meet improvement debts as mentioned above, others to purchase live stock that their farms might be made more productive, others to further improve their farms with needed fences and buildings, while others needed funds with which to pay off maturing mortgages that had been placed on the land for a short term of years and at a very high rate of interest.

As a result of the bureau's efforts three farm loan associations were formed in Imperial County in accordance with provisions of the loan act, and applications were accepted for loans. This was in the spring of 1918. The Seeley Farm Loan Association, of which I am a member, received loans for 18 of its members with loans amounting to

about \$40,000. These loans were made by the Federal farm loan land bank of Berkeley, Calif. At this juncture of affairs, without official notice and without any explanation on the part of the farm land bank, the bank suspended all further applications which it held for loans on Imperial Valley property. These applications were afterwards canceled. We were nonplused over this action, especially as it had never been indicated to us in any manner that such a move was contemplated on the part of the bank. The rumor reached us that the bank had suspended all applications for the reason it had decided not to advance further loans on lands under any irrigation project until their engineer had first reported to them regarding the project's status and future possibilities. We could not understand why this decision had been made so far as Imperial Valley was concerned, as its possibilities, we thought, were well and favorably known. That we might know the real reason why our loans had been turned down and in the interest of Imperial farmers (who were in dire need of loans) I was commissioned by the bureau to go to Berkeley for an interview with President Joyce, of the Federal land bank.

In September, 1918, I called upon President Joyce, in company with Prof. Packard, of the University of California. In our interview President Joyce stated that he was very much interested in Imperial Valley; that he considered it the best and most promising field in his district in which to make loans, but, notwithstanding all this and the fact that he desired his bank to make a good showing in comparison with other land banks over the United States, he did not feel justified in asking the people of the United States to buy the bank's bonds secured by Imperial Valley land mortgages, which mortgages would be made at a low rate of interest and for a long period of years, until the valley had first stabilized its water conditions. He stated further that it was not really necessary to make any investigations in Imperial Valley regarding the water condition, for the people themselves gave proof of the unsatisfactory condition by trying to get away from their present system of taking and handling water. He further advised us that the people should at once take such steps as would be necessary to put the water system in proper control. I informed him that at that particular time a contract was being drafted with the Interior Department making it possible to satisfactorily solve our water problems, and that if such contract was drafted along the lines as anticipated the people would ratify it and put it into force. His reply was to the effect that when the valley had stabilized its water system he would be glad to come into the field and resume loaning on Imperial lands. After the people had ratified the contract as mentioned above, and which contract we have filed with your committee, we again made application to the bank for loans but without success.

In the interview with Joyce it was our conclusion, judging from his statements, that the reason for his not making a written report to the farm bureau as to suspension of loaning, was because of the detrimental effect such a report would have on the valley.

Now, Mr. Chairman and members of the committee, a coordinate branch of this Government has put its stamp of disapproval upon Imperial Valley because of its water conditions. We have done our best to better the condition, but we have gone as far as we can without aid, and this aid must come soon if it would be of any avail.

We are confronted with a series of conditions that are unsurmountable. We have come to our Government for assistance to aid us in stabilizing our water system, a system through which flows the very life-blood of our existence. We ask it to help us remove the stigma and thus make our securities second to none. Help us to get the system into our own hands instead of being at the mercy and caprices of a government whose laws are fixed from day to day as its exigencies may require and whose only interest in our affairs is dependent upon the amount of money that can be justly or unjustly squeezed out of us. Help us to cast off the bonds of abject slavery that are dragging us to ruin. Lend us its aid that we may become firmly established on American soil with our irrigation system. The farmers of Imperial Valley feel that they are justly entitled to an equal share of the benefits of their Government. The Government has accepted our filings and has given us our deeds to the land by virtue of our having complied with the laws of the land. We have build our homes and schools and we ask our Government to help us keep them intact.

True it is, some of our lands are owned by nonresidents, a very unhealthy condition for any community I am sure you will admit. They rent these lands to Japs and Hindoos who undermine our social standards, destroy the efficiency of our schools, and fill our court-rooms. With the stabilization of our water system these lands can and will be subdivided and sold to actual home builders, therefore we will rid ourselves to a great measure of a class of people to whom the United States has seen fit to deny the right of citizenship. With this stabilization brought about, the real American home builder will be able to borrow money cheaply and for a long period of years and thereby own a home of his own, whereas at the present time it is impossible. Under present conditions it is almost impossible to borrow money on farm lands except at an exorbitant rate of interest. I recall to mind a neighbor of mine who was forced to make a loan. After figuring up his commission, appraisement, and inspection charges his rate of interest was 14 per cent.

The effect of our present unsettled condition is far reaching. Many farmers would like to sell part of their holdings to relieve themselves of present labor conditions and other heavy overhead expenses, but are unable to do so on account of land values being so low they can not sell except at a loss. I know of land selling for less than it cost to level and water stock it. In many instances a single crop grown upon the land is worth more than the land would sell for.

With the water system finally and properly adjusted, plenty of which will be assured for all purposes. At present the farmer can only stock his ranch on a basis of the minimum water supply. Or, in other words, he can not keep more live stock than his land will produce feed or pasture for during the period of the occasional summer water shortage, which shortage is due to our inability to divert the water from the Colorado River, though at the time the discharge of the river is often several times the amount of our needs. Crops, such as corn and milo maize, which can be planted in July on land from which barley and wheat has just been harvested, are often a complete failure, due to the lack of water. The all-American canal, the

building of which the passage of this bill will make possible, will provide all water needed and at a time when it is most needed.

In conclusion, Mr. Chairman and members of the committee, I wish to state that the bill now before your committee, is looked upon by the farmers of Imperial Valley as one which when enacted into law and its provisions carried out will completely and satisfactorily solve the water difficulties. If enacted into a law a new era is in store for Imperial Valley. It will not only make it possible for the 60,000 people who populate this great American Nile Valley to remain, but will provide whereby many more thousands and tens of thousands may come to found good American homes. In case aid is not extended then this wonderful country must revert back to the desert as known before the days of Barbara Worth. Sixty thousand souls will have lost their all and with broken spirits and shattered hopes will be compelled to seek a new abode.

Mr. SINNOTT. What is the average size of the holdings in your district?

Mr. LIEBERT. We have figures in No. 1, which is the largest water company, of 76 acres. That gives some indication of how it will go, because it is the oldest irrigating company in the district.

Mr. TAYLOR. If there is any member of this committee that hasn't read the book, *The Winning of Barbara Worth*, he ought to read it, because it is a most fascinating novel and pictures in beautiful way the early history of this valley.

Mr. SMITH of Idaho. There is one question I would like to ask Mr. Rose and Judge Swing, and that is with reference to the length of time of these bonds that you propose to issue. It seems to me if you put them out over a period of 40 years it will be more difficult to get this through than if you would make them not exceeding 20 years. I think we should have something definite with reference to the plans of the district on that proposition.

Mr. SWING. I think that is a matter that might well be left with the Secretary of the Interior. Our people will adjust themselves to whatever regulations and requirements he makes in that matter.

Mr. SMITH of Idaho. The Secretary of the Interior is not so much concerned about that, I believe, as the Secretary of the Treasury, who is objecting to the bill.

Mr. SWING. That is a considerable sum of money, and it can be paid most successfully by making it cover a considerable period of time. I think it would be a good thing to have payments begin at a very early date.

Mr. SMITH of Idaho. Now, would the terms of the 20-year law on Government reclamation projects appeal to you?

Mr. SWING. On those there is no interest. The initial installments there are no more than the equal of the interest on this.

Mr. BARBOUR. Could you not, Mr. Swing, after 20 years have enough of that paid off so that the district itself could then issue another series of bonds and refund these Government bonds?

Mr. HUDSPETH. It seems to me that at the rate you are going—I understand that you marketed \$37,000,000 worth of produce here last year, and at the rate you are going you will pay this out before 20 years, it occurs to me—in two or three years.

Mr. SMITH of Idaho. At any rate, you could refund the bonds in 20 years.

Mr. SWING. I think that is so.

Mr. ROSE. I would like to say just this much; that, of course, there is this to be said, on some of that land you are going in to reclaim practically 500,000 acres which is now a desert, and it will be possibly 4 years from the time we start before that particular land will receive water; and, of course, that land—the bonds on that land ought not to commence to mature until probably 10 years and then run over the period of 15 years. To make it 10 and 25 would be very acceptable, I think.

The CHAIRMAN. What other witnesses now are to be heard? Does this close the case of the Imperial Valley delegation?

Mr. SWING. Yes; that closes our case, Judge Kinkaid, except what will be filed without being read.

The CHAIRMAN. Then, there are two witnesses here from Yuma?

Mr. HAYDEN. Yes, sir.

The CHAIRMAN. How long will that take?

Mr. HAYDEN. I do not believe that their statements will take very long. I would first like to have you hear Hon. Mulford Winsor, State senator from Yuma County, Ariz., who has been intimately connected with the Yuma reclamation project for more than 20 years.

STATEMENT OF MR. MULFORD WINSOR, OF YUMA, ARIZ.

Mr. WINSOR. Mr. Chairman and gentlemen of the committee, I had hoped to be able to conceal the fact that I was a State senator, but I will have to plead guilty since Representative Hayden has made the charge.

Mr. TAYLOR. Some of us who have been State senators for a long time will sympathize with you.

Mr. WINSOR. I would never recognize it. You all look like intelligent gentlemen. My home is at Yuma, Ariz., and, as Mr. Hayden has said, I have been connected as a farmer and as a member at different times of the board of governors of the Yuma County Water Users' Association for 24 years. I was one of the pioneer settlers in that locality and have assisted in some way or other in various projects for the reclamation of the lands in the Yuma Valley.

Col. Fly and myself are representing the Yuma County Water Users' Association here because we thought that this was a matter that directly affected the Yuma project and because it bears a relation to the contract which was entered into a year ago last April between the Imperial irrigation district and the Secretary of the Interior, at which discussion we were here representing our people.

I want to say that we are very much in favor of the enactment of this measure with such amendments as will be found proper, not only because we are interested in the reclamation of the arid land, a subject that has been close to us for practically all of our lives, but because this plan does present a solution of a very great problem that exists between the two projects on the opposite sides of the Colorado River. That problem, I think, should be perhaps more clearly set out than it has been at this hearing, and at any rate should be emphasized.

As has been stated, it has been found necessary by the Imperial irrigation district, in order to maintain its water supply during seasons of low water, to construct a weir dam immediately below what

is known as the Hanlon Heading, where the water is diverted into the Imperial Canal. That dam being close to the head of our project constitutes a very, very grave menace indeed to all of our lands. You will understand that the only salvation that we have from the sudden rise of the Colorado River lies in the washing out of the bed of the river and lowering it sufficiently to carry the floods that come down very suddenly, and when the Colorado River and the Gila River, which enters the Colorado at Yuma, both rise at the same time, it makes a river which is a very great menace to us and which we have been protected against by the construction of levees, but with the construction of levees we still would be in grave danger if there is no means of the river dredging itself out quickly and thoroughly and to a very great depth.

Now, the weir dam that has been constructed several times—a great many times—in the river opposite our project is built of rock. That has been constructed year after year, time after time, until there has come to be almost a solid, permanent dam. We very seriously doubt whether it is practical to ever entirely remove it or not, and even if it is practical to entirely remove it, it will not be if the additions to it were permitted very many times longer.

We objected to the construction of these dams from the standpoint of self-preservation from their inception, but were really not consulted in the matter, and the dams were constructed without taking our protests into serious consideration, until we felt it necessary to take the bull by the horns and secure a temporary injunction restraining the Imperial irrigation district from constructing these dams, and since we did that the Imperial irrigation district has been consulting with us in the matter of the construction of the dams, and we have year by year, as a matter of friendship and as a matter of neighborliness and latterly as a matter of the necessities of the Nation, consented to the construction of that dam under certain conditions, providing for its removal.

Now, it is a matter of self-preservation with us, gentlemen. It is just like if a man had a gun on you and you were in grave danger of losing your life, you would not hesitate to take his life. We have felt very much that way about it. If that dam is permitted to stay in there, it is a question of our life, and that is not an extravagant statement, for it is borne out by every engineer. I believe, except the engineers of the Imperial irrigation district, and we don't feel that there is any doubt but what the menace is a very serious one and one that can not be exaggerated.

If the Imperial irrigation district can find a means of constructing a canal and taking their water out of the river at Laguna Dam, which is the only available point, it will remove the necessity for that weir dam, and will in that way solve the problem that I speak of. Outside of that particular proposition, the Yuma County Water Users' Association has no desire at all with respect to the Imperial irrigation district taking its water at Laguna Dam. We would very much rather they would not do it. There are objections that will accrue to our project in the event of their taking the water at Laguna Dam, but we do not consider them as great as the objection of constantly fighting over the matter of the weir. That is why we feel very much interested in this project, in this bill under proper terms and condi-

tions. I think there are two or three amendments that should be made—not from the standpoint of governmental policy, because I don't feel that we are here for the purpose of discussing that, but from the standpoint of the rights and interests of the water users under the Yuma project.

The first of those amendments relates to the recognition in the bill of the contract which was entered into between the Secretary of the Interior and the Imperial irrigation district, and which I understand has been recommended by the Secretary of the Interior. That was the contract that was entered into after thorough discussion, was agreed upon by all parties, and as it is very vital to the protection of our rights and interests we think it should be formally recognized in this bill to remove any uncertainty or any uneasiness.

Mr. TAYLOR. Has that contract been put into the record?

Mr. SWING. Yes.

Mr. WINSOR. We think also that there should be definite provision for water storage on the upper reaches of the Colorado River. We feel that we have a direct interest in that in this way: Despite the fact that our rights to the waters of the Colorado River, as between the Yuma project and the Imperial irrigation district, are set forth in the contract to which I have alluded, and the amount of water to which we are entitled is easily determinable. Nevertheless, my observation has been through all of the years that I have been in the arid West that no number of contracts and no number of agreements, no number of understandings take the place of plenty of water. When the time comes that there is a shortage of water there inevitably arises a contest, contracts or agreements to the contrary notwithstanding. We feel, although it is not entirely in accord with the views of some of those who have testified—we don't believe there is any more water than enough for the amount of land that is now under cultivation at the low stages of the river.

Mr. HUDESPETH. You mean without a reservoir?

Mr. WINSOR. Without water storage on the Colorado River. To remove any question of controversy between the two sides of the river and to remove any danger of injustice to those who buy lands and buy water under the two projects, we believe that it is vitally important that there should be a provision made for water storage. I believe also, as has been suggested by—I forget which of the members of the committee, but I remember hearing it suggested—it has been suggested that the Secretary of the Interior should be authorized to fix the area which may be safely watered by the water of the river without storage.

I believe that that is vital, and I want to emphasize the fact that great danger, in my opinion, will exist in the plan which has been suggested of permitting the growing of crops during a part of the year. I have seen that tried, and I have never yet seen it fail of contests and quarrels, and many times in worse than quarrels—in fights. You once put a man on land, even if he has no assurance of water the entire year, and when he sees his neighbors making great profits by growing certain crops the temptation is inevitable for him to want to grow those crops, too, and he tries to do it and he feels very much abused if he doesn't get the water with which to do it,

and you create a condition that in the long run will be a very hazardous one, in my opinion.

Now, we have no interest in such amendments as those, as I say, except that we believe that they run to the amicable carrying out of the provisions of the contract which has been entered into. We are satisfied that that contract—we are perfectly satisfied that the amount of water adjudged to us will be sufficient for our purposes, but even in the face of the contract if there is not water enough for all we are going to find ourselves confronted by lawsuits and controversies and troubles of different kinds. That is why we feel justified in dwelling somewhat upon that matter.

Mr. HUDSPETH. Now, Senator, you state that you don't believe that there is sufficient water for both propositions at this time. What do you base that statement on?

Mr. WINSOR. There is sufficient water for both projects, so far as the present irrigated acreage is concerned.

Mr. HUDSPETH. Then what do you base your statement on relative to future projects?

Mr. WINSOR. I base it on the observation that during the low periods of the year at the present time there is just about enough of water for the lands that are under cultivation.

Mr. TAYLOR. Have you got all your lands under cultivation?

Mr. WINSOR. No, sir; we have not, and when we have them all under cultivation the margin is going to be closer than it is now.

Mr. TAYLOR. You claim priority for the lands that you have under irrigation over the Imperial Valley for the lands that they have under cultivation.

Mr. SWING. As a part of the price of getting the use of the Laguna Dam the Imperial Valley was required to concede to Yuma, both for the lands under cultivation and the lands not under cultivation, prior water rights up to one-fourth of the flow of the river, and the Secretary was instructed to divert it to you. Is that not right?

Mr. WINSOR. Well, Mr. Davis may state that.

Mr. DAVIS. May I correct that, Mr. Chairman? I am more familiar with that contract and with that provision. I think it is fair and does not give priority to either one. At a low stage or at any stage where there could be any dispute the rights are equal. One side would have one-fourth and the other side would have three-fourths. The Imperial Valley gets three-fourths of the water at low water and Yuma one-fourth, and the Secretary has the carrying out of that by the provisions of the agreement providing for the building of the Laguna Dam.

The CHAIRMAN. Will that continue to be so after the rest of the Yuma project has been reclaimed?

Mr. DAVIS. Yes, sir.

Mr. SWING. Mr. Davis, that was based upon 100,000 acres in Yuma, of which only 30,000 are under cultivation and 400,000 in Imperial Valley, all of which is in cultivation?

Mr. DAVIS. Whatever it is based upon, that is the provision of the contract. It doesn't give a priority; it gives three times as much water to Imperial Valley as to Yuma, with equal rights to that much.

Mr. SWING. It gives the same right to the cultivated and uncultivated land in the Yuma project.

Mr. TAYLOR. Would that contemplate, then, that the Yuma people should pay their one-fourth proportionate share of these storage facilities hereafter?

Mr. DAVIS. No, sir; the assumption is that the unregulated water supply of the river is sufficient for the lands now under cultivation, including the entire Yuma project that is not under cultivation. The Imperial rights are based upon use of water; the Laguna rights are based upon acts of Congress—that is, the Yuma project rights are based upon the act of Congress which authorizes diversion of that water and over which Congress has jurisdiction; therefore, the area of the Yuma project is taken as having a gilt-edged water right without storage. The area that has been cultivated under the Imperial Valley is also taken as having a gilt-edged water right equal to that of Yuma, divided in the proportions indicated in the contract, one-fourth to the Yuma project, and three-fourths to the Imperial project, with equal rights to those two.

Mr. TAYLOR. How will that apply when the Yuma project brings all the rest of their land under cultivation? Will the one-fourth be sufficient?

Mr. DAVIS. Yes, sir.

Mr. WINSOR. That statement is very accurate, Mr. Chairman, and I would add that the right of the Yuma project is limited again by acreage. We have the right to one-fourth of the water, or up to an amount sufficient to irrigate a limit of 120,000 acres. In no event can we get more than one-fourth of the water, and in no event can we get more than sufficient, as determined by the Secretary of the Interior, to irrigate 120,000 acres.

Mr. TAYLOR. Senator, are the Yuma people satisfied with the allotment recommended by Secretary Lane of \$1,600,000 as the Imperial Valley's proportionate share that they should pay toward the construction of the dam?

Mr. WINSOR. Yes, sir; they are satisfied with the contract as it exists. I proposed at the hearing, at which the contract was being discussed, that the amount should be fixed by arriving at the exact acreage to be served on each side of the river, and the cost should be based upon the exact acreage, but the statement was made there, I believe by Mr. Davis, that that was approximately what was being done now under the \$1,600,000 price. So, that matter was dropped there and we were perfectly willing that the amount should be their exact proportion according to the acreage. I think that in the long run we would have gotten quite a bit more money in that way, but that is neither here nor there; we are satisfied.

Mr. TAYLOR. Then, your recommendation for storage to be built up the river is not necessarily to enhance the value of the Yuma water right, but is for the purpose of benefiting Imperial Valley?

Mr. WINSOR. That and to throw around the contract that other safeguard of their being no shortage of water. I feel that if there is a shortage of water, that even our contract will meet with trouble. Whenever there is a shortage of water in the arid West, as any of you gentlemen who have had direct experience with it know, whenever that shortage exists there is trouble, no matter how many contracts you have.

Mr. TAYLOR. There is always another element to think of, and that is the Mexican people and the Mexican Government, and whatever rights they may have or claim to have down there isn't there?

Mr. WINSOR. Yes; that is a very important thing to take into consideration; for, regardless of whether they have any legal right, I should say that the chances are that they will continue to irrigate their lands by one means or another, and there should certainly be water to cover that, in my judgment.

Mr. SINNOTT. Is there any controversy between you people as to the right of the Federal Government to apportion the water?

Mr. WINSOR. No; that is absolutely in the hands of the Secretary of the Interior and it is very satisfactory. That is fixed by the contract—the terms of the contract that has been entered into.

Mr. SINNOTT. Has the statute ever been questioned among you people—the right of the Federal Government to pass such an act distributing water?

Mr. WINSOR. No.

Mr. SINNOTT. There is no controversy over that at all?

Mr. WINSOR. No controversy at all. We are perfectly satisfied with both the law and the contract that has been entered into, and are willing to abide by it and would very much regret to see anything occur to abrogate any feature of it; not but that we could write a contract that would suit us better, but as a matter of compromise that has been agreed upon and we are entirely satisfied to abide by it, and we would feel very uneasy if anything occurred to do away with it, and it is our constant uneasiness that, of course, has brought us up here. We are interested in seeing that we are protected, and to that extent we feel that it is right that we should be.

Mr. SWING. Under the contract the diversion works and the matter of dividing water remains entirely in the hands of the Secretary of the Interior.

Mr. WINSOR. Yes. With these changes in the bill, and such other changes relating to governmental policies as you see fit, we feel very strongly in favor of the bill. We are extremely anxious, I will say, that something be done to enable the Imperial irrigation district to get away from the construction of weir dams below their heading opposite our works as soon as possible, and they seem to be very much opposed to the idea of constructing what is known as one leg of the canal until absolute assurance is had of the construction of the all-American canal. I very much favor the construction of the all-American canal myself from the standpoint of reclamation, but from the standpoint of the project we would like to see anything done which will enable them to get a water supply elsewhere than at their present heading. And it does seem to me that if the proper provision could be made that the first leg of the canal should be constructed as soon as possible, as the necessity for the weir dam continues.

Mr. HERNANDEZ. I would like to interrupt to ask you, is the Colorado River practically the boundary line between Mexico and Arizona there?

Mr. WINSOR. Yes; it is the boundary line.

Mr. HERNANDEZ. Now, these Mexican landholders will not be permitted to put their dam where it is now, and they will go below, probably?

Mr. WINSOR. They couldn't put a dam there because they only have control of one side of the river.

Mr. HERNANDEZ. Well, they can put a dam on their side of the river. Will that endanger the Yuma project in any way?

Mr. WINSOR. If they were permitted to put a dam on their side, in Mexican territory, immediately below the present dam, it would endanger our lands, but we wouldn't permit that, and could prevent them from doing it because we would have control of the Arizona side of the river.

Mr. TAYLOR. They can go down farther, can't they, and put in a head gate?

Mr. WINSOR. They can go clear down below the Arizona line.

Mr. TAYLOR. On their own ground, and if it is an engineering possibility to put in a dam, of course they could do it. I don't know whether it is an engineering possibility or not.

The CHAIRMAN. That has already been testified to by Director Davis.

Mr. TAYLOR. They say the slope of the country is such that they could get the water from down below.

Mr. WINSOR. There is a little diversion down there now which some of the Imperial Valley gentlemen could tell you of. I think Mr. Swing made a little error to-night when he said there was no diversion down there, for there is a little diversion, I believe.

Mr. BARBOUR. I would like to ask the Senator this: What is the boundary between Arizona and Mexico down below the California line there? Is it the old river channel or the present channel?

Mr. WINSOR. Well, it is supposed to be wherever the channel is. That, I believe, is the law.

Mr. BARBOUR. The middle of the river, the middle of the stream?

Mr. WINSOR. Yes, sir. I believe that is all I have to say, gentlemen. I thank you.

Mr. HAYDEN. Mr. Chairman and gentlemen of the committee, I present Col. B. F. Fly, of Yuma, Ariz., who comes here with credentials from the Yuma County Commercial Club.

STATEMENT OF MR. B. F. FLY, OF YUMA, ARIZ., REPRESENTING THE YUMA COUNTY COMMERCIAL CLUB.

Mr. FLY. Mr. Chairman and gentlemen, my associate, Senator Winsor, has so thoroughly covered this subject and I am in such hearty accord with everything that he said that I will not weary you with anything except to follow out a suggestion that Senator Winsor just made about a small diversion on the Lower California side of the river beyond what is now known as the Imperial irrigation district. There is a new irrigation project there, taken directly from the Colorado River at the foot of Sierra Mayor. That is in the State of Lower California. I was there on the 22d and 23d of last January to examine it myself. They have a very large pumping plant there; they have built a canal 25 to 30 miles long for the purpose of irrigating anywhere from 25,000 to 50,000 acres of land at the head of Laguna Salada, which is shown on the map there [indicating]. That land down there is being irrigated now by the canal coming out from way up where the Hardy River comes out of Volcano Lake—you can see

it on the map there [indicating]. With that exception, it would be impossible for the people on the Lower California side to obtain any water except through the Hanlon heading gates, because if you come down any further, of course the general topography of the country follows the river, going down all the time, you couldn't build a dam down there and run water back up. There is no place for the Mexican lands to get water except at the present intake of the Imperial irrigation district.

What the people in Yuma are interested in is to do away with that Hanlon heading dam that is a constant menace to us. I, in conjunction with Senator Winsor, and our other citizens, have thought that for the last five years. Now, if they can build their all-American canal, I say God-speed them, but don't wipe Yuma off the map in the meantime by keeping that dam in there. We have them under a bond now that they must remove every particle of that dam by some month in 1921, under a \$540,000 bond. If they don't remove it, we will take that \$540,000 and attempt to remove the dam, but I don't think that sum will remove the tenth part of it.

Mr. HUDDSPETH. Will you state where that dam is on the map?

Mr. FLY. Right there [indicating]. Now, at the present time, within the last three years, they have dumped into the river there from bank to bank over 10,000 carloads of rock, and have been pretending to take it out each year. They put in a few boxes of dynamite and shoot a passageway through, and their contract has been with us to remove it in its entirety every year—not with us but with the War Department, and that privilege has been given them every year over our solemn protest. So we take the position that even the Secretary of War has no right to give anybody the right to dam up a navigable stream.

The CHAIRMAN. Does dynamite blow the rock clear out of the river?

Mr. FLY. It just scatters it.

The CHAIRMAN. In the river?

Mr. FLY. In the river. It just makes a solid apron from bank to bank for about 600 feet up and down the stream. The weir itself stands up as high as the banks and a little higher than our banks, raising the water last year $10\frac{1}{2}$ feet in order to get it in their intake, because their canal has become so silted, or so congested with silt and sand, that each year they have to keep raising this dam, and that forces the water up now 10 feet against our land for 6 miles, and it is creating seepage.

The CHAIRMAN. And scatters the rock?

The CHAIRMAN. Now, the dynamite lowers the dam?

Mr. FLY. Oh, yes; it lowers it.

The CHAIRMAN. And scatters the rock?

Mr. FLY. Yes, sir.

The CHAIRMAN. And puts it over more of the bed of the river?

Mr. FLY. It lowers it to such an extent that they have to rebuild it in order to get the water running in their canal.

Mr. TAYLOR. But they don't obliterate the rock?

Mr. FLY. No. But we are very heartily in favor of this bill as amended, carrying out the suggestions of Secretary Lane and the suggestions Senator Winsor has made. I say that I and we are very

heartily in favor of the bill because we hope that it will get rid of that constant menace of the Hanlon Heading Dam.

Mr. SWING. Colonel, did you ever hear talk of violence down there between the people on both sides of the river?

Mr. FLY. Yes, sir; I have heard some of my distinguished fellow citizens of Yuma County say that if they put another rock in there they would go in there and blow it and you to Halifax.

Mr. SWING. Well, you have heard a number of them say it, haven't you?

Mr. FLY. I have heard quite a number of them, and I have heard them say if any of the board of governors would vote to allow you to put another dam in there, one said he wouldn't exactly head the mob, because he was not physically strong enough, but he would follow any mob to go and put a rope around their necks and hang them if they let you put another dam in there. Now, that brings up this question—my friend Judge Swing wants—

Mr. SWING (interposing). I want to show up the situation as actually acute, and I want you to show this situation.

Mr. FLY. Now, don't get away from this point, that we want that connection made with Laguna Dam for the purpose of doing away with that temporary weir. Personally we don't care a continental whether they ever build the all-American canal or not; we want to save our own lives. Their dam in 1916 caused an overflow to come through the city of Yuma, and the water was 6 feet deep in our main street caused by that dam. We don't want that to occur again.

The CHAIRMAN. Mr. Thomas C. Yager desires to make a statement in support of this bill on behalf of the Coachella Valley County water district. We will now hear Mr. Yager.

STATEMENT OF MR. THOMAS C. YAGER ON BEHALF OF COACHELLA VALLEY COUNTY WATER DISTRICT IN SUPPORT OF H. R. 6044.

Mr. Chairman and gentlemen of the committee, as a representative of the Coachella Valley County water district and of the people of the Coachella Valley I am before this committee earnestly urging the passage of bill H. R. 6044.

We are not asking in this bill that the United States, as an eleemosynary institution, appropriate or donate moneys to this territory known as the Imperial and Coachella Valleys, but we are here merely asking that you provide the machinery making it possible for the people of this country to develop a million acres of land into one of the richest producing territories the United States possesses, and upon a sound business basis, at their own expense and the expense of this land.

I say to you that it is a sound business proposition, and those engineers who are not actuated by influences other than their better judgment will openly lay their figures before this committee and tell you that it is. Let me present to you some figures. According to engineering estimates approximately 1,000,000 acres can be irrigated from gravity flow of the Colorado River, this territory being the Imperial and Coachella Valleys. There are about 584,000 acres of this land within the territorial limits of the Imperial irrigation district, and approximately 150,000 acres within the Coachella Val-

ley County water district; there are about 400,000 acres under actual cultivation in the Imperial irrigation district, and the representatives of that district have told you what has been produced and what can be produced by this land.

Let me tell you of Coachella Valley. Approximately 8,000 acres are being cultivated in the Coachella Valley, this land being irrigated by means of artesian and pumping wells. The water supplying these wells comes principally from the watershed of the San Jacinto and San Gorgonia Mountains, which percolate into the underground streams and flow into the basins underlying the Coachella Valley. This water supply is limited. It is conservatively estimated that the water supply of this valley is not sufficient to put more than 20,000 acres under cultivation, and even now the drain upon the wells is gradually lowering the water level from year to year.

During the season of 1918-19 the Coachella Valley, with its 8,000 acres of cultivated land, grew and produced foodstuff of a valuation of over \$1,000,000, an average of over \$125 per acre. Of this 8,000 acres approximately 500 acres were planted to onions, which netted a return of approximately \$800 per acre. Their grape crop netted the farmers a return of over \$500 per acre, and I will state that this 8,000 acres consists of several hundred acres of young date trees which are not bearing or producing, while some of the eight and nine-year-old trees netted the grower from \$2,500 to \$4,000 per acre. Early vegetable and other crops have been very favorable.

It costs the farmers to develop water for this land between \$50 and \$75 per acre, and from \$20 to \$40 per acre per year for the pumping of this water on the land, depending upon the lift, and with these expenses the farmers of the Coachella Valley have been prosperous and consider their farms sound business propositions.

And I say to you, if this 8,000 acres in the Coachella Valley will stand from \$50 to \$75 per acre for water development, which it has and does, then the 150,000 acres within the valley, which consists of the same soil, and has the same climatic conditions, will.

Witnesses have shown you that the Yuma Valley lands within this same territory have averaged \$113 an acre production for this season, and the million acres susceptible of irrigation from the Colorado River will do the same if this committee makes it possible for them to be irrigated by these waters.

There can be no sounder business in this country than farming, for without foodstuffs this country could not exist, and is it not a sound business proposition to spend \$50 per acre, or even \$75 per acre for water development, when these same acres bring a net return of over \$100 per year, year after year?

Not alone is this bill introduced to make it possible for the development of a million acres of some of the most productive land in the United States, but it is for the immediate protection of the very lives and property of 60,000 people in Imperial Valley.

The people of the Coachella Valley know the situation that confronts the Imperial Valley people, and they have accurately told this committee of their predicament and have not exaggerated the dangers that confront them.

These people are between the devil and the deep sea. The Yuma people on one side and the Mexican interests on the other, and they come to you asking relief. They come to you asking relief through

: proposition which benefits American citizens and injures none, a proposition which has received the sanction of the Department of the Interior, a proposition which can be built and paid for by the people and the land of this district, a proposition the cost of which is not disproportionate to the securities furnished and which will pay back to this Government dollar for dollar with 5 per cent interest, a proposition which will not only protect the lives and property of these people, but will enable the citizens of our country to put under cultivation thousands of acres of land producing untold wealth.

It has been asked if the construction of the first leg of this canal, or the connecting canal from Laguna Dam to the present canal near Hualon Heading, would not solve the problem and be all that is necessary. My answer to this is that it will not; that to build this connecting link to the present Imperial irrigation system and not to build an all-American canal means the turning of the American waters of the Colorado River into Mexico to irrigate Mexican lands while American farmers and American lands beg you for this water.

Even if such a proposition was satisfactory to the Imperial Valley, and even if such a construction would satisfy the Imperial irrigation district with its 584,000 acres, the Coachella Valley and outlying territory, with an equal number of acres of unirrigated land, could not sit idly by and see the waters of the Colorado River turned into Mexico to irrigate Mexican lands when these waters belong to the arid lands of American citizens without vigorously and emphatically protesting against such action.

There is no obligation upon the United States to furnish Mexican lands with Colorado River water, and to do so when our citizens and lands cry out for this water would be to flatly ignore the interests of American farmers and the development of American lands.

Gentlemen, I urge upon you the passage of this bill allowing our citizens to develop this land at their own expense and at the expense of this land, upon a sound business basis governed and controlled by the Department of the Interior with its most competent engineers. It is not a bill of appropriation, but a means by which the land of this territory will develop itself to the great interest and benefit of American citizens.

SUPPLEMENTAL STATEMENT OF IMPERIAL VALLEY COMMITTEE.

Mr. Chairman and gentlemen of the committee, since the conclusion of our first statement a number of questions have been asked us by different members of the committee which seem to warrant the adding of this brief statement:

WILL MEXICO RETALIATE BY LETTING THE FLOOD WATERS INTO IMPERIAL VALLEY?

Ever since the agitation to get our water system out of Mexico began the big corporate interests south of the boundary line have "played up" the threat of Mexican retaliation. It has been their trump card in their efforts to scare the American farmers out of doing anything to get control of their own water system. In justice to the Mexicans themselves it should be stated that this threat has never been heard from any Mexican official but only from American capitalists who want to retain their domination over Imperial Valley.

When the contract between the Secretary of the Interior and the people of the valley was being voted upon, paid propagandists were sent down from Los Angeles to secure its defeat, and one of their principal arguments was the danger of retaliation. The people of Imperial Valley, who are on the ground and know the situation thoroughly, rejected this plea and ratified the contract by a vote of 5 to 2.

The Mexican officials would be the last persons on earth to want to see the river break in. It would not only destroy the cultivated area from which the Mexican Government derives much of its revenue but in all probability it would destroy Mexicali, the capital of Lower California, a city of between four and five thousand inhabitants, which is situated on the direct line the water would take from the river to Salton Sea. It is on the very edge of the deep New River channel. The Mexican landowners would not want to see the river break in. Not only would their lands be the first to be devastated but the force and violence would be greatest nearest the point of the break, and therefore the injury would fall heaviest upon their lands and that part which is in cultivation. Before the flood water reached the international boundary line it would have collected into the New River or Alamo River channels (which are sufficient in size to carry the entire flow of the Colorado River), through which it would pass on to Salton Sea without inundating a single acre of American lands. Lands in Imperial Valley could be flooded only if the river continued to run into Salton Sea uninterrupted long enough to back the water up on to the adjoining lands.

However, this condition would continue for only a short time, as the flood season is only for about six weeks in the middle of the summer, following which the river falls very rapidly, when the break could be repaired. For this purpose every drop of water could be turned out of the river at low season and wasted through the various systems. The closure could then be made on dry ground. The all-American canal is designed to carry a peak load of 9,000 second feet, yet according to Le Rue report (No. 395, Irrigation Papers, pages 97, 98, and 99) the river went below 9,000 second feet in September of every year between 1902 and 1914, except three years, and in those years it went below 9,000 in the month immediately following.

The difficulty in closing the break in 1905 and 1906 was that there was no by-pass or diversion sufficient to take out the water of the river while the repair was being made, but the dam had to be built under the heavy handicap of the constant overpour of all the water that was in the river.

THE COST OF THE ALL-AMERICAN CANAL.

The cost estimate of \$30,000,000 for the all-American canal was made by eminent engineers, who have had ample experience in large enterprises. Mr. C. E. Grunsky was on the Panama Canal board, was special adviser to Secretary Hitchcock, was city engineer for San Francisco, and for several years was consulting engineer for the Imperial irrigation district. Dr. Elwood Mead has an international reputation as an irrigation engineer. Mr. Schlect, the third member of the board, has been connected for a number of years with the Reclamation Service and has handled some of their large works. They made their estimate only after a most careful survey and investigation, and it was made and based on war-time prices.

In addition to a most careful survey made on the ground at a cost of approximately \$45,000, they had before them for their assistance and guidance on this subject the investigations, surveys, reports, and cost estimates of Green and Murphy, United States Reclamation engineers (1904), Sellew, United States Reclamation engineer (1909), P. N. Nunn and Anderson, Imperial Irrigation district engineers (1913), Frisbie, Imperial Laguna Water Co. engineer (1915), and Joseph Jacobs, United States Reclamation Service engineer (1917). Sufficient to say that the present cost estimate of \$30,000,000 is the highest price ever named for connecting Imperial Valley with Laguna Dam and that the present engineers, having the wide experience they have had, doubtless made ample allowance for unforeseen contingencies.

IS THERE A CHEAPER ROUTE AVAILABLE THROUGH MEXICO?

Mr. Davis, Director of the Reclamation Service, is authority for the statement that the difference between the cost estimate of the all-American canal cut through the sand hills and the cost estimate of the same canal built on a loop around the sand hills through Mexico is only about \$2,500,000. The estimate of the loop was based upon a recognizance made on the ground by Mr. W. W. Schlect, project manager of the Yuma United States Reclamation project and member of the all-American canal board of engineers.

However, before even this saving could be secured, we would have to suffer the uncertainty and delay of securing a treaty with Mexico which would give

us this right. We have not made any noticeable headway in negotiating treaties with Mexico in recent years. Furthermore, it is not to be supposed that Mexico would grant us this concession unless our Government reciprocated with counter concessions of at least equal value. So in the end nothing would have been saved. The people of Imperial Valley would rather pay the difference—nay, twice over—and have their system all on American soil free from international complications.

WHY NOT BUILD THE FIRST LEG?

To build the one leg, or a canal from Laguna Dam to the boundary line, and then stop is the Mexican program, pure and simple. Such a canal could not truthfully be said to connect Imperial Valley with Laguna Dam. It would be a direct connection for the Mexican lands. The only "connection" Imperial Valley would have with the matter would be to pay for it when it was done. The increased amount of water resulting from the use of the improved diversion at Laguna Dam would be quickly absorbed in the rapidly spreading area of cultivated land in Mexico. The benefits would not be felt in Imperial Valley, but our lands would be burdened with the cost thereof, which would make it difficult, if not impossible, for us to ever finance the remainder of the all-American canal. We would be bound tighter than ever under the Mexican yoke. Yuma would gain by the construction of the one leg. It would remove the menace to them of our present method of diverting water and upon the completion of the canal would give Yuma cheap hydroelectric power necessary for the development of her mesa. The provision for the development of this power is included in the contract executed between the Imperial Irrigation District and the Secretary of the Interior.

But to build the first leg and make no provision for the completion of the all-American canal would be for our Government to unintentionally play directly into the hands of the Mexican land barons. Such a canal would not only give them a higher and more adequate diversion to be paid for not by themselves but by Imperial Valley, but it would also give the Mexican lands the thing they desire above all else, and that is a basis for a claim of a water right. For our Government to divert water over a Government structure, transport it through a governmentally constructed canal, and deliver it directly to a Mexican corporation organized to irrigate Mexican lands or even to do this thing indirectly with the full knowledge that the water so delivered was to be used in developing Mexican lands would amount to a virtual recognition by our Government that these Mexican lands had a right to the waters. Up to the present time our Government has most carefully and studiously avoided doing this very thing and is, therefore, fortunately in a position to protect its citizens and its own property rights in the waters of the Colorado River.

The existing scheme was "conceived in sin and born in iniquity," and by it the shackles were fastened upon Imperial Valley at its birth by exploiters who tried to give away to the Mexican lands, which they themselves owned, American waters worth hundreds of millions of dollars. Even if Imperial Valley were willing to continue the present arrangement of delivering virtually all the waters of the Colorado River into Mexican control the National Government, in the protection of its own property and as a matter of public policy, ought to put a stop to it.

In our efforts to free ourselves from Mexican domination and control we have been and are now being fought by all the power and influence of the big landed interests south of the boundary. If you have not seen the evidence of this it is because they think it best serves their purpose more effectively to fight from under cover and not in the open. When the contract executed between the Imperial irrigation district and the Secretary of the Interior, which provides for the building of the all-American canal, was up for ratification by our people, these interests fought that and sent their propagandists down from Los Angeles, as well as published full-page advertisements in the local newspapers. And that is not all. When they saw that the people were determined to build an all-American canal, as a way out from under the Mexican tyranny, these same interests undertook to cripple the financial credit of the valley to prevent their being able to carry out the undertaking. We believe the fact is, and if anybody looked it up they would find that the Mexican interests played an important part in persuading the Federal farm-loan bank to withdraw from Imperial Valley. We believe that if the truth were known—and it can be

ascertained—the Federal farm-loan bank withdrew, not on the advice of its engineer, but at the instance and suggestion of Harry Chandler, whose corporation controls some 800,000 acres in Mexico. We are told that Mr. Chandler was recently in Washington on this very Colorado River matter. A former governor of California, who is a stockholder in Chandler's Mexican corporation, is now in Washington on legal business. How many other representatives they have here we do not know, but we do know that they are busy, both here and in California, endeavoring to defeat this bill. In our own valley a great effort is being made to divide our people in order to weaken our effort here.

You may be sure that these interests will keep up the fight, applying every pressure, pulling every wire, exerting every influence, striving by this means and that to block the efforts of Imperial Valley to gain its freedom and to retain for themselves the control of the waters of the Colorado River to make sure the development and prosperity of their own immense holdings in Mexico at the expense of an equal area in the United States.

Compared with the forces which these great corporations can muster, the people of Imperial Valley are weak and insignificant. The ear can only faintly catch their far-distant cry for help.

They have no friends in high places except those who respect and admire the pluck and courage of the hardy pioneer who ventured all to win from the desert wastes a new domain.

They have no influence other than that which a just and meritorious cause may create.

They are plain people, and their delegates here are of their own kind, unequal, we confess, to the task of meeting the wily and skillful strategy of our opponents. Yet we have discharged our responsibility to the best of our ability. We have done all we could to make you see the perilous condition 60,000 people are in, and to make plain the actual necessity for speedy action if any relief is to be afforded them.

We now leave our case in your hands with confidence that you will act speedily and favorably upon it, because we know our cause is right and just.

Respectfully submitted.

PHIL D. SWING,
MARK ROSE,
O. W. SHAW,

Representing Imperial irrigation district.

The CHAIRMAN. It is understood that Mr. Rose may hand in his paper and make a part of the record. Now, if we should conclude that we want to hear from the Department of the Interior, from Director Davis or anyone else, we can call on them, so we will adjourn now, subject to call.

(Whereupon, at 11.15 o'clock p. m. the committee adjourned.)

APPENDIX.

LIBRARY OF CONGRESS,
REPRESENTATIVES' READING ROOM,
Washington.

UNITED STATES DOCUMENTS RELATING TO IMPERIAL VALLEY, CALIF.

- United States Soils Bureau. Field Operations, 1903; pages 1219-1249.
United States Soils Bureau. Field Operations, 1901; pages 587-606.
United States Congress. Senate Report No. 5545, Fifty-ninth Congress, second session.
United States Geological Survey. Reconnaissance map of Salton Sink, Calif., 1906.
United States Weather Bureau. Monthly Weather Review, December, 1906; pages 557-559.
United States Congress. Fifty-ninth Congress, second session, House Report No. 6385.
United States Congress. Fifty-ninth Congress, second session, Senate Document No. 212.
United States Experiment Station Office. Bulletin 158. 1905. Pages 175-194.
United States Congress. Fifty-ninth Congress, second session. House report No. 7289.
United States Smithsonian Institution. Annual Report, 1907; pages 331-345.
United States Congress:
 Sixtieth Congress, first session. Senate Document No. 246.
 Sixty-first Congress, second session. Senate Report No. 423.
United States Statutes at Large, volume 36, Part I, pages 883, 884. Senate Joint Resolution No. 120.
United States Congress:
 Sixty-first Congress, third session. House Report No. 1936, in two parts.
 Sixty-first Congress, second session. House Document No. 972.
 Sixty-second Congress, second session. House Document No. 504.
 Sixty-second Congress, second session. Senate Document No. 846.
 Sixty-second Congress, second session. Senate Document No. 867.
 Sixty-third Congress, third session. House Document No. 1476.
 Sixty-third Congress, third session. House Report No. 1251.
 Sixty-third Congress, third session. Senate Report No. 999.
 Sixty-fourth Congress, first session. House Document No. 586.
 Sixty-fifth Congress, first session. Senate Document No. 103.

EXHIBIT A.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO THE THREATENED DESTRUCTION BY THE OVERFLOW OF THE COLORADO RIVER IN THE SINK OR DEPRESSION KNOWN AS THE IMPERIAL VALLEY OR SALTON SINK REGION.

To the Senate and House of Representatives:

The governor of the State of California and individuals and communities in southern California have made urgent appeals to me to take steps to save the lands and settlements in the sink or depression known as the Imperial Valley or Salton Sink region from threatened destruction by the overflow of Colorado River. The situation appears so serious and urgent that I now refer the matter to the Congress for its consideration, together with my recommendations upon the subject.

Briefly stated, the conditions are these: The Imperial Valley, so-called, in San Diego County, Cal., includes a large tract of country below sea level. Southeast of the valley and considerably above its level is the Colorado River, which flows on a broad, slightly elevated plane upon which the river pursues a tortuous course, finally entering the Gulf of California. The lands in Imperial Valley are 200 feet or more below the level of Colorado River. Down as far as the international border they are protected from inundation by low-lying hills. South of the boundary, in the Republic of Mexico, the hills cease abruptly, and only the broad low mud banks of the river protect the valley from being converted into an inland sea or lake. In order to get any water to this vast tract of fertile but desert land, or, on the other hand, to protect it from too much water, works of supply or of protection must be built in Mexico, even though they may tap the river in the United States. The United States can neither aid nor protect the interests of its citizens without going upon foreign soil.

Nature has through many centuries protected this great depression from overflow, but the restless river, constantly shifting, has annually threatened to break through the banks. Only a little human aid was needed to cause it to do so.

This condition has been long known, and through many years schemes have been discussed either to convert the Salton Sink area into a lake or to irrigate the desert lands below sea level by making a cut in Mexico through the west bank of the Colorado River. It was also well understood that if the cut in the bank was not carefully guarded the river would quickly get beyond control. Finally, after many plans had been tentatively tried, the California Development Company, a New Jersey corporation, actively undertook the work. To insure the safety of Imperial Valley the head of the canal on the river was first placed on United States territory near where the river was bounded by hills. The canal then swung southwest and west away from the river through Mexican territory to connect with natural depressions leading to the valley and back into the United States. The organizers of this company, in order to carry on the work in Mexico, caused to be created a subsidiary company in Mexico acting under Mexican laws. Concessions were granted to this company by the Mexican Government, and provision was made for the employment of a Mexican engineer, to be designated by that Government, in order to see that the work was properly carried out. The dangerous character of the attempt was thus recognized in this concession.

The California Development Company began its work by making representations to possible settlers of the great benefits to be derived by them by taking up this land. A large amount of money which might have been used in needed works was expended in advertising and in promoting the enterprise. The claims were not only extravagant but in many cases it appears that willful misrepresentation was made. Many of the operations of this company and of its subsidiary organizations tended to mislead uninformed settlers. At first the success of the company was great, and it disposed of water rights to settlers at prices sufficiently large to obtain a fair revenue either in cash or in securities of value.

The money thus obtained from settlers was not used in permanent development, but apparently disappeared either in profits to the principal promoters or in the numerous subsidiary companies, which to a certain extent fed upon the parent company, or served to obscure its operations, such as a construction company, a company to promote settlement, and a company to handle the securities of the various other corporations. The history of these deals is so complicated that it would require careful research, extending through many months, to unravel the devious ways by which money and valuable securities have disappeared. In brief, it is sufficient to state that the valuable considerations which were received for water rights were obviously not used in providing necessary and permanent works for furnishing water to the settlers.

The whole enterprise and the spirit of those promoting it, as well as of the numerous smaller speculators attracted to the subsidiary organizations, were of the most visionary character. Actual investments made have been small in proportion to estimates of wealth which appeared to be possible of realization.

The company entered upon its construction work with large plans, but with inadequate capital. All of its structures for the control and distribution of water were temporary in character, being built of wood, and of the smallest possible dimensions. Through the efforts thus made a large amount of land

was brought under cultivation, and at one time it was reported that over 100,000 acres were being more or less irrigated.

The first heading of the canal of the California Development Company was in the United States, immediately north of the Mexican border. It was found, however, after a time, that the heading on the United States side of the line did not give a grade to furnish sufficient flow of water, and, after headings had been opened at other points without successful results, a cut in the river bank was made 4 miles farther south in Mexican territory. This gave the water a shorter and steeper course toward the valley. The making of this cut in a bank composed of light alluvial soil above a depression such as this without controlling devices was criminal negligence. This short cut on Mexican soil was made in the fall of 1904. It was gradually eroded by the passage of the water, and in the spring of 1905 the floods of the Colorado River entering the artificial cut rapidly widened and deepened it until the entire flow of the river was turned westerly down the relatively steep slope into the Imperial Valley, and thence into what is known as Salton Sink or Salton Sea.

After the mischief became apparent strenuous efforts were made by the California Development Company to close the break, but these were without success. Finally the Southern Pacific Company, finding its tracks imperilled and traffic seriously interfered with, advanced money to the California Development Company, received as security a majority of the shares of the company, and thus took charge of the situation.

By means of the facilities available to the Southern Pacific Company the break in the west bank of the Colorado River was closed on November 4, 1906. A month later, however, a sudden rise in the river undermined the poorly constructed levees immediately south of the former break and the water again resumed its course into the Salton Sea.

The results have been highly alarming, as it appears that if the water is not checked it will cut a very deep channel which, progressing upstream in a series of cataracts, will result in conditions such that the water can not be diverted by gravity into the canals already built in the Imperial Valley. If the break is not closed before the coming spring flood of 1907 it appears highly probable that all of the property values created in this valley will be wiped out, including farms and towns, as well as the revenues derived by the Southern Pacific Company. Ultimately the channel will be deepened in the main stream itself up to and beyond the town of Yuma, destroying the homes and farms there, the great railroad bridge, and the Government works at Laguna Dam, above Yuma.

It is difficult to estimate how many people have settled in the valley, the figures varying from 6,000 persons up to as high as 10,000. It is also difficult to ascertain how much money has been actually spent in real improvements. Town lots have been laid off, sold at auction, and several hundred buildings erected in the various small settlements scattered throughout the tract. The greater part of the public land has been taken up under the homestead or desert entry laws, and sufficient work has been done to secure title. Some crops have been raised, and under favorable conditions the output in the near future will be large.

The actual amount of tangible wealth or securities possessed by the settlers to-day upon which money can be raised is believed to be very small. Nearly all individual property has been expended in securing water rights from the California Development Company, or from the other organizations handling the water supply and controlled by this company. It is evident that the people have slender resources to fall back upon, and in view of the threatened calamity are practically helpless. The California Development Company is also unable to meet the exigency. The obligations assumed by the sale of water rights are so great that the property of the company is not adequate to meet these obligations; in other words, a gift of the visible property of this company and of its rights would not be a sufficient offset to the assumption of its liabilities. Nevertheless, the people in their desperation were reported as trying to issue and sell bonds secured by their property in order to give to the California Development Company a million dollars to assist in repairing the break.

The complications which have arisen from the transfer of the property and the involved relations of the California Development Company with its numerous subsidiary companies are such that the United States would not be justified in having any dealings with this company until the complications are re-

moved and the Government has a full understanding of every phase of the situation.

It has been stated above that the California Development Company has not the financial strength to repair the break and to restore the bank of the Colorado River to such permanent condition that a similar occurrence can not happen. It is further understood that the Southern Pacific Company, having expended \$2,000,000 or more for the protection of its interests, declines to furnish more money to the California Development Company to save the Imperial Valley, beyond controlling the present break in the river bank. The owners of the property in Imperial Valley, both farmers and townspeople, together with the Southern Pacific Company and the California Development Company, have combined to call upon the Government for a contribution to assist the California Development Company to the extent of erecting permanent works to insure protection for the future.

If the river is not put back and permanently maintained in its natural bed the progressive back cutting in the course of one or two years will extend upstream to Yuma, as before stated, and finally to the Laguna Dam, now being built by the Government, thus wiping out millions of dollars of property belonging to the Government and to citizens. Continuing farther, it will deprive all the valley lands along the Colorado River of the possibility of obtaining necessary supply of water by gravity canals.

The great Yuma bridge will go out, and approximately 700,000 acres of land as fertile as the Nile Valley will be left in a desert condition. What this means may be understood when we remember that the entire producing area of southern California is about 250,000 acres. A most conservative estimate after full development must place the gross product from this land at not less than \$100 per acre per year, every ten acres of which will support a family when under intense cultivation. If the break in the Colorado is not permanently controlled the financial loss to the United States will be great. The entire irrigable area which will be either submerged or deprived of water in the Imperial Valley and along the Colorado River is capable of adding to the permanent population of Arizona and California at least 350,000 people, and probably 500,000. Much of the land will be worth from \$500 to \$1,500 per acre to individual owners, or a total of from \$350,000,000 or \$700,000,000.

The point to be especially emphasized is that prompt action must be taken, if any; otherwise the conditions may become so extreme as to be impracticable of remedy. The history of past attempts to close the break in the river bank has shown that each time, through delay, the work has cost double or treble what it would have cost had prompt action been taken. It is probable now that with an expenditure of \$2,000,000 the river can be restored to its former channel and held there indefinitely; but if this action is not taken immediately, several times this sum may be required to restore it, and possibly it can not be restored unless enormous sums are expended.

At the present moment there appears to be only one agency equal to the task of controlling the river, namely, the Southern Pacific Company, with its transportation facilities, its equipment, and control of the California Development Company and subsidiary companies. The need of railroad facilities and equipment and the international complications are such that the officers of the United States, even with unlimited funds, could not carry on the work with the celerity required. It is only the fact that the officers of the Southern Pacific Company, acting also as officers of the California Development Company, have been able to apply all its resources for transportation, motive power, and the operation of the road that has made it possible to control the situation to the extent which they have already done. The Southern Pacific Company is now reported to be working strenuously to fill the break through which the Colorado River is flowing westward to the Salton Sea, and in repairing and building levees to keep out the high water due next March. This work will be more or less of a temporary character. Further construction is necessary and all temporary works must be replaced by permanent structures. It is estimated that for this additional work \$2,000,000 should be available. The question as to what sum, if any, should be paid to the Southern Pacific Company for work done since the break of November 4, 1906, is one for future consideration; for work done prior to that date no claim can be admitted.

But one practicable course is now open for consideration.

The Southern Pacific Company must continue its work to close the break and restore the river to its proper channel. The United States can then take

charge, making the protective works permanent and providing for their maintenance.

It is not believed that a free gift of this money should be made, as by its investment the stability of property of great value will be secured and the increase in land values throughout the Imperial Valley will be sufficient to justify the provision that this money should be returned to the Government.

The Reclamation Service should be authorized to take steps at once for the construction of an irrigation project, under the terms of the reclamation act, for the lands in the Imperial Valley and in the lower Colorado River Valley. The service should be in position to proceed actively with the organization of the project and the construction of the works as soon as the conditions in regard to the protection of the valley against overflow will justify expenditures for this purpose.

To accomplish this, the United States should acquire the rights of the California Development Company and its subsidiary corporations in the United States and Mexico upon such reasonable terms as shall protect the interests of the Government and of the water users. The United States should obtain by convention with Mexico the right to carry water through that country upon reasonable conditions.

Most of the land in the Imperial Valley has been entered under the terms of the desert-land act or the homestead laws, and title has not passed out of the United States.

The construction work required would be: The main canal, some 60 miles in length, from Laguna Dam into the Imperial Valley; the repair and partial reconstruction of the present distribution system in the valley and its extension to other lands, mainly public; diversion dams and distribution systems in the Colorado River Valley, and provision for supplementing the natural flow of the river by means of such storage reservoirs as may be necessary. This would provide for the complete irrigation of 300,000 acres in the Imperial Valley and for 400,000 acres additional in the United States in the valley of the Colorado in Arizona and California.

The reclamation fund now available has been allotted for projects under construction, and the anticipated additions to the fund for the next few years will be needed to complete these projects. It will therefore be impossible to construct a reclamation project for the Imperial Valley with the funds now in hand, and it will be necessary for Congress to make specific appropriation for this work if it decides to undertake it.

Such appropriation would be expended for a project carried out under all the provisions of the reclamation act, requiring the return to the reclamation fund of the cost of construction and maintenance of the irrigation works, and there should be the further requirement that the cost of permanent protective works and their maintenance be repaid.

The interests of the Government in this matter are so great in the protection of its own property, particularly of the public lands, that Congress is justified in taking prompt and effective measures toward the relief of the present situation. No steps, however, should be taken except with a broad comprehension of the magnitude of the work and with the belief that within the next ten years the works and development will be carried out to their full proportions.

The plan in general is to enter upon a broad, comprehensive scheme of development for all the irrigable land upon Colorado River with needed storage at the headwaters, so that none of the water of this great river which can be put to beneficial use will be allowed to go to waste. The Imperial Valley will never have a safe and adequate supply of water until the main canal extends from the Laguna Dam. At each end this dam is connected with rock bluffs and provides a permanent heading founded on rock for the diversion of the water. Any works built below this point would not be safe from destruction by floods and can not be depended upon for a permanent and reliable supply of water to the valley.

If Congress does not give authority and make adequate provision to take up this work in the way suggested, it must be inferred that it acquiesces in the abandonment of the work at Laguna and of all future attempts to utilize the valuable public domain in this part of the country.

THEODORE ROOSEVELT.

THE WHITE HOUSE, January 12, 1907.

130088—19—18

EXHIBIT "B."

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A LETTER OF THE SECRETARY OF THE INTERIOR SUBMITTING AN APPEAL OF THE BOARD OF SUPERVISORS OF IMPERIAL COUNTY, CAL., FOR FURTHER APPROPRIATIONS OF MONEY AND FURTHER WORKS FOR THE PROTECTION OF LANDS AND PROPERTY IN THE UNITED STATES AGAINST THE FLOOD WATERS OF THE COLORADO RIVER.

To the Senate and House of Representatives:

I transmit herewith a letter from the Secretary of the Interior inclosing an appeal from the board of supervisors of Imperial County, Cal., for further appropriations of money and further works for the protection of lands and property in the United States against the flood waters of the Colorado River.

In my message dated February 2, 1912, transmitting data of the work of the Interior Department, published as House Document No. 504, Sixty-second Congress, second session, there is contained a report of the engineer in charge of the work of protection done under the act of June 25, 1910, appropriating \$1,000,000 for this purpose, and also a report of a special board convened by my direction to review this report and advise what further work should be done along the lower Colorado River for the protection of the interests of the United States. In this report of the special board, dated June 7, 1911, there will be found a recommendation that certain additional work should be at once executed, and an estimate of \$1,000,000 as necessary for this work.

In my message I stated that I did not at that time make a definite recommendation, for the reason that the plan to be adopted for the betterment of conditions near the mouth of the Colorado River proves to be so dependent on a free and full agreement between the Government of Mexico and the Government of the United States as to joint expenditure and joint use that it is unwise to move until we can obtain some agreement with that Government which will enable us to submit to Congress a larger plan, better adapted to the exigencies presented than the one adopted. As stated in this message, the matter was being pressed upon the attention of the Mexican Government and favorable progress has been made in the negotiations. However, it is not probable that the negotiations with Mexico can be consummated before the adjournment of Congress, and it is therefore desirable to provide against a possible emergency which may arise after Congress has adjourned.

Since the report of the special board above referred to a part of the work proposed has been executed, and it is believed that the work will prove adequate for the protection of the lands in Imperial Valley against serious overflow during the present flood, which materially exceeds the average flood in volume, but as shown in the letter of the Secretary of the Interior the Colorado River since the date of the report of the special advisory board began and has continued to cave its banks, until the protecting levee of the Mexican side about 7 miles below the intake of the Imperial Canal is threatened, and apprehensions are aroused that the Colorado will again cut a deep channel into the Imperial Canal and flow again into Salton Sink with disastrous results to American lives and property.

I request that the recommendation of the Secretary of the Interior be followed and that an appropriation of \$1,250,000 be made to meet any emergencies that may arise for the construction of levees and revetments along the Colorado River and for the protection of property in the United States from damage by the flood waters of that river, and to be expended in whole or in part for the purposes stated and under the direction of the President of the United States.

W.M. H. TAFT.

THE WHITE HOUSE, June 14, 1912.

EXHIBIT C.

DEPARTMENT OF STATE,
Washington, July 17, 1919.

MY DEAR MR. KINKAID: I acknowledge receipt of your letter of July 10, 1919, in which you state that the House Committee on Irrigation of Arid Lands desires for use in connection with the consideration of H. R. 6044, introduced by Mr. Kettner, for the relief of the Imperial Valley irrigation district, to be furnished with copies of any treaties, which this country may have with Mexico,

bearing upon the question of the use of waters taken from the Colorado River for the reclamation of lands in the respective countries, and also copies of any official correspondence pertaining to the subject matter. I am advised that in a telephonic conversation with the Solicitor's Office of the department, you have modified your request for information as to official correspondence, and have explained that your principal desire is to obtain copies of pertinent treaties, and that for the present you would be satisfied to receive merely brief reference to correspondence in the matter.

In reply, you are informed that the United States and Mexico have never concluded an agreement relative to the distribution and use of the waters of the Colorado River for irrigation purposes. In 1912 this Government proposed to the Government of Mexico the concluding of a convention providing for the appointment of a commission "to study, agree upon, and report" the bases of distribution and appropriation of the waters of this river, the findings of the commission, if and when approved by the two Governments, to be embodied in a treaty. After an exchange between the Governments of several draft conventions, a form of convention seems to have been practically agreed upon in May, 1913, but, apparently because of the strained relations between this Government and the so-called Huerta administration in Mexico, the convention was never signed, and the matter has since been in abeyance.

As having some possible bearing upon this question, in which your committee is interested, I inclose herewith copies of the following treaties between the United States and Mexico:

The treaty of Guadalupe Hidalgo of 1848, inviting attention to the provisions of articles 5, 6, and 7.

The treaty of 1853, known as the Gadsden treaty, inviting attention to the provisions of articles 1 and 4.

The boundary convention of 1884.

The boundary convention of 1889, together with the conventions of 1895, 1896, 1897, 1898, 1899, and 1900, extending the provisions of the said convention of 1889.

As of further interest to your committee there is also inclosed herewith a copy of a note from the Mexican Embassy, dated November 27, 1901, in which complaint is made of the alleged diversion of water from the Colorado River by the Imperial Canal system, of Los Angeles, Calif. It will be observed that this complaint is based on alleged contravention of the provisions of the said treaties of 1848 and 1853. The department's records appear to show that this complaint was communicated to the Attorney General, and that the conditions therein complained of formed the basis of a report made by Mr. Marsden C. Burch, a special attorney of the Department of Justice, which report was forwarded to this department by the Department of Justice on September 28, 1903, with the suggestion that because of the nature and bearings of the subject thereof, and because of the interest of various departments of the Government in that subject, it might be desirable to print the report for the information and use of the departments concerned. Accordingly the report was transmitted to the Director of the Geological Survey on October 14, 1903, with the statement that it was so transmitted because the subject thereof appeared to be connected with the work of his bureau and in the hope that he might find it desirable to print it for the information and use of the departments concerned. The Director of the Geological Survey replied, on October 17, 1903, that it was proposed to embody the report in the Second Annual Report of the Reclamation Service.

I am, my dear Mr. Kinkaid,

Sincerely, yours,

**FRANK L. POLK,
Acting Secretary of State.**

[Translation.]

**EMBASSY OF MEXICO,
November 27, 1901.**

MOST EXCELLENT SIR: My Government is in receipt of reports according to which a concern styled "Imperial Canal System," of Los Angeles, Calif., is now conducting works tending to divert the waters of the Colorado River and to convey them to the arid lands in the southern part of the State of California, excavating machines have been set up to cut canals through the said lands, in

which sowing has already begun and dwelling houses are in course of construction. It is feared, with foundation, that these canalization works will bring about a change in the course or the complete exhaustion of the Colorado River to the serious injury, which is easily understood, of the Mexican territory and the inhabitants thereof in the region the said river runs through from the boundary of your country to its mouth, on the Cortes Sea.

My Government holds the works in which the Imperial Canal System is engaged to be in contravention of the stipulations set forth in Article IV of the boundary treaty between the two Republics concluded in the year 1853 and those on the same point of the preceding treaty signed in 1848, which remained operative under the later treaty, and, therefore, has instructed me to denounce the wrong in question to your excellency and to ask that such steps as may be necessary to restrain it be taken.

Which complying with the instructions on which this note is based, it is an honor for me to reiterate to your excellency the assurances of my highest consideration.

M'DE ASPIROZ.

To His Excellency JOHN HAY.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE MEXICAN REPUBLIC—
PEACE, FRIENDSHIP, LIMITS, AND SETTLEMENT.

[Signed at Guadalupe Hidalgo, Feb. 2, 1848; ratification advised, with amendments, by the Senate, Mar. 10, 1848; ratified by the President of the United States, Mar. 16, 1848; ratified by the President of Mexico, May 30, 1848; ratifications exchanged at Querétaro, May 30, 1848; proclaimed July 4, 1848.]

ART. V. The boundary line between the two Republics shall commence in the Gulf of Mexico, 3 leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico until it intersects the first branch of the River Gila (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down the middle of the said branch and of the said river until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled "Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition. Published at New York in 1847 by J. Disturnell." Of which map a copy is added to this treaty, bearing the signatures and seals of the undersigned plenipotentiaries. And in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila where it unites with the Colorado to a point on the coast of the Pacific Ocean, distant 1 marine league due south of the southernmost point of the port of San Diego, according to the plan of said port made in the year 1782 by Don Juan Pantoja, second sailing master of the Spanish fleet, and published at Madrid in the year 1802 in the atlas to the voyage of the schooners *Sutil* and *Mexicana*, of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

In order to designate the boundary line with due precision upon authoritative maps and to establish upon the ground landmarks which shall show the limits of both Republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of exchange of ratifications of this treaty, shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result,

agreed upon by them, shall be deemed a part of this treaty and shall have the same force as if it were inserted therein. The two Governments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The boundary line established by this article shall be religiously respected by each of the two Republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

ART. VI. The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the River Colorado below its confluence with the Gila, to and from their possessions situated north of the boundary line defined in the preceding article; it being understood that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land, without the express consent of the Mexican Government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway which should, in whole or in part, run upon the River Gila, or upon its right or its left bank, within the space of 1 marine league from either margin of the river, the Governments of both Republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

ART. VII. The River Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth article, divided in the middle between the two Republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right: not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in the present article shall not impair the territorial rights of either Republic within its established limits.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE MEXICAN REPUBLIC RELATIVE TO BOUNDARY LINE, TRANSIT OF PERSONS, ETC., ACROSS THE Isthmus of Tehuantepec.

[Dated at the City of Mexico, Dec. 30, 1853; ratified by the President of the United States, June 29, 1854; ratifications exchanged at Washington, June 30, 1854; proclaimed June 30, 1854.]

ARTICLE I. The Mexican Republic agrees to designate the following as her true limits with the United States for the future, retaining the same dividing line between the two Californias as already defined and established according to the fifth article of the treaty of Guadalupe Hidalgo, the limits between the two Republics shall be as follows: Beginning in the Gulf of Mexico 3 leagues from land, opposite the mouth of the Rio Grande, as provided in the fifth article of the treaty of Guadalupe Hidalgo, thence as defined in the said article, up the middle of that river to the point where the parallel of 31° 47' north latitude crosses the same, thence due west 100 miles, thence south to the parallel of 31° 20' north latitude, thence along the said parallel of 31° 20' to the one hundred and eleventh meridian of longitude west of Greenwich, thence in a straight line to a point on the Colorado River 20 English miles below the junction of the Gila and Colorado Rivers, thence up the middle of the said River Colorado until it intersects the present line between the United States and Mexico.

For the performance of this portion of the treaty each of the two Governments shall nominate one commissioner, to the end that, by common consent, the two thus nominated having met in the city of Paso del Norte, three months after the exchange of the ratifications of this treaty, may proceed to survey and mark out upon the land the dividing line stipulated by this article, where it shall not have already been surveyed and established by the mixed commission according to

the treaty of Guadalupe, keeping a journal and making proper plans of their operations. For this purpose, if they should judge it is necessary, the contracting parties shall be at liberty each to unite to its respective commissioner, scientific or other assistants, such as astronomers and surveyors, whose concurrence shall not be considered necessary for the settlement and ratification of a true line of division between the two Republics; that line shall be alone established upon which the commissioners may fix, their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind by either of the parties contracting.

The dividing line thus established shall in all time be faithfully respected by the two Governments without any variation therein, unless of the express and free consent of the two, given in conformity to the principles of the law of nations and in accordance with the constitution of each country, respectively.

In consequence, the stipulation in the fifth article of the treaty of Guadalupe upon the boundary line therein described is no longer of any force wherein it may conflict with that here established, the said line being considered annulled and abolished wherever it may not coincide with the present, and in the same manner remaining in full force where in accordance with the same.

ART. IV. The provisions of the sixth and seventh articles of the treaty of Guadalupe Hidalgo having been rendered nugatory for the most part by the cession of territory granted in the first article of this treaty, the said articles are hereby abrogated and annulled and the provisions as herein expressed substituted therefor. The vessels and citizens of the United States shall in all time have free and uninterrupted passage through the Gulf of California to and from their possessions situated north of the boundary line of the two countries. It being understood that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land, without the express consent of the Mexican Government, and precisely the same provisions, stipulations, and restrictions in all respects are hereby agreed upon and adopted and shall be scrupulously observed and enforced by the two contracting governments in reference to the Rio Colorado, so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty.

The several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall remain in force only so far as regards the Rio Bravo del Norte below the initial of the said boundary provided in the first article of this treaty. That is to say, below the intersection of the $31^{\circ} 47' 30''$ parallel of latitude, with the boundary line established by the late treaty dividing said river from its mouth upward according to the fifth article of the treaty of Guadalupe.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF MEXICO TOUCHING THE INTERNATIONAL BOUNDARY LINE WHERE IT FOLLOWS THE BED OF THE RIO COLORADO.

[Concluded at Washington, Nov. 12, 1884; ratification advised by the Senate, June 23, 1886; ratified by the President of the United States, July 10, 1886; ratifications exchanged at Washington, Sept. 13, 1886; proclaimed Sept. 14, 1886.]

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico, touching the boundary line between the two countries, was signed by their respective plenipotentiaries at Washington on the 12th day of November, 1884, the original of which convention is word for word, as follows:

Convention between the United States of America and the United States of Mexico touching the boundary line between the two countries where it follows the bed of the Rio Grande and the Rio Colorado.

Whereas in virtue of the fifth article of the treaty of Guadalupe Hidalgo between the United States of America and the United States of Mexico, concluded February 2, 1848, and of the first article of that of December 30, 1853, certain parts of the dividing line between the two countries follow the

middle of the channel of the Rio Grande and the Rio Colorado to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces, the Government of the United States of America and the Government of the United States of Mexico have resolved to conclude a convention which shall lay down rules for the determination of such questions and have appointed as their plenipotentiaries:

The President of the United States of America, Frederick T. Frelinghuysen, Secretary of State of the United States, and the President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United Mexican States;

Who, after exhibiting their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I. The dividing line shall forever be that described in the aforesaid treaty and follow the center of the normal channel of the rivers named, notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one.

ART. II. Any other change wrought by the force of the current, whether by the cutting of a new bed or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commissions in 1852; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or be obstructed by deposits.

ART. III. No artificial change in the navigable course of the river, by building jetties, piers, or obstructions which may tend to deflect the current or produce deposits of alluvium, or by dredging to deepen another than the original channel under the treaty when there is more than one channel, or by cutting waterways to shorten the navigable distance, shall be permitted to affect or alter the dividing line as determined by the aforesaid commissions in 1852 or as determined by Article I hereof and under the reservation therein contained; but the protection of the banks on either side from erosion by revetments of stone or other material not unduly projecting into the current of the river shall not be deemed an artificial change.

ART. IV. If any international bridge have been or shall be built across either of the rivers named, the point on such bridge exactly over the middle of the main channel, as herein determined, shall be marked by a suitable monument, which shall denote the dividing line for all the purposes of such bridge, notwithstanding any change in the channel which may thereafter supervene. But any rights other than in the bridge itself and in the ground on which it is built shall, in event of any such subsequent change, be determined in accordance with the general provisions of this convention.

ART. V. Rights of property in respect of lands which may have become separated through the creation of new channels as defined in Article II hereof shall not be affected thereby, but such lands shall continue to be under the jurisdiction of the country to which they previously belonged.

In no case, however, shall this retained jurisdictional right affect or control the right of navigation common to the two countries under the stipulations of Article VII of the aforesaid treaty of Guadalupe Hidalgo; and such common right shall continue without prejudice throughout the actually navigable main channels of the said rivers, from the mouth of the Rio Grande to the point where the Rio Colorado ceases to be the international boundary, even though any part of the channel of said rivers, through the changes herein provided against, may be comprised within the territory of one of the two nations.

ART. VI. This convention shall be ratified by both parties in accordance with their respective constitutional procedure, and the ratifications exchanged in the city of Washington as soon as possible.

In witness whereof the undersigned plenipotentiaries have hereunto set their hands and seals.

Done at the city of Washington, in duplicate, in the English and Spanish languages, this 12th day of November, A. D. 1884.

FREDK. T. FRELINGHUYSEN. [SEAL.]
M. ROMERO. [SEAL.]

And wheresoever the said convention has been duly ratified on both parts, and the ratifications of the two Governments exchanged in the city of Washington on the 13th day of September, 1886;

Now, therefore, be it known that I, Grover Cleveland, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourteenth day of September, in the year of our Lord one thousand eight hundred and eighty-six, and of the independence of the United States the one hundred and eleventh.

[SEAL.]

By the President:

T. F. BAYARD,

Secretary of State.

GROVER CLEVELAND.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF MEXICO TO FACILITATE THE CARRYING OUT OF THE PRINCIPLES CONTAINED IN THE TREATY OF NOVEMBER 12, 1884, AND TO AVOID THE DIFFICULTIES OCCASIONED BY REASON OF THE CHANGES WHICH TAKE PLACE IN THE BEDS OF THE RIO GRANDE AND COLORADO RIVERS.

[Signed at Washington, Mar. 1, 1889; ratification advised, May 7, 1890; ratified by the President of Mexico, Oct. 31, 1889; ratified by the President of the United States, Dec. 6, 1890; ratifications exchanged, Dec. 24, 1890; proclaimed Dec. 26, 1890.]

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico to facilitate the carrying out of the principles contained in the treaty of November 12, 1884, between the same high contracting parties and to avoid the difficulties occasioned by reason of the changes which take place in the bed of the Rio Grande and that of the Colorado River in that portion thereof where they serve as a boundary between the two Republics, was concluded and signed by the respective plenipotentiaries of the aforesaid high contracting parties at the city of Washington on the 1st day of March, 1889, the original of which convention, being in the English and Spanish languages, and as amended by the Senate of the United States, is word for word as follows:

The United States of America and the United States of Mexico, desiring to facilitate the carrying out of the principles contained in the treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in the bed of the Rio Grande and that of the Colorado River, in that portion thereof where they serve as a boundary between the two Republics, have resolved to conclude a treaty for the attainment of these objects, and have appointed as their respective plenipotentiaries:

The President of the United States of America, Thomas F. Bayard, Secretary of State of the United States of America; and

The President of the United States of Mexico, Mathias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico, at Washington;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

ARTICLE I.

All differences or questions that may arise on that portion of the frontier between the United States of America and the United States of Mexico where the Rio Grande and the Colorado Rivers form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an inter-

national boundary commission, which shall have exclusive jurisdiction in the case of said differences or questions.

ARTICLE II.

The International Boundary Commission shall be composed of a commissioner appointed by the President of the United States of America, and of another appointed by the President of the United States of Mexico, in accordance with the constitutional provisions of each country, of a consulting engineer, appointed in the same manner by each Government, and of such secretaries and interpreters as either Government may see fit to add to its commission. Each Government separately shall fix the salaries and emoluments of the members of its commission.

ARTICLE III.

The International Boundary Commission shall not transact any business unless both commissioners are present. It shall sit on the frontier of the two contracting countries, and shall establish itself at such places as it may determine upon; it shall, however, repair to places at which any of the difficulties or questions mentioned in this convention may arise, as soon as it shall have been duly notified thereof.

ARTICLE IV.

When, owing to natural causes, any change shall take place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boundary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper local authorities on both sides to their respective commissioners of the International Boundary Commission, on receiving which notice it shall be the duty of the said commission to repair to the place where the change has taken place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effect of Articles I and II of the convention of November 12, 1884; having done this, it shall make suitable annotations on the surveys of the boundary line.

ARTICLE V.

Whenever the local authorities on any point of the frontier between the United States of America and the United States of Mexico, in that portion in which the Rio Grande and the Colorado River form the boundary between the two countries, shall think that works are being constructed, in either of those rivers, such as are prohibited by Article III of the convention of November 12, 1884, or by Article VII of the treaty of Guadalupe Hidalgo of February 2, 1848, they shall so notify their respective commissioners, in order that the latter may at once submit the matter to the International Boundary Commission, and that said commission may proceed, in accordance with the provisions of the foregoing article, to examine the case, and that it may decide whether the work is among the number of those which are permitted, or of those which are prohibited by the stipulations of those treaties.

The commission may provisionally suspend the construction of the works in question pending the investigation of the matter, and if it shall fail to agree on this point, the works shall be suspended, at the instance of one of the two Governments.

ARTICLE VI.

In either of these cases, the commission shall make a personal examination of the matter which occasions the change, the question or the complaint, and shall give its decision in regard to the same, in doing which it shall comply with the requirements established by a body of regulations to be prepared by the said commission and approved by both Governments.

ARTICLE VII.

The International Boundary Commission shall have power to call for papers and information, and it shall be the duty of the authorities of each of the two

countries to send it any papers that it may call for, relating to any boundary question in which it may have jurisdiction in pursuance of this convention.

The said commission shall have power to summon any witnesses whose testimony it may think proper to take, and it shall be the duty of all persons thus summoned to appear before the same and to give their testimony, which shall be taken in accordance with such by-laws and regulations as may be adopted by the commission and approved by both Governments. In case of the refusal of a witness to appear, he shall be compelled to do so, and to this end the commission may make use of the same means that are used by the courts of the respective countries to compel the attendance of witnesses, in conformity with their respective laws.

ARTICLE VIII.

If both commissioners shall agree to a decision, their judgment shall be considered binding upon both Governments, unless one of them shall disapprove it within one month reckoned from the day on which it shall have been pronounced. In the latter case, both Governments shall take cognizance of the matter, and shall decide it amicably, bearing constantly in mind the stipulation of Article XXI of the treaty of Guadalupe Hidalgo of February 2, 1848.

The same shall be the case when the commissioners shall fail to agree concerning the point which occasions the question, the complaint, or the change, in which case each commissioner shall prepare a report, in writing, which he shall lay before his Government.

ARTICLE IX.

This convention shall be ratified by both parties, in accordance with the provisions of their respective constitutions, and the ratifications thereof shall be exchanged at Washington as speedily as possible—and shall be in force from the date of the exchange of ratification for a period of five years.

In testimony whereof the undersigned plenipotentiaries have signed and sealed it.

Done in duplicate, in the city of Washington, in the English and Spanish languages, on the 1st day of March, 1889.

T. F. BAYARD. [SEAL.]
M. ROMERO. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the same were exchanged at the city of Washington on the 24th day of December, 1890.

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said convention to be made public, as amended, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-sixth day of December, in the year of our Lord, one thousand eight hundred and ninety and of the Independence of the United States of America the one hundred and fifteenth.

[SEAL.]

BENJ. HARRISON.

By the President:

JAMES G. BLAINE,

Secretary of State.

BOUNDARY CONVENTION.

[Concluded Oct. 1, 1895; ratification advised by Senate, Dec. 17, 1895; ratified by the President, Dec. 20, 1895; ratifications exchanged, Dec. 21, 1895; proclaimed Dec. 21, 1895.]

Whereas the United States of America and the United States of Mexico desire to comply fully with the provisions of the convention, concluded and signed at Washington, March 1, 1889, to facilitate the carrying out of the principles contained in the convention of November 12, 1884, between the two high contracting parties, and to avoid the difficulties occasioned by reason of the changes which take place in the beds of the Rio Grande and Colorado Rivers

in that portion whereof they serve as a boundary line between the two Republics;

And whereas the time fixed by Article IX of the convention of March 1, 1889, will expire December 24, 1895;

And whereas the two high contracting parties deem it expedient to agree upon an extension of the time stipulated in Article IX aforesaid to the end that the International Boundary Commission may conclude the examination and decision of the cases submitted to it, they have appointed for this purpose their respective plenipotentiaries, to wit:

The President of the United States of America, Richard Olney, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico at Washington.

Who, after having communicated to each other their respective full powers, found in good and true form, have agreed upon and concluded the following article:

ARTICLE.—The duration of the convention of March 1, 1889, between the United States of America and the United States of Mexico, which, in virtue of the provisions of Article IX thereof, was to continue in force for a period of five years from the date of the exchange of its ratifications and which will terminate December 24, 1895, is hereby extended for the period of one year from that date.

This convention shall be ratified by the high contracting parties in conformity with their respective Constitutions, and its ratifications shall be exchanged at Washington as soon as possible.

In faith whereof, we, the undersigned, in virtue of our respective full powers have signed this convention, in duplicate, in the English and Spanish languages, and thereunto affixed our respective seals.

Done at the city of Washington this 1st day of October, in the year of our Lord, 1895.

RICHARD OLNEY. [SEAL.]
M. ROMERO. [SEAL.]

CONVENTION EXTENDING THE DURATION OF THE CONVENTION OF MARCH 1, 1889,
CONCERNING THE WATER BOUNDARY BETWEEN THE TWO COUNTRIES.

[Signed at Washington, Nov. 8, 1896; ratification advised by the Senate, Dec. 10, 1896; ratified by the President of the United States, Dec. 15, 1896; ratifications exchanged at Washington, Dec. 23, 1896; proclaimed, Dec. 23, 1896.]

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by article 9 of the convention of March 1, 1889, extended by that of October 1, 1895, expires on the 24th of December, 1896;

And whereas the two high contracting parties deem it expedient to extend the period fixed by article 9 of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have for that purpose appointed their respective plenipotentiaries, to wit:

The President of the United States of America, Richard Olney, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico in Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

ARTICLE.—The duration of the convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which, according

to the provisions of article 9 thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the convention of October 1, 1895, to December 24, 1896, is extended by the present convention for the period of one year counting from this latter date.

This convention shall be ratified by the two high contracting parties in conformity with their respective constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington on the 6th day of November of the year 1896.

RICHARD OLNEY. [SEAL.]
M. ROMERO. [SEAL.]

CONVENTION BETWEEN THE UNITED STATES AND MEXICO—WATER BOUNDARY—
EXTENDING THE DURATION OF THE CONVENTION OF MARCH 1, 1889.

[Signed at Washington, Oct. 29, 1897; ratification advised by the Senate, Dec. 16, 1897; ratified by the President, Dec. 20, 1897; ratified by Mexico, Nov. 2, 1897; ratifications exchanged at Washington, Dec. 21, 1897; proclaimed Dec. 21, 1897.]

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico extending for a period of one year from December 24, 1897, the duration of the convention between the two high contracting parties of March 1, 1889, concerning the water boundary between the two countries, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 29th day of October, 1897, the original of which convention, being in the English and Spanish languages, is word for word as follows:

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, and November 6, 1896, expires on the 24th of December 1897;

And whereas the two high contracting parties deem it expedient to extend the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, and that of November 6, 1896, in order that the international boundary commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Sherman, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico in Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

ARTICLE. The duration of the convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which, according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the convention of October 1, 1895, to December 24, 1896, and by the convention of November 6, 1896, to December 24, 1897, is extended by the present convention for the period of one year, counting from this last date.

This convention shall be ratified by the two high contracting parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington on the 29th day of October of the year 1897.

JOHN SHERMAN. [SEAL.]
M. ROMERO. [SEAL.]

And whereas the said convention has been duly ratified on both parts and the ratifications of the two Governments were exchanged in the city of Washington on the 21st day of December, 1897.

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-first day of December, in the year of our Lord one thousand eight hundred and ninety-seven, and of the Independence of the United States the one hundred and twenty-second.

[SEAL.]

By the President:

JOHN SHERMAN,
Secretary of State.

WILLIAM MCKINLEY,

CONVENTION BETWEEN THE UNITED STATES AND MEXICO—WATER BOUNDARY—EXTENDING THE DURATION OF THE CONVENTION OF MARCH 1, 1889.

(Signed at Washington, Dec. 2, 1898; ratified by the Senate, Dec. 8, 1898; ratified by the President, Dec. 12, 1898; ratified by Mexico, Dec. 15, 1898; ratifications exchanged at Washington, Feb. 2, 1899; proclaimed Feb. 3, 1899.)

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico, extending for a period of one year from December 24, 1898, the duration of the convention between the two high contracting parties of March 1, 1889, concerning the water boundary between the two countries, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 2d day of December, 1898, the original of which convention, being in the English and Spanish languages, is word for word as follows:

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington, March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, November 6, 1896, and October 29, 1897, expires on the 24th day of December, 1898;

And whereas the two high contracting parties deem it expedient to extend the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, that of November 6, 1896, and that of October 29, 1897, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, José F. Godoy, chargé d'affaires ad interim of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

ARTICLE.—The duration of the convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which, according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the convention of October 1, 1895, to December 24, 1896, by the convention of November 6, 1896, to December 24, 1897, and by the convention of October 29, 1897, to December 24, 1898, is extended by the present convention for the period of one year counting from this last date.

This convention shall be ratified by the two high contracting parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington, on the 2d day of December, 1898.

JOHN HAY. [SEAL.]
JOSÉ F. GODOY. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington, on the 2d day of February, 1899.

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this third day of February, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[SEAL.]

By the President:

JOHN HAY,
Secretary of State.

WILLIAM MCKINLEY.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF MEXICO, EXTENDING FOR A PERIOD OF ONE YEAR FROM DECEMBER 24, 1899, THE PROVISIONS OF THE CONVENTION OF MARCH 1, 1889, TO FACILITATE THE EXECUTION OF THE TREATY OF NOVEMBER 12, 1884, AND TO AVOID DIFFICULTIES ARISING FROM CHANGES IN THE BEDS OF THE BRAVO DEL NORTE AND COLORADO RIVERS.

[Signed at Washington, Dec. 22, 1899; ratification advised by the Senate, Feb. 8, 1900; ratified by the President, Feb. 14, 1900; ratifications exchanged, May 5, 1900; proclaimed May 7, 1900.]

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico extending for a period of one year from December 24, 1899, the duration of the convention between the two high contracting parties of March 1, 1889, concerning the water boundary between the two countries, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 22d day of December, 1899, the original of which convention being in the English and Spanish languages, is word for word as follows:

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, November 6, 1896, October 29, 1897, and December 2, 1898, expires on the 24th of December, 1899;

And whereas the two high contracting parties deem it expedient to extend the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897, and that of December 2, 1898, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State for the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, ambassador extraordinary and plenipotentiary of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

ARTICLE.

The duration of the convention of March 1, 1889, signed by the United States of America and the United States of Mexico, which according to the provisions of Article IX thereof was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the convention of October 1, 1895, to December 24, 1896, by the convention of November 6, 1896, to December 24, 1897, by the convention of October 29, 1897, to December 24, 1898, and by the convention of December 2, 1898, to December 24, 1899, is extended by the present convention for the period of one year counting from this last date.

This convention shall be ratified by the two high contracting parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington on the 22d day of December, 1899.

JOHN HAY. [SEAL]
M. DE AZPIROZ. [SEAL]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the 5th day of May, 1900;

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this seventh day of May, in the year of our Lord one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

[L. S.]

WILLIAM MCKINLEY.

By the President:

JOHN HAY,

Secretary of State.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF MEXICO EXTENDING FOR AN INDEFINITE PERIOD THE TREATY OF MARCH 1, 1889, BETWEEN THE TWO GOVERNMENTS, KNOWN AS THE WATER BOUNDARY CONVENTION.

[Signed at Washington, Nov. 21, 1900; ratified by Mexico, Dec. 12, 1900; ratification advised by the Senate, Dec. 15, 1900; ratified by the President, Dec. 24, 1900; ratifications exchanged, Dec. 24, 1900; proclaimed Dec. 24, 1900.]

By the President of the United States of America.

A PROCLAMATION.

Whereas a convention between the United States of America and the United States of Mexico extending for an indefinite period from December 24, 1900, the duration of the convention between the two high contracting parties of March 1,

1889, concerning the water boundary between the two countries, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 21st day of November, 1900, the original of which convention, being in the English and Spanish languages, is word for word as follows:

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, and December 22, 1899, expires on the 24th of December, 1900;

And whereas the two high contracting parties deem it expedient to indefinitely continue the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897, that of December 2, 1898, and that of December 22, 1899, in order that the International Boundary Commission may be able to continue the examination and decision of the cases submitted to it, they have for that purpose appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

ARTICLE.

The said convention of March 1, 1889, as extended on the several dates above mentioned, and the commission established thereunder shall continue in force and effect indefinitely, subject, however, to the right of either contracting party to dissolve the said commission by giving six months' notice to the other; but such dissolution of the commission shall not prevent the two Governments from thereafter agreeing to revive the said commission or to reconstitute the same according to the terms of the said convention; and the said convention of March 1, 1889, as hereby continued, may be terminated 12 months after notice of a desire for its termination shall have been given in due form by one of the two contracting parties to the other.

This convention shall be ratified by the two high contracting parties in conformity with their respective Constitutions, and the ratification shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington on the 21st day of November, 1900.

JOHN HAY. [SEAL.]
M. DE AZPIROZ. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the 24th day of December, 1900;

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this twenty-fourth day of December in the year of Our Lord one thousand nine hundred and of the Independence of the United States the one hundred and twenty-fifth.

[SEAL.]

By the President:

DAVID J. HILL,

Acting Secretary of State.

WILLIAM MCKINLEY.

EXHIBIT D.

OFFICE OF THE SECRETARY OF STATE, DEVELOPMENT, COLONIZATION, AND INDUSTRY.

SECTION FIFTH.

The President of the Republic has been pleased to address me the following decree:

"Porfirio Diaz, Constitutional President of the United States of Mexico, to its inhabitants, be it known:

"That the Congress of the Union has seen fit to decree as follows:

"That Congress of the United States of Mexico decrees:

"ONLY ARTICLE. Hereby is approved the contract that on the 17th of this month of May, 1904, was made between Gen. Manuel Gonzales Cosio, secretary of state and of development, in representation of the Executive of the Union and Sr. Lic. Ignacio Sepulveda, as representative of the Sociedad de Riego y Terrenos de la Baja California, S. A., to carry the waters of the Colorado River through Mexican territory and for the use of said waters.

"Luis Perez Verdia, president of the House of Deputies. T. Reyes Retana, president of the Senate. Carlos M. Saavedra, secretary of the House of Deputies. Carlos Flores, secretary of the Senate. Signed.

"Therefore, I order it to be printed, published, circulated, and duly complied with.

"Given in the palace of the Executive Federal power on the 7th day of the month of June, 1904. Porfirio Diaz.

"To Gen. Manuel Gonzales Cosio, secretary of State and of Development, Colonization, and Industry. Addressed."

And I communicate it to you for its fulfillment and other purposes.

Mexico, June 10, 1904. G. Cosio. To ——.

Revenue stamps for \$25 duly cancelled.

Contract entered into between the Citizen General D. Manuel Gonzales Cosio, secretary of state and of development, in representation of the Executive Government, and Lic. Ignacio Sepulveda, as representative of the Sociedad de Riego y Terrenos de la Baja California, S. A., to carry the waters of the Colorado River through Mexican territory, and for the use of said waters.

ARTICLE 1. The Sociedad de Riego y Terrenos de la Baja California, S. A., is authorized to carry through the canal which it has built in Mexican territory and through other canals that it may build, if convenient, water to an amount of 284 cubic meters per second from the waters taken from the Colorado River in territory of the United States by the California Development Co., and which waters this company has ceded to the Sociedad de Riego y Terrenos de la Baja California, S. A. It is also authorized to carry to the lands of the United States the water with the exception of that mentioned in the following article:

Art. 2. From the water mentioned in the foregoing article enough shall be used to irrigate the lands susceptible of irrigation in Lower California with the water carried through the canal or canals, without in any case the amount of water used exceeding one-half of the volume of water passing through said canals.

Art. 3. Within the term of six months, counted from the publication of the present contract, the company shall deliver to the office of the secretary of development, in duplicate, properly arranged in decimal, metrical scale, the maps and profiles of the canal already built and of the other hydraulic works connected therewith, with a descriptive report.

Art. 4. The company is also authorized to connect, in Mexican territory, the aforesaid canal or canals with the Colorado River, so that it may be able, without injuring the rights of a third party nor the navigation as long as the river is destined for navigation, to take from said river as much as 284 cubic meters of water per second. Those waters shall be used in the irrigation of lands in Mexico and the United States in the proportion established in articles 1 and 2.

ART. 5. The Executive Government may authorize the company, while the needs of the country do not require the use of the total amount of the waters appropriated, to use them where it may find it convenient.

ART. 6. The company, grantee, is under the obligation to deliver to the office of the secretary of development, within the term fixed in the following article, the design of the hydraulic works referred to in article 4, with a descriptive report, and the necessary maps on profiles for greater clearness of the details of the works.

ART. 7. The surveys of the land to locate the hydraulic works shall be begun by the company, grantee, within the term of six months from the date of the promulgation of the present contract, and within the term of 12 months, counted from the same date, it will deliver to the secretary of development the respective maps of said works in duplicate, and properly arranged in a decimal metrical scale, with the approval of the inspector to be appointed, and requesting the aproval of the secretary of development.

The duplicate of the maps shall be returned to the company, grantee, with the annotation of having been approved or not, and the other copy shall remain in the archives of the office of the secretary.

ART. 8. Within the term of 24 months, counted from the date of the promulgation of this contract, the company, grantee, shall begin the construction of the works, which shall be ended at the latest within 7 years, counted from the same date.

ART. 9. The company, grantee, may build over the canals it may construct the bridges it may think necessary for private traffic, presenting previously to the secretary of development for his approval the maps, and the company shall be obliged also to build, at its own expense, the bridges which may be required for the local or general traffic whenever its canals shall traverse any road or highway of public use, presenting the respective maps and requesting the previous approval of same, either from the secretary of interior and the government of the Territory of Lower California or from the secretary of communications and public works, as the case may be.

ART. 10. The company, grantee, is subject, in all that refers to the present contract, to the inspection of the engineer to be appointed by the secretary of development, and obliged to contribute to the expenses of said inspection with the sum of \$300 every month, which amount shall be delivered in advance to the general treasury of the federation from the date of the promulgation of the contract.

In case that the company, grantee, should not fulfill the provisions of the present article it agrees with the right given the revenue collectors to seize and sell its property to pay the debts due to the treasury.

ART. 11. The company shall have the right of way of 20 meters in all the length of its canals on each side of said canals, besides the width of the said canals.

ART. 12. The lands belonging to the Nation and which the company, grantee, may occupy in all the extension, as set forth in the foregoing article, and the lands which it may need for dams, reservoirs or basins, storehouses, depots, and other buildings shall be taken freely by the company in accordance with the provisions of paragraph 3, article 3, of the law of the 6th of June, 1894.

ART. 13. The company, grantee, may take, in accordance with the laws of condemnation by reason of public utility, the private lands needed for the establishment of its aqueducts and their appurtenances, depots, stations, and other accessories in accordance with Fraction IV of article 3 of the law of June 6, 1894, as per the following rules:

1. If there should be no agreement between the company, grantee, and the owners of the land, there will be appointed an expert appraiser by each one of the parties, and both appraisers shall deliver to said parties their respective valuations within the term of eight days from the day of their appointment. If the valuations are not in accord, the case shall be submitted to the district judge of the territory of Lower California, and he shall appoint a third expert, who shall render his decision within the peremptory term of eight days from the day of his appointment of the amount which in justice should be given to indemnify the owner of the lands to be occupied.

The district judge, taking into consideration the opinion of the experts and the proofs presented by the parties, while the experts formulate their decision, shall fix the amount of indemnity within three days. The decree of the judge shall be final, unless it shall appear to be biased.

2. If the owner of the land to be occupied for public use for the construction of the aqueducts, depots, appurtenances, and accessories should not appoint his expert appraiser within the term of eight days after so notified by the district judge, at the request of the company, grantee, said judge shall officially appoint an appraiser to represent the interests of the owner.

3. In all cases in which it be necessary to apply to the district judge, said official, if the company, grantee, would ask it, or if it would be impossible for it to specify the amount of lands to be occupied, shall begin the case, and the judge, after having previously had an audience with the Government engineer, or in the absence of this one, with the expert appointed by the same judge, shall name a sum to be deposited, while the case is tried, authorizing the company, grantee, meanwhile to occupy the lands in question, with the understanding that if the final valuation of the experts should be more or less than the amount deposited by the company, grantee, the company to pay the balance or to receive the difference.

4. If the owner of the lands in question should be unknown or the ownership in dispute by reason of litigation or any other motive, the district judge shall fix, as the total of the indemnity, the amount rendered by the expert appointed by said Judge in representation of the rightful owner of the land in question. The amount ultimately fixed shall be deposited in accordance with the legal provisions, to be delivered to whom it belongs.

5. The experts, in making their valuations, must take into account the amount of taxes paid by the land to be condemned and damages and benefits to accrue by same to the owner.

6. If, to carry out the surveys, it should be necessary to destroy or cut down, in all or in part, trees, cactus, or other obstacles, the company, grantee, shall have the right to do it, being under the obligations to pay an indemnity as soon as that be fixed.

ART. 14. The company, grantee, is authorized to build the telegraph and telephone lines it may think necessary along its work, for the exclusive use of its enterprise, with the previous approval of the secretary of communications and public works, and also to exploit those already built in the exclusive use of its works, the Government having the right to place freely and without any payment one or two telegraph wires on the posts of the line of the company, grantee, the company being subject to the laws and rulings now in force or that in the future may be enacted for the construction and exploitation of telegraph and telephone lines.

ART. 15. The company, grantee, may import, free of custom-house duties for only once, all the engines, scientific instruments, and necessary apparatus for the outlines, construction, and exploitation of the works.

The company, grantee, shall present to the secretary of development statements in detail of the articles which, in accordance with this concession, it shall have to import when needed, provided it be done within the stipulated terms in the present contract for the installation and construction, specifying in said statements the number, quantity, and quality of the articles, observing for said importation the rules enacted and which in the future be enacted by the Treasury Department, and also the limitations to be fixed by the Secretary of development.

ART. 16. The articles needed shall be imported by the company, grantee, for the exclusive use of its work and its exploitation; but if it should sell or apply to any other uses any or some articles, the Secretary of the Treasury shall exact the payment of the respective duties, besides the penalties fixed by law in cases of smuggling.

ART. 17. During 10 years from the promulgation of this contract the capital invested by the company, grantee, in the survey, construction, and maintenance of the works referred to in this contract, shall be exempt from all Federal taxes, with the exception of those to be paid in stamps, which taxes shall be paid in accordance with the said law.

ART. 18. The company, grantee, is at liberty to enter into contracts and agreements with individuals and private public corporations for the use of the water granted to it, being subject in the prices to be charged to the tariff, which, with due opportunity, shall be presented to the secretary of development for his examination and approval, the company, grantee, having the right, nevertheless, to use said water in the irrigation of the lands belonging to it.

ART. 19. The company, grantee, shall lose the right to use the water granted to it in this contract in article 4 in case it does not use it for a period of 10

consecutive years, the Government being at liberty to grant it to any other persons, who, if they should accept the works made by the company, grantee, shall have to pay to this company the amounts fixed by the appraisers appointed by both parties.

ART. 20. The company, grantee, may transfer all or part of the concessions in the present contract with the previous permit of the secretary; also may mortgage it to individuals or private corporations, it being absolutely necessary in the first case that individuals or associations accept, respectively, all and each one of the obligations imposed to the company, grantee, by the present contract.

ART. 21. The company, grantee, shall have the right to issue common shares, preferred shares, bonds, and obligations, and dispose of them.

ART. 22. At no time nor by any reason can the company, grantee, sell or mortgage the concessions made in the present contract to any Government or foreign State, nor admit it in partnership, it being null and of no value nor effect whatever, any stipulation made to that end.

ART. 23. The company, grantee, shall have in this capital a representative fully authorized to treat with the Government in all that refers to the present contract.

ART. 24. The company, grantee, shall guarantee the obligations contracted in this contract, making a deposit in the National Bank of Mexico of \$10,000 in bonds of the consolidated public debt within eight days from the promulgation of the contract, and said deposit shall be returned to it when the hydraulic works referred to in this contract be finished.

ART. 25. This contract shall have no force if the deposit is not made within the term fixed in the foregoing article, and shall become extinct by the following reasons:

1. For not beginning the works for the surveying and construction of the works and by not finishing the same in the term fixed in articles 7 and 8.
2. For not making use of the waters in a term of 10 consecutive years.
3. By the transfer of this contract to an individual or corporation without the previous permit of the secretary of development.
4. By the transfer or mortgage of this contract and the concessions herein contained to a Government or foreign State.

ARTICLE 26. If the cancellation of this contract shall take place by the reasons set forth in paragraphs 1 and 2 of the foregoing articles, the company, grantee, shall lose the deposit made and the concession and especial grants hereby made to it in this contract in article 4 and in those related to it, it being in force only in what refers to article 1.

In the case set forth in paragraph 3 the company, grantee, shall lose the deposit and the concessions and especial grants made to it in this contract.

If the cancellation should take place by the reasons expressed in paragraph 4, the company shall incur the loss of all its rights, estates, and properties of any kind related with this contract.

In all cases and before the declaration of cancellation is made the secretary of development will grant to the company, grantee, a reasonable term to make its defense.

ARTICLE 27. The obligations agreed to by the company, grantee, in regard to the terms fixed in this contract shall be suspended in all cases of unexpected accident or by force of the elements duly justified and which may stop directly and absolutely the fulfillment of such obligations. The suspension shall last only for the term that the causes exist, the company, grantee, being under the duty to give to the General Government the statement and proofs of the unexpected accident within the term of three months from the time it took place, and by the sole reason of not presenting the proofs within the said term it will be impossible for the company, grantee, to allege at any time the circumstances of unexpected accident or the force of the elements.

The company, grantee, shall also present to the Federal Government the statements and proofs that the works have been continued as soon as the cause has ceased to exist, the presentation of said statements to be made within two months following the other three above mentioned. The company, grantee, shall only be excused for the term during which the impediment existed, or, at most, two months more.

ARTICLE 28. The Government shall give to the company, grantee, the material and moral help within its possibilities, when the company so requests it, to overcome the difficulties that may arise in carrying out the present contract.

ARTICLE 29. The company, grantee, shall be subject to the laws and rulings now in force and which in the future may be enacted for the supervision, use, and benefit of the waters.

ARTICLE 30. The company, grantee, and its company assigns, shall always be considered as Mexican corporations, though all or any of its stockholders could be foreigners, and the corporation shall be subject to the jurisdiction of the courts of the Republic in all the affairs emanating and to be decided within the territory of the Republic.

They would never be able to allege in all the affairs in relation to the present contract the rights of foreigners under any circumstances, and they shall only have the rights and the way to establish the same as the laws of the Republic grant them to the Mexicans, and consequently in any of said affairs the diplomatic foreign agents shall not have any interference.

ARTICLE 31. This contract shall be subject to the approval of both houses.

ARTICLE 32. The stamps on this contract shall be paid by the company, grantee.

Made in duplicate, in the City of Mexico, on the 17th day of the month of May, 1904.

MANUEL G. COSIO.
Y. SEPULVEDA.

CERTIFICATE OF CERTIFICATION.

I, William T. Heffernan, the duly elected secretary of the Sociedad de Irrigacion y Terrenos de la Baja California, Sociedad Anonima, do hereby certify that the foregoing is a true and correct copy of contract between the Mexico Republic, approved by its Congress, and the Sociedad de Yrrigacion y Terrenos de la Baja California, Sociedad Anonima, for the diversion, conduction, use, and sale of water from the Colorado River.

And I do further certify that the same is recorded in the minute book of the company and the original instrument on file in the office of the company in the city of Los Angeles, State of California.

In witness whereof I have hereunto signed my name as secretary of the company, duly authorized, and affixed the seal of the corporation, the 27th day of August, 1904.

WILLIAM T. HEFFERNAN, *Secretary.*

CERTIFICATE OF TRANSLATION.

I, A. J. Flores, do hereby certify that the foregoing is a true and correct translation of that certain instrument drawn, executed, and approved in the Spanish language, being a contract between the Republic of Mexico and the Sociedad de Yrrigacion y Terrenos de la Baja California, Sociedad Anonima, to divert, conduct, use, and sell water from the Colorado River.

In witness whereof I have hereunto set my hand and seal, at Los Angeles, Calif., the 27th day of August, 1904.

[SEAL.]

A. J. FLORES, *Translator.*

EXHIBIT E.

This indenture, made and entered into this 28th day of December, 1900, by and between the California Development Co., a corporation, duly organized and existing under and by virtue of the laws of the State of New Jersey, one of the United States, party of the first part, and la Sociedad de Yrrigacion y Terrenos de la Baja California (Sociedad Anonima), a corporation duly organized and existing under and by virtue of the laws of the Republic of Mexico, party of the second part, witnesseth, that

Whereas party of the first part is the owner of a certain tract of land situated in the county of San Diego, State of California, and particularly described as follows, namely: Lots 3 and 4 of section 25 and the southeast quarter of section 26 and lots 1, 2, 3, and 5 and the northwest quarter of the northeast quarter of section 35; and lot 1 of section 36 in township 16 south, range 21 east, San Bernardino base and meridian, containing 318.51 acres of land, more or less, according to the United States Government survey; and

Whereas the first party has appropriated and is the owner of a large amount of the waters of the Colorado River, and is engaged in the diversion of said waters from said Colorado River upon the lands so owned by party of the first part as aforesaid, and is engaged in the construction of headworks and a canal upon said land for the purpose of diverting said waters, and is engaged

in the construction of an irrigation system and a system of canals whereby the waters of the Colorado River so diverted upon the said land of first party as hereinbefore alleged may be used for the irrigation of large tracts of land in Lower California, Republic of Mexico, and in the State of California, United States of America; and

Whereas said party of the second part is the owner of a tract of land containing about 100,000 acres, situated in Lower California, Republic of Mexico, a portion of which said tract of land is situated adjoining and immediately south of the international boundary line between the United States of America and the Republic of Mexico; and

Whereas the irrigation system and system of canals so being constructed by party of the first part, crosses said international line from a point upon the land so owned by party of the first part, to a point upon the land so owned by party of the second part; and

Whereas the proposed extension of said canals and irrigation system extends through and across the lands of party of the second part in a generally southwesterly direction, and then in a generally northerly direction across the lands of party of the second part to various points upon said international boundary line, from which lands in California, United States of America, can be irrigated, and also extends to other points upon the land of second party from which the said land of second party and other lands in Lower California, Republic of Mexico, can be irrigated; and

Whereas party of the second part has entered into a certain contract with Imperial Water Co. No. 1, a corporation organized and existing under and by virtue of the laws of the State of California, United States of America, whereby party of the second part agrees to deliver to said Imperial Water Co. No. 1, at a point upon said international line a certain amount of water; and

Whereas party of the second part contemplates entering into additional contracts with other water companies already formed or to be formed in the State of California, for the purpose of delivering to said water companies a large amount of water for the purpose of irrigating certain tracts of land situated in the State of California, which are irrigable from the proposed system, and systems of canals so to be constructed by party of the first part as hereinbefore stated; and

Whereas party of the second part desires to obtain water for the purpose of complying with the contract so entered into between it (party of the second part) and said Imperial Water Co. No. 1, and desires to obtain water for the purpose of complying with the contracts so proposed to be entered into between party of the second part and said corporations already incorporated in the State of California, and said corporations proposed to be incorporated in the State of California; and

Whereas party of the second part desires to obtain a supply of water for the purpose of irrigating the lands so belonging to party of the second part as aforesaid; and

Whereas party of the second part desires to obtain water for the purpose of furnishing the same for the irrigation of other lands situated in Lower California, Republic of Mexico; and

Whereas under the contract so entered into between party of the second part and said Imperial Water Co. No. 1, said Imperial Water Co. No. 1 has granted to party of the second part the right to sell all of the water stock of it (Imperial Water Co. No. 1); and

Whereas party of the second part proposes to obtain similar contracts from other California corporations formed or to be formed;

Now, therefore, in consideration of the obligations hereinafter imposed upon party of the second part, party of the first part hereby agrees:

I.

To build a system of canals from the point upon the lands of party of the first part, where said water is to be diverted from said Colorado River to and across said international line and across the lands of party of the second part to other points upon said international line from which large tracts of lands situated in the State of California, United States of America, can be irrigated; and also a system of canals from said point upon the Colorado River where said water is to be diverted from which the lands of party of the second part and other lands situated in Lower California, Republic of Mexico, can be irrigated.

II.

Party of the first part further agrees to perpetually deliver to party of the second part a sufficient amount of the water so appropriated, owned, and diverted, or to be in the future appropriated or diverted by party of the first part from the Colorado River, to enable party of the second part to furnish water for the irrigation of the lands situated in Lower California, Republic of Mexico, and State of California, United States of America, which are irrigable by gravity from the system of canals and irrigating system so to be constructed. Said waters so to be delivered by said system of canals to form an irrigation system for the purpose of irrigating lands situated in California, United States of America, and in Lower California, Republic of Mexico, which are irrigable from the Colorado River by gravity. Said agreement to deliver said waters is made subject to and dependent upon the following conditions, namely:

1. No contract made or to be made whereby party of the second part has agreed or in the future shall or will agree to grant, transfer, deliver, or in any manner convey the right to use any of said waters to any person or corporation shall, by reason of priority in date or any other reason, give to such person or corporation any prior or superior right over any other person or corporation who shall in any manner acquire from second party the right to use any portion of said waters.

2. Party of the first part shall not be responsible for a failure to deliver the water hereby agreed to be delivered from any cause beyond its control, but party of the first part shall use due diligence in protecting the system of canals so to be constructed by it as aforesaid, and in restoring and maintaining the flow of water therein.

III.

Party of the first part further agrees that it will keep said canals so to be constructed by it, as aforesaid, in repair at its own cost and expense, and that it will enlarge the same from time to time as may be necessary for the purpose of complying with the provisions of this agreement.

IV.

In consideration of the obligations herein incurred by party of the first part, party of the second part hereby grants, assigns, and transfers to party of the first part all right which it, party of the second part, has in and to the stock of said Imperial Water Co., No. 1, and all right which it has to receive any of the moneys which would otherwise be due and payable to party of the second part under said contract with said Imperial Water Co., No. 1, from the sale of the stock of said Imperial Water Co., No. 1. Second party further agrees that it will make like assignments in the future of all rights which it may acquire under contracts similar to said contract with Imperial Water Co., No. 1, which it may make with other water companies in the State of California for the sale of the stock of said companies, or the proceeds to be derived therefrom.

In witness whereof party of the first part has caused its corporate name and seal to be hereunto affixed by its president and secretary thereunto duly authorized by resolution of its board of directors; and

In witness whereof, party of the second part has caused its corporate name and seal to be hereunto affixed by its vice president and secretary, thereunto duly authorized by resolution of its board of directors.

Executed in duplicate the day and year first above written.

THE CALIFORNIA DEVELOPMENT CO.,
 By GEO. CHAFFEY, President.
 By A. M. CHAFFEY, Secretary.
 LA SOCIEDAD DE YRRIGACION Y TER-
 RENOS DE LA BAJA CALIFORNIA
 (SOCIEDAD ANONIMA).
 By HIRAM W. BLAISDELL, Vice President.
 By WILLIAM T. HEFFERNAN, Secretary.

EXHIBIT F.

[In the Superior Court of Yuma County, State of Arizona. Yuma County Water Users' Association et al., plaintiffs, v. Imperial Irrigation District et al., defendants. No. 2429.]

TEMPORARY RESTRAINING ORDER.

To Imperial Irrigation District, C. R. Rockwood, Tom Hines, John Doe, and Richard Roe, their agents, servants, employees, and attorneys.

It satisfactorily appearing, from the reading of the verified complaint herein, that if the defendants are permitted to construct a dam across the Colorado River from a point in Yuma County, State of Arizona, to a point on the Mexican or California side of said river, for the purpose of raising and forcing the waters of said river into the ditches and canals of the defendant Imperial Irrigation district that great, immediate, and irreparable injury and damage will result to the plaintiffs therefrom by the prevention thereby of the scouring, eroding, and washing downward of the bottom of said river, thereby causing the waters of said river to erode, wash away, and overflow the levees which protect the lands of the plaintiffs and the persons for whom they sue herein, and thereby causing the water table underlying said lands to be raised and thereby impregnating the said land with an excessive quantity of deleterious salts, and that if notice should be given of a hearing hereon, the giving of notice of an application for an interlocutory writ of injunction and the delay incident thereto would permit the defendants to erect so much of said proposed and threatened dam as would result in immediate and irreparable injury, as aforesaid, to the plaintiffs and the persons for whom they sue herein before notice could be served and a hearing had thereon; and it further appearing that the damage threatened to be inflicted upon and suffered by the plaintiffs and the persons for whom they sue herein is not of a nature to be compensation by a money judgment, and that the defendants can not, in any event, respond in damages.

You, and each of you, are therefore commanded, enjoined, and restrained, and each of your agents, servants, attorneys, and employees are commanded, enjoined, and restrained until the further order of this court, and without further notice, from in any way constructing or erecting, or attempting to construct or erect, a dam or dams, or any obstruction whatsoever across the Colorado River from a point at, in, or near fractional section 35, twp. 16 S., R. 21 E., G. & S. R. Mer., in Yuma County, State of Arizona, or any other point whatsoever in said Yuma County, to point on the California or Mexican side of said river, about 400 feet below the C. D. heading, or to any other point whatsoever on the right bank of said river, for the purpose of raising and forcing the waters of said river into the ditches and canals of said Imperial Irrigation Co., or for any purpose whatsoever; and you are hereby commanded and enjoined to instantly cease and desist from driving any piles or doing any other act whatsoever in furtherance of the erection or construction of any such dam, or dams, or of further impeding the flow of said Colorado River upon plaintiffs giving bond in \$1,000.

And you are directed to show cause before said court, in the courtroom at Yuma, Ariz., on Thursday, the 10th day of August, 1916, why a permanent injunction shall not issue restraining you from the performance of said acts.

Done in open court this 1st day of August, 1916, at the hour of 4:55 o'clock p. m.

FRANK BAXTER,
Judge of said Court.

I, H. B. Farmer, clerk of the Superior Court of Yuma County, State of Arizona, the same being a court of record, do hereby certify that the bond mentioned in the within order has been filed and approved.

[SEAL.]

H. B. FARMER, Clerk.

[In the Superior Court, Yuma County, State of Arizona. Yuma County Water Users' Association et al. v. Imperial Irrigation District et al. No. 2429.]

STIPULATION.

In the above entitled action it is hereby stipulated that the temporary restraining order heretofore issued may be modified and made to read as the annexed temporary restraining order.

It is further stipulated that the defendant Imperial Irrigation District hereby admits service and summons herein and *submits itself to the jurisdiction of said court*, and agrees to herein file its demurrer or answer within 20 days hereafter.

It is further agreed that the said cause will not be tried until after the 1st day of October, 1916, and that the plaintiffs may, if they see fit, amend their complaint herein so as to ask for the carrying out of this stipulation and the temporary injunction herein, and compel the removal of the obstructions placed in the river by the defendants.

THOS. D. MOLLOY,
Attorney for plaintiffs.

W. M. CONKLING,
Attorney for Defendants.

[*Italics mine.*]

[In the Superior Court, Yuma County, State of Arizona. Yuma County Water Users' Association et al., plaintiffs, v. Imperial Irrigation District et al., defendants.]

MODIFIED RESTRAINING ORDER.

In the above-entitled action, the parties hereto having agreed to the same, the temporary restraining order heretofore issued is hereby modified and made to read as follows:

On reading the verified amended complaint herein and the stipulation of the parties herein, it is hereby ordered as follows: Upon the defendants giving bond in the sum of \$100,000 for the faithful observance hereof,

That the defendants are permitted to construct their proposed dam or weir, but in the construction of the same they are hereby commanded, enjoined, and restrained from using any rock in the construction of the said weir, except such rock as may be loaded upon the cars with the steam shovel now in use by said defendants, or another of similar size, and from using any rock larger in size than one-half of one cubic yard; and they are further commanded to commence the removal of any piles or trestle placed by them in the said river not later than October 1, 1916, and thereafter to remove the same with diligence, and in all events to remove the same not later than November 1, 1916, and also, thereafter to remove the other obstructions placed by the defendants in the said river at the time and in the manner directed by the project engineer of the Yuma project of the United States Reclamation Service, and in any event, shall remove the same prior to January 1, 1916.

Done in open court this 3d day of August, 1916.

BAXTER, *Judge of said Court.*

[In the Superior Court of the State of Arizona in and for the county of Yuma. Yuma County Water Users' Association et al., plaintiffs, v. Imperial Irrigation District et al., defendants. No. 2429.]

STIPULATION.

The parties hereto hereby stipulate as follows, to wit:

1. That the temporary restraining order heretofore issued herein, now in full force and effect as heretofore modified, may be, and the same is hereby, further modified and shall remain in full force and effect, as so remodified, until the further order of this court, as follows, to wit: That the defendants are permitted to erect and construct and temporarily maintain across the Colorado River from a point in, or near, fractional section 35, township 16 south, range 21 east, S. and B. meridian, in Yuma County, State of Arizona, to a point on the California or Mexico side of said river near what is known as Hanlon's heading, of the Imperial Valley Irrigation project, a brush dam or weir on the crest of what now remains of a rock dam heretofore placed in said river at said point in accordance with the stipulation of the parties hereto duly filed herein, and in pursuance of the said restraining order as heretofore modified and in force and effect, and to so repair and rebuild said rock dam, or as near thereto as practicable; and that said brush weir or dam and the materials composing the same

shall be held and maintained in place by a system of piling driven through and erected upon the crest of said rock dam, or as near thereto as practicable, which said system of piling may be in the form of a trestle upon which may be operated a railroad for dumping material other than rock if necessary, said system of piling to be used in conjunction with certain guy ropes and ties made fast to certain dolphin anchors erected in said river immediately above said rock dam; and that said dam shall be constructed without the placing of any rock whatsoever therein, or in connection therewith, and that the same may be kept and maintained by the defendants at said point in said river from July 1, 1919, until July 1, 1920: *Provided, however,* If during said period the Colorado River, whether from floods in the Gila River or from other causes, rises to such a height as, in the judgment of W. W. Schlecht, project manager of the Yuma project of the United States Reclamation Service, or his successor in office, to imminently endanger the irrigation works of said Yuma project, or any of the property of the Yuma County Water Users' Association, or any of its constituent members, or any land or lands within the said Yuma project on either side of said Colorado River, the said defendants shall immediately remove, by adequate means, such as blasting, said dam to the extent that it will permit the free flow of the waters of the Colorado River to the southward and thus remove all danger to the property above described.

2. It is further stipulated, as a condition precedent to this stipulation taking effect, that said Imperial Irrigation District shall give a bond to the United States of America and Yuma County Water Users' Association, as joint and several obligees, to reimburse the United States and said association and its constituent members for any damage which may result from the repairing, rebuilding, or maintaining of said dam or weir, and further conditioned that said district shall, on or before April 15, 1921, entirely remove, or cause to be entirely removed, all and all parts of said dam or weir and all parts of all other dams and weirs placed in said river at or near said Hanlon's heading by said district, or its predecessors in the ownership, operation, or maintenance of the Imperial Valley (Imperial County, Calif.) irrigation project, and all piles and piling, rock and brush, anchors, guys and ties, and all other materials whatsoever placed in said river at or near said Hanlon's heading by said district or its said predecessors at any time whatsoever for the purpose, or which had the effect, of impeding the flow of said river and raising the height of the waters thereof so that the same would, or did, more freely flow into the irrigation canals of said district or its said predecessors, and that such removal shall be to the extent that all the waters of the said river shall at all times flow as freely to the southward as said waters did flow prior to the placing of any of said obstructions therein by said district or its said predecessors, and so as to not endanger the property of said association or the property of its constituent members.

3. And it is further stipulated and agreed between the parties hereto that the granting of the permission by the plaintiffs herein to the defendants herein to erect and maintain said brush dam, as hereinbefore stipulated for, and the entering into this stipulation and the modification of said temporary restraining order shall not be admitted as evidence in this or any other proceeding whatsoever between the parties hereto; and it shall not be taken, held, or deemed that the construction of said weir, or other, or like weirs in the past or in the future is not, and shall not be, of irreparable injury to the Yuma County Water Users' Association, its shareholders and constituent members; and it is further stipulated that the granting of said permission and the entering into this stipulation is, and shall be, without prejudice to the right of the plaintiffs in this action to have entered a decree upon a final hearing herein, and on sufficient evidence permanently restraining said irrigation district from constructing such weir or weirs across said river.

Dated this 5th day of July, 1919.

THOS. MOLLOY,
Attorney for Plaintiff.
BORDWELL AND MATHEWS,
PHIL D. SWING, and
J. STEWART ROSS,
Attorneys for Defendant.

[Exhibit.]

AGREEMENT.

This indenture made this 5th day of July, 1919, between Imperial Irrigation District, a municipal corporation duly organized and existing under the laws of the State of California and doing business in Imperial County, State of California, party of the first part, and Yuma County Water Users' Association, a corporation duly organized and existing under the laws of the State of Arizona, and doing business at Yuma, State of Arizona, acting for and on behalf of its, and all of its, constituent members and shareholders, party of the second part, witnesseth:

Whereas said first party is engaged in the business of appropriating and diverting irrigation waters from the flow of the Colorado River at a point in said river known as Hanlon's heading, at or near fractional section 35, township 16 south, range 21 east, S. & B. M., in Yuma County, State of Arizona, for the irrigation and reclamation of many hundreds of thousand of acres of land in Imperial Valley, Imperial County, State of California, hereinafter designated as Imperial Valley Irrigation project; and

Whereas in order to secure a sufficient flow of irrigation water to properly irrigate and reclaim said lands, and to prevent the same from returning to their original desert condition, it is now necessary to erect, and temporarily maintain, during low-water periods in said river, a dam, or weir, in said river at or near said Hanlon's heading; and

Whereas the irrigation and maintenance of said dam tends to create such a condition in the flow of the waters of said Colorado River as to endanger the works of the Yuma project of the United States Reclamation Service, and the lands and property of said Yuma County Water Users' Association, and its constituent members and shareholders; and

Whereas, said Yuma County Water Users' Association has granted its permission that a weir, or dam, may be constructed and maintained at said point in said river from July 1, 1919, until July 1, 1920, subject to certain provisos and exceptions hereinafter more fully set forth; and has stipulated and agreed that a certain temporary restraining order heretofore issued out of the superior court of the State of Arizona in case No. 2429, and now in force and effect in said court, wherein the said Yuma County Water Users' Association et al. are plaintiffs, and the said first party et al. are defendants, restraining and enjoining the first party herein from erecting and maintaining any weir or dam at said point, shall be so modified as to permit the erection and maintenance of a weir or dam therein during said last-mentioned period; and not to further prosecute said suit during said period:

Now, therefore, the said party of the first part, in consideration of the foregoing, does hereby promise, undertake, and agree that if it becomes necessary for the accomplishment of said purposes to erect and temporarily maintain a dam, or weir, in and across the Colorado River at or near said Hanlon's heading, as hereinbefore described, that it shall construct the same out of brush, without the use of any rock whatsoever, and that said brush shall be erected and maintained on the top of the crest of the rock dam and weir erected by said first party, and maintained at said point by it during the year 1918, and as the same is now placed and situated in said river, and as the same has been eroded away by the waters of the Colorado River during the high waters of said river in the spring and early summer of the year 1919 (and that said brush weir or dam and the materials composing the same shall be held and maintained in place by a system of piling driven through and erected upon the crest of said rock dam or as near thereto as practicable, which said system of piling may be in the form of a trestle upon which may be operated a railroad for dumping material other than rock; if necessary, said system of piling to be used in conjunction with certain guy ropes and ties made fast to certain dolphin anchors erected in said river immediately above said rock dam) and said first party further promises, agrees, and undertakes to remove all of said brush dam or weir from out of said river on or prior to July 1, 1920, and at any other time between said July 1, 1919, and July 1, 1920, that W. W. Schlecht, project manager of the Yuma project of the United States Reclamation Service or his successor in office shall deem the maintenance of said dam to in any way endanger any of the works of said Yuma project, or any of the lands or property of said Yuma County Water Users' Association, and of its shareholders and constituent members, or any land within said Yuma project

on either side of said Colorado River; and the said first party hereby undertakes and agrees to keep and maintain at or near said dam a sufficient amount of explosives to immediately blow out and remove said dam to such an extent as will permit the free flow of the Colorado River to the southward, so that the same will not endanger any of said property.

And the said first party further stipulates and agrees that the permission so given to erect and temporarily maintain such a dam or weir in the Colorado River at said point, and the permission heretofore given for the erection and maintenance of dams and weirs across the Colorado River at or near said point, and their erection and maintenance, and the giving in the future of permission to erect and maintain such dams and weirs, shall not be taken, held, or deemed, nor shall either of them be taken, held, or deemed, not to be of irreparable injury to said Yuma County Water Users' Association, its shareholders and constituent members; and the granting of said permission and the erection and maintenance of said dam or weirs shall be without prejudice to the right of said Yuma County Water Users' Association, its shareholders and constituent members, to have entered in said suit No. 2429, or any other proceeding, in any other court of competent jurisdiction, upon due and sufficient evidence, a decree permanently restraining said first party from constructing and maintaining such weir or weirs or any weir or weirs, dam or dams across said river.

And the said party of the first part, in consideration of the premises as hereinbefore set forth, does hereby further promise, agree, and undertake to pay to said second party all damage that may result to them, or either of them, from injury to their person or property because of the erection and maintenance of said brush dam or weir or the erection and maintenance of the rock base upon which the same shall be constructed, as hereinbefore described, and the said first party further promises, undertakes, and agrees to pay to second party any and all damages that may result to them, or either of them, because of the erection or maintenance of the remaining portions of all or any of the rock dams or weirs heretofore placed in said Colorado River at or near said point, including what is known as the Clark Dam or Weir.

And it is further stipulated and agreed that said second party, or either, or any, of the constituent members or shareholders of said Yuma County Water Users' Association may sue hereunder in their own right and without joining any other party hereto as a party plaintiff: *Provided, however,* That if more than one of the said shareholders or constituent members should separately sue the first party for such damage, all of said actions so brought in the same court may be consolidated and tried as one action, each plaintiff recovering the amount of damage that he shall have suffered, as finally determined by such court.

The said first party, for and in consideration of said premises, further promises, covenants, and agrees to entirely remove from out of the bed of the Colorado River on or before April 15, 1921, all and all parts of any and all dams and weirs, piles and piling, rock and brush, anchors, guys, ties, and all other material whatsoever placed or caused to be placed therein by the said party of the first part, or its predecessors, in the ownership and operation of said Imperial Valley irrigation project, at any time whatsoever, for the purpose of impeding the flow of said river and raising the height of the waters thereof so that the same would more freely flow into the irrigation canals of the said first party, or any of its predecessors, and to the extent that all of the waters of the Colorado River shall flow as freely to the southward as said waters did flow prior to the placing of any obstructions in the bed thereof by said party of the first part or any of its said predecessors.

It is understood and agreed that the said first party shall furnish a satisfactory surety bond in the sum of \$500,000 to the United States of America, and the second party hereto, as joint and several obligees to reimburse them for any damage resulting from the erection or maintenance of dam or weir, and conditioned for the removal of all of said obstructions from said river; and that a recovery or recoveries on said bond shall not be a bar to any action or actions by the second party hereto or its constituent members, or any of them, in the event that they, or either of them, should be damaged because of first party's breach of any of the terms or covenants of this agreement, it being understood and agreed that the first party hereto undertakes, promises, and agrees to pay all the damage that may result because of its breach of any, or all, of the terms, conditions, and covenants of this agreement, notwithstanding the execution and delivery of any bond, or bonds.

It is agreed that during the progress of the work of constructing said 1919 dam, or weir, the second party may employ and retain an inspector on said work to ascertain and determine if such construction is being prosecuted in accordance with the terms of this agreement, and first party agrees to reimburse second party for such reasonable compensation as may be paid by it to such inspector, not to exceed —— per diem.

It is understood and agreed that owing to the fact that first party is a municipal corporation of the State of California it may be necessary or appropriate, in the event of the breach of any of the terms or covenants of this agreement, for second party to sue hereunder, or under said reimbursement bond, in the State of California, and that such proceedings, if had, will result in additional cost and expense to second party; wherefore, first party, in consideration thereof and said premises, hereby promises and agrees to pay to second party, in the event of action being brought hereunder, or under said reimbursement bond, in the State of California, the sum of \$1,000, to reimburse second party for the additional cost and expense to it of suing in the State of California, and such additional sum for attorney's fees as may be deemed reasonable by the court trying such action.

In witness whereof the said party of the first part has, by order of its board of directors, caused these presents to be executed in its corporate name by its president and secretary, and attested by its seal, the day and year first above written.

IMPERIAL IRRIGATION DISTRICT,
By J. S. NICKERSON,
Its President.

Attest:

F. H. McIVER, [SEAL]
Secretary.

EXHIBIT G.

PERMIT.

Whereas by section 10 of an act of Congress approved March 3, 1899, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," it is provided that it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river or other water of the United States outside established harbor lines or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of War; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of War prior to beginning the same;

And whereas application has been made to the Secretary of War by the Imperial Irrigation district, of California, for authority to repair and rebuild its temporary diversion dam or weir (originally constructed under authority of War Department permit dated February 14, 1917), located in the Colorado River at or near Haulon's Heading at the site shown on the map hereto attached, and to maintain said structure until July 1, 1920, as recommended by the Chief of Engineers;

Now therefore, This is to certify that the Secretary of War hereby authorizes the said work of repairing and rebuilding the Imperial Irrigation district's temporary diversion dam or weir, in the Colorado River at or near Haulon's Heading and maintaining the same until July 1, 1920, upon the following conditions:

1. That it is to be understood that this authority does not give any property rights either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations, nor does it obviate the necessity of obtaining State assent to the work authorized. It

merely expresses the assent of the Federal Government so far as concerns the public rights of navigation. (See *Cummings v. Chicago*, 188 U. S., 410.)

2. That the work shall be subject to the supervision and approval of the district engineer, engineer department at large, in charge of the locality, who may temporarily suspend the work at any time if, in his judgment, the interests of navigation so require.

3. That if any pipe, wire, or cable is herein authorized, it shall be placed and maintained with a clearance not less than that shown by the profile on the plan attached hereto.

4. That so far as any material is dredged in the prosecution of the work herein authorized it shall be removed evenly, and no large refuse piles shall be left. It shall be deposited to the satisfaction of the said district engineer and in accordance with his prior permission or instructions, either on shore above high water or at such dumping ground as may be designated by him, and where he may so require, within or behind a good and substantial bulkhead or bulkheads, such as will prevent escape of the material into the waterway; and so far as the pipe, wire, or cable is laid in a trench, the formation of permanent ridges across the bed of the waterway shall be avoided and the back filling shall be so done as not to increase the cost of future dredging for navigation. If the material is to be deposited in the harbor of New York, or in its adjacent or tributary waters, or in Long Island Sound, a permit therefor must be previously obtained from the Supervisor of New York Harbor, Army Building, New York City.

5. That there shall be no unreasonable interference with navigation by the work herein authorized.

6. That if inspections or any other operations by the United States are necessary in the interests of navigation, all expenses connected therewith shall be borne by the permittee.

7. That the permittee assumes all responsibility for damages to the work or structure herein authorized, and for damage caused by it or by work of the permittee in connection therewith to passing vessels or other craft, and shall not attempt in any way to prevent free use by the public of the area at or adjacent to the work or structure.

8. That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of War, it shall cause unreasonable obstruction to the free navigation of said water, the permittee will be required, upon due notice from the Secretary of War, to remove or alter the structural work or obstructions caused thereby without expense to the United States so as to render navigation reasonably free, easy, and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the permittee shall, without expense to the United States, and to such extent and in such time and manner as the Secretary of War may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.

9. That if the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the Bureau of Lighthouses, Department of Commerce, shall be installed and maintained by and at the expense of the permittee.

10. That the permittee shall notify the said district engineer at what time the work will be commenced, and as far in advance of the time of commencement as the said district engineer may specify, and shall also notify him promptly, in writing, of the commencement of work, suspension of work, if for a period of more than one week, resumption of work, and its completion.

11. That before this permit shall become operative the said district shall give a good and sufficient bond satisfactory to the Secretary of War, in the penal sum of \$25,000, conditioned for the prompt and complete removal of the said diversion dam or weir at any time on the order of the said district engineer, and in any event on or before July 1, 1920; and also a bond in the penal sum of \$500,000 satisfactory to the Secretary of the Interior, to reimburse the United States and the Yuma County Water Users' Association for any damage caused by the said structure to lands, works, or property of the United States or members of the said association.

12. That adequate measures satisfactory to the district engineer shall be taken by the permittee for furnishing him prompt warnings of floods and for

maintaining by the site of the said structure material and equipment sufficient for its prompt removal.

13. That arrangements satisfactory to the Secretary of War shall be continued to dispense as speedily as possible with the necessity for placing diversion dams in said river, and that the said district shall report in detail to the said district engineer on the 1st and 15th days of each month while this authorization continues in force what measures are proposed for that purpose and the progress made thereon.

14. That unless previously revoked or specifically extended, this authorization shall expire July 1, 1920.

Witness my hand this 16th day of June, 1919.

NEWTON D. BAKER,
Secretary of War.

EXHIBIT H.

DEPARTMENT OF THE INTERIOR,
Washington, August 5, 1918.

Mr. LEROY HOLT,
President Imperial Irrigation District, El Centro, Calif.

DEAR MR. HOLT: Your letter of June 7, transmitting draft of contract as approved by your directors, was duly received, and reply thereto has been delayed owing to my absence and that of Messrs. Bradley and Davis from the city. It has now, however, been given careful consideration, and I herewith inclose approved draft accepting most of the changes you have made and differing only in two particulars.

The plans by the United States for the development of Yuma project propose the development of power upon the Colorado River near Pilot Knob, and this might be locally shifted to accommodate the Imperial district; but if the point of such power development is, for the benefit of Imperial Valley, taken to some point distant from Pilot Knob, farther away from Yuma project, it would be hardly fair to expect Yuma, which would receive no benefit from this change, to stand the expense therefor, as your draft would require. The language has therefore been changed to agree with the former draft that the charge is to be made on the basis of the cost of development at the power house, and this seems to be just, especially as you are allowed 10 per cent profit on this power, which will cover a portion of the cost of carrying it to Pilot Knob.

The provision in paragraph 14 that the share of Yuma project in the water supply be limited to one-fourth of the water which can be diverted at Laguna Dam places upon the Yuma project the burden of providing for any water rights that may be adjudicated to the lands which have been cultivated in connection with the Imperial Valley concession. This does not seem equitable, as neither the United States nor the Yuma project has had anything to do with this concession or the obligations which may have grown up under it. This has therefore been changed to read "one-quarter of the water in the river above Laguna Dam."

With these changes, which I think the Government must insist upon, the contract is approved, and you will note that most of the suggestions you have made have been adopted.

The Yuma people have objected to the change which you have requested occurring at the close of paragraph 12, because under the language you propose any water that may be dropped at Pilot Knob for power might be dropped into the river, thereby necessitating its redirection into your canal until the all-American line is built, and this they fear might lead to further requests for the construction of a dam in the river.

The assumption, however, that the Imperial district would go to all the expense of building a large canal to connect with Laguna Dam and then deliberately throw away its advantages for no reason, appears to be so violent that I have accepted your wording without change, but this is written to emphasize the fact that it is not intended that this provision should give occasion for the reconstruction of a dam in the Colorado River at Hanlon Heading. In fact, this dam is such a menace to the safety of the Yuma Valley that it can only be permitted as a temporary expedient pending some adequate provision for forestalling its necessity such as this contract provides, and unless the Imperial district takes immediate steps to secure a safe and permanent method of

diverting water from the Colorado I will not again favor the placing of such a structure in the river.

Cordially, yours,

FRANKLIN K. LANE.

EXHIBIT I.

WAR DEPARTMENT,
Washington, April 11, 1918.

MR. LEROY HOLT.

President Imperial Irrigation District, El Centro, Calif.

DEAR MR. HOLT: You were recently handed form of contract under which, when ratified according to law by the stockholders of your corporation and properly executed by the Secretary of the Interior, connection of the canal system of Imperial irrigation district with the diversion works of the Yuma project at Laguna Dam may be made. It is understood that the terms of this contract were agreed upon as being fair and reasonable by your representatives and by representatives of the Yuma County Water Users' Association, and that they represent the final determination of the Interior Department upon the points in controversy.

It is hoped that formal action looking to the ratification or rejection of this agreement may be taken by you speedily, as such action must necessarily have an important bearing upon the subject of the weir dam in the Colorado River at Hanlon Heading. That dam is regarded as a serious menace to the Yuma project, the further toleration of which can be justified by this department only in connection with convincing evidence, such as ratification of the proposed agreement and diligence in carrying out its provisions of a definite and dependable plan for speedily removing the need of such a structure.

Very truly, yours,

BENEDICT CROWELL,
Acting Secretary of War.

EXHIBIT J.

[Item 3.]

THE ATTORNEY GENERAL TO THE SECRETARY OF STATE,
DEPARTMENT OF JUSTICE.

Washington, D. C., December 12, 1895.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th ultimo in which you refer to the concurrent resolution of Congress passed April 29, 1890, providing for negotiations with the Government of Mexico with a view to the remedy of certain difficulties mentioned in the preamble of such resolution, which arise from the taking of water for irrigation from the Rio Grande above the point where it ceases to be entirely within the United States and becomes the boundary between the United States and Mexico. I have also the copy which you inclose of the note of the Mexican minister to yourself, dated October 21, 1895, in which he states at length the position taken by his Government.

You say:

"The negotiations with which the President, acting through the Department of State, is charged by the foregoing resolution can not be intelligently conducted unless the legal rights and obligations of the two Governments concerned and the responsibility of either, if any, for the disastrous state of things depicted in the Mexican minister's letter are first ascertained."

I have the honor, therefore, to call your attention to the legal propositions asserted in Mr. Romero's letter and to inquire whether, in your judgment, those propositions correctly state the law applicable to the case. In other words—

(1) Are the provisions of article 7 of the treaty of February 2, 1848, known as the treaty of Guadalupe Hidalgo, still in force so far as the River Rio Grande is concerned, either because never annulled or because recognized and reaffirmed by article 5 of the convention between the United States and Mexico of November 12, 1884?

(2) By the principles of international law, independent of any special treaty or convention, may Mexico rightfully claim that the obstructions and diversions of the waters of the Rio Grande in the Mexican minister's note referred to are violations of its rights which should not continue for the future and on account of which, so far as the past is concerned, Mexico should be awarded adequate indemnity?

I reply as follows:

(1) Article 7 of the treaty of Guadalupe Hidalgo, while it was declared to have been rendered nugatory for the most part by the first clause of article 4 of the treaty concluded December 30, 1853, and proclaimed June 30, 1854, was, by the second clause thereof, reaffirmed as to the Rio Grande (now, Rio Bravo del Norte) below the point where, by the lines as fixed by the latter treaty, that river became the boundary between the two countries. Said article 7 is recognized as still in force by article 5 of the convention concluded November 12, 1884, and proclaimed September 14, 1886.

So far, therefore, as it affects the subject now in hand, said article 7, in my opinion, is still in force. I am unable, however, to agree with the minister in the interpretation which he gives it.

His statement is that the city of El Paso del Norte has existed for more than 300 years, during almost all of which time its people have enjoyed the use of the water of the Rio Grande for the irrigation of their lands. As that city and the districts within its jurisdiction did not need more than 20 cubic meters of water per second, which was an almost infinitesimal portion of the volume of water, even in times of severest drought, they had sufficient water for their crops until about 10 years ago, when a great many trenches were dug in Colorado, especially in the St. Louis Valley and in New Mexico, through which the upper Rio Grande and its affluents flow, so greatly diminishing the water in the river at El Paso that except when rains happen to be abundant there is scarcity of water from the middle of June until March. In 1894 the river was entirely dry by June 15, so that no crops could be raised, and even fruit trees began to wither. The result has been to reduce the price of land and cause great hardships to the people, whose numbers in Paso del Norte, Zaragoza, Tres Jacalles, Guadalupe, and San Ignacio diminished from 20,000 in 1875 to one-half that number in 1894.

The minister further states that from a report of the assistant quartermaster general, addressed to the general in chief of the United States Army, dated September 5, 1850, it appears that Capt. Lowe (meaning Love), United States Army, ascended the river in a vessel to a point several kilometers above Paso del Norte, showing that it was then navigable at that place. The minister has been misinformed. The original report, which is before me now, shows that Capt. Love was instructed to carry "to the highest attainable point in the Rio Grande" his small keel boat, which "drew, with her crew, provisions, arms, etc., on board, 18 inches of water." He found this point at some "impossible falls" which he names "Brookes Falls." Carrying around them "the skiff which had accompanied his boat," he rowed 47 miles farther to other falls, which he named "Babbitts Falls." Beyond this point he "found it impossible to proceed with the skiff, either by land or water," and it was "about 150 miles by land below El Paso."

The minister contends that the irrigation ditches in Colorado and New Mexico, which result in diminishing the flow of water at El Paso, come within the treaty prohibitions of "any work that may impede or interrupt, in whole or in part, the exercise of this right" (of navigation), because, as he says, "nothing could impede it more absolutely than works which wholly turn aside the waters of these rivers." But Article VII is limited in terms to "the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico." Article IV of the treaty of 1853 continues the provisions of said Article VII in force "only so far as regards the Rio Bravo del Norte below the initial of said boundary provided in the first article of this treaty." It is that part alone which is made free and common to the navigation of both countries and to which the various prohibitions apply. It is plain that neither party could have had, in framing these restrictions, any such intention as that now suggested. The fact, if such it were, that the parties did not think of the possibility of such acts as those now complained of would not operate to restrain language sufficiently broad to include them; but the terms used in the treaty are not fairly capable of such a construction. They naturally apply only to the part of the river with which the parties were dealing and

to such works alone as either party might construct on its own side if not restrained. Though equally divided, in theory, between the two nations where it is their boundary, the river is, in fact, a unit for purposes of navigation and therefore the treaty required the consent of both for the construction of "any work that may impede or interrupt" navigation, even though it should be "for the purpose of favoring new methods of navigation." (Art. VII.) Up to the head of navigation no such work could have been constructed save by one of the two Governments, or by its authority. The prohibition was, therefore, appropriately made applicable to them alone and not to the citizens of either, "neither shall, without consent of the other, construct," etc. Above the head of navigation, where the river would be wholly within the United States, different rules would apply and private rights exist which the Government could not control or take away save by exercise of the power of eminent domain, so that clear and explicit language would be required to impose upon the United States such obligation as would result from the construction of the treaty now suggested.

Moreover, the only right the treaty professed to create or protect with respect to the Rio Grande was that of navigation. The claim now made is for injuries to agriculture alone at places far above the head of navigation. Capt. Love, in the report referred to, said, "The mouth of Devils River, which is about 100 miles below the mouth of the Puerco (Pecos) and 617 above Ringgold Barracks, is the head of steamboat navigation," and that "with some difficulty" navigation by keel boats was possible "to a point 56 miles above the 'Grande Indian Crossing,' or about 283 miles above the mouth of Devils River." So far as appears, the large and numerous tributaries below El Paso supply a sufficient volume of water for the needs of navigation.

In fact, the part of the treaty now under consideration merely expresses substantially the same rights and duties which international law would imply from the fixing of the middle of the river as the boundary, viz, free navigation of the entire stream below the point where it becomes common to both nations, without any levy or exaction or the construction of any work which might impede navigation, without the consent of both.

In my opinion, therefore, the claim now made by Mexico finds no support in the treaty. On the contrary, the treaty affords an effective answer to the claim by the well-known rule that the expression of certain rights and obligations in an agreement implies the exclusion of all others with relation to the same subject.

It is not necessary, in order to bring this principle into play, that it shall appear that either party, or both, actually thought of the particular matter whose exclusion is asserted, although that fact, when it appears, may serve to emphasize the inference. I am not advised whether the subject of the use of the water of the Rio Grande for irrigation was mentioned during the negotiations or not, but it is stated that such use had long been made by the Mexicans, and it was known that agriculture could not be carried on in that region without it. It was known, too, certainly to Mexico, that this necessity existed also throughout the entire region watered by the upper Rio Grande and its tributaries, for, as a province of Spain and then as an independent nation, Mexico had included both New Mexico and Colorado, and from the independence of Texas in 1836 down to the treaty of 1848 Mexico's eastern boundary was the Rio Grande to its source. By this treaty Mexico ceded to the United States the territory west of the Rio Grande and north of the southern boundary of New Mexico, just as she had abandoned to Texas all the territory east of that river, without any reservations, restrictions, or stipulations concerning the river except those above mentioned.

Settlements had long existed in the region of Santa Fe, and the probability of the ultimate settlement of the entire territory along the Rio Grande must have been apparent to both parties. Yet the treaty made no attempt to create or reserve to Mexico or her citizens any rights or to impose on the United States or their citizens any restraints with respect to the use of water for irrigation, although rights of property in the territory were secured to all Mexicans, whether established there or not. (Art. 8.)

The treaty of 1848 was a treaty of peace, and a different rule for the construction of such treaties is laid down by some writers. (Vattel, Law of Nations, Chitty's ed., p. 433.) If it be suggested that the circumstances under which this treaty was made bring its terms, as against the United States, within the operation of such rule, it is a sufficient answer that, even if the existence of the rule be acknowledged, it simply subjects provisions in favor of the United

States to strict construction. Like all rules of construction, it has no application except in cases of doubtful meaning of language used and can not be made the means of introducing new terms. Moreover, the United States paid \$15,000,000 for the territory acquired by the treaty (art. 12), and by the treaty of 1853, which was not a treaty of peace, Mexico ceded further territory in consideration of \$10,000,000 (art. 3), repeating without enlarging the stipulations of the former treaty as to rights on the Rio Grande.

(2) I have given my opinion of the construction and effect of the treaty, because it is responsive to your general request, though not to your specific questions. That opinion, perhaps, in strictness makes it unnecessary for me to consider your second question, but as that question is not put alternatively or conditionally, I proceed.

An extended search affords no precedent or authority which has a direct bearing.

There have been disputes about the rights of navigation of international rivers, but they have been settled by treaty. (For a list of such treaties see Heffter, *Droit Int.*, Appendix VIII.) The subject is fully discussed by Hall (*Int. Law*, sec. 39), who denies that the people on the upper part of a navigable river have a natural right to pass over it through foreign territory to its mouth. Now, if such right be conceded, no aid is afforded for the present inquiry, because use for navigation, being common, would not curtail use by the proprietary country, while in the case now presented, there not being enough water for irrigation in both countries, the question is which shall yield to the other.

It is stated by some authors that an obligation rests upon every country to receive streams which naturally flow into it from other countries, and they refer to this as a natural international servitude. (Heffter, *Droit Int.*, sec. 43; 1 Phillemore, *Int. Law*, p. 303.) Others deny the existence of all international servitudes apart from agreement in some form. (Letters of Grotius quoted 2 Hert., p. 106; Kluber, *Droit des Gens Moderne*, sec. 139; Bluntschli, *Droit Int. Cod.*; Woolsey's *Int. Law*, sec. 58; 1 Calvo, *Droit Int.*, sec. 556.)

Such a servitude, however, if its existence be conceded, would not cover the present case or afford any real analogy to it. The servient country may not obstruct the stream so as to cause the water to back up and overflow the territories of the other. The dominant country may not divert the course of the stream so as to throw it upon the territory of the other at a different place. (See authorities *supra*.) In either of such cases there would be a direct invasion and injury by one of the nations of the territory of the other. But when the use of water by the inhabitants of the upper country results in reducing the volume which enters the other, it is a diminution of the servitude. The injury now complained of is a remote and indirect consequence of acts which operate as a deprivation by prior enjoyment. So it is evident that what is really contended for is a servitude which makes the lower country dominant and subjects the upper country to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory.

Such a consequence of the doctrine of international servitude is not within the language used by any writer with whose works I am familiar, and could not have been within the range of his thought without finding expression.

Both the common and the civil law undertake to regulate the use of the water of navigable streams by the different persons entitled to it. Neither has fixed any absolute rule, but leaves each case to be decided upon its own circumstances. But I need not enter upon a discussion of the rules and principles of either system in this regard, because both are municipal and, especially as they relate to real property, can have no operation beyond national boundaries. (Creasy, *Int. Law*, p. 164.) So they can only settle rights of citizens of the same country *inter sese*. The question must therefore be determined by considerations different from those which would apply between individual citizens of either country. Even if such a question could arise as a private one between citizens of one country and those of another, it is not so presented here. The mere assertion of the claim by Mexico would make it a national one, even if it were of a private nature. (Gray *v. U. S.*, 1 C. Cls. R., 391-392.) But the use of water complained of and the resulting injuries are general throughout extended regions, so that effects upon individual rights can not be traced to individual causes, and the claim is by one nation against the other in fact as well as form.

The fundamental principle of international law is the absolute sovereignty of every nation as against all others within its own territory. Of the nature

and scope of sovereignty with respect to judicial jurisdiction, which is one of its elements, Chief Justice Marshall said (*Schooner Exchange v. McFaddon*, 7 Cranch, p. 136) :

"The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction.

"All exceptions, therefore, to the full and complete power of a nation within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

It would be entirely useless to multiply authorities. So strongly is the principle of general and absolute sovereignty maintained that it has even been asserted by high authority that admitted international servitudes cease when they conflict with the necessities of the servient State. (Bluntschli, p. 212; see criticism by Creasy, p. 258.) Whether this be true or not, its assertion serves to emphasize the truth that self-preservation is one of the first laws of nations. No believer in the doctrine of natural servitudes has ever suggested one which would interfere with the enjoyment by a nation within its own territory of whatever was necessary to the development of its resources or the comfort of its people.

The immediate as well as the possible consequences of the right asserted by Mexico show that its recognition is entirely inconsistent with the sovereignty of the United States over its national domain. Apart from the sum demanded by way of indemnity for the past, the claim involves not only the arrest of further settlement and development of large regions of the country, but the abandonment, in great measure at least, of what has already been accomplished.

It is well known that the clearing and settlement of a wooded country affects the flow of streams, making it not only generally less, but also subjecting it to more sudden fluctuations between greater extremes, thereby exposing inhabitants on their banks to increase of the double danger of drought and flood. The principle now asserted might lead to consequences in other cases, which need only be suggested.

It will be remembered that a large part of the territory in question was public domain of Mexico and was ceded as such to the United States, so that their proprietary as well as their sovereign rights are involved.

It is not suggested that the injuries complained of are or have been in any measure due to wantonness or wastefulness in the use of water or to any design or intention to injure. The water is simply insufficient to supply the needs of the great stretch of arid country through which the river, never large in the dry season, flows, giving much and receiving little.

The case presented is a novel one. Whether the circumstances make it possible or proper to take any action from considerations of comity is a question which does not pertain to this department; but that question should be decided as one of policy only, because, in my opinion, the rules, principles, and precedents of international law impose no liability or obligation upon the United States.

Very respectfully,

JUDSON HARMON, Attorney General.

EXHIBIT K.

THE ALL-AMERICAN CANAL.

[Preliminary report of the All-American Canal Board, Dr. Elwood Mead, W. W. Schlecht, C. E. Grunsky, together with the report of the engineer in charge of surveys and examinations, Porter J. Preston. December, 1918.]

Organization and duties of the All-American Canal Board.—This board has been appointed under the provisions of an agreement bearing date February 16, 1918, between the Secretary of the Interior and the Imperial Irrigation district, which provides as follows:

"Whereas it is desired to make a complete investigation, survey, and cost estimate of an all-American canal from the Laguna Dam, Arizona-California, into Imperial Valley, California; and

"Whereas the said district will allot the sum of thirty thousand dollars (\$30,000) to be made available upon condition that the United States will enter into a contract for said cooperation with the said district; and

"Whereas the Secretary will allot the sum of fifteen thousand dollars \$15,000) to be expended on such investigations in cooperation with the said district.

"Now, therefore, in consideration of the promises and the mutual covenants and agreements herein contained, it is stipulated and agreed between the parties hereto as follows:

"That investigations, surveys, and cost estimates of an all-American canal from the Laguna Dam, Arizona-California, into Imperial Valley, California, will be made in order to determine the possibility and feasibility of carrying an adequate supply of water for the irrigation of arid lands in the Imperial Valley, that such surveys shall be made in sufficient detail so that the character and cost of development shall be shown—such surveys shall also investigate the ways and means by which power may be developed as an incident to the construction of such irrigation works and the value and possible uses thereof.

"All investigations, surveys, and cost estimates contemplated hereunder shall follow a general plan of operation jointly agreed upon by a board, one member to be selected by the district, one by the director of the U. S. Reclamation Service, and a third by the University of California.

"The surveys shall be made by an engineer duly appointed by the director of the U. S. Reclamation Service * * * and the engineer shall be authorized to employ all necessary assistants and make all necessary expenditures.

"On completion of the said surveys and investigations a report thereof shall be made by the engineer of the Reclamation Service in charge of the work. The facts and conclusions reported shall be reviewed by the board, provided for in article 7 hereof. The "report of this board shall be published by the U. S. Reclamation Service." * * * "This report shall contain detailed estimates with suitable explanatory maps, plans, and other documents as exhibits, * * * such reports shall contain specific conclusions and recommendations as to the future policy."

* * * * * The director of the U. S. Reclamation Service appointed W. W. Schlecht as a member of the board, the University of California appointed Dr. Elwood Mead, and the Imperial Irrigation district appointed C. E. Grunsky.

Mr. Porter J. Preston was appointed by the director of the U. S. Reclamation Service to serve as the engineer in charge of the surveys, examinations, and cost estimates.

The work done in the field and office under the advice this board by Mr. Preston has now been advanced to the point where preliminary conclusions relating to general features of an all-American canal project, together with preliminary cost estimates, can be presented.

In transmitting the following preliminary statement of facts and conclusions the board reserves the right to amplify and modify them if later this is thought to be desirable, and proposes to follow up the summary now submitted with a discussion of the canal features and the problems now but briefly touched upon.

The urgent demand by Imperial Irrigation district for the submission of our conclusions at the earliest possible time and our earnest endeavor to comply with the request be taken into account if this preliminary statement is not as complete as might be desired.

Preliminary statement of facts and conclusions.—The total area of Imperial Irrigation district is 584,700 acres.

The net cultivable area in Imperial Irrigation district is about 515,000 acres.

The net area for which water will be required in Imperial Valley is about 900,000 acres.

The total gross area to which the cost of an all-American canal would be charged may exceed by some considerable amount the net area. This gross area has not been estimated neither for the Imperial Irrigation district nor for the outside lands.

The cost of constructing an all-American canal for the irrigation of the arid lands in Imperial Valley is based on the assumption that the canal will have a capacity of 9,000 second-feet. But it should be understood that future increase of capacity will be possible.

An all-American canal to meet only the requirements of Imperial Irrigation district, though with some allowance for an expansion of the district, has been planned at a capacity of 6,000 second feet.

The maximum water requirement for irrigation of the Yuma project including 45,000 acres of mesa land is estimated at 1,600 second feet, subject, however, to future extensions.

The enlargement of the Yuma project canal from the Laguna Dam to Siphon Drop has been planned at a capacity of 10,600 second-feet for the all-American canal if constructed to serve 900,000 acres in the Imperial Valley and at a capacity of 7,600 second-feet if it is to be built for the Imperial irrigation district alone.

The Laguna Dam should be raised about 2 feet and the shape of its crest should be modified so that there will be less opportunity for drift to hang on the crest. There should be a low section of the crest of adequate length with movable device to provide for control of the line of flow and to permit of some regulation of the river height above the dam.

The Yuma project will require a certain amount of power to pump water from the level of the canal system of the Yuma Valley to the Yuma Mesa. To provide this power a power station, located near Araz, is proposed by the U. S. Reclamation Service as a project feature. Power is to be generated with water brought from the Laguna Dam through enlarged headworks, an enlarged Yuma Canal to the Siphon Drop and a canal with a capacity of about 4,000 second-feet from the Siphon Drop to the power station, where it is estimated that an installation for the utilization of about 8,500 water horsepower will be required for the generation of electric energy.

The apportionment of cost of utilizing the water power of an all-American canal and of transmitting the electric energy to the Yuma Canal project should be made on the assumption that these tentative plans for the Yuma project will some day be carried out. The Yuma project on this assumption would maintain an interest in canal capacity to the extent of 4,000 second-feet of water to Araz and in power plants to a limit of an installation for the utilization of 8,500 water horsepower, regardless of where the water power is used to generate electric energy.

The distribution of the cost of making alterations at the Laguna Dam and of enlarging the Yuma Canal and building new canal down to the power site at Araz, should be to power and to irrigation in equal amounts, for the water used in the vicinity of Pilot Knob for power or made available for such use in that vicinity.

Power developments with water of the all-American canal should not be charged with the cost of canal construction beyond Araz.

The first work to be done as a part of the construction of an all-American canal should be the enlargement of the Yuma Canal and its headworks and the construction of an extension of the enlarged canal at a capacity of either 6,000 or 9,000 second-feet (depending upon whether the all-American canal is to be constructed by Imperial district alone or by the district with the assistance of the outside lands of Imperial Valley down to Pilot Knob, and the installation of a power plant for construction purposes at that point).

The power plant installation for construction purposes at Pilot Knob should be for the utilization of a fall of about 30 feet and the arrangement should be such that if necessary the capacity of the plant can be increased. Provision may sometime in the future have to be made also for a stand-by gasoline or steam power plant, but this is not included in the works now necessary. If power is required at any time for operating gates when there is no water in the canal, this will be obtainable from the Southern Sierras Power Co., whose transmission lines have already been extended into this district.

On the all-American canal at two points fall can be concentrated and power should be developed. This is to be done at or near the points marked "Power House" on the "General Map" which accompanies Mr. Preston's report. The plants at these points will be referred to as Power Plants Nos. 1 and 2. The installation should be for the utilization of 6,000 second-feet falling about 30 feet at the first station (although at first only 24 feet of fall are to be utilized) and 5,500 second feet falling about 47 feet at the second station.

The total cost of constructing the all-American canal as described in Mr. Preston's report at a capacity of 9,000 second-feet, not including the two power plants on the mesa, is estimated at \$26,732,602. This includes \$1,900,000 to be paid to the United States in installments, without interest, for the right to connect with the Laguna Dam and to utilize diverting works in common with the Yuma project.

The total cost of constructing an all-American canal for Imperial Irrigation district only, at a capacity of 6,000 second-feet, not including the two power

plants on the mesa, is estimated at \$24,304,048. This includes \$1,600,000 to be paid to the United States in installments, without interest, for the right to connect with the Laguna Dam, and to utilize diverting works in common with the Yuma project.

The amount which should be charged by the United States to an all-American canal project with canal capacity of 9,000 second-feet, which is to supply water to an area of 900,000 acres, for the privileges of connecting with the Laguna Dam, has been estimated at \$1,900,000. This amount should be apportioned to the Imperial Irrigation district and to outside lands in the proportion of the contributing areas. It will be payable in installments to be fixed by the Secretary of the Interior extending over a period of 20 years without interest. The Imperial Irrigation district should obligate itself, as is contemplated by the agreement of October 23, 1918, between the Secretary of the Interior and the directors of Imperial Irrigation district, to make the payment of its proportional part of this sum, or in round numbers about 60 per cent thereof.

The amount which should be paid by Imperial Irrigation district to the United States for the privilege of connecting with the Laguna Dam, if an all-American canal is constructed at a capacity of 6,000 second-feet to supply water only to lands within the Imperial Irrigation district, is \$1,600,000. This amount will be payable in installments extending over a period of 20 years without interest.

The agreement under which this board is acting makes it imperative to consider only a high-line canal located entirely on American territory. The unfortunate position of the boundary line interferes with the consideration of a location further to the south, which would in all probability be better adapted to the configuration of the ground.

The agreement of October 23, 1918, between the Secretary of the Interior and the directors of the Imperial Irrigation district provides for the construction of an all-American canal by the Imperial Irrigation district. Should the district fail to construct an all-American canal as contemplated under this agreement the question will then arise on other methods of procedure. This board believes that means must be found for extending the irrigation in the Imperial Valley to the mesa and other lands that can be commanded by canal from the Laguna Dam, and that, from an engineering point of view, there would be material advantage in a canal location not restricted by the international boundary. After a high-line canal has been constructed under the pending agreement or otherwise the United States should make provision for the necessary submains and laterals to serve the lands which are outside of Imperial Irrigation district and dispose of the public lands, granting long time in which to make payments and a low rate of interest on deferred payments.

The canal has been planned as an open canal through the sand hills. The canal banks are to be fairly flat on slopes of 2 to 1, and a berne 30 feet wide is to be provided at the surface of the mesa formation, which is the base of the sand dunes. The board is of the opinion that the drifting sand can be checked by a proper disposal of spoil dumps and by delivery upon its surface, for some distance away from the canal, of material excavated by suction dredges from the canal prism. Vegetation can be made to grow on the sand dunes by irrigation with pumped water, as a barrier will thus be created that will materially reduce the amount of sand which would otherwise blow into the canal. The board, therefore, concludes that the construction of a large capacity canal through the sand hills is feasible.

If the all-American canal project is not carried out under the terms of the agreement of October 23, 1918, and if there is delay in otherwise making provision for the same, the connection of the Imperial Canal with Laguna Dam should still be made at once. Furthermore, if the construction of a high-line canal, heading at Laguna Dam must be long deferred the installation of a power plant at full capacity to meet the requirements of the Yuma project may become a necessity. Such a connection would involve the enlargement of the Yuma Canal down to the Siphon Drop to a capacity of 7,600 second-feet, with alterations at the Laguna Dam and the construction of a canal from the Siphon Drop to Pilot Knob at a capacity of 6,000 second-feet. There should be no unnecessary delay in carrying out this work for which funds might be provided according to circumstances, either jointly by the United States for the Yuma project and by the Imperial Irrigation district, or by the United States alone, subject to repayment of its share of the cost with interest by the Imperial Irrigation district; or by the Imperial Irrigation district alone, subject to a

participation in power by the Yuma project upon a repayment to the district of a part of the construction cost.

Of the total canal construction cost a certain part should be charged to power development. This may be estimated on the basis of power development near Pilot Knob on the assumption that the cost of getting water for power to Araz (up to 6,000 second-feet) should be charged in equal amounts to irrigation and to power. There should therefore be charged to power one-third of the cost of canal construction down to Araz, if the all-American canal is constructed at a capacity of 9,000 second-feet and one-half thereof if the canal is constructed at a capacity of 6,000 second-feet, or if only the connection with the Laguna Dam is made at this capacity.

The Yuma project should be charged for the reserved interest in power two-ninths, or one-third of the cost of the alterations at the Laguna Dam and canal construction to Araz, depending on whether the all-American canal is given a capacity of 9,000 or only 6,000 second-feet, and 40 per cent of the estimated cost of a power plant at Araz. Consequently the apportionment and distribution of canal and power construction costs should be as follows:

All-American canal, 9,000 second-feet capacity:

Estimated total cost of canal construction, including the cost of the right to connect with Laguna Dam, but not including the cost of power development (p. 18, Engineer's report)	\$26,732,602
Charge Yuma project with two-ninths of \$4,097,401 (p. 19, Engineer's report)	<u>910,534</u>

Charge Imperial Valley with-----	25,822,068
Right to connect with Laguna Dam-----	1,900,000

Net canal construction cost charged to Imperial Valley-----	23,922,068
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The distribution of cost, according to area, to Imperial Irrigation district and to the mesa and other outside lands, would be about as follows:

Imperial Irrigation district, about 60 per cent:

Right to connect with Laguna Dam-----	\$1,140,000
Net canal construction cost-----	<u>14,353.241</u>
	\$15,493,241

Outside lands, about 40 per cent:

Right to connect with Laguna Dam-----	760,000
Net canal construction cost-----	<u>9,568.827</u>
	10,328,827

Total-----	25,822,068
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Estimated cost of power plants (p. 27, Engineer's report)-----	4,508,690
Charge Yuma project with 40 per cent of \$1,886,690 (p. 28 Engineer's report)-----	<u>754,676</u>

Charge to Imperial Valley-----	3,754,014
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If the estimated cost of power plants, \$3,754,014, charged as above to Imperial Valley, is distributed to the Imperial Irrigation district and to the mesa and other outside lands in the proportion of area, or about 60 per cent to the district and 40 per cent to the outside lands, then:

Imperial Irrigation district investment in power will be about-----	\$2,252,408
The outside lands investment in power will be about-----	<u>1,501,606</u>

Total-----	3,754,014
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The distribution of all construction costs will be about as follows:

To Imperial Irrigation district:

For right to connect with Laguna Dam-----	\$1,140,000
Part cost of power plants-----	2,252,408
Part net canal construction cost-----	<u>14,353,241</u>

Total-----	17,745,649
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To the mesa and other outside lands:

For right to connect with Laguna Dam-----	\$760,000
Part cost of power plants-----	1,501,606
Part net canal construction cost-----	9,568,827

Total-----	11,830,433
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Total estimated cost chargeable to Imperial Valley of an all-American canal, with a capacity of 9,000 second-feet, including power plants, and including right to connect with the Laguna Dam, but not including \$1,865,210 chargeable to Yuma project-----

29,576,082

Canal construction chargeable to power:

One-third of cost to Araz, one-third of \$4,097,401 (page 19, engineer's report)-----	1,365,800
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Gross construction cost chargeable to power:

Estimated cost of power plants (page 27, engineer's report)-----	4,508,690
Part of canal construction cost, as above-----	1,365,800

Total-----	5,874,490
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Yuma project will be charged for an interest in power:

Part of canal construction cost to Araz, as above-----	910,534
Part power plant construction cost, as above-----	754,676

5,874,490

Total-----	1,665,210
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All-American canal, 6,000 second-feet capacity:

Estimated total cost of canal construction, including the cost of the right to connect with Laguna Dam, but not including the cost of power development (page 24, engineer's report)-----	24,304,048
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Charge Yuma project with one-third of \$3,549,626 (page 25, engineer's report)-----	1,183,209
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1,183,209

Charge Imperial irrigation district with-----	2,120,839
Right to connect with Laguna Dam-----	1,600,000

1,600,000

Net canal construction cost-----	21,520,839
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Estimated cost of power plants (page 27, engineer's report)-----	4,508,690
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Charge Yuma project with 40 per cent of \$1,866,690 (page 28, engineer's report)-----	754,676
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754,676

Charge to Imperial Irrigation district-----	3,754,014
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3,754,014

Total estimated cost chargeable to Imperial Irrigation district of an all-American canal with a capacity of 6,000 second-feet, including power plants and including cost of the right to connect with the Laguna Dam, but not including \$1,937,885 to be charged to the Yuma project as follows:

Right to connect with Laguna Dam-----	\$1,600,000
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Part cost of power plants-----	3,754,014
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Part net canal construction cost-----	21,520,839
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21,520,839

Total-----	26,874,853
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Canal construction cost chargeable to power:	
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One-half of cost to Araz, one-half of \$3,549,626 (page 25, engineer's report)-----	1,774,813
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Gross construction cost chargeable to power:	
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Estimated cost of power plants (page 27, engineer's report)-----	4,508,690
Part of canal construction cost, as above-----	1,774,813

1,774,813

Total-----	6,283,503
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Yuma project will be charged for an interest in power (6,000 second-foot canal):	
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Part of canal construction cost to Araz, as above-----	1,183,209
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Part of power plant construction cost, as above-----	754,676
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754,676

Total-----	1,937,885
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Connection of Imperial canal with the Laguna Dam (considered alone). Canal capacity, 6,000 second-feet:	
Estimated cost of canal construction (page 29, engineer's report) -----	7,039,041
Charge Yuma project with one-third of \$3,549,626 (page 25, engineer's report)-----	1,183,209
Charge Imperial district with-----	5,855,832
Right to connect with Laguna Dam-----	1,600,000
Net canal construction cost to be charged to Imperial irrigation district-----	4,255,832
Estimated cost of power plant (page 28, engineer's report)-----	1,886,690
Charge Yuma project with 40 per cent thereof-----	754,676
Charge Imperial irrigation district with 60 per cent thereof-----	1,132,014
Part net estimated cost of canal construction, as above-----	\$4,255,832
Part cost of power plant, as above-----	1,132,014
Total-----	5,387,846
Canal construction cost chargeable to power:	
One-half cost to Araz, one-half of \$3,549,626 (page 25, engineer's report)-----	1,774,813
Gross construction cost chargeable to power:	
Estimated cost of power plant at Pilot Knob (page 28, engineer's report)-----	1,886,690
Part of canal construction cost, as above-----	1,774,813
Total-----	3,661,503
Yuma project will be charged for an interest in power:	
Part canal construction cost to Araz, as above-----	1,183,209
Part power plant cost, as above-----	754,676
Total-----	1,937,885

Power should be held available for the requirements of the Yuma project and the Imperial irrigation district and any organization for the irrigation of mesa and other lands. Power thus required should be paid for at cost plus 10 per cent. Any power in excess of such requirements should be treated as commercial power and sold. The interest of the Yuma project should be protected in the amount of power for which a construction charge is placed against the project, and if this power be not generated at or near Araz it should be transmitted back to that point without transmission cost to the Yuma project.

The participation in profits from power sales should be made proportional to the relative investments in the Imperial Valley.

For a high-line canal project to the Imperial Valley some water from storage should be made available. This can best be accomplished if the United States will undertake the construction of storage reservoirs on the Colorado River from which water could be made available for power and irrigation at rates which would cover cost. Any such storage storage on a large scale would also have some beneficial effect in reducing the peak of the flood discharge in the lower river, thereby cutting down the flood menace to the submersible lands—in particular to those of the delta region and the Imperial Valley.

Respectfully submitted,

W. W. SCHLECHT.
C. E. GRUNSKY.

(Report of Porter J. Preston, engineer in charge of surveys and examinations, Dec. 7, 1918.)

To: The Board of Engineers, All-American Canal.
Subject: Preliminary report and cost estimate.

1. INTRODUCTION.

(a) A contract was entered into by the Secretary of the Interior and the directors of the Imperial Irrigation District on February 18, 1918, for "a complete investigation, survey, and cost estimate of an All-American Canal from Laguna Dam, Ariz.-Calif. into the Imperial Valley." The contract further provides that "in order to determine the possibility and feasibility of carrying an adequate supply of water for the irrigation of arid lands in the Imperial Valley; that such surveys shall be made in sufficient detail so that the character and cost of development shall be shown"; such surveys shall also investigate the ways and means by which power may be developed as an incident to the construction of such irrigation works and the value and possible uses thereof."

(b) Under this contract a study of the available data was made in the Yuma reclamation office, and early in March a survey was commenced.

(c) Frequent meetings and conferences have been held with the board and individual members of the board, from time to time, and their counsel and advice, aside from their official duties under the contract, have been of material assistance in the work of making the surveys and the preparation of this estimate.

2. PURPOSE OF PRELIMINARY REPORT.

Under date of October 23, 1918, the directors of the Imperial Irrigation district entered into a contract with the Secretary of the Interior for a connection with Laguna Dam and the construction of an all-American canal and appurtenant structures, based on the surveys and investigations covered by the contract under which these investigations are being made.

(b) The contract of October 23, 1918, provides for the ratification of the contract on or before six months from the date of signing the same. The Imperial irrigation district now desires to submit the question of the ratification of the contract of October 23, 1918, to a vote of the people at an early date. The directors have requested that a preliminary report be made of the estimated cost of connecting with Laguna Dam and constructing the all-American canal, in order that the voters in the district may have knowledge of the cost of the project before voting upon the ratification of said contract. Under the circumstances it has been deemed best to furnish the information desired at this time in a preliminary report. There are some features of the project that require further investigation and study, but these will not materially change the ultimate estimated cost of the project.

3. EARLIER SURVEYS.

(a) Several surveys and estimates have heretofore been made, for the purpose of diverting water at Laguna Dam into the Imperial Valley and onto the dry lands, by what has been termed a high-line canal. These surveys either followed along the route of or contemplated the enlargement of the present Yuma Main Canal from Laguna Dam to Siphon Drop, and thence along the base of the hills bordering the valley from this latter point to the Southern Pacific main line track. From this point the surveys followed the right bank of the Colorado River, generally parallel therewith and but a short distance from the river bank, to a point near the international boundary line. From this latter point the plan followed by the several surveys have differed to some extent, and are described below more in detail.

(b) In 1903 and 1904 the United States Geological Survey made a topographical survey of the Yuma project on the California side of the river, extending the topography to the international boundary, and thence westerly for 10 miles, covering a strip along and parallel with the boundary and about 1 mile in width.

(c) In 1908 the Reclamation Service made a topographic survey of the greater portion of the mesa east of the present Imperial East High-Line Canal, as far north as the Southern Pacific Railroad. At this time some preliminary

lines were run for a high-line canal south of the sand hills through Mexican territory.

(d) In 1913 the Imperial irrigation district made a preliminary survey for an all-American aqueduct of a capacity of about 3,667 second-feet through the sand hills. This survey followed along and parallel with the international boundary from a point just west of the Hanlon Heading to a point near the present East High-Line Canal.

(e) In 1916 and 1917 the Imperial-Laguna Water Co. made surveys for an all-American canal along practically the same route followed by the Imperial irrigation district in 1913, except it only extended westerly to a point where the mesa lands could be served. The early plans of this company contemplated a canal of 1,865 second-feet through the sand hills. Later the company planned a larger canal, but of a much less capacity than the canal here planned.

(f) The data and maps of these different surveys were available and have been made use of in making the surveys and estimates.

4. SURVEYS.

(a) In 1917 a survey was made by the Reclamation Service for a power canal from Siphon Drop to a proposed power site near Araz. Very careful and complete topography had been taken over this section. The year prior cross sections had been taken on the main Yuma Canal from Laguna Dam to Siphon Drop. It was found that we could use all of this work, and therefore the survey was taken up at the end of the proposed power canal near Araz and extended southwesterly to a point on the east side of Pilot Knob, where we found it would be necessary to either cut or tunnel through a narrow rock spur of Pilot Knob for 800 feet in order to avoid interfering with the quarry of the Imperial irrigation district. From this point the line continues in the same general course to a point 400 feet north of the international boundary, and thence parallels the boundary to a point well within the blow-sand area. From this point the line runs to the northwest, keeping well on the mesa floor among small sand dunes not exceeding 12 or 15 feet in height. At a point about 2 miles north of the international boundary the line takes a southwesterly course through an open mesa for more than a mile, and then again swings to the northwest over a high blow sand ridge 3,000 feet across, into what is locally known as Government Gap. From the western end of Government Gap the line takes a southwesterly course crossing two main sand ridges which total about $1\frac{1}{2}$ miles to reach the mesa on the west of the blow-sand hills; thence on the same general course until it reaches a point 400 feet north of the boundary line; thence along the boundary to monument No. 213, where the line runs somewhat north of the boundary, keeping generally a westerly course in order to take advantage of the topography of the ground. As the line nears the East Side High-Line Canal it again approaches the boundary and follows along it to the west side main except for a detour in order to get around the city of Calexico and to obtain a better crossing of New River.

(b) Through the blow-sand area two alternate routes were surveyed, one along the boundary, which is about $1\frac{1}{2}$ miles shorter than the line above described, but containing 1,800,000 cubic yards more excavation, and the other to the north of the adopted line and being for the purpose of avoiding the first big sand ridge described above. This latter line is nearly a half-mile longer and contains 200,000 cubic yards less excavation.

(c) Topography was completed and extended on the section south of Pilot Knob, and a strip of topography 2,000 feet in width was taken on the lines through the sand hills. Additional topography was taken at Laguna Dam, along the Southern Pacific tracks near Araz, Alamo River, and New River crossings.

(d) All the topography taken and available was plotted on a scale of 400 feet to the inch. This is shown on 37 sheets, which are on file in the Yuma office. A profile of the canal from Siphon Drop to the West Side Canal on a scale of 500 feet to the inch is also on file in the Yuma office.

5. IRRIGABLE ACREAGE.

(a) The irrigable acreage of the Imperial irrigation district now within the district boundaries is about 515,000 acres, all of which could be reached by gravity through an all-American canal, with the exception of two or three sections near the international boundary west of New River, upon which it will

be necessary to pump the water. The West Side Main Canal can be made to serve another possible 40,000 acres.

(b) In the East Side mesa district there is estimated to be 140,000 acres, and to the north of the Southern Pacific Railroad, east and north of the Salton Sea, including the Coachella Valley, there is another 200,000 acres, making a total of 885,000 acres that can be served by a gravity system.

(c) In consultation with the Board of Engineers it was decided to adopt 900,000 acres as the basis upon which to make the estimates.

6. WATER DUTY.

(a) With as large an acreage as it is here contemplated to serve, and the fact that a considerable portion of the irrigable acreage has been under irrigation for some years, it was deemed that a diversion duty of 1 cubic foot to 100 acres was sufficient.

(b) The losses in the canals are not anticipated to be excessive after they are thoroughly seasoned. It is estimated that there will be delivered to the land 75 per cent of the amount diverted.

6a. CANAL SECTIONS AND CAPACITIES.

(a) With the above duty, 900,000 acres will require a diversion at Laguna Dam of 9,000 second-feet in addition to the amount required for the Yuma project of 1,600 second-feet or a total of 10,600 second-feet from Laguna Dam to Siphon Drop.

(b) All the larger sections of the canals were designed to give a velocity of 3.5 feet per second when running full and 2.5 feet per second or better when running at half capacity.

(c) Below are given some of the dimensions of principal sections of the canal from Laguna Dam to the West Side main canal. The types of the cross sections are shown on the profile. These are marked "sections" and numbered both on the "section" and on the profile to which that "section" applies.

1. The canal from Laguna Dam to Siphon Drop will have a bottom width of 162 feet, a depth of 16 feet, side slopes of 2 to 1 on the lower side and 1 $\frac{1}{2}$ to 1 on the upper side, a grade of .0000792 and a carrying of 10,640 second-feet.

2. From Siphon Drop to the sand hills the bottom width will be from 146 to 164 feet, a depth of 15 feet, side slopes from 1 $\frac{1}{2}$ to 1 to 2 to 1, a grade of .0000786 to .0000862 and an estimated carrying capacity of not less than 9,000 second-feet. The different widths, slopes, etc., are due to the different cross sections adopted to fit the varying character of the material to be excavated.

3. Through the sand hills the bottom width is 146 feet, a depth of 15 feet, side slopes 2 to 1 with a berme of 30 feet on either side at the surface of the mesa floor, which is the base of the sand dunes, a grade of .0000813 and a carrying capacity of 9,000 second-feet.

4. From the west side of the sand hills to Mesa Canal No. 1 the dimensions are the same as those used from Siphon Drop to sand hills.

5. Mesa Canal No. 1 to Mesa Canal No. 2 the bottom width is 125 feet, a depth of 12 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade .00012 and a carrying capacity of 4,000 second-feet.

6. From Mesa Canal No. 2 to the east side main canal a bottom width of 113 feet, a depth of 12 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade of .00012 and a carrying capacity of 5,502 second-feet.

7. From the east side main canal to near Allison Heading, a bottom width 108 feet, depth of 105 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade of .00014 and a carrying capacity of 4,546 second-feet.

8. From near Allison Heading to the Alamo River, a bottom width of 93.5 feet, depth 10 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade of .000156 and a carrying capacity of 3,797 second-feet.

9. From the Alamo River to the Central main canal a bottom width of 82 feet, depth of 9.5 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade of .00017 and a carrying capacity of 3,199 second-feet.

10. From the Central main canal to the West Side main canal, a bottom width of 46.5 feet, depth 8 feet, side slopes 1 $\frac{1}{2}$ to 1, a grade of .0002 and a carrying capacity of 1,495 second-feet.

(d) No diminution has been made in the canal sections in this preliminary estimate, due to the loss of water, as we get farther away from the dam, as occasional storm waters must be cared for in the canal and it was thought

best that the lower stretches of the canal should be over rather than undersized. The canal banks from Laguna Dam to Pilot Knob have been designed to give a six-foot freeboard, in order that ample capacity may be provided to carry all possible storm waters without endangering the canal.

7. STRUCTURES.

(a) All the structures along the line of canal are planned to be of concrete and steel. The approximate location of the several structures is shown on the map attached to this report. The cost of the structures is given under the heading "Estimates of Cost." Pencil sketches of the several types of structures have been prepared as a basis for estimates and are on file in the Yuma office. A brief statement of the type of structure is as follows:

(b) *Laguna Dam and Sluiceway Improvements.*—It is contemplated to raise the crest of Laguna Dam two feet, if after a thorough study of the conditions this is deemed safe and advisable. The grades and sections of the canals are based upon the assumption that it is practicable to make this addition to the dam. The sluiceway and regulating gates are to be of the same type as those now in use, but are to be enlarged to handle 10,600 cubic feet. It is contemplated to add another Stoney gate of the same size as the three now in use.

(c) *Waste gates.*—At a point about 7,000 feet below Laguna Dam, near Araz and at Pilot Knob, waste gates of the Stoney type are planned, of sufficient capacity to drain the canal and to give a sluicing velocity. Wasteways are also provided for at the Alamo and New Rivers.

(d) *Checks.*—Checks are provided below all the principal turnouts of theashboard type.

(e) *Turnouts.*—All the turnouts from the main canal are planned of concrete with steel gates and appropriate lifting devices.

(f) *Drops.*—The location and height of drops are shown both on the map and the profile. These are of the inclined chute type. At two of the larger drops on the Mesa, plans are made for power development and designated as Mesa Power Plants Nos. 1 and 2. The small drop above Mesa Power Plant No. 1 may in the future be added to the drop at the power plant by raising the banks of the canal and the structures at Power Plant No. 1. No provision, however, has been made for this future work in the estimates.

8. UNIT COSTS.

In arriving at unit costs for this work in consultation with the board of engineers it was decided that costs should be based upon what this class of work could be done for under present conditions with standard equipment now in use upon work of like magnitude. The unit prices adopted and used are as follows:

Earth excavation—Laguna Dam to Pilot Knob	per cubic yard	\$0.20
Earth excavation—Pilot Knob through sand hill section	do	.25
Earth excavation—for Mesa (cuts less than 35 feet)	do	.18-.20
Earth excavation—for structures	do	.50
Rock excavation	do	.75
Concrete (massive)	do	15.00
Concrete (formed)	do	18.00
Concrete (Alamo and New River flumes)	do	20.00
Reinforced steel (in place)	per pound	.07
Right of way	per acre	100.00
Power plants	per turbine horsepower	190.00
Engineering and contingencies	per cent	15

9. ESTIMATES OF COST.

(a) Estimates have been prepared and given below upon the basis, first: Of providing for the diversion of 10,600 cubic feet of water at Laguna Dam, to serve the Yuma project, the present Imperial Irrigation District and the available new land which it is possible to irrigate.

(b) Second. For the diversion of 7,600 cubic feet of water at Laguna Dam, to serve the Yuma project and the Imperial Irrigation District. In this latter

¹ Does not include penstocks, by-pass tail race, or excavation for the buildings.

estimate, all structures are estimated of a size and capacity sufficient for the larger development. Only such structures as are required solely for the purpose of placing water on the new land are omitted. The division of costs between the Reclamation Service (for the Yuma project) and the Imperial Irrigation District for the enlargement of the canal from Laguna Dam to Siphon Drop and the construction of a new canal from this point to the proposed power plant near Araz is fixed by the contract of October 23, 1918, between the Secretary of the Interior and the directors of the Imperial Irrigation District. This division of costs is taken into account in the final analysis. No division of costs has been attempted as between the Imperial Irrigation District lands and the Mesa lands.

(c) Table of estimate of costs. (See accompanying sheets.)

Estimates—All-American Canal of capacity to serve Imperial Irrigation District and additional Mesa lands.

Laguna Dam to Siphon Drop (canal capacity 10,600 second-feet) :

Excavation—

Earth—4,808,240 cubic yards, at 20c-----	961,649
Rock—724,579 cubic yards, at 75c-----	543,435
Total-----	1,505,083
15 per cent contingency-----	225,762
	1,730,845

Structures—

Alterations at Laguna Dam-----	745,000
Sluice about 1½ miles below dam-----	240,000
Turnout Reservation Canal-----	10,500
Check below T. O. Res. Canal-----	27,500
Picache Road bridge-----	34,000
Raising Siphon Drop-----	20,000
Walapai Lateral Turnout-----	7,100
Check below Siphon Drop-----	22,000
10 miles telephone line-----	2,250
Total-----	1,108,350
15 per cent contingency-----	166,252
	1,274,602
Imperial Valley—Cost of connection with La- guna Dam (contract of Oct. 23, 1918)-----	1,900,000
Total-----	4,905,447

Siphon Drop to Araz (9,000 second-feet canal) :

Excavation—

Earth—2,522,000 cubic yards, at 20c-----	504,400
15 per cent contingency-----	75,660
	580,060

Structures—

Highway bridge-----	84,000
Double track railway bridge at Araz siding-----	85,000
Highway bridge-----	34,000
Wasteway-----	235,000
Check-----	22,000
Highway bridge-----	34,000
5 miles telephone line-----	1,125
Total-----	445,125
15 per cent contingency-----	66,760
	511,894
Total-----	1,891,954

240 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

Araz to Pilot Knob (9,000 second-feet canal):

Excavation—

Earth—3,233,381, at 20c	646, 676
Rock—1,463,114, at 75c	1, 097, 336
Total.....	1, 744 012
15 per cent contingency.....	261, 602
	2, 005, 624
Structures—	
Railway bridge.....	45, 000
Slulceway.....	325, 000
Check	22, 000
Highway bridge.....	34, 000
3 miles telephone line.....	675
Total.....	426, 675
15 per cent contingency.....	64, 001
	490, 676
Total.....	
	2, 496, 290
	<u><u> </u></u>

Pilot Knob to East Side Mesa Canal (No. 1 Sta. 1525)

(9,000 second-feet canal):

Excavation—

Earth—45,935,684 cubic yards, at 25c	11, 496, 421
Earth—1,769,739 cubic yards, at 20c	353, 948
Rock—312,307 cubic yards, at 75c	234,230
Total.....	12, 084, 599
15 per cent contingency.....	1,812, 690
	13, 897, 289
Structures—	
East Mesa Canal, No. 1 Turnout.....	24, 000
Drop and Check.....	52, 000
26 miles telephone line.....	5, 850
Total.....	81, 850
15 per cent contingency.....	12, 277
Total.....	94, 127
	<u><u> </u></u>
	13, 991, 416

Mesa Canal No. 1 Sta. 1525 to Mesa Canal No. 2 Sta.

1915:

Excavation—

Earth—2,344,556 cubic yards, at 18c	422, 020
15 per cent contingency.....	63, 303
	485, 323
Structures—	
24 feet Drop Sta. 1740.....	240, 000
Turnout for Mesa Canal No. 2.....	10, 000
5 miles telephone line.....	1, 125
Total.....	251, 125
15 per cent contingency.....	37, 668
	288, 793
Total.....	
	774, 116

Mesa Canal No. 2 Sta. 1915 to End:

Excavation—

Earth—6,836,400 cubic yards, at 18c	1, 230, 552
15 per cent contingency.....	184, 583
	1, 415, 135
Structures—	
47-foot Drop Sta. 2004.....	300, 000
Turnout.....	14, 000
Check.....	11, 000
Drop.....	28, 000

Mesa Canal No. 2 Sta. 1915 to End—Continued.

Structures—Continued.

Turnout	10,000
Wasteway	44,000
Check	9,000
Flume	116,000
Turnout	700
Check	9,500
Drop	26,500
Turnout	5,500
Turnout	18,000
Check	5,700
Drop	8,500
Drop	14,000
Wasteway to New River	130,000
Check	4,000
Flume—concrete	781,000
Turnout	6,000
Check	4,000
Drop	8,500
5 highway bridges near Calexico	52,500
Highway Sta. 2350—bridge	21,000
Highway Sta. 2690—bridge	14,000
Railway bridge at Calexico	15,500
Right of way	125,000
35 miles telephone lines	7,875
 Total	1,789,778
15 per cent contingency	268,466 2,058,244
 Total	3,473,379

RECAPITULATION.

Sheet No. 12—Laguna Dam to Siphon Drop	4,905,447
Sheet No. 13—Siphon Drop to Araz	1,091,954
Sheet No. 14—Araz to Pilot Knob	2,496,290
Sheet No. 15—Pilot Knob to East Side Mesa Canal No. 1	13,991,416
Sheet No. 16—Mesa Canal No. 1 to Mesa Canal No. 2	774,116
Sheet No. 17—Mesa Canal No. 2 to end	3,473,379
 Grand total	26,732,602

The estimated cost from Laguna Dam to Araz is \$5,997,401, of which \$1,900,000 will be the amount paid to the Government for a connection with Laguna Dam under the contract of October 23, 1918, between the Secretary of the Interior and the directors of the Imperial irrigation district. This leaves the cost of enlargement and construction \$4,097,401, of which the Government will pay for two-ninths (for the Yuma project) under the above-mentioned contract, or \$910,534, leaving a total net cost to the irrigation district and new land \$25,822,068.

Estimates.—All-American canal of capacity to serve Imperial irrigation district lands.

Laguna Dam to Siphon Drop (7,600 second-feet canal):

Excavation—	
Earth—3,552,031 at 20c	\$710,406
Rock—537,000 at 75c	402,750
 Total	1,113,156
15 per cent contingency	166,974
	\$1,280,130

Structures—

Turnout Reservation Canal	10,500
Alterations at Laguna Dam	745,000
Sluice about 1½ mile below dam	240,000
Check below T. O. Res. Canal	27,500

Laguna Dam to Siphon Drop (7,600 second-feet canal)—Continued.**Structures—Continued.**

Picache road bridge	34,000
Raising Siphon Drop	20,000
Walapai Lateral Turnout	7,100
Check below Siphon Drop	22,000
10 miles telephone line	2,250

15 per cent contingency	1,108,350
	166,252

Imperial Valley—Cost of connection with Laguna Dam (contract of Oct. 23, 1918)	1,274,602
	1,600,000

Total	4,154,732
	=====

Siphon Drop to Araz (6,000 second-feet canal):**Excavation—**

Earth—2,100,000 cubic yards at 20c	420,000
15 per cent contingency	63,000

483,000

Structures—

Highway bridge	34,000
Double track railway bridge at Araz siding	85,000
Highway bridge	34,000
Wasteway	235,000
Check	22,000
Highway bridge	34,000
Five miles of telephone line	1,125

15 per cent contingency	66,769
	511,894

511,894

Total	994,894
	=====

Araz to Pilot Knob (6,000 cubic-feet canal):**Excavation—**

Earth—1,989,475 cubic yards at 20c	397,895
Rock—1,001,200 cubic yards at 75c	818,400

818,400

Total	1,216,295
15 per cent contingency	182,444

1,398,739

Structures—

Railway bridge	45,000
Sluiceway	325,000
Check	22,000
Highway bridge	34,000
Three miles telephone line	675

Total	426,675
15 per cent contingency	64,001

490,676

Total	1,889,415
	=====

Pilot Knob to end:**Excavation—**

Earth—Sta. 385 to 470	1,663,150 cu. yds. at 20c	332,630
Earth—Sta. 470 to 1525	43,057,200 cu. yds. at 25c	10,764,300
Earth—Sta. 1525 to end	9,215,944 cu. yds. at 18c	1,658,870
Rock—Sta. 385 to 470	294,000 cu. yds. at 75c	220,500

220,500

15 per cent contingency	12,976,300
	1,946,445

1,946,445

Total	14,922,745
	=====

Pilot Knob to end—Continued.

Structures—

24-foot Drop Sta. 1740-----	240, 000
47-foot Drop Sta. 2004-----	300, 000
Turnout -----	14, 000
Check -----	11, 000
Drop -----	28, 000
Turnout -----	10, 000
Wasteway -----	44, 000
Check -----	9, 000
Flume -----	116, 000
Turnout -----	700
Check -----	9, 500
Drop -----	26, 500
Turnout -----	5, 500
Turnout -----	18, 000
Check -----	5, 700
Drop -----	8, 500
Drop -----	14, 000
Wasteway to New River-----	130, 000
Check -----	4, 000
Flume—concrete-----	781, 000
Turnout -----	6, 000
Check -----	4, 000
Drop -----	8, 500
5 Highway bridges near Calexico-----	52, 500
Highway Sta. 2350—bridge-----	21, 000
Highway Sta. 2690—bridge-----	14, 000
Railway bridge at Calexico-----	15, 500
Right of way-----	125, 000
66 miles telephone line-----	14, 850
	2, 036, 750
15 per cent contingency-----	305, 512
	2, 342, 262
Total-----	17, 265, 007

RECAPITULATION.

Sheet No. 20—Laguna Dam to Siphon Drop-----	\$4, 154, 732
Sheet No. 21—Siphon Drop to Araz-----	904, 894
Sheet No. 22—Araz to Pilot Knob-----	1, 889, 415
Sheet No. 23—Pilot Knob to end-----	17, 265, 007
Grand total-----	24, 304, 048

The estimated cost from Laguna Dam to Araz is \$5,149,626, of which \$1,600,000 will be the amount paid to the Government for a connection with Laguna Dam under the contract of Oct. 23, 1918, between the Secretary of the Interior and the directors of the Imperial Irrigation district. This leaves the cost of enlargement and construction \$3,549,626, of which the Government will pay for one-third (for the Yuma project) under the above-mentioned contract, or \$1,183,209, leaving the total net cost to the irrigation district \$23,120,839.

10. POWER DEVELOPMENT.

(a) Plans are made for a temporary power plant at Pilot Knob, where a drop of about 30 feet can be obtained by discharging the water into the Imperial Canal below Hanlon Headgate. This power will be available for construction purposes from Pilot Knob westward.

(b) West of the sand hills there are two drops where it is planned to develop power. These are designated on the map and profile as power plant No. 1 and power plant No. 2.

(c) At power plant No. 1 there is a fall of about 24 feet. The maximum discharge of the canal at this point is 6,000 second-feet, which will generate 12,270 turbine horsepower. Three miles east of this power plant there is a drop of 6 feet, which may in the future be carried downstream to power plant

No. 1 by raising the canal banks and the structures at the power plant. This will increase the power output of this plant 25 per cent.

(d) Power plant No. 2 has a fall of about 47 feet and the canal a maximum discharge of 5,500 second-feet. This will generate 22,000 turbine horse-power.

(e) The minimum discharge at Mesa power plants Nos. 1 and 2 will very likely fall to not more than 20 per cent of the maximum. This latter amount will be the limit of the output for commercial purposes less the amount required by the Yuma project and Imperial irrigation district for operating purposes and the pumping at the period of minimum discharge.

(f) It is planned that the power equipment installed in the temporary power plant at Pilot Knob will later be transferred and installed in power plant No. 1. The temporary power plant at pilot knob will be built for construction purposes and the machinery later transferred to power plant No. 1. The tailrace channel with gates having been covered in the estimate cost of the canal. The unit prices used cover cost of power for operating the necessary machinery. The additional cost of erecting the plant at Pilot Knob should be depreciated into the cost of power used during the period of construction.

(g) The estimated cost of developing the power plants without commercial transmission lines is as follows:

Power plant No. 1:

15,340 turbine H. P. at \$90 per H. P. (includes the development for 30-foot drop without cost of bank raising)	\$1,380,600
Penstock, tailrace, excavating for buildings	230,000
Engineering and contingencies, 15 per cent	241,590
Total	1,852,190

Power plant No. 2:

22,000 turbine H. P. at \$90 per H. P.	1,980,000
Penstock, tailrace, excavation for buildings	330,000
Engineering and contingencies, 15 per cent	346,500
Total	2,656,500

Estimate of alternative plan.—An estimate is given below for the construction of a canal from Laguna Dam to Pilot Knob with a power plant at Pilot Knob. If the construction of the all-American canal should long be delayed it may become necessary to construct this section of the canal as an alternative and to develop power for the Yuma Project. The estimate of a power plant here given is in lieu of the power plant proposed by the Yuma Project near Araz, and will be in a position to deliver the desilted water into the Imperial Canal instead of back into the river as proposed in the original plans for the Araz plant.

Power plant at Pilot Knob.

15,340 turbine H. P. at \$90 per H. P.	\$1,380,600
Penstock, tailrace, excavating for buildings	230,000
15 miles transmission line Araz to Laguna Dam for operating purposes	30,000
Engineering and contingencies, 15 per cent	246,000
Total	1,886,690

About 40 per cent chargeable to Yuma Project	754,676
About 60 per cent chargeable to Imperial Valley	1,132,014

Estimates—All-American canal of capacity to furnish 6,000 second-feet for power at Pilot Knob.

RECAPITULATION.

Sheet No. 20—Laguna Dam to Siphon Drop	\$4,154,732
Sheet No. 21—Siphon Drop to Araz	994,894
Sheet No. 22—Araz to Pilot Knob	1,889,415

Total	\$7,039,041
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From which should be deducted the following:

Cost of connecting with Laguna Dam (contract Oct.	
23, 1918) -----	1, 600, 000
One-third cost of construction Laguna Dam to Araz charged to Yuma project. (See sheet No. 25) -----	1, 183, 209

	2, 783, 209
Net cost canal construction Imperial Valley-----	4, 255, 832
About 60 per cent of cost power development, Imperial Valley. (See sheet No. 28) -----	1, 132, 014

Grand total -----	5, 387, 846

UNCOMPLETED WORK.

Plans for the complete change of the railroad tracks near Araz are still being studied and are yet to be adjusted with the railroad interests.

The digging of test pits is still in progress and there is still considerable work to be done along this line.

Observations are being made to determine the amount of and the direction of the movement of the sand dunes in the blow-sand area. These subjects will be covered in the final report.

PORTER J. PRESTON,
Engineer.

YUMA, ARIZONA, Dec. 7, 1918.

CONTRACT BETWEEN THE UNITED STATES AND THE IMPERIAL IRRIGATION DISTRICT.

This agreement, made the 23d day of October, A. D. 1918, by and between the United States of America, acting in this behalf by Franklin K. Lane, Secretary of the Interior, hereinafter styled the United States, party of the first part, and the Imperial Irrigation, a corporation, duly organized and existing under and by virtue of the laws of the State of California, hereinafter styled the district, party of the second part, witnesseth:

2. Whereas in connection with the Yuma project, Arizona-California, under the provisions of the reclamation act of June 17, 1902 (22 Stat., 388), and acts amendatory thereof and supplementary thereto, and particularly section 25 of the act of April 21, 1904 (33 Stat., 224), the United States Reclamation Service has constructed on the Colorado River a dam known as the Laguna Dam and certain auxiliary works, situate about ten miles northeast of Yuma, Arizona, together with a main supply canal extending from said dam southwesterly to a point known as Siphon Drop, situate in section 10, township 16 south, range 22 east, S. B. M.; and

3. Whereas under the aforesaid act of Congress the United States contemplates the reclamation of 120,000 acres of irrigable land, more or less, under the Yuma project with water from Colorado River diverted at Laguna Dam, and the district desires to change its point of diversion and secure the right to divert water at said dam for the irrigation of all irrigable land within the boundaries of the district; and

4. Whereas the district is authorized under chapter 160 of the Statutes of California, 1917, page 243, to contract with the United States for a supply of water for irrigation;

5. Now, therefore, in consideration of the mutual covenants and agreements to be kept and performed and considerations to be paid, as hereinafter provided, it is hereby agreed as follows:

6. That immediately on the execution of this contract the district shall proceed with diligence to secure data which, together with other available data and data to be gathered under the existing cooperative contract dated February 16, 1918, will constitute a complete detailed survey with specifications and estimates of cost for the following:

(a) All necessary works and structures for the diversion of water from the Colorado River at Laguna Dam, thence through said existing main canal of the Yuma project, and sufficient enlargement and modification, including such works or devices as the Secretary of the Interior may require for the purpose of maintaining as near as may be the efficiency of the desilting and sluicing works at

Laguna Dam, as such efficiency would be were the Yuma project fully developed, to divert and carry all water needed by the district for the irrigation of its lands above referred to without impairing the utilization of said Laguna Dam, main canal, and auxiliary works to the full extent necessary to irrigate the Yuma project when fully developed.

(b) A main canal entirely within the United States, with all necessary appurtenant structures for the practical operation thereof, of sufficient capacity and proper construction to irrigate all lands in Imperial County, State of California, susceptible of economic irrigation from said canal. Such canal to connect with said main canal of the United States at a point described as Siphon Drop, and thence to connect with the canal system of said district in the United States upon the line located and approved as provided by the terms of the cooperative contract of February 16, 1918, above referred to.

7. Upon the approval by the Secretary of the Interior of the said survey, specifications, and estimates, district will provide for beginning and carrying to completion with due diligence, at the cost of the district, the work of construction and installation at the Laguna Dam and on the main canal, described in and contemplated by this agreement, and the district shall provide proper pecuniary support for the same in advance in a manner satisfactory to the Secretary of the Interior. All such work shall be carried on in such manner as not to interfere with the proper operation of the Yuma project by the United States, and the district will promptly carry out any measures required by the United States or its authorized agents to avoid or relieve any interference with the delivery of water to the Yuma project during and due to such construction, and will save the United States harmless as to any claims for damages that may be presented by reason thereof.

8. All work of construction and installation, and the materials used therein, shall at all times be subject to the approval of the Secretary of the Interior and be under the supervision and inspection of his authorized agents and engineers, to the end that the works shall conform strictly with said surveys and specifications and such modifications thereof as the Secretary of the Interior may approve in writing. In case any of said works are constructed under contract made by the district and are not in accordance with said surveys and specifications, the Secretary may, at his option, replace such unsatisfactory construction work at the expense of the district, or stop said work of construction or cancel this contract, or resort to any other lawful remedy, and the decision of the Secretary of the Interior whether said surveys and specifications or modifications thereof have been complied with shall be final and conclusive. The district shall make complete detailed progress reports of the said construction work upon demand of the Secretary of the Interior. The cost of the inspection on the part of the United States provided by this section shall be paid by the district to the United States upon demand.

9. For the right to use the Laguna Dam, the main canal and appurtenant structures, and divert water, as herein provided, the district agrees to pay to the United States the sum of \$1,800,000, in twenty installments, the first of which shall become due and payable December 31, 1919, and subsequent installments annually thereafter. The first four installments shall each be two per centum, the next two installments each four per centum, and the next fourteen each six per centum of the total amount. Upon failure of the district to make any such payment at the time and in the amount specified, then all rights under this contract shall be at an end and all payments theretofore made shall become forfeited to the United States as liquidated damages; and as a further consideration for entering into this contract, on the part of the United States, the district hereby releases and relinquishes any and all claims whatsoever for said moneys or any portion thereof so forfeited and paid as liquidated damages: *Provided*, That the Secretary of the Interior may, in his discretion, extend the time for any such payment upon the payment of seven per cent interest in advance.

10. Subject to the provisions of the reclamation act of June 17, 1902 (32 Stat., 388), and acts amendatory thereof and supplementary thereto, the United States shall have and retain perpetually the title to and the complete control, operation, and management of said Laguna Dam, auxiliary works, and enlarged main canal from the dam to and including the Siphon Drop with appurtenant structures as enlarged, including the diversion works at Siphon Drop for the diversion and delivery of water to the Yuma project and the district. The district shall pay to the United States quarterly, on demand, April 1, July 1, October 1, and December 31, its proportionate share of the cost of operation and maintenance of said dam, auxiliary works, and enlarged main

canal for the preceding quarter, such payment by the district to bear the same ratio to the total cost of such operation and maintenance as the amount of water received by the district at the point of delivery to the district's canal at Siphon Drop bears to the total amount of water carried in said main canal at that point plus the amount of water diverted from the canal above the Siphon Drop for use on the Yuma project lands; provided that such extraordinary expense as may be caused by the operation of such desilting works as may be necessary to as nearly as may be maintain the efficiency of the desilting works at Laguna Dam, as such efficiency would be were the Yuma project fully developed, shall be borne by Imperial Irrigation District. Such extraordinary expense, if any, shall be determined by the Secretary of the Interior. If the district fails to pay to the United States within thirty (30) days after rendition of bill, all operation and maintenance charges as determined by the Secretary of the Interior as they become due, the Secretary of the Interior, in addition to any other remedy which may be available to him for recovery of such charges, is authorized to shut off water from the intake of the district until such time as all sums due have been paid, with interest thereon at the rate of seven per centum per annum from rendition of bill.

11. The United States reserves the right to arrange for the connection with and use of Laguna Dam on such terms as the Secretary of the Interior may deem expedient, by any other irrigation enterprise, district, corporation, or individual; also of the headworks and main canal and other governmentally constructed works, and works constructed jointly by these parties, after proper enlargement and modification, on terms herein stipulated, without, however, impairing the utilization of said dam, canal, and other works to the extent necessary to irrigate the lands within the boundaries of Imperial irrigation district.

12. The United States reserves the right to develop power with the water in the enlarged main canal down to and including Siphon Drop. All other power possibilities in the main canal down to and including some convenient power site near Pilot Knob shall be developed by the United States to the extent deemed expedient by the Secretary of the Interior, at the joint expense and for the joint benefit of the Yuma Project and the Imperial irrigation district, as herein provided. The apportionment of the cost of canal and headworks alterations and enlargement, and of canal extension from the Laguna Dam to the site selected for power development near Pilot Knob, shall be made to the United States (for the Yuma project) and to the Imperial irrigation district, in the proportion that 2,000 second-feet bears to the total canal enlargement, less 2,000 second-feet. The cost of constructing power plants, transmission lines, and other power plant accessories shall be also apportioned to Yuma project and the district, respectively, in the ratio that 8,500 water horsepower bears to the aggregate water horsepower capacity of the plant installed.

The operation and maintenance of any such power plant or plants constructed for joint benefit and the sales of power therefrom shall be under the control of the Secretary of the Interior and charges for commercial power shall be upon rules adopted by the Secretary of the Interior applying equally to both valleys. Such power as in the judgment of the Secretary of the Interior is necessary for pumping and other operation and maintenance purposes shall be delivered to the Yuma project and to the Imperial irrigation district, at the cost of development thereof, plus 10 per cent, said cost to include interest at 5 per cent per annum on the capital invested in power plants, transmission lines, and power-plant accessories, and also a proportional part of the headworks and canal enlargement from Laguna Dam to Pilot Knob, determined by the relation 2,000 second-feet bears to the total enlarged canal capacity and reasonable depreciation as may be determined by the Secretary of the Interior. The preference right to purchase power developed at the price herein specified shall be given over other uses of power, to the requirements of the Yuma project (limited to an area not exceeding 120,000 acres) for power to be used in pumping irrigation water. The profits from power sales or power leases shall be divided between the Yuma project and the Imperial irrigation district in the proportion of their respective investments in power plants, transmission lines, and power-plant accessories, and in the canal and headworks alterations, canal enlargement, and canal extension "s" from the Laguna Dam to and including the power-house site near Pilot Knob, to be determined by the Secretary. In case capacity be also provided by enlargement for the irrigation of lands in the United States outside of the Imperial irrigation district, then the cost of enlargement computed as above as chargeable to the Imperial irrigation district shall be borne "by such district

and such "other lands in the ratio of their respective irrigable acreage "s." The cost of any works used jointly by several irrigation enterprises below the point near Pilot Knob where power is developed shall be apportioned "equitably" by the Secretary of the Interior. No water shall be diverted for power purposes from such main canal below Siphon Drop at any time when such water shall be required for irrigation of lands being irrigated therefrom in Imperial County.

13. It is understood and agreed that the connection with Laguna Dam herein provided for is to be constructed as a part of an All-American Canal, which the district hereby agrees to build at as early a date as possible and within reasonable time, and "when" the district shall have completed said All-American Canal, it shall have the right to drop water at some other point than the vicinity of Pilot Knob for power development, and in this event agrees to place at the disposal of the United States at Pilot Knob, or some other point to be agreed upon, such power in addition to that generated at Pilot Knob as in the judgment of the Secretary of the Interior is necessary for pumping and other irrigation operation and maintenance purposes of the Yuma project or any auxiliary thereof, not in excess of 8,500 water horsepower in the aggregate, at the cost of development thereof at the power house, plus 10 per cent, said cost to include interest at 5 per cent and reasonable depreciation as determined by the Secretary of the Interior. All power development, operation, and maintenance of power plants on the All-American Canal and sales of power, shall be under the control of the Secretary of the Interior, and charges for commercial power shall be upon rules adopted by the Secretary of the Interior, applying equally to both Imperial and Yuma Valleys. The profits from commercial power shall be divided between the Imperial Irrigation district and the Yuma project in ratio of their respective investments in power, including the enlargements, alterations, and extensions of the headworks and main canal down to and including the power-house site near Pilot Knob, plus investments in the power plants, power house, transmission lines, and other accessories. In dividing profits, the district shall be credited with the net revenue from the amount of power by which the total power output is increased by the All-American Canal west of Pilot Knob, which shall be determined by the Secretary of the Interior. Power delivered to Imperial Irrigation district for pumping and other irrigation operation and maintenance purposes shall be delivered on the same terms as power delivered to the Yuma project for said purposes.

14. It is understood and agreed that the Secretary of the Interior shall control the division of water and shall divert for use of the Yuma project or any auxiliary thereof as heretofore or hereafter undertaken by the United States within the present boundaries of the United States and not exceeding 120,000 acres, sufficient water to secure the permanent and economical reclamation thereof, not exceeding, however, one-quarter of the water in the river above Laguna Dam. The foregoing applies only to the natural flow of the Colorado River, and not to storage water, which shall be delivered to the party entitled thereto.

The United States makes no guaranty or representation as to the quantity of water that may be available without storage for delivery to the district under this contract, and shall not be responsible for failure to deliver water under this contract caused by insufficient supply of water in the Colorado River, hostile diversion or drought, interruption made necessary by repairs, nor on account of any valid order or decree of a competent court; nor for any damages by floods, acts of hostility, or unavoidable circumstances, nor for loss of crops or other damage caused by nondelivery of water.

15. It is understood and agreed that this district shall have the right at any time to extend its boundaries within the United States and water additional lands upon payment of same amount per acre as irrigable lands in present Imperial Irrigation District are to pay under terms of this contract. The right to be also available on same conditions to Yuma project, additional to one hundred twenty thousand acres herein mentioned. All proceeds from payments on account of initial connection charges assessed to and collected from such new lands shall be used under the direction of the Secretary of the Interior for the construction of storage works for the benefit of the lands contributing.

16. This contract shall not become effective until the same shall have been duly ratified and confirmed in accordance with law, by a vote of the people of the Imperial Irrigation district, and unless it shall be so ratified within six months from the date of execution hereof by the Secretary of the Interior, it shall become void and of no further effect.

17. In case of failure on the part of the district to provide for beginning the work of enlargement of the Yuma main canal within two years from the date hereof, the Secretary of the Interior shall have the right to abrogate this contract.

18. No Member of or Delegate to Congress or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and no officer, agent, or employee of the Government shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in section 116 of the act of Congress approved March 4, 1909 (35 Stat. L., 1109).

In witness whereof the parties hereto have caused the execution of these presents as of the day and year first above written.

[SEAL.]

THE UNITED STATES OF AMERICA,
By FRANKLIN K. LANE,
Secretary of the Interior.
THE IMPERIAL IRRIGATION DISTRICT,
By LEROY HOLT, President.

Attest:

F. H. McIVER, *Secretary.*

(The following indorsements of H. R. 6044 have been received and are on file with the committee:)

SAN BERNARDINO, CALIF., July 10, 1919.

Hon. WILLIAM M. KETTNER,
Member of Congress, Washington, D. C.:

The board of supervisors of San Bernardino County request that you use every means possible to secure passage of House bill 6044, to secure Federal aid in increasing productive agricultural area of the Imperial and Coachella Valleys in southern California, and consider bill in its present form meets all requirements, and most earnestly urge its passage, which they know will result in great benefit to the people of southern California and the entire Nation.

J. B. GLOVER,
Chairman of Board.

EL CENTRO, CALIF., July 3, 1919.

WILLIAM KETTNER,
Member of Congress, Washington, D. C.:

Fifty thousand residents of Imperial Valley of one mind in urging that you cooperate with the valley committee now in Washington to secure early action of Government on Kettner bill, giving indorsement to great irrigation works here. The very life of this valley depends on favorable action.

EL CENTRO CHAMBER OF COMMERCE.

HOLTVILLE, CALIF., July 12, 1919.

Hon. WILLIAM KETTNER,
House of Representatives, Washington, D. C.:

Fifty thousand citizens of the Imperial Valley, Calif., practically dependent upon Colorado River water for the irrigation of 400,000 acres of the most productive land in the United States. This organization indorses and urges the passage of House bill 6044, introduced in the House of Representatives by Hon. William Kettner, and expresses emphatically its appreciation of the imperative necessity of an all-American canal.

THE HOLTVILLE COMMERCIAL CLUB,
By O. C. HARRIS, *President.*

SAN BERNARDINO, CALIF., July 12, 1919.

Hon. WM. KETTNER, *Member of Congress.*

Hon. JAMES D. PHELAN, *Senator.*

Hon. HIRAM W. JOHNSON, *Senator.*

GENTLEMEN: At a regular meeting of our organization, held last evening, our members went on record as heartily indorsing House bill 6044, to assist in

increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes, and I was directed to transmit this information to you, together with the urgent request that you use your best efforts toward the early passage of said bill.

This is a matter of vital interest, not only to the people of the above-mentioned districts but to a large number in other sections of southern California as well, and we sincerely hope the project will receive favorable consideration.

Yours, very truly,

SAN BERNARDINO CHAMBER OF COMMERCE,
F. M. RENFRO, *Secretary*.

REDLANDS, CALIF., July 14, 1919.

Congressman JOHN E. RAKER,
Washington, D. C.

DEAR SIR: Attached please find copy of a resolution passed by the Redlands Chamber of Commerce.

We respectfully call your attention to this matter as something vitally important to the State of California especially, and we trust that it will be possible for you to use your utmost influence in seeing that the resolution embodied in House bill 6044 is passed at the earliest possible time.

Yours, very sincerely,

REDLANDS CHAMBER OF COMMERCE,
A. E. ISHAM, *Secretary*.

Resolution adopted by the executive committee of the Redlands Chamber of Commerce and approved by the board of directors July 10, 1919:

Whereas the Imperial Valley is one of the greatest assets of the Nation as a food-producing section and vitally important to the welfare of the Nation; and

Whereas millions of dollars have been spent in the Imperial Valley to subdue the desert and bring hundreds of thousands of acres of fertile land under cultivation, making this one of the garden spots and wealth-producing sections of the world; and

Whereas through almost infinite work and sacrifice the present achievements have been obtained and over a million and a half acres of fertile soil available for agricultural purposes; and

Whereas this great valley, its irrigation works, its production, its growth, its people, and its safety are vital to the United States: It is hereby

Resolved, That the protection of this valley from flood danger, water shortage and international complication is properly the function of the national Government; and it is further

Resolved, That the Redlands Chamber of Commerce, Redlands, Calif., endorses the passage by the Government of the United States at the earliest possible time of House bill 6044, a bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes; it is also

Resolved, That a copy of this resolution be sent to our Representatives in Congress and to county boards of supervisors and to chambers of commerce urging immediate active support of this very necessary measure.

H. A. CHERRIES,
President.

H. H. FORD,
Chairman Executive Committee.

PHILIP HARRIS.

M. J. LEVERING,

ALLEN WHEATON.

A. LEIPSIC.

J. H. LOZIER.

E. D. PATTERSON.

H. H. FISKE.

J. H. STRAIT.

Attest: This is an exact copy of a resolution passed by the executive committee of the Redlands Chamber of Commerce and approved by the board of directors July 10, 1919.

A. E. ISHAM, *Secretary.*

SANTA ANA, CALIF., July 10, 1919.

Hon. Wm. KETTNER,
House of Representatives, Washington, D. C.

DEAR MR. KETTNER: At a recent meeting of the board of directors of the Santa Ana Chamber of Commerce the inclosed self-explanatory resolution was adopted.

Will you kindly give this matter your earnest consideration and very much oblige,

Yours, very truly,

SANTA ANA CHAMBER OF COMMERCE,
 By JAS. C. METZGAR, *Secretary.*

Whereas a bill has been introduced in the House of Representatives of the United States of America by William Kettner, Member of Congress from this district, entitled "A bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes"; and

Whereas the Santa Ana Chamber of Commerce, by its board of directors, believe that the reclamation of arid lands in the United States will be of inestimable benefit to all the people thereof, and will furnish a large area of land upon which food products can be raised; and

Whereas the lands in the Imperial and Coachella Valleys, in the State of California, are very rich and productive if water is supplied thereto for irrigation purposes: Now, therefore, the Santa Ana Chamber of Commerce, at its regular meeting held on the 2d day of July, 1919, does hereby

Resolve, That it gives its hearty approval to said bill and strongly urges and recommends its passage; be it further

Resolved, That while this land is not adjacent to Santa Ana and is not located in Orange County, in which Santa Ana is situated, yet we believe that it will be for the general good to have said land reclaimed by supplying thereto water for irrigation purposes. We know from experience and observation that when desert land such as this is reclaimed as proposed by this bill, progressive and thriving communities soon grow up in such districts and the land becomes intensively cultivated; be it further

Resolved, That a copy of this resolution be sent to Hon. William Kettner, at the House of Representatives, Washington City, D. C., and that the secretary of this chamber furnish copies to any other persons or publications that he deems best for the purpose of disseminating the same.

MONROVIA CHAMBER OF COMMERCE,
Monrovia, Calif., July 3, 1919.

Mr. KETTNER,
House of Representatives, Washington, D. C.

DEAR SIR: This organization takes pleasure in giving its indorsement to your efforts to secure an all-American canal to supply the Imperial Valley. Our observation is that scarcely any proposed legislation is so universally indorsed outside of the location it directly benefits as is this bill.

Respectfully,

C. H. ANSON, *Secretary.*

COVINA, CALIF., July 3, 1919.

Hon. Wm. KETTNER,
Washington, D. C.

DEAR SIR: The Covina Chamber of Commerce heartily indorse the bill introduced by Mr. Kettner, to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes, and urge that you give it your support.

Very respectfully, yours,

COVINA CHAMBER OF COMMERCE,
 H. DAMEREL, *President.*

252 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

RIVERSIDE CHAMBER OF COMMERCE,
Riverside, Calif., July 18, 1919.

Hon. WILLIAM KETTNER, M. C.,
Washington, D. C.

MY DEAR MR. KETTNER: The inclosed resolution was unanimously adopted at the regular meeting of the directors of the Riverside Chamber of Commerce on Wednesday evening, July 16, 1919. This resolution, as you will observe, is an amplification of a telegram sent you on Monday, July 14. The matter dealt with is one of utmost interest to all this Southwest region, and no doubt you will agree in that interest, and will do whatever you can to see that this bill becomes a law.

Yours, truly,

HARRY L. BOARDMAN,
Managing Secretary.

Whereas a bill (H. R. 6044) entitled "A bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes," was introduced in the House of Representatives (66th Cong., 1st sess.) June 17, 1919; and

Whereas the agricultural development of the Imperial Valley and Coachella Valley demonstrated that wealth and food production of great national importance depends upon the irrigation of the farm lands; and

Whereas thousands of acres of good land await a more comprehensive irrigation system, beyond the financial ability of the settlers; and

Whereas it is desirable to build an irrigation system wholly within the United States and to cease dependence upon a system passing through Mexico for several miles; and

Whereas great improvement in headgate and intake conditions is assured by the proposed "all-American canal," as set forth in House bill 6044: Therefore, be it

Resolved, That the board of directors of the Riverside Chamber of Commerce indorse the plant as set forth in House bill 6044, and urge the passage of the bill.

HUGH H. CRAIG,
Chairman Legislative Committee.
GLENN CALKINS,
President Chamber of Commerce.
HARRY L. BOARDMAN,
Secretary Chamber of Commerce.

SANTEE, CALIF., July 19, 1919.

Hon. WILLIAM KETTNER,
Washington D. C.

DEAR SIR: I beg to call your attention to House bill 6044, now pending in the Legislature, with which you are doubtless familiar.

This bill is well styled "All-American," since that great valley produces so great a variety of fruits and vegetables for the entire country at a time of year when few of such commodities are produced elsewhere in the United States, and the fact of the success of this project will reclaim 400,000 acres of productive land is sufficient argument for the completion of this great canal.

I speak not only for this community but for this whole southland when I say that your best efforts toward the success of this undertaking will be greatly appreciated.

Very truly,

F. B. HOLDER, *Secretary.*

BOARD OF SUPERVISORS SAN DIEGO COUNTY,
San Diego, Calif., July 23, 1919.

Hon. WILLIAM KETTNER,
San Diego, Calif.

DEAR SIR: I am inclosing herewith a copy of a resolution adopted by the board of supervisors dated July 21, indorsing your bill No. 6044, in regard to increasing the productive agricultural area of the Imperial and Coachella Valleys, etc.

Respectfully, yours,

J. B. MCLEES, *Clerk.*
By **B. ALLEN,** *Deputy.*

In the matter of indorsing a bill presented in the House of Representatives
No. 6044.

Upon motion duly seconded and carried it is hereby resolved that this board does indorse and urge the passage of a bill introduced by Congressman William Kettner in the House of Representatives June 17, 1919, No. 6044, to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes, and it is hereby ordered that a copy of this resolution be sent to the Hon. William Kettner and to the directors of the Imperial Valley Irrigation district, El Centro, Calif.

RESOLUTION OF APPROVAL OF H. R. 6044.

Resolved. That this board of directors of the Imperial Irrigation district approve and do by this resolution most heartily indorse that certain bill H. R. 6044 introduced in the House of Representatives by the Hon. William Kettner on the 17th day of June, 1919. The passage of said bill would enable the financing of the construction of an all-American canal to convey water from the Colorado River for agricultural, domestic, and industrial purposes to 900,000 acres of land, all in the United States of America, dependent entirely on a supply of water from said source. Of this area there is now in cultivation 412,000 acres in the United States obtaining a supply of water taken from the Colorado River in the United States and conveyed thence through the Republic of Mexico and back into the Imperial Valley, Calif., the control of said water while in transit being entirely subject to the control of a foreign country. The foreign territory through which said canal passes when developed by diverting this water while in transit if said line of conveyance is continued will consume so great a portion of the water diverted from the Colorado River in the United States that there will be left insufficient water for the irrigation of the 412,000 acres now in cultivation in the United States. The canal now contemplated by the contract between the Secretary of the Interior acting for and on behalf of the United States of America and the Imperial Irrigation district under date of October 23, 1918, to be financed under said bill H. R. 6044 is a canal which from its diversion to its ultimate destination on the lands of American farmers will be entirely on American soil and can be administered under American laws with the result that said 412,000 acres of land will continue to have a supply of water and the entire 900,000 acres, of which approximately 400,000 acres in unclaimed Government land, can ultimately be placed under cultivation. Be it further

Resolved. That the secretary of this district send a certified copy of this resolution to the heads of departments interested in said project and to the Senators and Members of the House of Representatives with the view of obtaining the support of each and all of them for the passage of said bill.

As secretary of the board of directors of Imperial Irrigation district, I hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by said board and appearing on the minutes of July 8, 1919.

F. H. McIVER, *Secretary.*

RESOLUTION OF APPROVAL OF H. R. 6044.

Whereas Imperial Water Co. No. 5 is a mutual water company furnishing water for the irrigation of 103,000 acres of land within the exterior boundaries of the Imperial Irrigation district, and is dependent entirely for its supply of water from the Colorado River, at the present time carried from the Colorado River in the United States, thence conveyed through the Republic of Mexico; thence back into the United States and delivered to land dependent entirely on said supply of water, delivered by Imperial Water Co. No. 5, and other mutual water companies in the United States; and

Whereas while in transit in Mexico the waters are being appropriated for use of lands in Mexico to such an extent that the lands in the United States will soon be deprived of the present supply of waters needed, and the present irrigated land and new land subject to irrigation will be deprived of a water supply; and

Whereas to prevent such an occurrence and to enable the development of 400,000 additional acres of United States Government land, a contract has been

entered into by and between the honorable Secretary of the Interior, acting for and on behalf of the United States of America, and the Imperial irrigation district for the construction of an all-American canal, entirely on American soil and under the control of the laws of the State of California; and

Whereas the Hon. William Kettner has introduced a bill in the House of Representatives when passed will enable the Imperial irrigation district to finance the said building of said all-American canal, under the terms of said contract: Now, therefore, be it

Resolved, That this board of directors of Imperial Water Co. No. 5, indorse said bill H. R. 6044, and most heartily urge its passage; and be it further

Resolved, That a copy of this resolution, certified by the secretary of this company, be sent the heads of departments at Washington and the Senators and Members of the House of Representatives.

As secretary of Imperial Water Co. No. 5, I hereby certify that the following is a full, true, and correct copy of a resolution adopted by the board of directors of Imperial Water Co. No. 5, and appearing on the minutes of meeting of July 9, 1919.

E. G. WILLIAMS, *Secretary*.

RESOLUTION INDORSING H. R. 6044.

Whereas in the opinion of the board of trustees of the city of El Centro, Calif., the financing of the construction of an all-American canal to convey water from the Colorado River to the lands embraced in Imperial irrigation district in the county of Imperial, State of California, for agricultural, domestic, and industrial purposes, as provided by bill numbered H. R. 6044, introduced in the House of Representatives by the Hon. William Kettner on the 17th day of June, 1919, is for the best interests of the city of El Centro, and of the whole county of Imperial: Now, therefore, it is hereby

Resolved, That said board of trustees most heartily approve and indorse said bill and urge the passage of the same: Be it further

Resolved, That certified copies of this resolution be furnished to the heads of departments interested in the project provided for by said bill, and to the Senators and Members of the House of Representatives.

I, W. E. Van Way, city clerk of the city of El Centro, Calif., hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by unanimous vote of the board of trustees of said city, at a meeting of said board held on the 14th day of July, 1919.

Witness my hand and the seal of said city this 14th day of July, 1919.

[SEAL.]

W. E. VAN WAY, *City Clerk.*

By MEARL HEMINGWAY, *Deputy.*

RESOLUTION OF APPROVAL OF H. R. 6044.

Whereas Imperial Water Co. No. 2 is a mutual water company furnishing water for the irrigation of 7,000 acres of land within the exterior boundaries of the Imperial irrigation district, and is dependent entirely for its supply of water from the Colorado River, at the present time carried from the Colorado River in the United States, thence conveyed through the Republic of Mexico; thence back into the United States and delivered to land dependent entirely on said supply of water, delivered by Imperial Water Co. No. 2 and other mutual water companies in the United States; and

Whereas while in transit in Mexico the waters are being appropriated for use of lands in Mexico to such an extent that the lands in the United States will soon be deprived of the present supply of waters needed, and the present irrigated land and new land subject to irrigation will be deprived of a water supply; and

Whereas to prevent such an occurrence and to enable the development of 400,000 additional acres of United States Government land, a contract has been entered into by and between the honorable Secretary of the Interior, acting for and on behalf of the United States of America, and the Imperial irrigation district for the construction of an all-American canal, entirely on American soil and under the control of the laws of the State of California; and

Whereas the Hon. William Kettner has introduced a bill in the House of Representatives, which, when passed, will enable the Imperial Irrigation district to finance the said building of said all-American canal under the terms of said contract: Now, therefore, be it

Resolved, That this board of directors of Imperial Water Co. No. 2 indorse said bill, H. R. 6044, and most heartily urge its passage; and be it further

Resolved, That a copy of this resolution, certified by the secretary of this company, be sent to the heads of departments at Washington and the Senators and Members of the House of Representatives.

As secretary of the board of directors of Imperial Water Co. No. 2, I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said board, convened in regular session this 12th day of July, 1919.

[SEAL.]

H. B. KLARER, *Secretary.*

RESOLUTION OF APPROVAL OF H. R. 6044.

At the regular monthly meeting of the directors of the Imperial Southside Water Co., held in the offices of the company, in the city of Holtville, Calif., on the 8th day of July, 1919, the following resolution was introduced by Director S. M. Smyser, who moved its adoption.

Whereas a bill known as H. R. 6044 has been introduced in the House of Representatives by the Hon. William Kettner, which, when passed, will enable the Imperial Irrigation district to finance the building of an all-American canal, entirely on American soil, to divert water from the Colorado River, to be used for the irrigation of lands in the State of California; and

Whereas a contract has been entered into by and between the United States of America, through the honorable secretary of the Interior and the Imperial Irrigation district, for the construction of the said all-American canal; and

Whereas the Imperial Southside Water Co., a mutual water company, distributes water for the irrigation of 20,000 acres of land in the Imperial Valley, Calif., and is entirely dependent for its supply of water from the Colorado River, upon the present system of canals, which carry the water through the Republic of Mexico; and

Whereas the water in passing through the Mexican territory is appropriated for use in irrigating Mexican lands, to the detriment of the lands in the United States, thereby causing a decided loss to American agricultural interests; and

Whereas the construction of the said all-American canal will provide an adequate water supply for the development of 400,000 additional acres of United States Government lands, as well as a perpetual supply for the irrigation of the present cultivated area: Therefore be it

Resolved, That the board of directors of the Imperial Southside Water Co. heartily indorses and urges of the passage of said bill, H. R. 6044; and

Be it further resolved, That a copy of this resolution, certified to by the secretary of this company, be sent to the heads of departments at Washington, and to the Senators and Members of the House of Representatives. The motion of adoption was seconded by Director W. R. Waldrop, duly voted upon and unanimously carried.

The undersigned, as secretary of the Imperial Southside Water Co., hereby certifies that the foregoing is a full, correct, and true copy of a resolution adopted by the board of directors of the Imperial Southside Water Co., appearing on the minutes of the meeting of July 8, 1919.

JAMES T. COYLE, *Secretary.*

RESOLUTION OF APPROVAL OF H. R. 6044.

Whereas Imperial Water Co. No. 7 is a mutual water company, furnishing water for the irrigation of 20,500 acres of land within the exterior boundaries of the Imperial Irrigation district, and is dependent entirely for its supply of water from the Colorado River, at the present time carried from the Colorado River in the United States, thence conveyed through the Republic of Mexico; thence back into the United States and delivered to land dependent entirely on said supply of water, delivered by Imperial Water Co. No. 7, and other mutual water companies in the United States; and

Whereas while in transit in Mexico the waters are being appropriated for use of lands in Mexico to such an extent that the lands in the United States will

soon be deprived of the present supply of waters needed, and the present irrigated land and new land subject to irrigation will be deprived of a water supply; and

Whereas to prevent such an occurrence and to enable the development of 400,000 additional acres of United States Government land, a contract has been entered into by and between the honorable Secretary of the Interior, acting for and on behalf of the United States of America, and the Imperial Irrigation District for the construction of an all-American canal, entirely on American soil and under the control of the laws of the State of California; and

Whereas the Hon. William Kettner has introduced a bill in the House of Representatives which when passed will enable the Imperial Irrigation District to finance the said building of said all-American canal, under the terms of said contract: Now, therefore, be it

Resolved, That a copy of this resolution, certified by the secretary of the bill H. R. 6044, and most heartily urge its passage; and be it further

Resolved, That a copy of this resolution, certified by the Secretary of the company, be sent the heads of departments at Washington and the Senators and Members of the House of Representatives.

As secretary of the board of directors of Imperial Water Co. No. 7, I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said board, convened in regular session this 10th day of July, 1919.

[SEAL.]

C. M. BERRY, *Secretary*.

RESOLUTION.

Resolution adopted by the board of directors of the Anaheim Board of Trade, Anaheim, Calif., July 28, 1919.

Whereas the Imperial Valley is one of the greatest assets of the Nation as a food producing section and vitally important to the welfare of the Nation; and

Whereas millions of dollars have been spent in the Imperial Valley to subdue the desert and bring hundreds of thousands of acres of fertile lands under cultivation, making this one of the garden spots and wealth-producing sections of the world; and

Whereas through almost infinite work and sacrifice the present achievements have been obtained and over a million and a half acres of soil available for agricultural purposes; and

Whereas this great valley, its irrigation works, its productions, its growth, its people, and its safety are vital to the United States: It is hereby

Resolved, That the protection of this valley from flood danger, shortage of water, and international complications is properly the function of the National Government; and it is further

Resolved, That the Board of Trade of Anaheim, Calif., indorses the passage by the Government of the United States, at the earliest possible time, the House of Representatives bill 6044, a bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes; it is also

Resolved, That a copy of this resolution be sent to our Representatives in Congress, urging immediate action supporting this very necessary measure.

Attest: This is an exact copy of a resolution passed by the Anaheim Board of Trade, July 28, 1919.

J. H. WHITAKER, *Secretary*.

RESOLUTION OF APPROVAL.

Whereas the city of Holtville, Calif., is a municipal corporation, situated within the Imperial Irrigation District, and for a number of years has furnished water to its inhabitants for domestic and irrigation purposes, and is dependent entirely for its supply of water from the Colorado River, which said supply of water is being furnished to said city by the said irrigation district; and

Whereas the said Imperial Irrigation District, under existing conditions, is forced to convey its said water through the Republic of Mexico by virtue of a contract with Lower California, a State of the aforesaid Republic; and

Whereas by the terms of the aforesaid contract, the lands situate in said State of Lower California are entitled to priority in the use of said waters; and Whereas all of the expense incident to the upkeep and maintenance of the entire project has been, now is, and will continue to be a charge against the property of the inhabitants of Imperial irrigation district, so long as present conditions are permitted to exist; and

Whereas the people of said Imperial irrigation district have declared by their votes that they desire to connect an all-American canal with the Laguna Dam on the said Colorado River, and thereby obtain, establish, and hold a prior right to the use of the said waters of the said river, for the use of American farmers, in American territory; and

Whereas the honorable William Kettner has introduced a bill in the House of Representatives which, when passed, will enable the said Imperial irrigation district to finance the construction of said all-American canal, under the terms of the contract heretofore entered into between the United States of America, acting through the Secretary of the Interior, and said irrigation district. Now therefore be it

Resolved, by the board of trustees of the City of Holtville, That said bill, H. R. 6044, be and the same is, hereby heartily indorsed, and that we most earnestly urge its immediate passage; be it further

Resolved. That a copy of this resolution, certified by the city clerk, be sent to our Senators, Representative, and the irrigation district special committee at Washington, D. C.

I, Ida B. Robinson, do hereby certify the foregoing resolution was regularly introduced and passed at a regular meeting of the board of trustees of the city of Holtville, held on June 16, 1919.

IDA B. ROBINSON,
City Clerk.

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1920

ALL-AMERICAN CANAL FOR IMPERIAL AND COACHELLA VALLEYS, CALIF.

HEARINGS

BEFORE THE

COMMITTEE AND SUBCOMMITTEE ON IRRIGATION OF ARID LANDS

HOUSE OF REPRESENTATIVES

**SIXTY-SIXTH CONGRESS
FIRST SESSION**

ON

**THE BILL TO ASSIST IN INCREASING THE PRODUCTIVE
AGRICULTURAL AREA OF THE IMPERIAL AND
COACHELLA VALLEYS, CALIF., AND
FOR OTHER PURPOSES**

SEPTEMBER 19, 26, AND OCTOBER 29, 1919

PART 2



**WASHINGTON
GOVERNMENT PRINTING OFFICE**

1919

mrs

COMMITTEE ON IRRIGATION OF ARID LANDS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

MOSES P. KINKAID, Nebraska, *Chairman.*

NICHOLAS J. SINNOTT, Oregon.	CHARLES J. THOMPSON, Ohio.
EDWARD C. LITTLE, Kansas.	EDWARD T. TAYLOR, Colorado.
ADDISON T. SMITH, Idaho.	CARL HAYDEN, Arizona.
JOHN M. BAER, North Dakota.	MILTON H. WELLING, Utah.
BENIGNO C. HERNANDEZ, New Mexico.	CHARLES R. EVANS, Nevada.
JOHN W. SUMMERS, Washington.	CLAUDE HUDSPETH, Texas.
HENRY E. BARBOUR, California.	

DAN F. REYNOLDS, *Clerk.*

ALL-AMERICAN CANAL IN IMPERIAL AND COACHELLA VALLEYS, CALIF.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON IRRIGATION OF ARID LANDS,
Friday, September 19, 1919.

The committee met at 10.20 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will be in order.

Mr. BARBOUR. Mr. Chairman, I think we ought to take up the Imperial Valley matter. The condition is getting very serious out there, and these people have been down here for a long time.

The CHAIRMAN. There has been a suggestion made by Dr. Mead, Dr. Elwood Mead, a well-known authority on these reclamation matters (see appendix, "Exhibit E"), and Mr. Davis, the Director of the Reclamation Service, is here this morning, also Mr. Hamele, of the legal department. Mr. Davis, I wish you would just make a brief statement to the committee.

STATEMENT OF MR. ARTHUR P. DAVIS, DIRECTOR, UNITED STATES RECLAMATION SERVICE.

Mr. DAVIS. I think, Mr. Chairman, the best way to get that would be to put this right into the record. It is brief and expresses it better than I could. Shall I read it?

Mr. LITTLE. I wouldn't read it, Mr. Davis. The House meets at 11 o'clock to-day. I think it is time we took some action on this thing.

Mr. DAVIS. Briefly it is just as they state in this telegram. They take the position that if these lands are sold in advance they can not be sold to homemakers, because they can't be made habitable until the water supply is available, and if sold before the works are constructed it will be a good many years before they can be settled, and it means that they will get into the hands of speculators instead of homemakers.

Mr. BARBOUR. Isn't there a limitation in the bill as to the amount of land which shall go to any one person?

Mr. DAVIS. Yes, sir.

The CHAIRMAN. One hundred and sixty acres isn't it?

Mr. DAVIS. Yes, sir.

Mr. BARBOUR. I think we can tie that up.

Mr. DAVIS. It isn't tied up in the bill. I presume it could be tied up in such a way as to prevent alienation, but I think that would probably meet with as much opposition from those that

would oppose this as anything else, because it would probably interfere somewhat with the sale of the land.

Mr. BARBOUR. Pardon me for interrupting you again. If we delay to make these changes, isn't that going to interfere with this work and delay the whole proposition?

Mr. DAVIS. The amendment to the bill I don't think would require more than an hour's delay. As far as the amendment of the bill is concerned I see no delay in it. Is there any other feature of delay that you refer to?

Mr. BARBOUR. Well, the withholding of the sale of lands until after the canal is completed.

Mr. DAVIS. That wouldn't delay the work. Of course the work could be done anyhow.

Mr. HAYDEN. How would you get the money to do the work?

Mr. DAVIS. By the means provided in the bill. That money is provided by the issue of bonds under this bill by the district; then the receipt of those by the United States and the issuance of United States certificates in lieu thereof and the sale of those certificates. The receipts from the sale of land contemplated are merely an assurance, and the land being there, that assurance is there just the same as if it had been sold—in fact, better, because the land becomes more valuable as the prospect of water approaches.

The CHAIRMAN. Now, do you know of any reason, general or particular, why action on this bill should be delayed by the committee?

Mr. DAVIS. No, sir; I know of none; but, on the contrary, the strongest reasons why it should be expedited. I don't want anything that I have said or will say in the future to be interpreted as being anything in favor of either delaying or deferring action on this measure, because it is of very great importance, and I am heartily in favor of the bill.

The CHAIRMAN. So far as any treaty is concerned, or anything of that kind, have we any occasion for pausing or delaying?

Mr. DAVIS. Quite the contrary. If we undertake to negotiate a treaty before some such power as this is granted, we would undertake it under a great handicap. I am in favor of amicable relations with Mexico, of course, and the proper arrangements by which this can be done without the use of the strong hand. Unless the power is there to take this water around anyway, we have no talking point with Mexico and no possibility that I know of any favorable negotiations with Mexico, and I see nothing in the proposition made by Mr. Mead that should delay one hour the passage of this bill. In fact, I think it is all in favor of expedition, because it removes a very large and influential element of opposition to incorporate that. The opposition of the State Land Settlement Board, with the high standing it has and with the friends that it has in the home building population of California—which is in the great majority—is a very serious matter, and I think the bill is much more likely to pass in that shape than it would without it; and it certainly would be more beneficial.

Mr. SUMMERS. Mr. Davis, there is a possibility of the river rising down in Mexico and flooding this country, as it did once before. Now, the only way to avoid that, it would seem, is by diking, and how are we going to get that permission if we are not on amicable terms with Mexico at all times in handling this matter?

Mr. BARBOUR. You won't need it if you have the canal there.

Mr. SUMMERS. The canal won't prevent the river overflowing.

Mr. LITTLE. They explained that, Doctor. That never amounted to anything the last time it occurred. There isn't any danger to this valley at all from that. It might gradually enlarge the Salton Sea, but that is all. And our attention was also directed to the fact that the first people it would overflow would be the millionaire capitalists in Mexico, who certainly have enough business judgment to maintain the dike. Mr. Swing, the attorney for those people, made that very clear, that there was nothing to that.

Now, Mr. Chairman, we have been working on this thing for two months. These poor people have been here at great expense; the people who wish to suggest changes have had every opportunity, and I think we have delayed long enough. Now, if there are amendments to this bill that should be added to it, we can do that just as well after we report the bill as before.

Mr. HAYDEN. That is not a good way to legislate.

Mr. LITTLE. Well, if you feel that way about it, that puts a little different view on it; but there is no reason why this bill should wait any longer. If Mr. Mead had some suggestions, he should have made them long ago. Personally I am in favor of reporting this bill this morning. It is a very serious matter, and we ought not to treat those people this way. If this committee is going to do anything, it ought to do it; if you have some amendment you want to make later, I would favor it and work for it, if it is necessary and good; but I don't think we ought to delay another minute in reporting this bill.

Mr. SUMMERS. Mr. Chairman, I have been waiting for an opportunity for an answer from Mr. Davis. I am very much in favor of expediting the bill, but this is a very serious question that was raised at one time here, and it may have been answered at a time when I was not present, but I would like to have Mr. Davis's answer to it.

Mr. DAVIS. I think the proper arrangement with Mexico is very necessary to enable the Imperial Valley to take proper care of the protective works in the south. The building of the all-American canal alone will not solve that question of protection. That must be solved, and it is a very important matter, and must be solved by an arrangement with Mexico.

Mr. LITTLE. Mr. Davis, you know they have a town down there of several thousand that will be flooded, and the Mexicans will certainly protect their own town.

Mr. DAVIS. No; that is not the fact.

Mr. LITTLE. The evidence shows it; and if you have any evidence to the contrary, I would like to have it.

Mr. DAVIS. I know all the land in Mexicali is higher than the Salton Sea, and when the water begins to rise the low land is flooded first.

Mr. LITTLE. Of course, the Salton Sea would be partially filled, but it soon evaporates and don't amount to anything.

Mr. DAVIS. But Calexico and Mexicali are higher than the valley, and some of that would be overflowed.

Mr. LITTLE. Well, they said it was unappreciable; and not only will the Mexican towns be overflowed first, but an immense amount of land around them; and, of course, the people down there will take

care of themselves, and they have got sense enough to take care of the dike. There isn't any arrangement necessary; the instinct of self-preservation is enough to make any people keep the water from overflowing. We have been all over that.

Mr. DAVIS. Water runs downhill always, and water runs from Mexicali [indicating on map] into the Salton Sea. All the land along the boundary line is higher than that in this region [indicating], and if the Salton Sea begins to rise Calipatria and Brawley and Imperial and all those places will be flooded long before Calexico will, or Mexicali.

Mr. LITTLE. The gentlemen here from the valley said that would not be serious. Isn't that true?

Mr. ROSE. That is true if it was flooded from the filling up of Salton Sea, but if the river would break with our dikes running across the flow it would flood, and did flood in 1914, 1,115,000 acres of Mexican land, and never covered one acre on the American side. It never flooded one acre. The flood passed down, and in less than six weeks the flood of 1914 was dry. The river went down and the water diverted. And that is the condition you will strike; it will flood the Mexican land. If it was allowed to run indefinitely it would back up over the American land.

Mr. DAVIS. This is the menace to the Imperial Valley—the filling up of the valley with water. The river overflows its banks normally—it has for all times past—and has probably overflowed this year next to the river. It is very true that when the river first overflows it overflows the Mexican land.

Mr. LITTLE. Nothing but a little backwater from the Salton Sea ever bothers them, and it evaporates from season to season.

Mr. SUMMERS. But when the river went that time to the Salton Sea and practically formed it, some years ago, and required \$2,000,000 or something of that kind to stop it, is what I am thinking of.

Mr. DAVIS. The menace to Imperial Valley is submergence by the increasing size of Salton Sea. The water running down this channel of course menaces everything along the channel, and the towns of Mexacali and Calexico were threatened by that when it did overflow, but it was relatively a small matter compared to the submergence of the entire valley.

Mr. LITTLE. The Mexican land would be submerged long before the land in the Imperial Valley would.

Mr. BARBOUR. These Mexican people tell me they are getting ready to irrigate all these lands in here [indicating on map] from the Coloralo River. Wouldn't that necessitate the building of levees up there [indicating] in order to protect the river from flowing down into the Imperial Valley, at least to a certain extent? Haven't they got to do some construction work up there in order to properly irrigate this tract of land down in here? [Indicating on map.] The Mexican Government has already announced that it is going ahead with the reclamation of that section down in there. I had a talk in New York about a month ago with the agent of the Mexican Government—financial agent, I believe they call him—and he said they were going to irrigate all this land down in here and were going to take the water out of the Colorado River.

Mr. LITTLE. Well, certainly, Mr. Barbour, they will take care of the water down there.

Mr. BARBOUR. I think so, too.

Mr. EVANS. I am thoroughly in accord with this bill, but if there is any way in the world by which the Government can furnish the money themselves, within 15 years they would get their \$30,000,000 back, and in 20 years they would have another \$30,000,000 to apply to other irrigation projects. If there is any possible way in which they can raise the money—if we can put out our own bonds and raise the cash, I think we ought to do it. It is too good a thing; the security is too good down there to overlook that chance. That is the only amendment I would like to offer to this bill, if it could be worked out in some way, and I wish you gentlemen would put your thought upon the Government furnishing the money upon our own bonds for that project. It is the finest security on earth.

Mr. LITTLE. It is the best irrigating prospect we have.

Mr. EVANS. And it will return to our irrigation fund within 20 years just what we have advanced. Six per cent compounded would return \$30,000,000 to us within about 15 years.

The CHAIRMAN. We will take it up and consider it.

Mr. THOMPSON. Why not appoint a subcommittee to take up these amendments?

The CHAIRMAN. I think we ought to have the full committee, but I am willing to appoint a subcommittee.

Mr. LITTLE. I move that we take this bill up next week.

Mr. EVANS. I agree with Mr. Little.

The CHAIRMAN. It has been moved and seconded that the Imperial Valley bill be taken up for consideration next week.

(The motion was put and carried.)

(Whereupon, at 11.45 o'clock a. m., the committee proceeded to the consideration of other business.)

**COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Friday, September 26, 1919.**

The committee met at 10.15 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. Gentlemen, we have the Imperial Valley bill under consideration this morning. I want to call the committee's attention to some communications that have been received since our last meeting.

(The communications referred to appear hereafter.)

Dr. Elwood Mead has been insisting on some important amendments to the bill. Here is a telegram from him saying that he is coming here, and he states that there is going to be a meeting held with the Imperial Valley people on October 1 and that a letter is coming.

Mr. EVANS. His action only tends to delay this measure.

The CHAIRMAN. He says here that a conference with the Imperial Valley irrigation people will be held at the university on October 1, and that he will wire the action taken. This is dated the 23d.

Following that is a telegram from Merrill B. Davis, at El Centro, who says:

Board of supervisors and farm bureaus have refused to meet with Dr. Mead.

Mr. SINNOTT. Who is that?

The CHAIRMAN. The board of supervisors and the farm bureaus have refused to meet with Dr. Mead.

Mr. WELLING. He is fighting this bill?

Mr. BARBOUR. It seems to me Dr. Mead has had plenty of time to meet with those men out there if he has been disposed to be reasonable.

Mr. EVANS. It seems to me that would only tend to delay our proceedings.

The CHAIRMAN. There is a very general demand that the soldiers, sailors, and marines be given the preference right that would be very easy to provide for.

Mr. SMITH of Idaho. How can you do that, if you are going to sell to the highest bidder?

Mr. HAYDEN. Suppose that the bill provides that soldiers shall have preference for 60 days to purchase the land, if they bid the same amount.

The CHAIRMAN. I believe 30 days would be better. That is the act in our State. It is 30 days there and nobody has ever complained that it was too short; in fact, I think it has been pretty long. I think they ought to get around to do something themselves or let somebody else do something in less time than that.

Mr. WELLING. Would you give them the right to meet any bid that was made by anybody else?

The CHAIRMAN. Well, now, I don't know about that.

Mr. HAYDEN. If we said that returned soldiers should have a preference right, that would mean if the bids were equal.

Mr. SMITH of Idaho. If two or more bids are the same, one of which is offered by a soldier, he would have the preference right.

Mr. BARBOUR. There would be no objection to that that I can see. I think it would be a good thing.

Mr. EVANS. It is starting a great deal of machinery for very little.

The CHAIRMAN. We will take up the consideration of the bill, gentlemen. Who will we have first?

Mr. HAYDEN. Mr. Chairman, I would like to make a statement to the committee.

You will remember that when we had the Kettner bill under discussion I made inquiry of various witnesses about the advisability of amending the bill to provide, among other things, for a limitation of the area of the project so that the Secretary of the Interior would have to make a finding that there was water available for the land to be irrigated. That would enable the settlers to know in advance where the water was to go and it would prevent speculation in lands which probably would not be included in the project, and therefore would not receive water. Everybody seemed to agree that such an amendment would be desirable. I also suggested the advisability of limiting the area to which water should be supplied for land in one ownership, and the committee seemed to agree that such a limitation should be made, particularly where valid water rights have not attached to the land.

Then there was talk of the necessity for storage on the Colorado River. I gathered it was the consensus of opinion that provision

should be made from the very start for storage, and that the charge for storage should be apportioned according to the benefits to be derived.

I went to work to try to amend the bill accordingly, so as to provide for what I thought the majority of the committee wanted done, but the more I studied it the harder it was to do, because of the way in which the bill was drawn.

It seemed to me that the bill ought to be revamped and start out and say what it means to begin with. For instance, the bill as it was introduced first provides for the sale of public land as though that was the principal object. Any member who saw the bill for the first time on the floor of the House would think this was a public land measure. But when he reads a little further along and finds out that as a matter of fact it is not primarily a public land measure, but principally concerns the Imperial Irrigation District, he would suspect we were seeking to deceive him.

I therefore decided that it would be better to set out in the beginning everything that we wanted to accomplish by a statement in the first section of the bill and then later elaborate the plan. I believe that the quickest way to get my ideas before the committee will be to read to you the bill that I have prepared, which you will find in the back of the file, H. R. 9421.

I have no pride of authorship about this measure. I do not expect this bill of mine to be reported by this committee. I drafted it, and when I introduced it I labeled it "By request," so that we might have something to work on, which, so far as I have been able to judge, will meet with the general approval of the committee. In other words, this is merely a working draft which is subject to amendment. We frequently, after we have perfected a bill, have it reintroduced and ask for a new report from the Secretary of the Interior or strike out all after the enacting clause. In any event the bill which is finally reported ought to be known as Mr. Kettner's measure, because it is primarily for the benefit of lands in his district.

Mr. SMITH, of Idaho. You are changing the title to "Colorado River Reclamation Project?"

Mr. HAYDEN. As I go along you will see I am trying to take care of all new lands that can be hereafter served with water from the Laguna Dam. I thought that was the better way to label the bill than to simply refer to the Coachella and Imperial Valley irrigation project.

I shall read the bill.

[H. R. 9421, Sixty-sixth Congress, first session.]

A BILL To authorize the construction of the lower Colorado River reclamation project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and empowered, upon compliance with the several requirements of this act, and in conformity with its provisions, to construct or cause the construction of canals and other necessary works to connect the present irrigation system of the Imperial Irrigation district, in Imperial County, California, with the diversion dam of the Yuma reclamation project, known as the Laguna Dam, and for the reclamation of all lands, public or private, which in his judgment are susceptible of reclamation by the diversion of water from the Colorado

River by said dam; to construct or cause to be constructed such storage reservoirs and other irrigation works as in his judgment are necessary to provide an adequate supply of water for the successful irrigation of such lands and on behalf of the United States to enter into such contracts and agreements, not inconsistent with the provisions of this act, with the Imperial irrigation district and other legally organized irrigation districts, water users' associations, or corporations, and individual water users as may be necessary or expedient in carrying out the provisions of this act, insuring compliance therewith and securing the repayment of the total costs of the said canals, reservoirs, and works, in so far as such costs may be guaranteed by the United States: *Provided*, That the Secretary of the Interior is hereby authorized to cooperate with the State land settlement board and other public authorities of the State of California and with the soldier settlement board and other public authorities of the State of Arizona in the reclamation and settlement of lands affected by the provisions of this act.

SEC. 2. That in carrying out the provisions of this act the Secretary of the Interior shall find and determine the just and equitable proportion, or amount, of the cost of any such canals, reservoirs, and works to be borne by or made a charge against any such irrigation district, State land settlement board, soldier settlement board, water users' association, corporation, or individual water user, with due regard to the actual and comparative benefits to be derived by each thereof from the construction of such canals, reservoirs, or works, and no irrigation district, water users' association, corporation, or individual water user shall receive any of the benefits of this act nor secure the delivery of any water from the said canals, reservoirs, or works without first accepting the finding of the Secretary of the Interior as herein provided and paying or entering into an agreement satisfactory to the said Secretary to pay all costs assessed by the said Secretary, and otherwise fully complying with the provisions of this act.

SEC. 3. That whenever any irrigation district, water users' association, or corporation, legally organized for the purpose of irrigating lands which, in the judgment of the Secretary of the Interior, are susceptible of successful irrigation from the canals and works mentioned in this act, shall have duly voted and issued bonds, running for a period not exceeding forty years and bearing interest at a rate to be fixed by the Secretary of the Interior, not exceeding five per centum per annum, in a sum which will cover the just and equitable proportion or amount, as fixed and determined by the Secretary of the Interior, chargeable to such irrigation district, water users' association or corporation, for the construction of such canals, reservoirs, or other works, or of any part thereof approved for construction by the said Secretary, and when the legality and validity of such bonds shall have been duly confirmed by the courts and their sufficiency for the purpose for which issued, taking into consideration the security which will exist upon the completion of said canals and works, shall have been ascertained by the Secretary of the Interior, he is authorized and empowered to accept such bonds and deposit the same with the Secretary of the Treasury, who shall collect the principal and interest thereof and apply the same to the payment of the principal and interest of the certificates of indebtedness, notes, or bonds of the United States authorized to be issued under the terms of this act.

SEC. 4. That upon receipt by the Secretary of the Treasury of the bonds of any such irrigation district, water users' association, or corporation, or the bonds of the State of California or the State of Arizona, approved by the Secretary of the Interior, the Secretary of the Treasury shall issue certificates of indebtedness, notes, or bonds of the United States, in such form as he may prescribe and in amount equal to the face value of the bonds so deposited with him. Said certificates, notes, or bonds of the United States shall be in such denominations, bear such rate of interest, not to exceed five per centum per annum, and run for such period as the Secretary of the Treasury may prescribe: *Provided*, That if the same shall fall due prior to the due date of the bonds or any of them so deposited with him, he may, in his discretion, issue other certificates of indebtedness, notes, or bonds of the United States, not exceeding the amount, and maturing not to exceed sixty days after due date of the unpaid bonds so deposited with him.

SEC. 5. That from time to time, as the carrying out of the purposes of this act may require, the Secretary of the Treasury, upon the request of the Secretary of the Interior, shall dispose of such certificates of indebtedness, notes or bonds of the United States, under such rules and regulations as the Secretary

of the Treasury may prescribe, and shall deposit the proceeds thereof in the Treasury in a special fund to be known as the lower Colorado River project fund.

SEC. 6. That upon default of any installment of the principal or interest of any bond deposited with the Secretary of the Treasury in accordance with the terms of this act the said Secretary may declare the entire amount of such bond issue in default and thereupon he shall call upon the State, under the authority of which such bonds were issued, through any of its authorized agencies or officers, to levy and enforce the payment of any taxes, forced contributions, or special assessments necessary to pay the sums due to the United States, and upon failure of the State authorities so to do the Secretary of the Treasury shall cause suit to be instituted in the name of the United States, and take such legal action as may be necessary to enforce the assessment and collection of such taxes for the payment of the amount of principal and interest in default or the entire amount of such bond issue, principal and interest. It shall be the duty of the Attorney General to prosecute such suit, and any United States district court for the district in which the lands affected by this act, or any part thereof, are situated, is hereby vested with jurisdiction to enforce the provisions of this act.

SEC. 7. That any unentered public lands of the United States found by the Secretary of the Interior to be susceptible of successful irrigation from the canals and works the construction of which is provided for by this act, may be offered for sale to citizens of the United States, under such rules and regulations as the said Secretary may prescribe, at the fair value thereof, which shall be fixed at not less than \$10 per acre, plus \$1.25 per acre to be paid to the local United States Land Office in compliance with the requirements of the desert-land laws. The land so sold shall be paid for in cash, or on deferred payments, at the option of the purchaser, in installments of one-fifth cash and one-fifth annually until fully paid, with interest on the deferred payments at the rate of 6 per centum per annum from date of sale, patent to issue upon full payment of the purchase price and compliance with any other requirements of this act. Said land shall be subject to the usual charges of the irrigation district within which such land may lie, or of any other agency serving such land with water: *Provided*, That not more than one hundred and sixty acres of land shall be sold to any one purchaser under the provisions of this act: *Provided further*, That the Secretary of the Interior, in his discretion, may offer such public lands to be sold and reclaimed in cooperation with the California State Land Settlement Board or the Arizona Soldier Settlement Board, or he may use all or any part of such lands in connection with any soldier-settlement legislation that may be enacted by Congress.

SEC. 8. That any person having a valid and subsisting entry upon public lands which, in the judgment of the Secretary of the Interior, should become subject to the provisions of this act, and not now possessing an adequate and valid water right, shall be required to make payment of \$10 per acre therefor, on like terms, as provided for unentered public lands of the United States, and such unpatented lands shall be subject to the usual charges of the irrigation district within which they may lie or of any other agency serving such lands with water: *Provided*, That all of such entries in excess of one hundred and sixty acres shall be reduced in area to one hundred and sixty acres, and any entryman who shall fail to dispose of the excess of his entry above one hundred and sixty acres, in the manner provided by law, within one year after public notice issued by the Secretary of the Interior that the lands embraced within his entry are subject to the provisions of this act, shall render his entry subject to cancellation as to the excess above one hundred and sixty acres.

SEC. 9. That the Secretary of the Interior shall fix such charges against the entered or unentered public lands referred to in this act, in addition to the price to be paid to the United States as the fair value thereof, as he may deem to be the just and equitable proportion or amount to be borne by such lands of the cost of the canals and works mentioned in this act, and shall, in advance of the patenting of such lands and prior to permitting them to be served with water from said canals and works, make such contracts as he may deem necessary to insure the payment of such charges.

SEC. 10. That all moneys derived from the sale of the entered or unentered public lands heretofore mentioned, in excess of the United States Land Office charge of \$1.25 per acre, shall be deposited in the Treasury to the credit of the lower Colorado River project fund, and devoted exclusively to the development and construction of a reservoir or reservoirs to provide by storage an additional

water supply for the irrigation of the lands affected by the provisions of this act.

SEC. 11. That the proportion or amount of the cost of the canals and works, the construction of which are authorized by this act to be borne by any irrigation district, State land-settlement board, soldier settlement board, water users' association, corporation, or individual, as fixed and determined by the Secretary of the Interior, may be paid in cash, and when so paid shall be deposited in the Treasury to the credit of the lower Colorado River project fund, and may be used by the Secretary of the Interior in the same manner as the receipts from the sale of certificates of indebtedness, notes, or bonds of the United States as provided in this act.

SEC. 12. That any and all moneys that may hereafter be in the Treasury of the United States to the credit of the lower Colorado River project fund are hereby reserved, set aside and authorized to be appropriated to carry out the objects and purposes of this act.

SEC. 13. That the certificates of indebtedness, notes, or bonds of the United States by this act authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under State, municipal, or local authority, and a sum not exceeding one-tenth of 1 per centum of the amount of the certificate of indebtedness, notes, or bonds issued under the provisions of this act is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing such certificates of indebtedness, notes, or bonds: *Provided*, That the United States shall be reimbursed for such expenditure out of the proceeds of the sale of such certificates of indebtedness, notes, or bonds.

SEC. 14. That the public lands of the United States declared by the Secretary of the Interior to be susceptible of reclamation under the provision of the act, and included within any irrigation district or any other similar organization the boundaries and bonds of which are accepted by the said Secretary under the terms of this act, shall be subject to the provisions of the act entitled "An act to promote the reclamation of arid lands," approved August 11, 1916 (Thirty-ninth Statutes at Large, page 506), notwithstanding the district may contain more than a majority acreage of such public lands.

SEC. 15. That should a surplus remain in the lower Colorado River project fund, of the money received from the sale of the certificates of indebtedness, notes, or bonds of the United States, as authorized by this act, after a declaration by the Secretary of the Interior of the completion of construction of the canals and works herein authorized to be constructed such surplus shall be credited as payment on the principal and of the certificates of indebtedness, notes, or bonds of the United States issued hereunder and a similar credit applied on the bonds of any irrigation district, water users' association, or corporation held by the Secretary of the Treasury on account of said project.

SEC. 16. That should a surplus remain in the lower Colorado River project funds, of the moneys received from the sale of public lands, as authorized by this act, after a declaration by the Secretary of the Interior of the completion of construction of the reservoir or reservoirs necessary for the storage of water for the irrigation of the lands affected by the provisions of this act, such surplus may be utilized by the Secretary of the Interior in making further investigations respecting the problems of water storage and flood control on the Colorado River.

SEC. 17. No right to the use of water for land in private ownership shall be sold under authority of this act for a tract exceeding one hundred and sixty acres to any one landowner nor shall any water be delivered to more than one hundred and sixty acres in any one township unless, in the judgment of the Secretary of the Interior, such lands in private ownership now possess an adequate and valid water right.

SEC. 18. That in the sale of public lands affected by this act preference shall be given for sixty days to persons honorably discharged from the military or naval forces of the United States: *Provided*, That whenever practicable preference shall be given to honorably discharged soldiers, sailors, and marines when labor is employed on any work done under authority of this act.

SEC. 19. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulation as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.

SEC. 20. That nothing in this act contained shall be construed as in any way amending or affecting the act to provide for an auxiliary reclamation

project in connection with the Yuma project, Arizona, approved January 25, 1917, or as modifying the terms of the contract of October 23, 1918, between the United States and the Imperial irrigation district.

Mr. HAYDEN. You will note that on page 2, line 14, to comply with Dr. Elwood Mead's idea, I have inserted this proviso:

That the Secretary of the Interior is hereby authorized to cooperate with the State land-settlement board and other public authorities of the State of California and with the soldier settlement board and other public authorities of the State of Arizona in the reclamation and settlement of lands affected by the provisions of this act.

Dr. Mead states that the Legislature of the State of California has authorized a bond issue of \$10,000,000, to be ratified by the people of the State, and if that is the case, when such bonds are voted, the Secretary of the Interior can cooperate with the State land-settlement board.

Mr. BARBOUR. That is not solely for the purpose of cooperating with the Government on this soldier settlement.

Mr. HAYDEN. In Arizona the State legislature passed a soldier-settlement act, which permits cooperation with the United States, and authorized the State authorities to levy taxes to raise money to cooperate with the United States.

Hon. Mulford Winsor, of Yuma, Ariz., who appeared before this committee, stated—and I will confirm that by Mr. Davis—that there is a tract of land between the Gila and Colorado Rivers which can be irrigated from the Arizona end of the Laguna Dam. If that land could be utilized as a soldier-settlement colony, I would like to see it done.

The CHAIRMAN. What about that soldier-settlement board?

Mr. HAYDEN. A soldier-settlement board has been created by the laws of the State of Arizona. I shall insert in the record the act of the legislature in establishing this board. (See Appendix, Exhibit A.)

The CHAIRMAN. That was recently passed on account of this war?

Mr. HAYDEN. Yes; passed by the last session of the State legislature.

Mr. WELLING. This relates to the agency that Arizona has set up to cooperate with the Federal Government on this soldier-settlement work?

Mr. HAYDEN. Yes.

Mr. SINNOTT. What do you mean by this language in section 7, that the land so sold shall be paid for in cash or on deferred payments, at the option of the purchaser, in installments of one-fifth cash and one-fifth annually until fully paid?

Mr. HAYDEN. That is the way the original Kettner bill read.

Mr. SINNOTT. Why give them so much as 160 acres, as you have provided on page 7? Under most of these projects the Secretary makes the unit much smaller than that.

Mr. HAYDEN. I followed the Kettner bill in that regard.

Mr. SMITH of Idaho. It reads "not more than 160 acres."

Mr. HAYDEN. Yes, "not more than." The Secretary of the Interior might fix the acreage at less than 160 acres.

I believe that the last proviso to section 7 that the Secretary of the Interior may in his discretion offer the lands to be sold and reclaimed in cooperation with the California State Land Settlement

Board or the Arizona Soldier Settlement Board, or with any soldier settlement legislation that may be enacted by Congress will take care of the remainder of Dr. Mead's suggestion.

Section 8 would compel an entryman who has not patented his land to reduce his entry to 160 acres.

Mr. SMITH of Idaho. Unless he has an independent water right.

Mr. HAYDEN. Yes.

Section 9 gives the Secretary of the Interior authority to equitably fix the construction charges against the public lands for the cost of the canals and works mentioned in the act.

Section 10 provides that the money derived from the sale of the public lands, in excess of \$1.25 per acre, shall be deposited in the Treasury to the credit of the lower Colorado River project fund for the development and construction of a reservoir to provide water storage for the lands affected by the provisions of this act.

Mr. SMITH of Idaho. Supposing that the reservoir should not cost anywhere near that amount?

Mr. HAYDEN. There is a later provision which authorizes the Secretary to use any such supplies for further investigations of the problem of storage and flood control on the Colorado River.

Section 11 provides that any irrigation district, any State, any soldier settlement board, corporation, or individual may pay their share of the cost of the canals and works in cash. If my State has any money, or the State of California has any money available for this project we should give them an opportunity to pay it into the project fund in cash.

The CHAIRMAN. Referring to section 17, they ought to have time there to dispose of their excess holdings to advantage.

Mr. HAYDEN. That section does not require anyone to dispose of his land. It simply provides that they can not get water until they dispose of the excess; and if one can not get water, of course, he can not afford to hold the land.

The CHAIRMAN. Now, I asked Director Davis to come here to-day, and on these changes that have been suggested I would like to hear from Davis.

Mr. BARBOUR. Let me ask you a question there, Mr. Hayden. I did not follow the bill closely all the way through, because my mind was distracted two or three times.

What became of the all-American canal in your bill?

Mr. HAYDEN. My bill authorizes the connection of the present irrigation system of Imperial Valley with the Laguna Dam.

Mr. BARBOUR. That does away, then, with the all-American canal?

Mr. HAYDEN. No; you will have to have a new canal to do that.

Mr. BARBOUR. Then it would not be the present system? The present system goes through Mexico.

The CHAIRMAN. It doesn't say a word about the all-American canal.

Mr. HAYDEN. By inserting the words "within the United States" would satisfy your objection.

Mr. BARBOUR. I didn't catch that.

The CHAIRMAN. Your bill, though, says nothing about the all-American canal.

Mr. HAYDEN. I wanted to briefly provide that we were going to connect the present irrigation system of the Imperial irrigation

district, in the United States, with the Laguna Dam. If the bill is amended to read "by the construction of a canal and all other necessary work within the United States," that would make clear the intent of Congress.

The CHAIRMAN. Now, Mr. Davis, we would like to hear from you in regard to the changes suggested by the bill of Mr. Hayden, which has just been read.

STATEMENT OF MR. ARTHUR P. DAVIS, DIRECTOR OF THE RECLAMATION SERVICE.

Mr. TAYLOR. Have you had time to study the bill pretty fully?

Mr. DAVIS. Yes, sir; I had it read over in my office by two or three people critically, and I have followed the reading by Mr. Hayden this morning and also have noted the principal differences from time to time as pointed out by others.

The principal difference between this bill and the other, is the difference of arrangement and the incorporation of the possibility of cooperation with the land-settlement boards of California and Arizona. The provisos to that effect are merely engrafted on the bill and do not interfere with its being carried out in case such co-operation does not materialize, and it seemed to me in no way to affect the availability of the bill for use in any other way, yet makes it available for use in that way if practicable.

The limitation of the amount to 160 acres in one ownership appears to be not quite effective, and that is the only criticism I now think of on the bill. It says that not more than 160 acres shall be sold to any one purchaser under the provisions of this act. We know how easy it is to make purchases through dummies and immediately make transfer; and unless some provision is made to prevent early alienation of those acreages purchased, that would be ineffective; and if it is the desire of the committee to have such a limitation on, it would be necessary to make it more effective.

Mr. HAYDEN. I copied that from the Kettner bill.

The CHAIRMAN. I noticed that feature myself as we went along.

Mr. TAYLOR. What is your idea about that, Mr. Davis, and how does that compare with the present law, and what is your thought about it?

Mr. DAVIS. The present law for the disposition of the public lands disposes of them under the Homestead Act and requires residence and cultivation, and all those things. It does, however, permit alienation after a certain period of time, and there hasn't been any considerable difficulty with that; but in this case, such of these lands as are sold in advance of the delivery of water must be sold to people that are not ready to make homes, because they can't make homes upon them in their present condition. It will take some years to complete the work.

Mr. SINNOTT. Doesn't the present law compel the landowner to sell his surplus at a price fixed by the Secretary?

Mr. DAVIS. Yes; but that is another matter. That is privately owned land; I have been talking about the sale of public land. I was just about to touch on that matter. The bill provides, section 8:

And any entryman who shall fail to dispose of the excess of his entry above 160 acres, in the manner provided by the law, within one year after public

notice issued by the Secretary of the Interior that the lands embraced within his entry are subject to the provisions of this act, shall render his entry subject to cancellation as to the excess above 160 acres.

Now, that is in regard to valid and subsisting entries, and, I think, is effective, but in regard to the private lands section 17, page 11, provides:

No right to the use of water for land in private ownership shall be sold under authority of this act for a tract exceeding 160 acres to any one landowner, nor shall any water be delivered to more than 160 acres in any one ownership unless, in the judgment of the Secretary of the Interior, such lands in private ownership now possess an adequate and valid water right.

That will not be effective in the reduction of those large holdings. The great trouble with the large holding usually is not that a man owns and cultivates and irrigates the large holding, because he doesn't do that as a rule. The curse of it is that they hold the land out of use, and there isn't anything in this to prevent holding land out of use indefinitely; it simply denies the delivery of water, and they don't want the delivery of water while they are holding it out of use, because they don't want to pay for it.

Mr. TAYLOR. They are just holding it for speculation?

Mr. DAVIS. Holding it for speculation, yes.

Mr. SMITH, of Idaho. Do you not apply the maintenance charges to unused lands in reclamation projects now?

Mr. DAVIS. We do where we can. Where the project is opened so that we can, we have public notice issued and we apply it to the lands to which we can deliver water; but where we haven't opened them and where we are delivering water on a rental basis, it can be applied by action of the Water Users' Association, and that frequently is done.

Mr. HAYDEN. Is it your suggestion, Mr. Davis, to amend this bill similarly to the provision in section 11 of the Smith-Chamberlain bill, that any owner who holds an area in excess of the amount fixed as a farm unit must place his lands in trust with the Secretary?

Mr. DAVIS. That might be done, or a provision of this kind could be made, that any land held in a larger ownership than 160 acres should be denied the use of water just as this provides, but shall be charged for; that they will have to make the payments nevertheless, and if they have to make payments for construction, operation, and maintenance and everything else, just as though they were getting the water, it will be a pressure to sell the lands.

Mr. HAYDEN. The Smith-Chamberlain bill provides that they must place their excess above 160 acres in the hands of the Secretary of the Interior in trust.

Mr. DAVIS. Yes; that is also in the present law. The reclamation extension act provides that for lands newly taken into a project that shall be done, and they have to trust deed it to the Secretary or make provision satisfactory to the Secretary to sell it at a price that he fixes.

Mr. HAYDEN. We can make a similar provision here.

Mr. DAVIS. That can be done here, or simply add to section 17 that such lands shall nevertheless pay their proportionate charge for water and the delivery of water.

Mr. TAYLOR. That will put a crimp in them.

Mr. DAVIS. That will be effective, I think.

Mr. WELLING. If you adopt a plan to tax these men on their unused lands, don't that practically—it surely will compel them to sell, and doesn't it amount practically to confiscating their land? They will have to sell, no matter whether they can sell at a reasonable price or not. They can't stand the charges and they will be compelled to sell.

Mr. DAVIS. I think in the long run that is true. The pressure is not quite so hard as you might think, because if they make the payments on the construction charges, that goes to the value of the land, and the buyer of the land knows that he has to pay them anyway, and that adds to the value of the land in that way.

Mr. WELLING. These annual maintenance charges amount to as much as \$6 per acre in the Imperial Valley and no man can stand that on a tract of land that he is not using.

Mr. ROSE. Under the irrigation district act you have a right to collect all of your expenses—make no charges whatever for water in the State of California, but collect all expenses on the land, but if it was the desire of the people within the district to do so, they could charge the man who didn't cultivate his land with part of the water for the man who did cultivate his land, and they therefore force him to cultivate. I don't think it is necessary to incorporate anything like that in the bill, though.

Mr. HAYDEN. We might get at it another way. Section 11 of the Smith-Chamberlain bill provides:

SEC. 11. That owners of land as herein provided, situated in any district, that may desire to take advantage of the provisions of this act, shall enter into an agreement with the Secretary of the Interior to sell, within a period not to exceed ten years from the completion of the works of such district, or such portion of such works as affect the irrigation, drainage, or protection of such lands, all areas of such land in excess of such maximum area as he may, in his discretion, establish for such district; such maximum area, however, not to exceed 160 acres when, in his opinion, such land is most suitable for agriculture, nor 640 acres when, in his opinion, such land is most suitable for animal husbandry; and such excess areas shall be sold in farms of such size as will, in the opinion of the Secretary of the Interior, support a family in comfort, at such prices and on such terms of payment as are provided in such agreement. This agreement shall be executed by the owners of not less than 90 per centum of the total area of all holdings within such district which exceed the limits so established by the Secretary of the Interior before such project shall be finally approved by him. Such agreement shall confer an irrevocable power of attorney upon the Secretary of the Interior to sell such land in pursuance of the terms thereof whenever he may deem it for the best interests of the project to effect such sale, and to sell any of such land remaining unsold after the expiration of such ten years at such price as it will bring at public auction. If any State or minor political subdivision thereof is the owner of any such excess area of land within such district, the representatives of such State or subdivision thereof shall, as custodians of such land, agree with the Secretary of the Interior, in so far as it may be within their power to agree, to dispose of such excess area as herein provided. The agreements provided in this section shall not apply to lands that have complete facilities for irrigation or that are completely drained or protected against overflow at the time of such agreement.

Mr. EVANS. Mr. Davis, can I ask you to point out here on page 6, section 7, where it says: "That any unentered public lands of the United States found by the Secretary of the Interior to be susceptible of successful irrigation from the canals and works, the construction of which is provided for by this act, may be offered for sale to citizens of the United States, under such rules and regulations as the said Secretary may prescribe, at the fair value thereof, which may be fixed at not less than \$10 per acre plus \$1.25 per acre to be paid to the local

United States Land Office in compliance with the requirements of the desert-land laws."

I want to have that made clear, where that \$10 per acre goes to. Does that go into the Treasury of the United States?

Mr. DAVIS. Yes, sir; according to the Kettner bill, it goes into the Treasury of the United States to be held in a guaranty fund until the repayment of all these charges against the districts, and then is available for use in liquidating those charges.

Mr. EVANS. Then temporarily, it is available for the credit of that district?

Mr. DAVIS. Yes, sir.

Mr. EVANS. That district has the right to draw upon it; in fact, it is available for any necessary purpose, that \$10, in addition to the \$1.25?

Mr. DAVIS. Under the original Kettner bill, I think not. It is not available for anything except as a guaranty fund until these charges are all paid, and then it is a credit to them. But under the amendment as suggested by the Secretary of the Interior it may be held as a trust until he thinks there is no further need of that, and then he can use it for the construction of storage works.

Mr. EVANS. It is never diverted then from the credit of the irrigated lands, and it is not taken to improve rivers and harbors and coastal places?

Mr. DAVIS. No, sir; in both bills, both under the original bill and the amendment, it is finally credited to the benefit of the projects.

Mr. HAYDEN. I want to ask Mr. Davis this question, which arises from a discussion I recently had with Mr. Smith.

The provision relative to the creation of a guaranty fund in the Kettner bill was taken from the Smith-Chamberlain bill with this difference: In the Smith-Chamberlain bill all the landowners contribute to make up the guaranty fund; the Kettner bill merely takes the proceeds from the sales of public lands and makes that money into a guaranty fund. Mr. Smith and I, in talking it over, could not see why the resources of the United States should be used as a guaranty fund for all of the lands under the project; that if there was to be such a fund it ought to be created by contributions from all the lands. It looked to us as though the United States was not only required by this bill to loan its credit to the district, but to furnish part of that credit by taking its own assets to make up a guaranty fund. Therefore I thought it best for the United States to use its own money received from the sale of public lands in the construction of storage works. If there is to be a guaranty fund, let us create it in the same manner as provided in the original Smith-Chamberlain bill; that is, let an assessment be levied on all the lands in the project to make up the fund. It did not seem right to me, and that is the reason I did not mention such a guaranty fund in my draft of the bill.

Mr. TAYLOR. What is your idea about the form as suggested by Mr. Hayden, of changing, rearranging the form of the bill and starting off and using this Hayden bill as the basis for the draft of the bill that we report—use that language in that form rather than as it is in the Kettner form?

Mr. DAVIS. I haven't discovered any objection to either one. I think Mr. Hayden's bill is possibly a little clearer in setting forth

the principal object first, which I understand was his reason for rearranging it, but careful reading of either bill has not shown me any particular objection to either arrangement. I think either is all right. There may be some provisions that I have not noticed.

Mr. SMITH of Idaho. I notice in your bill you did not state the total amount of the bonds which might be issued to cover the cost of the project.

Mr. HAYDEN. No, I did not.

Mr. SMITH of Idaho. The Secretary of the Treasury, you know, raised that question.

Mr. HAYDEN. Yes; and it was at my suggestion, I believe, that Judge Swing placed the limitation of \$35,000,000 in the Kettner bill. After listening to the testimony I was not sure whether that limit was really high enough, or whether we had better have no limit. I would like to have Mr. Davis's views on that. Do you think there ought to be a limitation of the total amount of bonds that may be issued?

The CHAIRMAN. Secretary Glass pointed out that there was no limit on that and that there ought to be a limit.

Mr. DAVIS. I think it might remove objections to place a limit such as is in the Kettner bill.

Mr. HAYDEN. Is \$35,000,000 enough?

Mr. DAVIS. \$35,000,000 is enough to build the all-American canal and get a system that will provide all the water the Imperial Valley can use; it will not be sufficient to provide a complete irrigation system for all this new land.

Mr. SMITH of Idaho. I suppose from the sale of this additional public land \$10,000,000 or \$15,000,000 more could be secured.

Mr. DAVIS. We have made a rough estimate, the best we can, from present information, which we believe will provide for the construction of the all-American canal sufficient to irrigate all the lands that can now be irrigated. To make provision for storage for the lands that do not now have water rights, to provide distribution works over the new lands will cost about \$52,000,000.

Mr. EVANS. But in the meantime you are selling lands; you are getting credits to apply on additional costs.

Mr. DAVIS. If the land is sold at a high enough price, it will make up the difference between \$35,000,000 and \$52,000,000.

The CHAIRMAN. Will Mr. Rose and Mr. Yager point out any objections they find? I meant that they should ask you any questions first, Mr. Davis, not that you should be through now.

Mr. ROSE. I have a statement that I would like to make.

The CHAIRMAN. You don't care to ask Director Davis any questions? Well, go ahead, then, Mr. Davis.

Mr. DAVIS. I don't know, Mr. Chairman, that I have anything further to say.

Mr. TAYLOR. Mr. Davis, did you go through these suggested and tentative amendments that we made to the Kettner bill the other day?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. And have the beneficial features of those amendments been preserved or incorporated in Mr. Hayden's draft here?

Mr. DAVIS. Not fully. That limitation is one, and otherwise I haven't closely compared—I don't know whether the language in

Mr. Hayden's bill will be satisfactory to the Secretary of the Treasury or not.

Mr. HAYDEN. It will not be satisfactory to the Secretary of the Treasury if he still thinks that the credit of the United States should not be extended to the Imperial irrigation district, but if he concedes that we should extend the credit of the United States to that district and not make a direct appropriation from the Treasury, then I think we have fully answered his objections, except, perhaps, as to the matter of the limitation of the total amount of bonds. Inasmuch as I gathered from the talk about this table that the total cost would be more than \$35,000,000, I did not say anything about it in my bill.

Mr. TAYLOR. Well, if it is going to cost \$52,000,000, what is the sense of our putting in a limitation of \$35,000,000?

Mr. SMITH of Idaho. While \$35,000,000 is only a portion of the expense, the balance is made up from the sale of public lands in the valley. There are about 300,000 acres, and at \$50 an acre that would raise \$15,000,000 or \$20,000,000.

Mr. ROSE. There is another thing, too, that after the all-American canal is once built and water is available for these lands, if there is an additional amount required for storage probably they can issue additional bonds and sell them in the bond market. The objection will then be removed and they can probably go to work and sell their own bonds in the bond market and take care of it.

The CHAIRMAN. How much of the lands, the public lands on the mesa, do you think it will be feasible to irrigate?

Mr. DAVIS. The nearest figure we can arrive at is about 800,000 acres.

The CHAIRMAN. That is, the whole valley?

Mr. DAVIS. The whole business. There are about 500,000 acres in the district—there is more than that in the district—but I figure there are about 500,000 irrigable.

The CHAIRMAN. And being irrigated now?

Mr. DAVIS. No; not that much now, altogether. There is somewhere in the neighborhood of 400,000 being irrigated now, but within the boundaries of the district and at such elevation that the extension and enlargement of the present canal would cover them there is about 500,000 acres of irrigable land. Nearly all of this is in private ownership. Outside of the district there is somewhat in excess of 300,000 acres that can be reached by the high line canal.

The CHAIRMAN. Not entered at all, any of it?

Mr. DAVIS. Some of that is in private ownership; considerable of it.

The CHAIRMAN. Some of it is in private ownership already?

Mr. DAVIS. Yes; especially to the northward, but to the eastward of the Imperial district most of that is public land, and these figures, 800,000 acres, I believe, are within the limits of the correct figure.

The CHAIRMAN. Then, there are 170,000 acres of public land that may be sold under the act?

Mr. DAVIS. I believe something like that; I don't know exactly how much.

The CHAIRMAN. Which can be irrigated?

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Approximately that?

Mr. DAVIS. Yes, sir. And the private lands outside, under this bill, would be bound for the cost, the same as the public lands. Of course, they would have to use their credit in order to make payments.

The CHAIRMAN. Yes. Now, if the public lands sell for \$40 or \$50 an acre, would there be that amount imposed upon the private lands?

Mr. DAVIS. This bill, Mr. Hayden's bill, provides that the charges should be apportioned equitably. That would mean that private lands should bear their equitable proportion if they do not already have a valid water right.

The CHAIRMAN. Then, the higher price the public lands sell for, the more the private lands would have to put out?

Mr. DAVIS. I should say so. I should so interpret that.

Mr. HAYDEN. Might I ask you a few questions, Mr. Davis, with respect to this draft of the bill that I have prepared? I want you to know that I have no pride of opinion about it, so you may be perfectly free to discuss it in any way you may think best.

I believe you said you thought the first section properly set out the objects of the bill. The first section contains these two propositions on which we have heretofore agreed: First, that there should be a determination by the Secretary of the area of land that might be irrigated. I cover that in lines 11 and 12—

lands, public or private, which in his judgment are susceptible of reclamation by the diversion of water from the Colorado River by said dam.

Mr. TAYLOR. That would prevent people on the outside from selling land before it had any water and buncoing people.

Mr. DAVIS. Yes.

Mr. HAYDEN. Then, second, I set out that the Secretary of the Interior shall construct, or cause to be constructed, storage reservoirs. There is no mention in the Kettner bill of any kind of water storage.

Then I go on to say that he may enter into contracts with the Imperial irrigation district and other organizations to carry out the objects of the act. In the proviso to section 1 I have tried to care for the idea advanced by Dr. Elwood Mead. I believe that proviso will be sufficient to let us go on without waiting to hear from him, because it authorizes cooperation with his board, and that is all we could do if we waited two or three weeks to hear from the California State Land Settlement Board.

In the second section I provide for the apportionment of the construction charges by the Secretary of the Interior, with due regard to the actual and comparative benefits to be derived. Now, I wanted to make it clear that he had authority to do that, and, in order to clinch it, I provided that "no irrigation district, water-users' association, corporation, or individual water user" shall receive any of the benefits of the act until they first agreed to the finding of the Secretary, so it would not be left to some future time to ascertain what benefits are, but he would ascertain it in advance.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Will not that be advantageous?

Mr. DAVIS. I think so. I think all those are good things.

Mr. SMITH of Idaho. Mr. Hayden's bill provides for the sale of public lands and the construction of reservoirs in advance of the construction of the canals.

Mr. HAYDEN. Oh, no; whenever the money is received from the sale of public lands the Secretary can expend it, but not otherwise. However, by the provision in section 14 of the bill which authorizes the inclusion of public lands in irrigation districts, although the majority of the lands may be public lands, if there are simply enough private landowners or entrymen to qualify to form an irrigation district under the State laws, they can create a district. The members who form the district can vote the bonds and such bonds can be approved by the Secretary of the Interior, and, taking into consideration, as this bill says, the prospective value of the land, the Secretary of the Treasury can receive them on deposit. The money can thus be immediately obtained to do the share of the work apportioned to the public lands. In that way the money is made available at the start without waiting for the sale and settlement of the public lands. I think that is perfectly clear in the bill.

Now, there was one other matter that I wanted to ask you about, and that is the provision in section 11 about payment in cash. We talked about that at a previous hearing. I have provided that if anybody has any money that they want to put into this project, they can do so. That would allow the State of California, if it had money derived from taxes or the sale of bonds, and wanted to cooperate on a soldier-settlement scheme, to turn the money over to the Secretary of the Interior. That is not provided for in the Kettner bill. Do you think that would be advantageous?

Mr. DAVIS. That is a good thing; yes, sir.

Mr. HAYDEN. Section 17 we have discussed. Do you think it is right that lands not under cultivation should nevertheless pay the construction and operation charges? Do you think that such an amendment should be adopted?

Mr. DAVIS. That can be put in in an additional section.

Mr. SMITH of Idaho. Is it not quite reasonable to suppose that those \$10,000,000 of bonds when issued by the State of California would contribute a good deal toward developing the Imperial Valley project?

Mr. BARBOUR. I should think so. I don't see why they couldn't cooperate under this bill.

Mr. DAVIS. Under the Kettner bill the Secretary is directed to sell the land. That puts it in private ownership and out of the hands of the Government.

Mr. HAYDEN. That is the difference between my section 7 and the first section of the Kettner bill. The provision in the Kettner bill is that any unentered public lands shall be offered for sale and sold; the provision in section 7 of my bill is—

may be offered for sale to citizens of the United States under such rules and regulations as the said Secretary may prescribe.

That places it in the discretion of the Secretary to sell them or not. At the end of section 7 it is provided that the Secretary of the Interior—

may offer such public lands to be sold and reclaimed in cooperation with the California State Land Settlement Board or the Arizona Soldier Settlement Board, or he may use all or any part of such lands in connection with any soldier settlement legislation that may be enacted by Congress.

In other words, it gives him a free hand to make the best use of the public lands under the project. Do you think that is proper?

Mr. DAVIS. Yes, sir.

Mr. SINNOTT. In section 6 you confine the remedy in case of default solely to a suit to compel the assessment and collection of such taxes for the payment of the amount of principal and interest. Why don't you give the right to the Government to commence suit to foreclose and sell the land?

Mr. HAYDEN. I copied section 6 from section 9 of the Smith-Chamberlain bill. There was no provision at all in the Kettner bill, for any action on the part of the Secretary of the Interior in case of default in payments. I thought there ought to be some provision for the collection of the money due.

The CHAIRMAN. What court action do you contemplate, a mandamus proceeding?

Mr. HAYDEN. I thought it was broad enough to say that upon failure of the State authorities to levy the tax, the United States might institute suit.

The CHAIRMAN. You will compel them, then, to levy the tax?

Mr. HAYDEN. It provides that—

the Secretary of the Treasury shall cause suit to be instituted in the name of the United States, and take such legal action as may be necessary to enforce the assessment and collection of such taxes.

Now, maybe that is not enough, but there was nothing provided in the Kettner bill.

The CHAIRMAN. I was not saying it was not broad enough; I was talking about what you expected to do. I think it is first-rate that way, to leave it to the court and not pass on their jurisdiction, but I simply wanted to know what you expected us to comprehend by the language, the latitude you have given.

Mr. HAYDEN. The courts would enforce the payment of the taxes. I do not know just what the court procedure would be to direct the irrigation district authorities under the State laws to levy the tax and collect it.

The CHAIRMAN. I think the provision is very ample and all right.

Mr. TAYLOR. It puts the modus operandi up to the court.

The CHAIRMAN. You will see we will have to answer for this on the floor, if you get this bill up there.

Mr. SMITH of Idaho. I didn't get your question back there, Mr. Chairman.

The CHAIRMAN. I say, what remedy would you use, mandamus, to compel the board or the proper officers to act?

Mr. SMITH of Idaho. You couldn't use any other remedy.

The CHAIRMAN. No, I don't think of anything else, and that is why I say it is very broad, and I believe in leaving it to the courts. Just put it up to them to do the proper thing. I think that is all right.

Mr. HAYDEN. The Attorney General is directed to prosecute the suit, and jurisdiction is conferred on the district court in which the lands lie to enforce the provisions of the act.

Mr. WELLING. Just a moment there, if I may suggest: As I understand, Mr. Davis, you don't consider section 17 of the Hayden bill sufficiently strong to force men with large holdings to come in and bear a proper charge for the lands?

Mr. DAVIS. Yes, sir.

Mr. WELLING. Have you any provision in any reclamation project which now forces men with large holdings to bear a proper relationship to the charges of the project?

Mr. DAVIS. Yes; it is a provision that is authorized by the reclamation extension act. It provides that before the land is taken into the project at all the Secretary requires a binding agreement on their part to sell the excess at a price that he names and within a limited time.

Mr. WELLING. And you think some such provision as that ought to be included in this bill?

Mr. DAVIS. That provision would be effective, I think, or the one that I suggested, to require them to pay their share of the charges until they do so. That would have a similar effect.

Mr. WELLING. I think that surely ought to be done, because they are getting their share of the benefits growing up around them.

Mr. DAVIS. Exactly; yes, sir.

The CHAIRMAN. If that is all, we will hear now from Mr. Rose. Please give your name and residence and whom you represent.

STATEMENT OF MR. MARK M. ROSE, OF IMPERIAL COUNTY, CALIF.

Mr. ROSE. I am here representing the Imperial irrigation district of California.

The CHAIRMAN. You are a landowner there and a water user?

Mr. ROSE. Yes, sir; I have been for the last 18 years.

The CHAIRMAN. And you are a farmer?

Mr. ROSE. Yes, sir. Now, in the first place, the Hayden bill eliminates the one thing which Imperial Valley has proposed to do—that was, to build the all-American canal upon the lines of the survey made jointly between the United States Government and the Imperial irrigation district, eliminating it from Mexico. That the bill does not provide for.

Another thing is this bill is a very general bill. As Mr. Hayden suggests, it does not limit itself to the irrigation to the particular project in Imperial County, Calif. It might be construed to take in everything on the lower Colorado River. I don't know what constitutes the lower Colorado River reclamation project or whether there is such a thing.

Mr. HAYDEN. If I may interrupt you, I am establishing the lower Colorado River reclamation project and state in the bill that all lands that can be reclaimed by diversion of water from the Laguna Dam may be in the project. That is, all lands in the United States. Of course, we can not take in any lands in Mexico. I am trying to make the highest possible use of the existing works at Laguna.

Mr. TAYLOR. Not necessarily limiting it to just what you gentlemen have in view now in California.

Mr. HAYDEN. In other words, let the Secretary of the Interior do the most that he can with the facilities he has at the Laguna Dam to divert water from the Colorado River.

Mr. ROSE. Of course, if the project was limited to the United States, that would limit it to some extent, but under the bill it would not be.

Mr. HAYDEN. Suppose we make an amendment, say, at line 7 on page 1, by inserting "within the United States or within the State of California," so that it would read:

That the Secretary of the Interior is hereby authorized and empowered upon compliance with the several requirements of this act, and in conformity with its provisions, to construct or cause the construction of canals and other necessary works within the United States to connect the present irrigation system of the Imperial Irrigation district in Imperial County, Calif., with the diversion dam of the Yuma reclamation project, known as the Laguna Dam.

We can not specify in the law just the particular plan that may be agreed upon. Supposing the Secretary of the Interior wanted to widen the all-American canal two feet.

Mr. ROSE. That could be stated approximately. Some leeway could be given him there.

The proposition, then, on the other hand, is this, that the Kettner bill provided for the sale of the public lands, which would allow him to organize an irrigation district and file their bonds, which the Kettner bill provided for, for the construction of the all-American canal; under this bill that probably would not be done, because one-third of the security which the people of Imperial County propose to offer to the Government under the Kettner bill would be withdrawn. Now, that would be a very serious objection to this bill. The bonds to cover the all-American canal are to be filed with the Secretary of the Interior, who shall file them with the Treasury of the United States for the construction of the all-American canal. Now, if you withdraw two or three or four hundred thousand acres of land, and don't dispose of that land, and the water is there, who is going to file the bonds representing that land?

Mr. HAYDEN. There is nothing in my bill that will prevent that, because I have copied into my bill the provision that notwithstanding the fact that the public lands may comprise a majority of the acreage in any irrigation district yet such district may be formed. I state further that the Secretary shall take into consideration in approving these bonds the prospective value of the land when water is applied.

Mr. ROSE. But, Mr. Hayden, under the irrigation district law of the State of California there must be 500 bona fide residents and voters upon this land. Now, if the land was sold they could go on there and build houses and reside there and organize a district and vote their bonds under the district law of the State of California and file them; but under the present condition there is no one to do that.

Mr. HAYDEN. Under the provision of either bill the Secretary of the Interior can sell 500 farm units on the edge of the area of Government land. As soon as they acquired title he could incorporate the rest of the public lands with their area in an irrigation district, which would be organized under the laws of the State of California, and that irrigation district, while a great majority of it would be public lands, could vote bonds, and the bonds could be deposited in the Treasury, and thus get the money right away.

Mr. ROSE. I doubt if you could. My reason for doubting it is simply this: The bill in the first place doesn't direct them to; it possibly authorizes them to, but it doesn't direct him to sell that land. Now, he might possibly get 500 settlers interested in this scheme to

go in there, but I doubt very much if he would. He would have to sell a great deal more than that to get a sufficient number of settlers to go on there.

Then, there is another thing, and that is this: That in the irrigation of this land the people there who are going to take a second-water right ought to be able to get themselves in shape to protect themselves as to storage. Now, the bill, the original bill, provided after the amendments were accepted in the Imperial Valley, it provided for storage, provided for spending money for storage, and it would provide storage. But there is again this objection that I see: It gives the Secretary the right to say that the lands within the Imperial irrigation district which now have a valid water right can be charged for storage, and so forth, and he has a right to set that charge and he has the right to deny to them the right of the benefits of the use of the all-American canal until they pay it.

Mr. TAYLOR. Well, I can't see why, if they get the benefit, they shouldn't pay for it.

Mr. ROSE. They are not getting the benefit of the storage, Mr. Taylor, at all, because there is ample water there to supply their needs, and they have been using it. They only get the benefit of the all-American canal in which to carry the water to them which is already there.

Mr. TAYLOR. Isn't that all the Secretary would charge them with?

Mr. ROSE. I don't know. That is in his discretion.

Mr. HAYDEN. The discretion of the Secretary of the Interior is limited to this provision in my bill, that he must, in fixing the obligations, act with due regard to actual and comparative benefits to be derived in the construction of such canal, reservoir, or works. There is a general instruction which he must follow, and he could not consistently if he found that you had little benefit charge you a large sum for it. Now, you must do business with the Secretary of the Interior, and Congress must give him discretion in the administration of this act. If you try to hamper the Secretary by directing him to sell lands which he may find it advisable not to be sold, if you insist that he must recognize your rights to the water of the Colorado River and you will not be bound in any way to pay for storage, and so on, it seems to me you are starting out in a rather antagonistic frame of mind, which does not indicate that you intend to give him hearty cooperation.

Mr. WELLING. Isn't it a fact also that under the provisions of your bill any charges for storage could be assessed against the Yuma project as well as the Imperial Valley project if they get additional benefits?

Mr. HAYDEN. If they obtain any benefits; yes.

Mr. WELLING. And it leaves it up to the secretary to decide about the amount of benefits to the projects, just as it does for irrigated lands in other projects.

Mr. ROSE. I don't think it does, because Mr. Hayden exempted that portion of the Yuma project which is now to be open and is naturally exempt under the contract which we have given the Yuma people for the right to connect with the Laguna Dam.

Mr. HAYDEN. If the Secretary found that a certain area of lands in the Imperial Valley had adequate and valid water rights, and that certain lands in the Yuma Valley had adequate and valid

water rights, such lands need not pay any charge for water storage. If he found, on the other hand, that at certain periods of the year it would be advantageous to such lands to have stored water in the reservoir, he could fix a small charge on them in proportion to the benefit. Of course the land that now has no water must pay the greater portion of the cost of the reservoirs. That is but fair.

Mr. ROSE. Well, of course, that might be, but it is hard to get people to see the thing in that way. When they have a valid water right and have paid for it, they don't look at it just exactly in that light.

Then there is another thing: This bill, as drafted, takes in several elements, and every element that you add to a proposition delays it; it takes more time. If you have got half a dozen or a dozen different factions to deal with a proposition, each one has to have their say and each one has a different view, and it takes time. Just like Mead butting into this committee. He doesn't do anything to irrigate; he never made a motion to help the Imperial Valley until they started to do something themselves, then he comes back and suggests delay. Now, if you take into the bill these different States and different organizations, you are going to meet with that same delay. And even after you have legislation, the Imperial Valley is in exactly this position, that if there is anything to be done with the Imperial Valley, except to strew flowers over its grave, it has got to be done in the next two or three years. We can't wait, because if the bill is passed and the money is made available it will take three years to construct the all-American canal.

Now the situation is such south of the line there in the development that they are going to suffer and suffer probably more than the cost of the all-American canal in the loss of crops if this thing is dragged on for several years. And the bill here has been given very careful consideration by men who I don't think had any selfish motive in it, but men who are thoroughly familiar with Imperial Valley affairs, such as Judge Swing, a man who really owns no acreage land in there—a townman—and I would hate to see a substitute go into the bill after the careful consideration that this bill has had from the Imperial Valley standpoint, and not from any particular landholding standpoint of the Imperial Valley, but from the standpoint of the general welfare of those people down there.

Mr. HAYDEN. I do not see how there would be any delay. Certainly it would not delay the passage of this legislation to provide that the Secretary of the Interior may cooperate with the State Land Settlement Board of California. If the State Land Settlement Board of California has, as Dr. Mead says it will have, \$10,000,000 in hand from the State bond issue, they can turn the cash over to the Secretary of the Interior—

Mr. BARBOUR (interposing). You don't expect that they are going to turn that whole \$10,000,000 over to the Imperial Valley?

Mr. HAYDEN. No; but turn some part of it over for a settlement on the mesa lands, which he says is the best part of the State for such a settlement project.

Mr. BARBOUR. Kern County has a big proposition and Sacramento Valley is also looking for that money.

Mr. HAYDEN. Well, suppose the Secretary of the Interior did not get but \$500,000 or \$1,000,000 out of that ten million; that sum would be a material help if paid in cash.

Mr. BARBOUR. Yes; but you were speaking of the \$10,000,000 all the time.

Mr. HAYDEN. I understand that the California State Land Settlement Board is going to have some money, and I think the Secretary of the Interior ought to be permitted to cooperate with them if he can.

Mr. ROSE. Here is the answer: In my estimation, those bonds are proposed to be voted upon at the coming election, which will probably be in a year and a half from now; then the State legislature meets in a year from some time next April, and might possibly act on it later on, and it would take three or four years to get it through.

Mr. EVANS. How long has the Kettner bill been pending? How long have they been figuring and planning on this thing?

Mr. ROSE. For a great many months at home before I came here, and I have been here four months. I came here the 25th of April.

The CHAIRMAN. Now, you say your State legislature meets at such and such a time. What do you expect the State legislature to do?

Mr. ROSE. If there is any of this money used down there, Mr. Chairman, they have got to provide legislation for the using of it after the bonds are voted. Now, the bonds may not be voted, and it would cause delay. Besides that, this \$10,000,000 is not appropriated for the purpose of building the All-American Canal, if the canal was built; it was appropriated for the purpose of taking pieces of land and putting houses and barns and little farm units on it, and labor units, and putting a cow and a horse on it, and then selling them to people who have made a failure in every other walk of life, and let them go out there and live.

The CHAIRMAN. What I desire to know is this: Will not the Secretary of the Interior have the exclusive control of the disposition of all these moneys, their use in developing the project, and why will the State legislature have anything to do with it? Why should the State legislature pass any laws in any way controlling the disposition of these funds?

Mr. HAYDEN. If I may interrupt you at this point, this pamphlet, issued August, 1919, by Dr. Mead, states, on page 4:

A bond issue of \$10,000,000 has been authorized and will be voted on at the next election. The State has, therefore, a working plan and the likelihood of a large fund with which to create new communities, made up of both soldier and civilian settlers, and which will give broader opportunities to people of small means to become home owners. The land settlement law ought to be utilized in the development of a part of the mesa lands.

The CHAIRMAN. That is what I thought. I thought you were speaking now on a different proposition.

Mr. ROSE. That is what that \$10,000,000 proposes. It is all in the hands of the State legislature. Now, to do that, would cause delay.

Mr. BARBOUR. I can't see, Mr. Chairman, why the State of California can't cooperate later on if it wishes to. It requires a small act here to be passed by Congress, or a brief act to authorize the Secretary of the Interior to cooperate.

Mr. TAYLOR. Why can't the State of California do this whole thing? After all, it is Uncle Sam's credit you work on. Nobody that buys those bonds pays any attention to the Imperial Valley.

Mr. BARBOUR. It isn't the Government's money that is going to pay for it; it is the Imperial Valley money that is going to pay for it.

Mr. TAYLOR. Ultimately, but Uncle Sam has got to produce the cash and do the work.

Mr. SMITH of Idaho. The United States is not called upon for any appropriation under this bill.

Mr. BARBOUR. The same argument would apply to the Smith bill.

Mr. TAYLOR. The Government underwrites the bonds.

The CHAIRMAN. Proceed, Mr. Rose.

Mr. ROSE. Well, I don't know as I have anything further to say, except that I feel, as the representative from the Imperial irrigation district here, that it would be possibly a great mistake to make a change in the bill that you have carefully considered. It is a matter I am not qualified to pass on; I don't pretend that I am able to go into the Hayden bill and see all the various features of it that might affect the Imperial Valley, but we have given that very careful consideration and I certainly hate to see it changed.

Mr. SMITH of Idaho. It seems to me the arrangement of the Hayden bill is much better, and I know it will appeal to the Members a great deal more favorably if we set out first what it is proposed to accomplish and then bring in the matter of details later.

Mr. ROSE. Well, our idea in setting that up in this way was that the first act of the Secretary, the first thing he would do would be to sell those lands and create this fund, and let them organize an irrigation district, and then deal with the district and accept those bonds; and we figured that that would be the first step that the Secretary would take—that it would authorize him to take that first step, which would enable these outside lands to form irrigation districts and to go with the Imperial irrigation district and other districts to file their bonds for the building of the All-American Canal.

Now, the question arose here on Mr. Hayden's suggestion, why the Imperial Valley as at present constituted should not file a bond guaranty fund as the public lands did? For this reason, that the Imperial irrigation district as it is at present constituted has \$100,000,000 worth of operative property in it to-day and is actually producing \$50,000,000 worth of crops annually, while the outside lands produce nothing, and the Government is taking their bonds and holding them year after year during the construction when they are producing nothing. Certainly there is no need for a guaranty of bonds for fifteen or sixteen million dollars of the Imperial irrigation district's share of the all-American canal when we are producing \$50,000,000 annually and have \$100,000,000 worth of property behind it. That is the reason we are refusing. If there is any question of this guaranty fund it should come from the outside land first.

Mr. HAYDEN. The object of the guaranty fund in the Smith-Chamberlain bill, from which the Kettner bill was copied, was that there should always be cash on hand in the Treasury in advance of the time that any payment of interest is due. That is the principal purpose of having a guaranty fund. It is the same idea that they have in levying assessments for operation and maintenance nearly a year in advance, as they do under some reclamation projects. They have the money on hand to do the year's work with, and they are ready to meet any obligation that may occur.

If there should be a flood which caused some damage to a canal they have the cash to pay for the repairs immediately available. They do not have to wait to levy an assessment. It helps the value of your bonds to have such a guaranty fund behind them.

Mr. ROSE. The Kettner bill provides that our bonds shall fall due not less than 60 days after the Secretary might make the Government bonds fall due, but it might be 12 or 14 months. Our bonds might be 14 months in advance, and under that provision there he must make the certificates that he issues mature not to exceed 60 days after the date of our bond.

Mr. SMITH of Idaho. What indebtedness has the Imperial irrigation district?

Mr. ROSE. The Imperial irrigation district has a bonded indebtedness of \$6,000,000.

Mr. SMITH of Idaho. Do you plan to refund that from these bonds?

Mr. ROSE. No; they would not be refunded; they would be paid off.

Mr. SMITH of Idaho. Then, the Government's security would not be second?

Mr. ROSE. No; under the laws of the State of California, all bonds are equal, not second. No bonds would be first. Even if the Government bonds were first and they would issue another bond, they would not be first. That is the State law.

Mr. HAYDEN. For Mr. Rose's information, in order that he may compare the bill that I have prepared with the Kettner bill, I want to state that the first section of my bill is general and different from the Kettner bill; the second section is based on section 7 of the Kettner bill; the third section is based on section 3 of the Kettner bill; the fourth section is based on section 4 of the Kettner bill; sections 5 of the two bills are much alike; section 6 of my bill, relating to default in payment, is taken from section 9 of the Smith-Chamberlain bill; section 7 of my bill is based on section 1 of the Kettner bill; section 8 of my bill is based on the proviso to section 1 of the Kettner bill; section 9 of my bill is based on section 7 of the Kettner bill; section 10 of my bill is based on section 2 of the Kettner bill; section 11 is a new section relating to the authority to pay in cash; section 12 is based upon section 6 of the Kettner bill; section 13 is based on section 10 of the Kettner bill; section 14 is based on section 11 of the Kettner bill; section 15 is based on section 8 of the Kettner bill; section 16 is also based on section 8; section 17 is new, which relates to the limitation of delivery of water to 160 acres; section 18 is also new, relating to preference to soldiers; section 19 is taken from the reclamation law, granting the Secretary of the Interior general authority to make rules and regulations; and section 20 is based on an amendment to the Kettner bill, suggested by the Department of the Interior.

Mr. Rose can very readily compare the two bills and see the actual differences between them.

Mr. ROSE. Well, Mr. Hayden, I am not authorized, of course, as a farmer, to make an agreement for the Imperial Valley for changes. I think they have pretty well thrashed it out with the department, and to open up this question would simply mean that the Imperial Valley would have to send back her legal advisers and would have to thrash that all over again, if the Imperial Valley agreed to the substitute, and that would require a great deal of time and delay.

Mr. HAYDEN. Upon that theory our committee is bound to take your bill just as it is and pass it without exercising our judgment at all. I prepared my bill merely for the information of the committee; I do not intend to ask that it be referred to the department for report—we have practically done that by this conference with the Director of the Reclamation Service. What I have tried to do is to prepare a bill that represented, as best I understood it, the consensus of opinion of this committee, after all the discussion we have had, and let it be used as a basis to get us somewhere. When we are finally agreed on what kind of a bill the committee will report, we can then refer that bill to the department for a new report, as we frequently do, and thus have a clean bill to present to the House. That has been done time and time again.

Mr. SINNOTT. What is the difference in the thing that you were seeking in your bill and in their bill?

Mr. HAYDEN. Primarily, to start the bill out by saying all that we intended to do, and to provide for a limitation of area of land that may be irrigated by finding on the part of the Secretary of the Interior.

Second. To care for the problem of water storage.

Third. To provide for a limitation of the area of land that may be irrigated by any one individual.

Otherwise the bill is similar to the Kettner bill.

Mr. BARBOUR. Couldn't that water storage proposition be covered in another bill?

Mr. HAYDEN. I do not think it ought to be. The more I study this question the more I am convinced that we must recognize facts as they are. The time has arrived when water storage is necessary. It has happened more than once that every drop of water in the Colorado River has been diverted at certain seasons of the year.

Mr. BARBOUR. Just as Mr. Rose suggested a minute ago, the minute you go into the question of storage you are involving the rights of those other people. You get way up into Mr. Taylor's State, in Colorado, and all those people up there are interested in that question.

Mr. HAYDEN. Not at all. I see no such conflict. How could there be any conflict, Mr. Taylor, if the United States builds reservoirs on the Colorado River to store water that otherwise goes wasting to the sea.

Mr. BARBOUR. There is no conflict, but it is a matter of interest to them.

The CHAIRMAN. Gentlemen, it will soon be 12 o'clock, and we want to hear further, I think, from Director Davis on this question.

Mr. TAYLOR. Well, I don't believe that you can pass that bill through the House of Representatives—the Kettner bill.

Mr. THOMPSON. Mr. Taylor, can we pass this bill through the House?

Mr. TAYLOR. I don't know. It is broader and it puts them all on an equality, and it wouldn't be looked upon quite so much as purely an Imperial Valley proposition and taking into consideration nothing else.

Mr. THOMPSON. But here is the proposition, those Imperial Valley people need some relief. They have been around here all summer.

Now, there are certain interests down south of the line, beyond the Mexican border, controlled by Americans, that are fighting this Kettner bill. There are Californians, too. There is a "nigger in the woodpile" some place. This bill seems to me to spell delay.

Mr. SMITH of Idaho. Mr. Chairman, permit me to ask Director Davis a question. Mr. Director, in the event that we secure some additional money for the reclamation fund, the bill already having been reported in the Senate for \$250,000,000, would you then be able to go ahead and construct these reservoirs out of the general fund, extending over two or three years?

Mr. DAVIS. It would take longer than that. Yes, sir; we could provide for that.

Mr. SMITH of Idaho. That would be a very proper thing to do, would it not?

Mr. DAVIS. If the Imperial Valley lands are left in such shape that they can be bound for their share of the cost along with the other lands to be benefited, that can be done, whether it would be done or not, of course, is another matter.

I omitted, Mr. Chairman, one of my suggestions. By inserting in section 19, line 6, after the word "proper," inserting the words "in his judgment," would relieve that matter of any question that might be brought into court otherwise.

The CHAIRMAN. We want to hear from you further now with reference to the substance of the objections pointed out by Mr. Rose here, and what advantages there are in either one of these bills, the Kettner bill or the Hayden bill, what advantage do you find in the one over the other?

Mr. DAVIS. The first objection that Mr. Rose raised, that this does not require the construction of the all-American canal is a fact, of course. The term "all-American" is not in this bill, but it does not authorize the Secretary to build anything in Mexico, and it would require positive legislation to authorize that. So that the American canal is implied unless—the only alternative would be that the first leg alone might be built and turned loose from the present works, but that would not be following the mandates of the bill, which is to build a canal that would irrigate all the lands which could be reached by the Laguna Dam, which means a high-line canal, and dropping down to the present line would not be following out the bill.

The CHAIRMAN. Then this Hayden bill, properly construed, would carry out the real purpose of the all-American canal as provided by the Kettner bill?

Mr. DAVIS. It seems so to me; yes, sir; and it avoids the antagonism to Mexican interests that is objected to by the Secretary of State.

The CHAIRMAN. The Hayden bill does?

Mr. DAVIS. Yes, sir; it avoids reference to the all-American canal.

If that idea of antagonizing Mexico can be avoided without simply tying everything up until we get an agreement, I think it should be done.

The CHAIRMAN. That is, if we can avoid the use of that language, merely those words, your view of it is that those words might antagonize them, and if we can avoid the use of them it would be diplomatic to do so?

Mr. DAVIS. I think it is diplomatic to do so; yes, sir. And I don't see that there is any menace in the enactment of the bill in this way.

Mr. WELLING. You haven't the least doubt but what the money collected would be expended upon this very project under the terms of the Hayden bill, have you?

Mr. DAVIS. No, sir; unless—there is this possibility: If this kind of legislation is passed, it will be an announcement that the Imperial Valley is going to take care of its own water supply, and then Mexican interests will be in such shape that they will have to negotiate or take the consequences. It wouldn't be a direct threat or a direct provision that we are going to take water away from Mexico, but it will mean that it will be taken out of the hands of the Mexican authorities, who will not be able to divert the water from them. Of course, there is not much difference in fact—no difference in result—but the difference in language I think is the diplomatic manner to be followed. And when they get this kind of legislation it is very possible that the Mexican Government will come to us for some arrangement which the State Department, I understand, is very anxious to make with them, an arrangement by which all this can be settled amicably; and if they do that before there has been time to do any construction or to do anything antagonistic to it, it might be possible that an arrangement will be made by which the high-line canal can successfully and safely be carried through Mexican territory by giving the United States jurisdiction over that, just like we have over the Panama Canal Zone, or some such arrangement as that, and this bill would permit that.

Mr. SINNOTT. What do you mean? Build the high line as distinguished from the all-American canal?

Mr. DAVIS. The all-American line is a high-line canal, but it is possible to build the canal on the same grade around here a little cheaper [indicating on map].

The CHAIRMAN. And avoid the sand region?

Mr. DAVIS. No; we will have to build through the sand region. The saving is estimated at about 10 per cent of the cost of the canal going through the heavy cuts. It simply gets into land where you wouldn't have to cut so deep. I don't say that it is advisable to do that.

Mr. HAYDEN. You would not advise doing anything of that kind unless there was a transfer to the United States of jurisdiction over that Mexican territory similar to the Panama Canal Zone?

Mr. DAVIS. No, sir; I would not.

Mr. HAYDEN. Neither would I.

The CHAIRMAN. That would be just a short distance into Mexico.

Mr. DAVIS. Only 6 or 7 miles.

The CHAIRMAN. And that would save a lot of expenditure?

Mr. DAVIS. Yes; the information on the high line through Mexico is not at all complete. There is no survey that has been made of it for lack of authority to make surveys into Mexico, but men of intelligence able to judge of such things have ridden over it and have looked at it and have made that kind of a report.

Mr. BARBOUR. How long, Mr. Davis, would it delay the matter?

The CHAIRMAN. How much would it save?

Mr. DAVIS. It would save in the neighborhood of 10 per cent of the cost.

Mr. HAYDEN. The Mexican authorities could have no legitimate objection to the construction of a high-line canal which had for its object the irrigation of the east mesa in the Imperial Valley?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. We have the land; we control the way of diverting the water from the stream, and we would have a perfect right to do that without any diplomatic protest on their part?

Mr. DAVIS. Absolutely. But if we build a canal large enough to carry all the water that the Imperial Valley uses, it would be practically an announcement that we were not going to let any run down through the other canal. But even that wouldn't involve the element of permission; we can always drop water into that canal if proper arrangements are made by which it is brought down there, and it isn't necessarily a threat against the Mexican lands to build a high-line canal.

Mr. HAYDEN. That is my idea. I am also inclined to agree with you that we can not enter into any successful negotiations with Mexico until Congress has enacted legislation to authorize the construction of a canal to irrigate the Imperial Valley lands.

Mr. DAVIS. That is what I hold, and as long as we hold—if we do hold—as some claim, that we must not take any action of this kind until we get an agreement with Mexico, it simply announces, "We are in your hands; do with us as you please."

Mr. HAYDEN. I do not believe that anybody on this committee feels that we should remain in such a position as that.

Mr. DAVIS. One other objection that has been raised by Mr. Rose is the difficulty of raising funds upon bonds issued by districts where the district includes public lands, and they have not been sold. The provision on that subject in this bill is merely discretionary with the Secretary of the Interior, and it is only a small portion of those lands in the State of California that he will be able to utilize for soldier settlement purposes. Of course, so far as it is necessary to raise the money, those lands could be sold in advance, but I don't see how it is necessary to do that to raise the money.

There was a provision for the sale of lands in the original Kettner bill to provide a guaranty fund. Now, the lands before they are sold, as the prospect of water approaches, are a better guaranty than the money which would be received for them if they were sold long before that. And so far as the raising of money is concerned, that depends upon these lands being bound by the action of the district. Now, under the Kettner bill they could not be so bound, and under this bill they can. I mean that under the Kettner bill they could not be so bound unless the land was sold, and under this bill they can. This bill makes those lands available as a basis for a bond issue, just the same as the Kettner bill, but in the form of public lands rather than private lands; and leaving them in the hands of the Government makes them a better guaranty than if they are sold in advance, because they are worth more every day as the delivery of water approaches.

Mr. ROSE. I would like to ask Mr. Davis a question. Those lands are not bonded and they can not be bonded in their present condition, and they can not organize an irrigation district in their present condition. Now, the bill provides for the filing of bonds for the

construction of the all-American canal in advance of the construction of it; how could they file those bonds and pay their proportion?

Mr. DAVIS. This bill provides that those lands may be included in the district, although they are a majority, and the district can issue bonds, can't it?

Mr. ROSE. But under the State laws, the district must have a population of 500 actual residents there.

Mr. DAVIS. Are you sure that is a fact?

Mr. ROSE. We have got the law right here.

Mr. DAVIS. I have heard it questioned. It may be the case.

Mr. ROSE. And those 500 must be bona fide residents, and the majority of the lands in there must petition, and then it must be submitted to an election, and a majority must vote for it at the election, and they must subdivide it into various districts.

Mr. DAVIS. There isn't any obstacle there to including these lands in a district that includes settled lands. For example, the Imperial irrigation district might be extended to include these lands.

Mr. ROSE. It might be extended and could under this provision take in these lands, but the objection to that probably would come that it requires the consent of the people inside to take them in.

Mr. DAVIS. Well, I don't think that is unfair.

Mr. ROSE. Well, it is under such conditions as they might see fit to prescribe. Now, the land which would be taken in is not all public land, so certainly if the conditions were not satisfactory to the private lands out there, they would not come in. In other words, supposing they attempted to attach a portion of their bonded indebtedness, the present private lands out there would not consent to it.

Mr. WELLING. I want to ask you a question. Under your law, do you think you could get 500 families to move out onto these unoccupied public lands and form an irrigation district without any water in sight or anything of the sort, and then go to work and vote for the bonds? In other words, can you settle these public lands under your law? Can you get the people to go out there and do it?

Mr. ROSE. Absolutely.

The CHAIRMAN. What is their basis for legal residence? Do they enter these lands first?

Mr. ROSE. They would purchase the lands and build houses there, and probably put down a well or a community well, and then they would settle there and register that that was their residence.

Mr. WELLING. They couldn't make a living there.

Mr. ROSE. They couldn't make a living there, but they could settle on it.

Mr. WELLING. That would just be constructive residence.

Mr. ROSE. That is all, complying with the law.

The CHAIRMAN. We will have to adjourn, gentlemen. It is 12 o'clock, and we will take this measure up next week.

Mr. WELLING. I am going to make a motion that the Hayden print of the proposition, the Hayden idea, be submitted to the Secretary of the Interior, and that we ask for a report on it with special reference to its meeting the requirements of the Kettner bill. We have got to do that now, it seems to me. I think we ought to do it. I want to know if the Hayden bill fairly meets all of the requirements of the Kettner bill.

The CHAIRMAN. The requirements of the Kettner bill or the requirements of the Imperial Valley?

Mr. WELLING. The needs of the Imperial Valley.

The CHAIRMAN. As represented by them?

Mr. BARBOUR. If we have got to take up this Hayden bill and if we have got to have further delay, wouldn't it expedite matters if we had a subcommittee of this committee appointed to do that? Why do we have to go to the Secretary of the Interior and wait on all these matters? We are familiar with the questions involved in a general way at least, and why couldn't we appoint a subcommittee to take this up and get some action on it?

The CHAIRMAN. Well, we have got to say all the time on the floor that the Secretary of the Interior has indorsed these bills. We will have to say that.

Mr. WELLING. The idea is this: In my mind, they have got special law officers down there who are experts only in matters of drafting bills but who would understand the technical relations of all of these different problems to each other, and I would like to have the benefit of their opinion.

The CHAIRMAN. If we go on the floor of the House to pass this bill, we need the unqualified indorsement of the Department of the Interior.

Mr. TAYLOR. The chances are, Mr. Barbour, that the Interior Department would grant the composite bill and offer it back to us as a substitute, which would probably take up some of the Hayden provisions and dove-tail these things together in here; maybe leave out some or add some of them, and draft a bill here that they might recommend. If they do that, we would simply strike out all after the enacting clause of the Kettner bill and substitute this and go on.

Mr. HAYDEN. I think it would be advantageous, Mr. Chairman, to follow Mr. Barbour's suggestions and have you formally appoint a subcommittee to consider this legislation. I have been somewhat embarrassed about the work that I have done. I was not especially delegated by the committee to do it, and yet I tried to get a general idea, by questioning the witnesses and by questioning the members of this committee, as to about what the opinion of the committee would be; I thought this bill of mine would be helpful in that way. I am just as anxious as any man on the committee to see prompt action on this legislation.

Mr. BARBOUR. Could the secretary have back, Mr. Davis, do you think, a draft, as suggested by Mr. Taylor, inside of two or three days?

Mr. DAVIS. I don't know whether such a draft would be necessary. If it were referred to my office I don't think so.

Mr. BARBOUR. You could point out the features of the Hayden bill that you think are desirable, and of the Kettner bill, or preferably to the Kettner bill, and then let the subcommittee take it and thrash it out and be ready to report some day next week, and decide what we are going to do?

Mr. DAVIS. Of course, I don't know whether the Secretary would indorse my draft. I am not trying to commit the Secretary at all.

Mr. TAYLOR. I move that a subcommittee of three be appointed. I think Mr. Smith, Mr. Barbour, and Mr. Hayden can get together

here. They are more familiar with it. Mr. Smith has given a great deal of thought to this matter; in fact, he has got a bill here that he is entitled to have reported.

Mr. BARBOUR. I suggest that Mr. Smith be the chairman of the subcommittee.

Mr. WELLING. What are you going to do about submitting the Hayden print for report from the department?

Mr. BARBOUR. We will submit both of them.

Mr. WELLING. I ask that that be done, Mr. Chairman.

The CHAIRMAN. Let us understand specifically, which one do you want to submit?

Mr. WELLING. The Hayden bill.

Mr. TAYLOR. And call attention to the Kettner bill.

The CHAIRMAN. Then the subcommittee is appointed as suggested, Mr. Barbour, Mr. Hayden, and Mr. Smith, and we will now adjourn.

Report of the Secretary of the Interior, see appendix, Exhibit B.

Report of the Secretary of State bearing on treaty provisions in force between the United States and Mexico upon the provisions of Kettner bill, see appendix, Exhibit C.

Report of the Secretary of the Treasury on H. R. 9421 (Mr. Hayden), see appendix, Exhibit D.

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF COMMITTEE ON
IRRIGATION OF ARID LANDS,
Wednesday, October 29, 1919.**

The committee met at 2 o'clock p. m., being a subcommittee of the Committee on Irrigation of Arid Lands, having under consideration H. R. 6044, known as the all-American canal for the Imperial and Coachella Valleys, Calif., consisting of Mr. Barbour, Mr. Hayden, and Mr. Smith, all of whom were present, Mr. Barbour presiding.

Mr. BARBOUR. Gentlemen, we have had referred to us H. R. 6044 by Mr. Kettner, and we have met for the purpose of hearing further testimony from Mr. Thomas C. Yager, representing the Coachella Valley, and Mr. Mark Rose, representing the Imperial Valley, Calif. Mr. Yager, the subcommittee will now be pleased to hear from you.

**STATEMENT OF THOMAS C. YAGER, REPRESENTATIVE OF THE
COACHELLA VALLEY, MORE PARTICULARLY THE COACHELLA
VALLEY WATER DISTRICT, COACHELLA, CALIF.**

Mr. YAGER. Recently you may have heard a great many statements being made in regard to the position taken by the different departments of our Government and how their position is affecting the passage of our bill; so I have asked permission to discuss before your committee some of those positions and present some facts as we know them, and in the outset I want to state that it is not a desire on my part to criticize or be discourteous to any of the departments in any of my statements. However, if the facts which I present are disparaging to their interests they are facts that are created not by us but by the departments.

Since the hearings before this committee in the whole, there has been received a letter from the State Department opposing this

legislation. I will state that the State Department has set out in its letter that there is no legal or treaty obligations upon the part of the United States that compels the United States to furnish waters of the Colorado River to Mexico. In other words, there is no legal or treaty obligations depriving American citizens from diverting those waters upon American land. But the State Department in addition to that goes beyond that statement and suggests this wording: "I may say that it would seem to me that consideration of equity and comity would require that the bill should be so amended as to provide that the work contemplated thereby should not be constructed until the conclusion of an agreement between the Government of the United States and Mexico for the equitable distribution of the waters of the Colorado River."

I have stated that there is no legal or treaty obligations upon the United States that requires any distribution of the waters of the Colorado River with Mexico, and that is stated in Mr. Lansing's letter. Now, when we analyze Mr. Lansing's position and know conditions existing in Imperial and Coachella Valleys, I feel that he is not only opposing the interests of the people of the Imperial and Coachella Valleys, who are trying to develop the arid land of that district and create a valuation there that the people of this Government should be proud of, but he is opposing the interests of every citizen of the United States when we talk of depriving those citizens of something that is inherently ours. The waters of the Colorado River rise entirely within the United States and are inherently the property of the citizens of the United States.

I will state that the Imperial irrigation district, that has been most ably represented before this committee by Mr. Swing, has been bled by those interests south of the line. I refer to the Mexican corporations composed of American citizens, who have gone into Mexico for the purpose of exploiting Lower California and have developed their property in Mexico by waters of the Colorado River, and that most of this development has been paid for by farmers and at the expense of the land on this side of the national boundary line. It is this situation that I want to discuss in connection with the letter of Mr. Lansing.

Every mule, every man, all property that is taken into Mexico for the purpose of putting in protection works, not only for land on this side of the line but for protection of the land on that side of the line, has been taxed by the Mexican Government. They taxed the rails to the extent of \$25,000 that were laid on the levee in Mexico by the Imperial irrigation district for protection work; they tax all gravel, rock, and sand put there for building up protection work.

Mr. SMITH. Was that protection work for the benefit of the Imperial Valley people exclusively?

Mr. YAGER. Not at all, Mr. Smith. It was protection work for all of that territory in Mexico south of the line as well as for the Imperial irrigation district, and, as you can see from the map, any water that would break out there for any reason would first flood over Mexican lands, also the town of Mexicali, which is in Mexico.

Mr. SMITH. So they make you pay for the privilege of protecting their own property?

Mr. YAGER. The Imperial irrigation district has paid for that. They have paid \$5 a head for a mule to go over there, per month,

and \$3 a head for a man to go over there to do that work for the protection of their own property, as has been shown by delegates from Imperial.

Mr. BARBOUR. That was per month?

Mr. YAGER. Yes, sir.

Mr. BARBOUR. Did they contribute to that expense?

Mr. YAGER. They have been asked to contribute to that expense, but they refused. That deplorable condition has been presented to the State Department, and Mr. Baker, speaking for the State Department, said this:

If you want us to make representations to Mexico City, I will do so. It is reasonable and it is right, what you ask, and I would make representations in the matter to any other nation in the world with confidence of their being granted, but I will tell you in advance that our mere expression to Mexico of the fact that this Government is interested in the proposition and asking that it be granted as a favor would insure it being denied.

Mr. BARBOUR. What are you reading from there?

Mr. YAGER. That is a statement made to Mr. Swing, who went to the State Department for the purpose of having that very condition corrected.

Mr. BARBOUR. Are you reading from Mr. Swing's testimony?

Mr. YAGER. Yes; sir.

Mr. BARBOUR. Did he give that as testimony or make that statement?

Mr. YAGER. That was the statement made to him when he went before the State Department.

Mr. BARBOUR. What page is that?

Mr. YAGER. Page 118 of the hearings before the Committee on Irrigation of Arid Lands. So that is the position of our State Department in regard to correcting that deplorable condition of the Imperial irrigation district. That condition is still existing with nothing being done by that department to relieve the people of Imperial Valley, who are being bled by the Mexican interests for the upbuilding of their lands in Mexico. And it is these same interests who are attempting to block legislation which will permit the development of more land within the United States.

Now, we come back to the letter of the State Department. When we attempt to get legislation that will allow the Imperial Valley to sever its partnership and get out of those conditions and permit the further development of land within the United States by building an all-American canal the State Department says that this legislation should be delayed until we enter into a treaty with Mexico regarding an equitable distribution of the waters of the Colorado River, which waters belong inherently to the United States.

Mr. BARBOUR. Is that letter printed in the hearings?

Mr. YAGER. That letter has been filed with the hearings, but is not printed.

Mr. HAYDEN. I have the original letter here and would suggest the entire article be printed in the hearings.

Mr. YAGER. Yes, sir; and with your permission I will read my answer to that letter.

Mr. BARBOUR. You may do so.

WASHINGTON, D. C., August 26, 1919.

Hon. M. P. KINKAID,

*Chairman of the Committee on Irrigation of Arid Lands,**House of Representatives, Washington, D. C.*

SIR: In response to your honorable committee's letter directed to the State Department, in which letter you ask to be advised as to the treaty or legal rights of the United States regarding the waters of the Colorado River. You have received the communication from the State Department dated August 20, 1919, signed by the Hon. Robert Lansing. I believe it to be clear and undisputed that there are no legal or treaty obligations upon the United States prohibiting the appropriation and diversion of the waters of the Colorado River upon the lands of the United States for irrigation purposes. But this communication goes beyond this point, and Mr. Lansing states:

"I may say that it would seem to me that consideration of equity and comity would require that the bill should be so amended as to provide that the works contemplated thereby should not be constructed until the conclusion of an agreement between the governments of the United States and Mexico for the equitable distribution of the waters of the Colorado River."

It is to this portion of the letter that I wish to respectfully direct my comment. This committee will bear in mind that practically the only waters of the Colorado River used in Mexico are those used by American capitalists who have formed corporations under the Mexican laws, and are developing large tracts of land at the expense of the farmers of the United States; that these capitalists have so manipulated it that these farmers of the United States and the lands of the United States are bonded for and have built the Mexican canals and are furnishing these Mexican lands with water, and that this water is diverted out of the Colorado River within the United States. Here permit me to quote the words of Chief Justice Marshall in the Schooner-McFadden case (7 Cranch, p. 136):

"The jurisdiction of the Nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitations not imposed by itself. Any restrictions upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction and an investment of that sovereignty to the extent in that power which could impose such restriction.

"All exceptions, therefore, to the full and complete power of a nation within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

Also from the opinion of Attorney General Judson Harmon (21 Official Opinions, 274) :

"The rules, principles, and precedents of international law impose no duty or obligation upon the United States of denying to its inhabitants the use of the water of that part of the Rio Grande lying entirely within the United States, although such use results in reducing the volume of water in the river below the point where it ceases to be entirely within the United States.

"The fact that there is not enough water in the Rio Grande for the use of inhabitants of both countries for irrigation purposes does not give Mexico the right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory. The recognition of such a right is entirely inconsistent with the sovereignty of the United States over its national domain."

The Secretary of State has clearly set forth in his letter that there is no legal obligation imposed upon the United States which prohibits a diversion of the waters of the Colorado River for irrigation purposes. Wherein, then, does equity and comity compel American citizens to concede rights to Mexico depriving American farmers and American lands of the water of the Colorado River?

Is it against the sound principles of equity for American farmers and American lands to build their own canal on their own territory and use their own water in the development of their own lands? Why should we ask Mexico if we can do this? Did the citizens of Utah or of Colorado or of Arizona ask Mexico if they could use the water of the Colorado River, or did they delay the construction of their diversion works until they entered into a treaty with Mexico regarding the "equitable distribution of the waters of the Colorado River"? Or did the United States Government, prior to the expenditure of millions of dollars of Government funds for reclamation work on the Colorado River, treat with Mexico regarding these waters? No. Then, why should our Government compel the farmers of the Imperial and Coachella Valleys, Califor-

nia, to treat with Mexico regarding these waters? "He who comes into equity must come with clean hands." Mexico has conceded she has no right to these waters, and it seems that it is certain Americans alone that insist that she has.

Engineer De la Garza, in his report to the Mexican minister, Formento, dated January 23, 1912, quotes from the opinion of Emilio Valazco, which states:

"The Republic (of Mexico), however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory, etc."

I respectfully submit to your committee that the case of the Rio Grande cited by the honorable Secretary of State is materially different from the case in question. The waters of the Rio Grande were actually diverted from the river on Mexican territory and used by the Mexican people in the development of the Mexican land for a period of some 300 years. In the case of the Colorado River there are no waters diverted from the river on Mexican territory, and there are very few, if any Mexican farmers using Colorado River water, but Mexican corporations composed of American citizens. And even in the Rio Grande case, Senator Thomas, in the speech delivered before the United States Senate on the 23d and 24th of March, 1914, most emphatically and justly criticized in no uncertain terms the entering into by the United States of such a treaty, disregarding the inherent rights and the sovereignty vested in the American people.

Senator Thomas was speaking of the treaty of May 21, 1906, the very treaty to which Mr. Lansing refers. Let me quote you his words:

"Now, Mr. President, that treaty upon its face is an ordinary engagement between two sovereign powers, one of which engages to settle certain controverted local matters between them by furnishing and delivering at its own expense for all time 60,000 acre-feet of water to the other. It is, in fact, the consummation, Mr. President, of a sordid, shameful, and successful intrigue, conducted in the interests of private parties, impelled by greed and gain, based upon the existence of no legal, equitable, or moral claim whatever on the part of the Mexican Government or any of its citizens against this Government or any of its citizens."

"Mr. President, I do not hesitate to brand this treaty scheme as a huge speculative enterprise conceived by greed and fostered by government agencies; a scheme the needs of which are out of all proportion to the ends finally accomplished in its name."

Are the farmers of Imperial and Coachella Valleys to have this same monstrosity imposed upon them?

What American citizen proposed that the Government of the United States adopt a liberal policy toward Mexico that would permit such dealings?

I wish to state that it was the same treaty referred to that provided in itself that this policy should not be considered as a precedent to be followed in future dealings with American waters and this treaty was ratified by Mexico, conceding such a policy should not be considered as a precedent.

Can this Government, upon theory of equity and comity, use the waters of the Colorado River for reclamation purposes and deny that same right to American citizens?

Gentlemen of this committee, we come to you most sincerely pleading the protection of our legal rights, and our equitable and just rights, in our effort to develop the arid lands of the United States, and for the immediate protection of the lives and property of 60,000 American citizens. Wherein does equity compel us to disregard the just rights of these citizens and develop the lands of a few capitalists who have gone beyond the protection of the United States and into a foreign country to exploit that territory, who are willing to have sacrificed the inherent rights of American citizens and American lands for their own aggrandizement, under the guise of equity and comity?

The representatives of the Imperial and Coachella Valleys have endeavored to justly and accurately present to your committee the situation, and in answer to this letter earnestly contend that "charity begins at home."

Respectfully submitted.

THOS. C. YAGER.

As I said, Mr. Lansing's position is that equity and comity alone under those conditions requires that we enter into a treaty regarding the equitable distribution of the waters of the Colorado River,

and he cites in support of that contention the Rio Grande treaty entered into in 1906.

Mr. ROSE. He doesn't desire us to enter into a treaty immediately. He asked the committee to hold this up till they do enter into a treaty. It may be 50 years from now. He puts it into the hands of Mexico. They may never enter into the treaty.

Mr. HAYDEN. In reading the letter from the Secretary of State I notice that he cites the Rio Grande case wherein it was proposed to divert waters from the Rio Grande in the United States. In that case he conceded, as he now concedes in the case of the Colorado River, there is no doubt of the right of the United States to divert the water. Secretary Lansing states that in the case of the Rio Grande, Congress enacted legislation to authorize the construction of the Elephant Butte dam above El Paso. The legislation to which he refers is the passage of the reclamation act, approved June 17, 1902. It was not until May 21, 1906, that a convention was concluded between the United States and Mexico which apportioned the waters of the Rio Grande between the United States and Mexico. So according to the Secretary's own statement there is no reason why legislation should not first be enacted to authorize the diversion of the waters of the Colorado River and negotiations conducted afterwards as in the Rio Grande case. There is no doubt in either case that the United States has the right to construct such irrigation works regardless of any diplomatic negotiations. It therefore seems to me the Secretary is inconsistent when he recommends that negotiations with Mexico should precede legislation by Congress.

Mr. BARBOUR. If you are to have negotiations with Mexico you would arrive at negotiations much quicker by going ahead now than waiting for the negotiations.

Mr. YAGER. Mr. Chairman, I would like to state that Senator Thomas in a two days' speech before the Senate discussed the Rio Grande treaty most fully. That is a speech of March 23 and 24, 1914, where he took up and answered this treaty dealing with the waters of the Rio Grande, the very treaty that Mr. Lansing bases his position on here. And Senator Thomas's words are most applicable to our situation.

Mr. HAYDEN. Has Senator Thomas's speech been printed in this record?

Mr. YAGER. I don't think it has. This is what he says regarding that treaty on page 4 of his speech:

Now, Mr. President, that treaty upon its face—

Speaking of the Rio Grande treaty—

is an ordinary engagement between two sovereign Governments, one of which engages to settle certain controverted local waters between them by furnishing and delivering at its own expense for all time 60,000 acre-feet of local water to the other. It is, in fact, the consummation, Mr. President, of a sordid, shameful, and successful intrigue conducted in the interest of private parties impelled by greed and gain, based upon the existence of no legal, equitable, or moral claim whatever on the part of the Mexican Government or any of its citizens against this Government or any of its citizens.

And, going on, he states on page 54 of the same recorded speech:

Mr. President, I do not hesitate to brand this treaty scheme as a huge speculative enterprise conceived by greed and fostered by governmental agencies, a scheme the needs of which are out of all proportions to the ends finally accomplished in its name.

That is the very situation we are in regarding the waters of the Colorado. The waters of the Colorado River are inherently ours, and why should we American citizens be deprived of the use of these waters, to the detriment of the development of our lands, while Mexican lands are being developed by these waters? I can't help but feel the position of the State Department is not tenable and is against the interests of the American Government and American citizens, and I desire as a representative of that section of the country to present that situation to your committee.

Mr. HAYDEN. The Secretary of State says that considerations of equity and comity should govern the distribution of the waters of the Colorado River, based upon the same consideration which governed the equitable distribution of the waters of the Rio Grande.

Mr. BARBOUR. Does he indicate right there whether there is any agreement being considered at this time?

Mr. HAYDEN. Secretary Lansing states at the end of his letter:

The Government of the United States proposed in 1912 to the Government of Mexico that a convention be concluded providing for the appointment of a commission to study, agree upon, and report the basis of distribution and appropriation of the waters of the Colorado River, the findings of the commission, if and when approved by the two Governments, to be embodied in a treaty. After an exchange of several draft conventions a form of convention seems to have been practically agreed upon in May, 1913, but, apparently, because of the strained relations which have been existing between the Government of the United States and the so-called Huerta administration in Mexico the convention was never signed, and the matter has been since in abeyance.

Mr. BARBOUR. What could be the considerations in equity and comity between the nations that would ask us to do that?

Mr. SMITH. There might be some consideration of comity, but not of equity. Comity, as I understand it, would be promoting the friendly relations between the two nations. Equity would imply that they had some right to the water.

Mr. HAYDEN. The Secretary states that "although the provisions of the bill in question are not clear upon the point as to whether the works, for the construction of which the bill provides, would result in the use of practically the entire flow of the Colorado River at a point a little north of the boundary line between the United States and Mexico, information coming to me from other sources appears to indicate that such would be the case during certain seasons of the year." It is a fact that there is under cultivation, according to the testimony before this committee, approximately 100,000 acres of land in Lower California, and if, as the Secretary of State has said, the entire flow of the Colorado River, during certain seasons of the year, would be diverted to lands in the United States, the Mexican lands would be deprived of water. In your opinion, is there any equitable consideration existing between the two Governments which would make it advisable to have an understanding as to the division of water for lands in both countries which require the use of it in order to continue to produce crops?

Mr. YAGER. If I may answer that in the event of a shortage of water it simmers down to a question of whether we are going to allow American lands on this side of the border to be deprived of water? or are we going to give our water to Mexican people to satisfy them, to cultivate their lands and let our people's go bare?

Mr. HAYDEN. Is it proper to assert our rights to that extent? Could there not be an equitable division of the water between the lands in the United States and in Mexico, recognizing in each case that the lands in each country have acquired a valid appropriation of water?

Mr. YAGER. I will state this, that the engineers have told us that there is water enough in the Colorado River for the irrigation of the whole watershed, but it will require storage to get that water so that there will be equalization of the stream throughout the year. If we go ahead about our own business and build this canal and if there is a shortage of water below the line, they will come to us—the people of the United States—and offer to pay for storage for additional water, but I do not believe Mexico has acquired any right, either equitable or legal, to these waters.

Mr. HAYDEN. You would not object if the Governments of the United States and Mexico should negotiate a treaty with the result that the people of Mexico should pay their fair share of the cost of any storage works which might be constructed in the United States?

Mr. YAGER. No; I can see no objection. I think the United States could furnish these Mexican lands with water provided they paid an amount which would justify the United States in building storage.

Mr. HAYDEN. The condition now is that the Mexicans have a right to the use of one-half of the water that passes through Mexico. You propose to change the conditions by the construction of an all-American canal, so that when there is not enough water in the Colorado River to supply all the lands in the United States and Mexico, the American lands shall use it and the Mexican lands shall go dry?

Mr. YAGER. There is no obligation upon the United States to continue running water through Mexico, and if Mexico does not wish to bear the expense of obtaining this water let her lands go dry. American lands should not be forced to bear the expense of irrigating Mexican lands.

Mr. HAYDEN. You decline to recognize that the Mexicans have any rights whatever by reason of the fact that they have been applying the waters to beneficial use on their lands?

Mr. YAGER. The fact that Mexicans have been using these waters does not deprive American citizens of their right to the use of them.

Mr. HAYDEN. I am not referring to a legal right, but to an equitable right.

Mr. YAGER. They have no equitable right such as referred to in that letter of the Secretary of State, nor can those interests come before this committee with clean hands claiming an equitable right.

Mr. HAYDEN. If the irrigable area in the Imperial Valley is enlarged by the construction of an all-American canal of sufficient capacity to take all the water out of the Colorado River, for the two or three months of the year when the water is low, it would then be your purpose to see that the entire flow of the stream is diverted into the United States and let the lands in Mexico go absolutely dry during such seasons?

Mr. YAGER. It has been American lands that have built up and paid for the irrigation of that Mexican land. The Imperial Irriga-

tion District voted bonds and paid for the canals through which the Mexican lands get water. They are under no equitable obligation to continue to furnish them water. If we go ahead and build an all-American canal and make it a business of our own and use the waters of the Colorado River on American lands, they can come to the United States and get plenty of water by paying for the storage, and if they do not want to pay for the irrigation of their lands, let them go dry.

Mr. HAYDEN. That is, you would require the Mexicans to pay for the construction of storage works in the United States to provide for the same supply of water which they now have without paying anything?

Mr. YAGER. Yes; for they are not entitled to these waters without paying anything.

Mr. ROSE. Your statement is correct, Mr. Hayden, without paying anything. We paid for the canal down there.

Mr. HAYDEN. There is no dispute about the fact that the Mexicans have a very one-sided contract in their favor at the present time, but this committee is bound to, in good faith, answer the objection made by the Secretary of State. I am trying to get your opinion, what you would have us say when this issue is raised in the House when consideration is given to this legislation. The Secretary of State is of the opinion that Congress in passing the Kettner bill would be dealing inequitably and violating the comity which should exist between nations. Your idea is—I want to clearly get your views—that the United States should simply take all the water because we have the legal right and a physical way of doing it, and let the lands in Mexico go dry and be without water when the American lands can use the total supply from the Colorado River?

Mr. YAGER. Let me go ahead and explain here. They can get water for their lands if they will pay for it. Heretofore the Mexicans have been getting water and Americans have paid for it. I say let us go about our own business and get our own water. If they want water, they can get it; and if they don't care enough about it to come and say, "Here, we want more water, and we are willing to pay for it," let the Mexican lands dry up. It is up to them whether they want water or not. It is not right or equitable that American lands be taxed to build canals and furnish water to Mexican lands when American lands are bare and the water ours.

Mr. HAYDEN. Would you limit the Mexican landowners by permitting them to obtain only such a supply of water as they could get by paying for storage works which would provide for their lands, or would you also provide that they might pay for their proper share of the all-American canal, with the privilege of obtaining water from the Laguna Dam from irrigation works which might be undertaken immediately?

Mr. YAGER. I think that the United States should make a fair charge for any water furnished Mexican land; and if the United States has to build a dam or canal to supply Mexico with those waters, the charge should be regulated by the cost in furnishing the waters.

Mr. HAYDEN. Then, you would have the Mexicans pay their pro rata share, based upon the land now in cultivation in Mexico, for storage,

for the privilege of connecting with the Laguna Dam, and for the cost of enlarging the canal capacity from Laguna Dam down to the Mexican border, so as to carry water to them. You think it is fair for the Mexican lands to pay all such charges?

Mr. YAGER. Yes, sir. If they obtain their water from the United States, this Government should charge for furnishing it.

Mr. HAYDEN. Do you believe that negotiations should be conducted by the State Department with the Government of Mexico to ascertain what they are willing to do in that regard?

Mr. YAGER. Of course at the present time they are not willing to do anything and very openly state that they do not need to do anything. They are getting their water for nothing practically. American people are paying for it; they don't need to do anything. They don't want a treaty. It has been only those American interests down there that have suggested a treaty in the face of this legislation. If we should enact this legislation and make it a law on our statute books, I don't think it would be five minutes before they would come to us and say we want to treat with you. This Government, I don't think, would be disposed not to treat fairly with them, but they are drying up our land by reason of their extended use of water; and if allowed to continue, it will be only a time before the Imperial Valley will be a dry desert, as it was years ago.

Mr. SMITH. In other words, you believe the American people have a right to use the water in their own way without the Mexican people having anything to do with it?

Mr. YAGER. Yes, sir. I would like to quote in that connection the opinion of Attorney General Judson Harmon:

The fact that there is not enough water in the Rio Grande for the use of inhabitants of both countries for irrigation purposes does not give Mexico the right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory. The recognition of such a right is entirely inconsistent of the sovereignty of the United States over its national domain.

Mr. HAYDEN. Your idea is that if we were in the same position with respect to an equitable division of the waters of the Colorado River as the United States was at the time of the agreement entered into with Mexico regarding the waters of the Rio Grande—that is, if there was a law on the United States statute books authorizing the Secretary of the Interior to use all the water of the Colorado River as he saw fit—that would then be the time to conduct diplomatic negotiations with Mexico rather than to attempt to negotiate prior to the passage of such a law?

Mr. YAGER. Yes. Pass the law, and they will be willing to treat, I think. This Government, I don't think, has any disposition to impose any hardships on Mexico or deprive them of anything they have there. All we want is not to be deprived ourselves.

Mr. HAYDEN. If precedents amount to anything, the United States certainly was liberal enough in the Rio Grande case to insure the Mexicans that they will get justice in the apportionment of the waters of the Colorado River.

Mr. YAGER. After the way we have been treated regarding these waters and after the many insults we have received from Mexico I can not understand why our State Department suggests that comity requires so much from us. We can't pick up a newspaper hardly

any day but what we see an insult has been made to the United States by demanding thousands of dollars for a ransom. So that is our contention with regard to the position of the Secretary of State. I don't believe it is tenable. I think it is directly against our interests as American citizens.

Mr. ROSE. There is one thing that strikes me. It strikes me as queer that the Secretary of State of the United States should be pleading for the interest of some foreign country rather than the interests of 60,000 citizens of the United States.

Mr. HAYDEN. That is not a fair attitude in which to place the Secretary of State. He is compelled to frequently deal with the Government of Mexico with regard to the rights of Mexican citizens in the United States and the rights of American citizens in Mexico. He wants to be in position to treat with them about all matters of mutual interest. It is entirely proper for the Secretary of State to advise that there are relations between the two Governments which deserve fair consideration by Congress. You think only of the Imperial Valley situation, which is deplorable; but you must remember, Mr. Rose, that the Secretary of State has to deal with a great many other situations which are just as difficult, with probably as large interests involved, in which he must act fairly by the Mexican Government.

Mr. ROSE. But the Mexican people haven't asked anything. He comes in and makes the suggestion, evidently provoked to do it by large interests in the United States.

Mr. HAYDEN. I do not think your inference is warranted for the reason that away back in 1912 Secretary Lansing states that negotiations were pending between the United States and Mexico regarding the waters of the Colorado River.

Mr. ROSE. Mexico turned them down. It was Otis. He asked them for an equitable division. They asked him what that meant. Equal division, he told them. They said no; they didn't want an equitable division, but an equal division. There isn't anything on record, and we have asked for it and searched for it, where they have asked for an equitable distribution.

Mr. HAYDEN. If the situation was changed by the passage of the pending bill do you believe that the Mexican Government would then want to negotiate for a distribution of the waters of the Colorado River?

Mr. ROSE. That is another thing I want to say. By the passage of this act, if it was taking all of the water out of the Colorado River and making it impossible at any time in the future to negotiate, it would be different, but the facts before this committee show that there is enough water in this river to irrigate the land of both countries, and if we build the canal there is yet opportunity for the Mexican interests to get it by building storage, and you still have the opportunity to negotiate with them for a division of the water.

Mr. YAGER. All we ask is that we sever connection with Mexico, and if they want to come to the United States and negotiate for this water I think it will be all right. But as for us going on for years and years paying their bills I don't think it is just and I don't think this Congress should stand for it.

I would like to state a word in regard to the position of the Secretary of the Treasury in regard to this matter. You have his letter filed with this committee objecting to certain portions of the bill, more particularly the form of underwriting the bonds of the district, accepting our bonds and issuing certificates of the Treasury in lieu of that. In our attempt to provide here in this bill some adequate way in which the districts can go ahead and pay for their own irrigating system and build up their own land at their own expense, we have met with a great many objections.

One of them we find in the Farm Loan Board. The Imperial Valley has, of course, made application for farm loans and have received a great many thousands, believing they were justified in taking advantage of the opportunity of getting a cheaper rate of interest the same as other districts, and I will say right here, in the 19 years that the Imperial irrigation district has been in existence they have created a valuation there of over \$100,000,000. Last year they produced out of that district produce of the value of over \$50,000,000. Imperial Valley is the third largest shipping center in the State of California, including San Francisco and Los Angeles. So we have a valuation there that is entitled to at least the consideration of our Government and our Government's departments in making loans. The building up of this territory has been done not through the help of the Government but through the tenacity of the farmers and Americans who have gone down there and taken it as a desert plain and built it up to what it is; and notwithstanding the valuations created here, when we attempt to make farm loans we received such letters as this. I don't believe this has been read into the record or brought to the attention of the committee as a committee. It is a letter from the president of the Farm Loan Bank at Berkeley, who has jurisdiction over that district in California, to Judge Charles E. Lobdell, who was then and is now chairman of the Farm Loan Board here, and reads:

MY DEAR JUDGE: Following the suggestion you made during your last visit here, I recently went to Los Angeles and had a long conversation with Mr. Harry Chandler, of the Los Angeles Times.

You will probably recall that Mr. Chandler and his associates are large landowners in the Imperial valley, and especially have tremendous holdings across the line in Lower California, Mexico. These lands are deriving their water through the main canal which supplies the most of Imperial Valley.

It will be impossible for me to recite all the subjects and points discussed, but I simply want to say that I finally asked him this question. If he were in my position, knowing all the circumstances, conditions, menaces, and uncertainties which exist in the Imperial Valley, and knowing the type of farmers with which we have to deal, would he make long-term loans in that country? Or if he were in the mortgage business, would he lend his own money there on the same terms as our loans are made?

He answered flatly that he would not; that the situation was indeterminate; that the farmers, generally, were undecided, were pioneers, and largely of that class of people who made no permanent homes; that very few of them had any conception of the dangers that constantly menaced them, both from flood and from lack of water; that they were contentious, quarrelsome, and unreasonable. I know positively that Mr. Chandler would not want to be quoted in this, and that he gave me his views as man to man and on account of the very friendly relations we have maintained for many years past.

I do not want to make any further loans in the Imperial Valley until the water conditions are settled, and this may require two or three years. Furthermore, I believe it would be unwise to give as our reason for refusing to make these loans that it is on account of an unfavorable report made by our engineer. This would, of course, do that country a great deal of damage.

My idea at present is that the situation should be handled with tact and diplomacy; that methods be used which would cause the least comment and friction, and that these methods must be evolved from time to time to fit the situations as they confront us. It seems necessary for me to add that I feel competent to handle the matter in such a way that your board will not be embarrassed, and that our bank will not be subjected to any great amount of adverse criticism.

Mr. Chandler is in a position now to advise with his associates to show that it would be unwise to precipitate a frank expression on our part as to our reasons for being unwilling to make loans in Imperial Valley. In other words, the crowd of Los Angeles capitalists are well aware that I am in possession of information which, if publicly expressed, would not redound particularly to their advantage. This was rather a delicate matter, but I am very glad to say that I left Mr. Chandler on terms more intimate and friendly possibly than have heretofore existed. Our understanding is, I think, very clear.

As the question of loans in the Imperial Valley will come up again the latter part of this month or the first of next, may I ask that your board instruct me in the matter.

You will note that I have written this letter in the first person. The reason for this, of course, is apparent to you.

Yours, very truly,

W. H. Joyce, President.

Mr. BARBOUR. That is a carbon copy of the letter?

Mr. YAGER. That is a carbon copy of the letter.

Mr. BARBOUR. Absolutely authentic?

Mr. YAGER. Yes, sir. And I should like to incorporate this letter together with these others into the printed record.

Mr. HAYDEN. Where did you obtain it?

Mr. YAGER. I would rather not state.

Mr. HAYDEN. This committee has a right to know where you obtained that letter and whether it is authentic.

Mr. ROSE. We took it up with the board here and they admitted it was authentic. We submitted it to the chairman, they admitted it was authentic and asked us "What can we do? Now, gentlemen, what do you want us to do to square this thing up?"

Mr. HAYDEN. What did the Federal Farm Loan Board offer to do?

Mr. ROSE. To send a committee again; they said we did this on the report of the engineer. I told them that you didn't do it, this was made a year before that; the engineer told you he was glad you did it because he couldn't make up his mind to do it.

Mr. HAYDEN. This is a copy of a letter obtained from the files of the Federal Land Bank of Berkeley?

Mr. ROSE. Yes, sir.

Mr. HAYDEN. Mr. Lobdell said that the text of that letter was correct, word for word?

Mr. ROSE. Mr. Norris was vice chairman; Lobdell had gone to the West then.

Mr. HAYDEN. To whom did you talk?

Mr. ROSE. Mr. Norris and Mr. Lever.

Mr. HAYDEN. Did Mr. Lever know anything about this letter himself?

Mr. ROSE. No; not himself, but Mr. Norris did. Lever was just recently appointed.

Mr. HAYDEN. You present a matter of such importance that the committee ought to satisfy itself as to the authenticity of the letter.

Mr. YAGER. If there is any question as to its authenticity I think your committee can get it from the files, to see if that is correct, but

I want to bring to the attention of the committee that it is a deplorable situation we are presented with for a Government department to say that it would not redound to the benefit of a crowd of capitalists of Los Angeles and San Francisco to make loans to us. When those capitalists bought 48-year bonds in the valley at 83 per cent and sold them in a few weeks at 97 and advised the farm loan bank that they couldn't make 40-year loans in that valley.

Mr. HAYDEN. What kind of a board of directors did you have that permitted a deal of that kind to be made whereby your bonds were sold at 83 and then resold within 90 days thereafter at 97?

Mr. YAGER. I would say what kind of a Government department have we. These interests had the financial control of that district, as that correspondence shows, and Imperial could not get any more; you couldn't get any more than they would allow. Imperial had to take what they could get. It was a matter of life and death with Imperial whether they sold the bonds or not.

Mr. HAYDEN. Do you mean to say that the Imperial irrigation district was compelled to do business through certain people in Los Angeles and if they did not take your bonds nobody else in the United States would purchase them?

Mr. YAGER. It seems they controlled not only the bond market of that district but directed the farm loan bank's policy.

Mr. ROSE. That is very largely true. If our credit was not impaired by those interests who own lands in Mexico and controlled we would need no legislation to put the canal through, you might say. You have heard the testimony that has been testified to in the former hearing that we sold our bonds at 83 cents and they sold them at 97 cents in 90 days time. Recently the same trust company, Los Angeles, bid 95.15 cents for \$2,500,000 on bonds of a recent issue. The Southern Trust & Commerce Bank of San Diego has bid 95 cents.

Mr. BARBOUR. What kind of bonds?

Mr. ROSE. They are all the same kind of bonds; Irrigation District bonds. I attribute the difference in the price bid to the disclosures made before this committee.

Mr. BARBOUR. Bonds for what purpose?

Mr. ROSE. Bonds for building a canal and so forth in Mexico. And these bonds that were just sold were for the purpose of paying off a million and a half of registered warrants.

Mr. HAYDEN. So you have recently refunded your floating debt?

Mr. ROSE. Yes; it was a short-time floating debt bearing a high rate of interest and we preferred to refloat it and paying a low rate of interest.

The school bonds and even the water-flood bonds sold above par; all the rest of the bonds were depending upon the same water system. But they were small bonds, but when you get up to a million and a half there are very few concerns in the West that could bid on these bonds.

Mr. HAYDEN. But recently a bond issue of more than a million and a half dollars was sold for more than 85?

Mr. ROSE. They have sold for 95.15. Three bids were submitted to the board, each for the full amount of the bond issue, \$2,500,000, as follows: Blankenhorn, Hunter & Julen, \$2,378,756, or to net 95.15 per cent of par, the successful.

The second highest bid was that of the Southern Trust & Commerce Bank of San Diego and El Centro, \$2,375,000, 95 per cent of par, offered to accept the full issue.

Bank of Italy, Los Angeles, \$2,354,625, 94.18 per cent of par was the third and low bidder.

They bought the bonds instead of San Diego.

Mr. BARBOUR. Why couldn't you now issue \$30,000,000 in bonds and sell them almost at par?

Mr. ROSE. For this reason, the bonds were for work already done in Mexico for which they are receiving benefits. If it wasn't for the opposition those people are able to bring in the bond market I think we could do it. I don't think we would be here at all. But I don't think we could sell them for 95 or 85 with their opposition, I believe if the Government would pass legislation saying that if they were not sold at par the Government would buy them at par we would need no further legislation. It is not a question of security. They bought those other bonds themselves through manipulations that cost the farmers of that valley \$400,000 that they would have sold for if it had not been for the fact of the manipulation. The farmers of the Imperial Valley have been a mighty easy mark for the capitalists of that country because it was on such a large scale it took large capital to handle it. The Government has spent \$125,-000,000 to irrigate less than twice the area which we have irrigated at a cost of between \$15,000,000 and \$20,000,00. It cost us less than \$20,000,000 all told and we put it in as we went along, we didn't have it all at once.

Mr. HAYDEN. You certainly must have had very poor business men for directors when they allowed your bonds to be sold for 83. I know that the water users would not have permitted anything like that to happen in the Salt River Valley.

Mr. ROSE. If you were in our situation you would have done what we did. We had good business men. We had a better business board than we have to-day. In fact we have three of the men to-day that we had then and I don't think the men did anything but the best they could. They advertised in the New York Bond Buyer. They advertised in two of the papers known as "bond-buying" papers in the East. They advertised them just the same then as they have advertised them now; but one thing the Imperial Valley has got better advertised and the breaking up of this clique has made them ashamed to bid on it. I think the very fact of the appearance before you has resulted in a saving of \$400,000 to the people of Imperial Valley?

Mr. YAGER. That is the condition exists there. It is a condition that exists in the Treasury Department, in the Farm Loan Division. We are branded not through an engineer's report but by Harry Chandler who owns land down below the line in Mexico and is a Los Angeles capitalists, and who says that it is not a good place to make loans (the Imperial Valley) from the farm loan bank, while those same interests have bought and control the bond issues of Imperial Valley.

Mr. BARBOUR. Let me ask a question right there. If the situation as it exists down there now, so far as the water in Imperial Valley is concerned, is to the advantage of Harry Chandler, what would be his object in trying to depreciate the credit of Imperial Valley?

Wouldn't it be to his interest to maintain the present conditions down there?

Mr. YAGER. We have been trying to build an all-American canal and get out of Mexico and away from Mexican control.

Mr. BARBOUR. But I understand your purpose in building the all-American canal is so that you can get credit down there.

Mr. YAGER. And get away from the Mexicans.

Mr. BARBOUR. And until this decision was made by the Farm Loan Board not to extend you credit, you had not contemplated in the near future of building an all-American canal? If they had loaned you money down there you wouldn't have been interested in building an all-American canal right now?

Mr. YAGER. The situation there is that the Mexicans are getting their water at the expense of American lands on one side, and capitalists are reaping a harvest by reason of this condition on the other side, and Imperial is in fact robbed on all sides.

Mr. BARBOUR. Then your purpose to build the all-American canal is not dependent upon or the result of the fact that the Farm Loan Board wouldn't loan you money?

Mr. YAGER. No; not entirely. The purpose of building the all-American canal is to sever ourselves from the Mexican interests. When I say Mexican interests, American capitalists that have gone down there and absolutely control it, and Mr. Harry Chandler is one of the largest controllers of this scheme. As long as he can control the bond market he can get his water for practically nothing, for when we go to get credit to build our own canal he says, "We will prevent them from getting credit to build that canal, and we will get our water for what we want it."

Mr. BARBOUR. Therefore, if you build the all-American canal, you control both the water and the credit?

Mr. YAGER. Yes; we want to get the water system away from the control of Mexico.

Mr. HAYDEN. It is perfectly clear that it would not be necessary to urge this legislation if the Imperial Valley had good credit. There is now in force a contract between the Secretary of the Interior and the Imperial Irrigation District which provides for the construction of an all-American canal. They say that the reason why the Imperial Irrigation District is not constructing that canal is because they can not raise the money. The last time he testified Mr. Rose said they could get but 83 for their bonds; to-day he says they can get 95.

Mr. YAGER. And one reason why they have depreciated our credit there is so we can not go ahead and control our own water supply, but making our water supply depend upon them. They have physical control of the water in a foreign country and consequently control Imperial Valley credit.

Mr. ROSE. The Farm Loan Board did loan in the Imperial Valley until this all-American canal movement was started. They withdrew afterwards. Since Mr. Yager filed this paper here representing the Coachella Valley and since this bill has been introduced they have withdrawn from Coachella Valley. But what I want to say is this: That there is an area of land on both sides, on the Mexican side about a million acres, land unirrigated, about a half million on the

American side that is unirrigated—there isn't enough water in the Colorado River to irrigate both. We are attempting to build this canal and get it for ourselves.

Mr. YAGER. As Mr. Rose has just said, after the introduction of this bill and after the Coachella Valley became interested in seeing that the arid lands of that valley were brought under irrigation by an all-American canal the Farm Loan Board has withdrawn loans from the Coachella Valley, which they were up to this time making. Here is a letter of date July 30, 1919, addressed to Mr. C. W. Lenox, secretary-treasurer of the Mecca National Farm Loan Association, Mecca, Calif., which is in the Coachella Valley. This letter reads:

DEAR SIR: We have your letter of July 26. We can not see that it would make any difference if we were to send an engineer appraiser in your district now. His report would be indeterminate, and the only methods which we could determine the water supply in the Coachella Valley is to wait and see after some time has passed that more land has gone under cultivation and more wells put down, which will be true in the next few years.

We are disinclined to change our position, and you must accept that letter as your instructions.

Yours, very truly,

THE FEDERAL LAND BANK OF BERKELEY,
By A. W. HENDRICK, *Secretary.*

Mr. HAYDEN. What was that letter?

Mr. YAGER. That was a letter in response to a letter from the Farm Loan Association of Mecca to the bank at Berkeley asking that an engineer's report of the water conditions of the valley be made before refusing loans in Coachella Valley.

Mr. HAYDEN. Has the Berkeley Land Bank made loans in the Coachella Valley?

Mr. YAGER. Yes, sir.

Mr. HAYDEN. What is the reason why the Federal Land Bank does not make loans there any more?

Mr. YAGER. They go ahead and state that their position in the Coachella Valley is similar to that in the Imperial Valley.

Mr. HAYDEN. The conditions are not similar. You obtain your water entirely from underground sources in the Coachella Valley. The Imperial Valley obtains its water from the Colorado River, so there must be a different reason.

Mr. YAGER. Let me read you a letter from the Treasury Department, Farm Loan Board, August 18, 1918, addressed to Mr. Kettner (reading):

MY DEAR CONGRESSMAN: In reference to your favor of the 1st instant, relative to the matter of Federal farm loans in the Coachella Valley, Calif., I beg to quote the following from a communication received this morning from our Berkeley bank on this subject:

"This country is supplied with water by means of artesian and pump wells, and if this supply should fail the land would be utterly worthless. To some degree the same conditions apply here as they do in the Imperial Valley. Everything depends upon the water.

"In other localities, where there is a reasonable rainfall, the land would still have a substantial value for the purpose of dry farming, even though all artificial means of obtaining water should fail.

"In the earliest stages of our progress we made some loans in the Imperial and Coachella Valleys, but as the board knows, we have always felt a little uncomfortable about them.

"There is not enough history back of the wells of the Coachella district, nor enough information at hand relative to their permanency, to justify a sufficient feeling of assurance that the water supply will continue indefinitely.

"With this condition in mind, as it applies to the Imperial and Coachella Valleys as well as to some other regions of our district, our board of directors made certain rulings, which we spread upon our minutes, a copy of which is herewith inclosed.

"Allow me to add that until through some investigations by governmental or other authority is made, which will certify to us that the water supply of the Coachella Valley may be relied upon as being permanent, it will be useless to send our engineers to make an investigation, as there are no reports so far made which could be deemed conclusive on this subject."

Taking all the factors into consideration that we must when making long-time loans, so that the integrity of our bonds will be maintained and the benefit of the system secured to future generations, I am sure you will realize the necessity for the position taken by our Berkeley bank in this matter.

We would be very glad to receive authoritative evidence of the permanency of the water supply in this valley, and if this should be done I assure you there would be no difficulty of this section receiving the benefits of this system.

Mr. HAYDEN. The man who wrote that letter has evidently confused the two situations in Imperial and Coachella Valleys.

Mr. YAGER. That was written by W. W. Flannagan, Farm Loan Board secretary.

Mr. HAYDEN. Mr. Flannagan evidently did not understand the true situation out there. There is but this much in common, that farmers must irrigate in the Imperial Valley and farmers must irrigate in the Coachella Valley. Without water in either valley you can not grow crops. But the essential difference between the two valleys is the source of their water supply, whch in one case is from wells and in the other from the Colorado River. Somebody must have expressed a doubt as to the availability of the supply of water underground in the Coachella Valley. Some one has suspected that at the present time you are using more water than the supply warrants, and that if the development continues, there will not be enough water for all the lands in cultivation. The Federal land bank says that its engineers can not determine that fact—they must have a report from some governmental source. It seems to me that the next step the people of the Coachella Valley should take would be to induce the Geological Survey or some other department of the Government to make another investigation of the underground waters there to ascertain whether or not the total amount of underground water is being exhausted or not.

Mr. YAGER. That very report has been made by Mr. Mendenhall and the farm-loan bank has been advised of that report.

Mr. HAYDEN. How long since was that report made?

Mr. YAGER. That was made several years ago, and is entitled "Waters in the underground district of Indio region"—I forget exactly.

Mr. HAYDEN. Does that report express any doubt as to the adequacy of the supply of underground water in the Coachella Valley?

Mr. YAGER. In short it states that it has a most valuable and good underground supply.

Mr. HAYDEN. But in a desert country all water supplies under the ground and on top of the ground are limited. It is true in every case that if enough wells are drilled and enough pumps are used they will lower the water table until finally some wells on the tract will go dry. When was the report to which you referred made?

Mr. YAGER. Several years ago; 1905, I think. I am not sure.

Mr. HAYDEN. That is nearly 20 years ago. What you need to do is to get the Director of the Geological Survey to send competent engi-

neers to make another underground water survey in order to ascertain the changes that have taken place since 1905.

Mr. YAGER. We have asked for an engineer's report on the underground water supply of Coachella Valley, but there has been nothing done. In view of their statement of their position on the Imperial situation and their statements regarding Coachella Valley's situation, we can draw no other conclusion than that they are influenced by the interests of Los Angeles when they say they can not make these loans; in other words, a lot of Los Angeles capitalists "are well aware that I am in possession of information which, if publicly expressed, would not redound particularly to their advantage."

Mr. HAYDEN. I do not think you are justified in that conclusion that there is a collusion between the officers of the Federal land bank and certain Los Angeles interests to prevent farm loans being made in the Coachella Valley.

Mr. SMITH. Do you not think it is safe to say that these Los Angeles people interested in Mexico who are getting water for nothing would have a tendency to discourage getting any more land under water in Imperial Valley?

Mr. HAYDEN. Whether more wells were dug in the Coachella Valley could not affect the Los Angeles people interested in Mexico in the slightest degree.

Mr. SMITH. But where you combine those two, you give an all-American supply.

Mr. HAYDEN. When the all-American canal is built the Coachella Valley can get an adequate supply of water from the Colorado River, but if they could get enough water from wells they would not have to obtain any water from the Colorado River.

Mr. SMITH. If I understand the two situations, the Mexican interests get all the water they want now under existing conditions largely at the expense of the settlers up in the Imperial Valley. So, as long as they have that condition continuing it is natural for them to discourage an all-American canal, which would make it necessary for them to help construct storage facilities for water they might need.

Mr. YAGER. Exactly. There are 155,000 acres in the Coachella Valley and 219,000 acres on the east-side mesa that could be irrigated from the Colorado River. It was not until this bill was introduced here that the Farm Loan Board withdrew loans from the Coachella Valley, for, of course, the building of an all-American canal would require the Mexican lands to pay for their water.

Mr. HAYDEN. That may be true, but I think you are unfair when you charge that they did that with a purpose of—

Mr. YAGER (interposing). I am not trying to charge the department with any misconduct or any misdealings. I present the facts that exist. They charge themselves with it, as I see it. I can put no other interpretation on a letter of that kind.

Mr. HAYDEN. You have presented a letter here with respect to the attitude of the Federal land bank of Berkeley toward the Imperial Valley, and you are now trying to stretch that letter to cover the Coachella Valley, where the conditions are not the same.

Mr. YAGER. Well, that letter was written by the department.

Mr. HAYDEN. That was a letter written by Mr. Flannagan, the secretary of the Federal Farm Loan Board.

Mr. YAGER. But we are bound by it.

Mr. HAYDEN. But the other letter which you presented was from the farm loan bank of Berkeley as to why they will not make loans in the Coachella Valley.

Mr. YAGER. We are attempting to get loans and these letters I present show their attitude. I think their position is not a tenable position. I think it is deplorable that this department of our Government should so discriminate against American lands and American interests and so disclose their position in letters of that character.

Mr. SMITH. Have you, through your representatives in Congress, ever attempted to get from the Farm Loan Board an expression of opinion as to why these loans have been turned down?

Mr. YAGER. This letter I have just read was in answer to Mr. Kettner's letter asking that an engineer investigate conditions in the Coachella Valley.

Mr. HAYDEN. A farm-loan engineer is no authority on underground water, and that is probably the reason why the land bank says it would be useless to send their engineer there. What the bank wants is a representative of the Geological Survey to ascertain whether or not enough water has been taken out by wells in the Coachella Valley to materially reduce the available supply. If the danger line has been reached the bank is justified in withholding loans.

Mr. YAGER. But they give no such reason. They say our conditions are similar to the condition existing in Imperial Valley, and I think I have shown plainly enough why they refuse to loan there. They have refused to send an engineer to investigate the water supply in the Coachella Valley.

Mr. HAYDEN. I understood you to say that Mr. Kettner asked the Farm Loan Board to make that investigation and they said that their engineers could not do so. Mr. Kettner undoubtedly will request the proper bureau of the Government, which is the Geological Survey, to make another investigation of the underground waters of the Coachella Valley, as they did in 1905. If that is done and the report is satisfactory, the Berkeley bank will be justified in again making loans.

Mr. ROSE. They say it will take many years to make that investigation.

Mr. HAYDEN. I have seen so many letters written by officials here in Washington, 2,000 or 3,000 miles from the actual situation, that I am justified in the conclusion that they do not always know what they are talking about.

Mr. YAGER. These officials seem to have accepted Mr. Chandler's word regarding our situation without any investigation.

Mr. SMITH. Do you know whether or not the Mexican interests contemplate further extension of their irrigation projects or do they feel they have reached their limit?

Mr. YAGER. Permit me to take that up right now, if I may. There is an effort being made by certain interests to build the first leg, which will cost \$7,000,000, for the purpose of connecting the Laguna Dam with Hanlon heading; that is a continuation of the present

system by permitting the Mexican interests to have the Laguna Dam as a point of diversion rather than be interfered with by the Yuma project. That effort is being made, as I say, and it was only a few days ago that I was approached by Mr. Corey, an engineer of the Interior Department, who came before this committee in a secret session and testified, what to I don't know. However, he suggested that the interests get together and build that first leg of the canal in view of the opposition of the different departments.

Now, I think that the people of Imperial and Coachella Valleys can not oppose that too strongly, and for this reason, that we would then be providing Government legislation to put through a proposition furnishing Mexican lands with the Colorado River water, a continuation of the present system.

The Imperial irrigation district has mapped out within its territorial limits about 584,000 acres, some 410,000 acres under cultivation. The 584,000 acres is the entire amount they can irrigate from that system. So that if they had all the land of that district under cultivation they wouldn't irrigate more than 584,000 acres. To-day there is being put under cultivation acre after acre in Mexico, and just as fast as they can bring in Chinese and Japanese foreigners to put it under cultivation they are doing so. We would then be limited to the amount of land we could cultivate by that system, but would permit them to continue to develop their land so far as the water supply goes and without them paying any charge or anything else. In other words, it would be a continuation of the same deplorable conditions that now exist of developing Mexican lands at the expense of American lands, only it would be sanctioned by Federal legislation. The Mexican interests are permitted to develop their lands while ours stay bare. This proposition to put that one leg through as proposed by the same Mexican interests is directly against the development of the arid lands of the United States.

Mr. SMITH. The expenditure of the \$7,000,000 to build the first leg would not be of any special benefit to the Imperial Valley or Coachella Valley?

Mr. YAGER. No, sir. I would say to build only the first leg would be greatly to the detriment of Imperial and Coachella Valleys.

Mr. SMITH. But it would be used in connection with the proposed all-American canal?

Mr. YAGER. Well, it would be practically a part of it because that is practically on the same route as the all-American canal, but let that present system be connected up with the Laguna Dam and our land outside of the Imperial irrigation district consisting of 500,000 acres will not get the benefit of the waters of the Colorado River. That is one of the purposes of the all-American canal to irrigate this additional land, and unless this legislation provides for all of it this purpose is defeated.

Mr. SMITH. How was it proposed to get the money to build the first leg?

Mr. YAGER. To be raised in the same manner as provided in the bill I presume.

Mr. ROSE. We could get that if we would buy our own bonds.

Mr. YAGER. But this first leg proposition alone prevents the building of an agricultural empire in the United States that would be unequaled in the world.

Mr. HAYDEN. If any legislation at all passes the bill will authorize the construction of a canal to connect the Laguna Dam with the Imperial Valley to irrigate lands in the United States. Such a canal must be built some time and, first or last, the main canal will extend from the Laguna Dam down to the border. If there is to be a division of water with Mexico, the division will take place within the United States and the balance go over the border. There is to be no legislation which will provide for nothing but the construction of the first leg of the canal.

Mr. ROSE. But without you provide the means whereby the entire all-American canal can be built we would be blocked. We do say that without provision is made to build the entire canal it will be blocked.

Mr. YAGER. We are so anxious that this legislation be enacted to give us our own water supply at our own expense entirely on American soil and sever our partnership with Mexican interests and permit us to build up the arid lands of that section. I can see no reason why objection should be made for doing that.

Mr. HAYDEN. Mr. Yager, you have twice made reference to severing partnership with Mexico. I would like to get your view as to how you are going to prevent the flood menace from the Colorado River which makes it necessary to go into Mexico to control the flood waters.

Mr. YAGER. I would like to say this in regard to the flood waters; that is a condition which is being enlarged upon by Mexican interests as one reason for the prevention of this legislation if possible. If we are permitted to build up the lands there and use more water of the Colorado River and if storage is provided it will regulate the stream of the Colorado River and the flood menace will be practically eliminated without going into Mexico to do any protection work.

Mr. HAYDEN. Sufficient storage work could not be constructed on the Colorado River for a great many years to absolutely control that stream.

The tables of the flow of the Colorado River show that the difference between low and high water is so enormous, the flows are so difficult to control, that as a practical matter for many years to come it will be necessary to maintain levees in Old Mexico to prevent the inundation of the Imperial Valley. You suggested at the beginning of this hearing that we should build an all-American canal, assert our rights to take all the water out of the Colorado River, and allow the Mexican lands to go absolutely dry if the water is needed to continue irrigation in the United States. After such a dry season has passed do you think that the Mexicans would be in a frame of mind which would permit our going into their country to repair the levees when the next flood comes?

Mr. YAGER. Well, if protection work is needed, it would be to the benefit of Mexican lands as much as ours, and I think Mexico would want a treaty with the United States to help bear the expense of this protection work.

Mr. HAYDEN. And when we negotiate that treaty you get right back into partnership with them again. You were talking about dissolving partnership with Mexico.

Mr. YAGER. I would not consider an agreement to maintain a protection levee in Mexico a partnership relation.

Mr. HAYDEN. There must be some reciprocity in the treaty. The Mexicans are not going to negotiate a treaty so one-sided that it will say that whenever necessary the American interests shall have the right to go into Mexico to repair levees, but when the Mexican interests want water for irrigation they shall not have it.

Mr. YAGER. That levee is as much for their protection as ours. We don't want to say they shall not have any water, but if they pay for the storage of the waters of the Colorado river there is sufficient water to irrigate all that land.

Mr. HAYDEN. You went further and said that the Mexicans might pay their pro rata share of the cost of enlarging the canal capacity?

Mr. YAGER. I will put it this way: That if the United States furnishes Mexico water Mexico should pay the United States for so doing.

Mr. HAYDEN. If the Mexicans have a share in the main canal from Laguna Dam to the border and if it is necessary for the people on the American side to go over into Mexico to repair the levees, are they not again in a partnership? I am trying to find out how you are going to avoid such a partnership.

Mr. YAGER. If the United States sells Mexico water, I wouldn't say that you are in partnership with those interests south of the line. It is a treaty or agreement between the United States and Mexico. But I can't see why Mexico should make any objection or take any exceptions to us going in there and protecting their own land.

Mr. HAYDEN. How are you going to get away from the fact that there is a community of interest between the lands in the Imperial Valley and the lands irrigated in Mexico which is so close and so intimate that there must be intercourse and business dealings between the people residing thereon at all times?

Mr. YAGER. There are many places on the Mexican border where business intercourse exists without a treaty. And I said before, I don't think for a minute that this Government wants to cause any injustice to be done to Mexico, and I don't think this Government would. I think if we enacted this legislation and took care of our own business on this side of the line building an all-American canal those people would come to this Government and say, "We want a treaty so we can continue the irrigation and development of Mexican lands," and at the same time say, "We will take care of the flood-protection work in Mexico." That it is just as much protection to the Mexican land as it is to the American land.

Mr. HAYDEN. After all, the Secretary of State was not greatly in error when he said that there are considerations of equity and comity between the two nations?

Mr. YAGER. Well, I don't see where the equity is.

Mr. HAYDEN. If it is necessary to protect both the Mexican lands and American lands from floods, equity would require that the American lands should pay their share of the cost. On the other hand, there are lands in Mexico now being irrigated which have an equitable right to some of the water of the Colorado River, which you say you do not think our Government will deny.

Mr. BARBOUR. I didn't understand him to say that they had any right at all.

Mr. HAYDEN. Not a legal right. Mr. Yager said we could divert all the water out of the Colorado River and dry up the Mexican lands. The Mexican Government can urge, as a matter of comity and equity, that we ought not to dry up their lands. That would probably be the minimum claim they would make. The Mexican Government could equitably say "Our people must go into your country to get water for irrigation, but your people must come into our country to protect themselves against flood water."

Mr. YAGER. If I said that they have any equitable claim, I was misunderstood. I was attempting to show that they insult this Government and American interests this side of the line in their dealings and have had the people of this irrigation district by the throat and bled them for years and there is no equity in dealing with them; it is not equity, in my opinion. Equity does not compel the United States to develop Mexican lands and let American lands go dry. It would simply be a concession on the part of this Government in furnishing them any water and this concession should be paid for by them.

Mr. HAYDEN. Yet, on the ground of mutual concessions it would be necessary for us to concede them a certain amount of water out of the stream, and it would be necessary for them to concede to us the right to go into Mexico to protect the Imperial Valley lands from inundation. If you do not want to use the word "equity" use the word "concession."

Mr. YAGER. I don't think it is necessary to concede them any water, but think they can get it by paying for it. I wouldn't say the relationship between us, under those circumstances, is a partnership.

Mr. HAYDEN. Partners are persons engaged in a common business from which they each draw a share of the profits. The landowners in Imperial Valley and the landowners in Lower California are and will continue to be engaged in the same business, which is the growing of crops by irrigation. They all are and will continue to draw water from the same source, out of the Colorado River. They are partners in that business. They are all interested in the protection of their lands from floods in the Colorado River. In other words, they must all work together to successfully do the things essential to the prosperity of all concerned.

Mr. YAGER. It wouldn't be sharing our waters; it would be selling our waters to the Mexican interests. The United States Government would be selling our water and allowing them to purchase water from this Government, and if it was a bargain and sale proposition, it wouldn't be a partnership in that respect. On the other hand, I can't see where protection works there should constitute a partnership in the protection of their own lands. They would be just as vitally interested in that—

Mr. HAYDEN (interposing). But you admit that if the flood protection levee is for the benefit of lands in the United States and Mexico, as a matter of justice the lands both in the United States and Mexico should pay for the levee?

Mr. YAGER. I don't think this Government wants to get something for nothing.

Mr. HAYDEN. And you do not want Mexico to get something for nothing. It is inequitable that the Mexican lands get water at a cheaper price than the American lands. It is to remedy that condition that you ask for this legislation.

Mr. YAGER. This situation can be remedied if this legislation was passed, and not only this remedied but you will provide the means of developing an agriculture empire unequaled in the world.

Mr. BARBOUR. Have you said all you want to say, Mr. Yager?

Mr. YAGER. There are other matters I could bring to the attention of the committee. But I want to thank you for permitting me to speak before you, and I honestly and sincerely want to urge you all to do something for us in that territory; and if we are wrong in any of our contentions we want to be righted, but I do think it is a very meritorious matter that needs your immediate and favorable consideration.

Mr. BARBOUR. I suppose there is no use in taking the matter up with the full committee until after the session convenes in December, because the plan is for adjournment about November 10.

Mr. YAGER. If the bill could be reported out, Mr. Barbour, couldn't that be done?

Mr. SMITH. As I understand it, there is a delegation coming from the Imperial Valley?

Mr. YAGER. There is a delegation coming from the Imperial Valley to urge along the same line as we urge, as I understand, to get something done.

Mr. BARBOUR. The delegation that is coming should be heard. You would have to give them a week to arrive here and that would be along the 4th or 5th. We will have as much as we can attend to during that time, anyway.

Mr. YAGER. You can appreciate our position. This bill has been in committee since the 17th day of June.

Mr. BARBOUR. The committee's failure to act is due to the situation that arose in the Imperial Valley.

Mr. ROSE. I think that is largely true.

Mr. BARBOUR. This subcommittee could have been called together a long time ago, if we hadn't been up against the proposition that there is a division of opinion out in Imperial Valley.

Mr. HAYDEN. I am at the service of the subcommittee or its chairman at any time.

Mr. BARBOUR. What do you think about the possibility of taking the matter up before December?

Mr. HAYDEN. The statement you have just made covers the situation.

Mr. BARBOUR. I think so, too. Mr. Mondell has stated that November 10 has been set as the date for adjournment and you won't be able to hold enough of the members here. Some of them have already gone. They will keep filtering out until that time.

Mr. YAGER. Even if the bill is not taken up in the House I should like to see it reported out of committee.

Mr. BARBOUR. As I understand it, we can't report the bill out until these representatives get here and tell us just what they have agreed upon.

Mr. HAYDEN. It would not be fair to invite a delegation to come here from the Imperial Valley after we had agreed on the terms of the bill.

Mr. BARBOUR. They would reach here about the time the House would adjourn.

(Thereupon at 4 p. m. the committee adjourned.)

APPENDIX.

EXHIBIT A.

AN ACT Providing for cooperation between the State of Arizona and the United States in the settlement of soldiers, sailors, marines, and others upon farms and farm-laborer allotments; and in the reclamation and improvement of such farms and farm-laborer allotments; constituting the members of the State land department, members of a soldier-settlement board and defining the duties of such board, and making an appropriation and declaring an emergency.

Be it enacted by the Legislature of the State of Arizona:

SEC. 1. This act may be known and cited as "The soldier-settlement act."

SEC. 2. The object and purpose of this act is, in recognition of military service, to provide employment and rural homes for soldiers, sailors, and marines, and others who have served with the armed forces of the United States in the European wars or other wars of the United States, including former American citizens who served in allied armies against the Central Powers and have been repatriated, and who have been honorably discharged, hereafter generally referred to as "soldiers," and to accomplish such purpose by cooperation with the agencies of the United States engaged in work of a similar character.

SEC. 3. For cooperation with the agencies of the United States, as provided in the preceding section, and to provide the necessary organization for carrying this act into effect, the soldier settlement board, which shall hereafter be referred to as the board, is hereby created. Said board shall be composed of the members and officers of the State Land Department of Arizona, and designated and created by law, and they shall perform their duties as such officers and members of said board, as prescribed and defined by this act, in addition to the duties imposed upon them by the law creating the State land department and acts amendatory thereof, without additional compensation. The State land commissioner is hereby designated soldier settlement commissioner, and the deputy State land commissioner is designated deputy soldier settlement commissioner and shall be secretary of the board, and said commissioner and deputy commissioner and all assistants, agents, and employees of the State land department shall, without additional compensation, perform the duties imposed by this act, under the direction of the board or of the commissioner, as the case may be, in like manner and with like authority as they perform the duties imposed by the law creating the State land department and acts amendatory thereof.

SEC. 4. There is hereby established a fund, to be known as the "State soldier settlement fund," which shall consist of all moneys appropriated, or realized from the issuing of bonds, for the purpose of said fund, of all gifts made thereto, and of all repayments to the State on account of moneys advanced or of lands furnished by the board under and in accordance with the provisions of this act.

SEC. 5. The board is hereby authorized to perform all acts, not inconsistent with the constitution of the State, necessary to cooperate fully with the agencies of the United States engaged in work of similar character.

SEC. 6. The board is authorized to acquire undeveloped agricultural lands which may be deemed suitable for reclamation and settlement, together with necessary water rights, rights of way, and other appurtenances; to set aside and dedicate to public use appropriate tracts so acquired by it for roads, school houses, churches, or other public purposes; to direct the exercise by the State, through the attorney general, of the power of eminent domain for the condemnation of property of any kind which may be necessary for carrying out the purposes of this act; to appropriate water rights under the laws of the State; to provide all necessary means for furnishing agricultural training

for the soldier so as to render him better qualified for the cultivation of his land; and to arrange with the agencies of the Federal Government for sharing in the expense of such work under appropriate conditions of supervision by the Federal Government or by the State Agricultural College, and to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.

SEC. 7. In cooperating with the agencies of the United States the board is empowered to take title, in the name of the State to lands in fee simple, or in trust, or under such other conditions as may be deemed advisable for the purposes of this act, and may convey title thereto or exercise such liens as may be necessary for carrying out the plans decided upon in cooperation with the agencies of the United States. The title to the land furnished by the board shall be held by all purchasers under such conditions and restrictions as may be specified in the Federal Statutes relating to this subject, or approved by the Secretary of the Interior.

SEC. 8. The basis of cooperation with the agencies of the United States under the provisions of this act shall be: (a) That the State shall provide the land needed for settlement and the United States shall provide the money necessary to meet the expense of reclamation and subdivision and the necessary improvements and equipment, perform the necessary work, and have charge of all settlement work; (b) that the State shall make actual expenditures, in an amount not to exceed 25 per cent of the total purchase price of the land, the cost of reclamation of the same as hereinafter defined, the cost of farm improvement as hereinafter defined, and the cost of farm implements, stock, and other necessary equipment; and the board may, under such agreement as may be made with the United States and under the supervision of the Secretary of the Interior, control the preparation of the land as homes and the settlement thereof.

SEC. 9. The board shall satisfy itself of the practicability of each undertaking proposed, utilizing all related State agencies for such investigation, and thereupon shall cooperate with the authorities of the United States in the preparation of plans, not inconsistent with the provision of the preceding section, for the settlement of soldiers.

SEC. 10. Whenever the board, in accordance with plans agreed upon with the authorities of the United States, desires to acquire land, it shall give notice by publication in one or more newspapers of general circulation in the State calling for offers from owners of land of the character desired. Such notice shall be published once a week for five consecutive weeks, the last date of publication being not more than one week prior to the date of opening offers, and shall specify the matter which should be incorporated in such offer. After thorough investigation and report as to the character of the lands, rights, and appurtenances, upon examination by the commissioner and two or more members of the board, together with a representative of the cooperating agency of the United States and such expert of the State agricultural college and others as may be deemed advisable, and after approval by the attorney general of the State of the title to lands and any water rights or other rights appurtenant thereto deemed essential by the board, and after approval of the purchase by the authorities of the United States and definite arrangements made for the reclamation of the lands by the Federal Government, if necessary, and for the improvement and subdivision of the lands, the board may, by formal order entered upon its minutes, authorize and proceed with the acquirements of the lands by purchase, gift, or condemnation. Payment, if necessary, shall be made out of the State soldier settlement fund or by settlers under such terms and conditions as may be fixed by agreements between the board and the owners of said lands. The board shall have the right to reject any or all offers, to accept offers which may not be the lowest, and to readvertise, from time to time, as it may deem necessary.

SEC. 11. The board shall make appropriate arrangements with the agencies of the United States for the collection of and repayment to the State of the cost of lands furnished by the board, or of moneys actually expended, under agreement with such agencies of the United States, on the purchase price of land and the cost of reclamation, farm improvement, farm implements, stock, and other necessary equipment, which agreement with the agencies of the United States may provide that any such repayments to the United States shall be divided between the Federal Government and the State in proportion to the disbursements made by each, respectively. All money so received

or otherwise received by the board shall be deposited with the State treasurer and by him credited to the State soldiers' settlement fund, and shall be available for meeting the obligations of the board for the purchase of land acquired under the provisions of this act or for the disbursement of money, under agreement with the agencies of the United States for the purchase, reclamation, or improvement of land, or the purchase of farm implements, stock, and other necessary equipment.

SEC. 12. Should the board, in accordance with the provisions of section 9, undertake the subdivision, preparation, and settlement of any land acquired under the provisions of this act, such subdivision, preparation and settlement shall be subject to the following provisions:

(a) The land shall be subdivided into farms, each having a value when unimproved, as determined by the board, and not including any cost which may be incurred in the reclamation of the land, as hereinafter defined, of not to exceed \$8,000, and into farm laborer allotments each having a value when unimproved, as determined by the board, and not including any cost which may be incurred in the reclamation of the land, and hereinafter defined, of not to exceed \$1,000.

(b) The board may make the necessary improvements on any such farm or farm laborer allotment, or may contract with the settler to make the same. Such improvements may consist of dwelling houses and outbuildings, fencing, the construction of farm drains, irrigation laterals, seeding, planting, and such other improvements as may be deemed necessary or proper to render the particular allotment habitable and productive, the same being collectively hereinafter referred to as "farm improvements," and shall not include any work or item hereinafter classified as "reclamation."

(c) The board may contract with the United States for the construction of works for irrigation, drainage, protection against flood waters, and general sanitation, and for the subdivision of the lands, clearing, leveling, and other work necessary to render one or more groups of farms available for agriculture, which work is defined for the purpose of this act as "reclamation."

(d) The board is authorized to secure from the United States, under the rules and regulations of the United States agency advancing the same and in accordance with the provisions of Federal laws, the necessary funds to make loans to approved settlers for making permanent improvements and for the purchase of farm implements, stock, and other necessary equipment, which advances of funds are defined for the purpose of this act as "short-time loans," and shall be secured by mortgage or other effective lien on the land, or upon property purchased with said loan; the total amount of any such short-time loan shall not exceed \$3,000 for a farm, or \$1,000 for a farm laborer allotment.

(e) The board shall collect from settlers the sums due for principal and interest on lands, reclamation costs, farm improvements and in payment of short-time loans, and shall repay all sums advanced by the United States for short-time loans and the proportion of such sums due the United States on lands, reclamation costs, and farm improvements, returning the State's proportion of any such sum to the State soldiers' settlement fund, as by this act provided.

(f) The board is authorized to take over from the Secretary of the Interior of the United States and to operate and maintain any irrigation, drainage, or other works or improvements constructed by the United States Reclamation Service for the purposes in this act set forth, and involving lands owned or controlled by the board, and shall in any such case, become responsible for the proper care thereof and provide for the repayment of the cost thereof. The board shall require of each purchaser of land the payment of proper and reasonable charges for the operation and maintenance and preservation of such works, and shall also be authorized to make reasonable charges pursuant to general regulations for services rendered to the purchasers of lands and others.

(g) The lands disposed of under this act shall be sold in accordance with plans prepared in cooperation with the agencies of the United States for soldier settlement, after public notice in one or more newspapers of general circulation in the State, once a week for five consecutive weeks, the last date of publication being not more than one week prior to the date of sale, setting forth in general terms the information necessary for the public, and providing for detailed statements to be available at the office of the board and other convenient places, which shall supply full information as to the farms and allotments and the several prices therefor. The manner of the sale shall be such as to afford equal opportunity to all qualified soldiers desiring to purchase. The purchaser

may be required to make application in a form approved by the board stating, among other things, whether he has available the minimum amount of capital deemed necessary by the board, which shall be not less than 10 per cent of the reclaimed, improved, and equipped value of the farm or allotment, and whether he can comply with the terms of payment and give such assurance in regard thereto as the board may require. The board shall have the discretion to reject any or all applications and to readvertise, from time to time, any or all tracts, as it deems necessary.

(h) The souvier, to be a qualified applicant, must be a citizen of the United States, and must satisfy the board that he is not the holder of agricultural land or possessing rights which, together with the land, improvements and equipments to be purchased hereunder shall exceed a value of \$15,000. No purchaser shall hold more than one farm or allotment on which all charges are not fully paid, and each purchaser shall satisfy the board as to his fitness to cultivate and develop the same successfully, both financially and otherwise. The board may, in its discretion, require applicants to appear before it in person.

(i) Each approved applicant shall enter into contract of purchase which, among other things, shall create a mortgage or other effective lien for the payment of the purchase price of the land, the reclamation costs and the farm improvements and other charges, if any, and also require the purchaser to actually occupy the land within six months, or if the development of water for the irrigation of the land be necessary, within six months from the date on which such water is available, and to actually reside thereon for at least eight months in each calendar year for a period of at least five years, unless prevented by illness or other cause satisfactory to the board, and any other absence from the land exceeding four months in any calendar year shall be a breach of the contract. The contract shall provide for immediate payment of 2 per cent of the sale price of the land including reclamation costs, and not less than 10 per cent of the cost of the farm improvements. The balance of the amount for the land and reclamation costs shall be due as follows: Two per cent each year for the first four years, and thereafter in annual payments to be fixed by the board in such amounts as to repay within a further period not exceeding 40 years, the capital sum with interest on deferred payments from the date of the contract at the rate of 4 per cent per annum. The title to the land shall not pass until full payment is made for the land and the reclamation costs, and until full payment is made, no farm or allotment shall be transferred, assigned, or mortgaged in whole or in part without the written consent of the board. The amount due on farm improvements shall be repaid in a period to be fixed by the board not exceeding 20 years, so as to return the capital sum with interest on deferred payments at the rate of 4 per cent per annum. The repayment of short-time loans shall extend over a period to be fixed by the board not exceeding five years, payable in such amounts and at such times, and with such rate of interest as may be determined by the board. The purchaser shall have the right on any installment date to pay any or all installments thereafter due. The contract shall also provide that the purchaser shall cultivate the land in a manner to be approved by the board and shall keep in good order all buildings, improvements, and equipment, reasonable wear and tear excepted, and pay such assessments as may be levied by the board to provide the equivalent of insurance to protect the interests of the State and of the United States in all buildings, improvements, and equipment.

The contract shall also provide that in case of failure of the settler to comply with any of the terms thereof, the board shall have the right, at its option, to cancel the contract and shall thereupon be released from all obligations under the contract, and the purchaser shall forfeit all rights thereunder. All payments heretofore made shall be deemed to be a rental paid for occupancy. The failure of the board to exercise any option to cancel for default or violations of the contract shall not be deemed a waiver of such right, but the same may be exercised thereafter. No forfeiture or cancellation shall in any way impair the lien and security of the mortgage or other lien securing the purchase price of the land, and reclamation costs and farm improvements, or the repayment of loan. Upon forfeiture, cancellation, or relinquishment of a contract the board shall have the right to sell the farm or allotment, together with all appurtenances, improvements, and equipment, covered by such con-

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tract, to any other qualified purchaser. In case of the death of any purchaser before full payment, all of such purchaser's rights under the contract shall pass to his heirs or devisees, who shall be bound by all the conditions thereof, but may surrender the same to the board upon terms and conditions satisfactory to the board.

SEC. 13. In any case where works have been or are to be constructed which are of general benefit to an area involving a number of farms or allotments, as in the case of irrigation, drainage, clearing cut-over land or other means of reclamation or development, and where the cooperating Federal agencies find that the interest of the project would be advanced by the organization of an irrigation, drainage, or other district for which provision is made by the laws of this State. The board shall take all necessary steps in its power to accomplish such organization. The board is authorized to contract with such district or the United States or both, to carry out any or all provisions of this act.

SEC. 14. In case of any undertaking for the reclamation of lands in two or more States or any undertaking involving construction works in any State for the irrigation, drainage, or reclamation of lands in whole or in part in another State, the board is authorized and directed to cooperate with similar boards of other States, and the authorized agents and officers of the United States, and either the United States or the said board of such other State shall have authority to acquire by condemnation, purchase, or other lawful means such property rights or easements in this State as may be needed for such interstate undertaking, upon the same terms and in like manner as if such undertaking were wholly in this State.

SEC. 15. Whenever the board shall find that all, or any part of any land which may be purchased or otherwise acquired by it, is not necessary for the purpose of this act, the board may sell such land, after public notice as herein specified, upon such terms as the board may prescribe; or whenever the Secretary of the Interior and the board shall find that all or any part of such lands remaining available will not be required for homes for soldiers they may be opened to disposition to other citizens of the United States, subject to the provisions and limitations of his act.

SEC. 16. For the purpose of carrying out the provisions of this act, such sum as may be necessary therefor is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, to be covered into the State soldier settlement fund. The State auditor is hereby authorized and directed to draw warrants upon such fund from time to time, upon the approval by the board of properly executed demands therefor in payment for lands, rights, or appurtenances thereto, or of advances made under cooperative agreement with the agencies of the United States, on the purchase price or the reclamation thereof, or for the cost of farm improvement, as provided by this act, and the State treasurer is hereby authorized and directed to pay such warrants.

SEC. 17. The board shall make an annual report to the governor in December, giving a full statement of its operations, the results of investigations of the subject with which it is authorized to deal, and such recommendations for legislation as it may deem proper, and shall furnish a copy of such report to the Secretary of the Interior. The governor shall lay such reports before the legislature, together with his recommendations.

SEC. 18. If any part of this act shall, for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the particular part thereof directly involved in the controversy wherein such judgment shall have been rendered.

SEC. 19. All acts or parts of acts, so far as inconsistent with the terms of this act, are hereby repealed.

Whereas the soldier, sailor, marines, and others who have served with the armed forces of the United States in the European War are being rapidly mustered out of the service of the United States and returning to civil life, and it is necessary for the preservation of the public peace, health, and safety that they be speedily provided with homes and employment; therefore an emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 21, 1919.

EXHIBIT B.

DEPARTMENT OF THE INTERIOR,
Washington, October 8, 1919.

Hon. M. P. KINKAID,

*Chairman Committee on Irrigation of Arid Lands,
House of Representatives.*

MY DEAR JUDGE KINKAID: I am in receipt of your letter of September 26, inclosing copy of H. R. 9421, introduced by Mr. Hayden, to authorize the construction of the Lower Colorado River reclamation project, and for other purposes, and requesting report on same.

Under date of July 3, 1919, I reported on the bill H. R. 6044, which has the same general purpose as the bill introduced by Mr. Hayden but is expressed differently and has a different title and some different provisions.

In the report of July 3, above referred to, I pointed out a number of amendments to the former bill and with these amendments it seemed to fulfill its function fairly well.

H. R. 9421 contains several provisions not found in the former bill which are, in my judgment, improvements. The principal one of these is the provision that the public lands may be held for actual settlers and in the discretion of the Secretary of the Interior he is authorized to use those lands in cooperation with the State land settlement board and other public authorities of the State of California, and similar board in the State of Arizona. Also, that the Secretary may, in his discretion, use such lands in connection with any soldier settlement legislation that may be enacted by Congress. I regard the treatment of the public lands in H. R. 9421 as a decided improvement on the provisions of the previous bill.

The theory of the former bill that the public lands be sold immediately and that the proceeds constitute a guaranty fund, might, under the provisions of H. R. 9421, be carried out to better advantage by holding the lands until water is ready for delivery, as their value will at that time be much higher than in the raw state. Such treatment will also prevent speculation, as it will enable the actual settler to take and cultivate the lands when water is ready, whereas he would not be able to do so if purchased years in advance of water delivery, and the purchaser would be in the attitude of a speculator purchasing the lands to sell later to the actual user at an advance.

In section 17 occurs an attempt to prevent the purchase of lands in larger tracts than 160 acres. This attempt will not be effective unless prohibition is made upon early alienation and it would be more effective if some such limitation were imposed.

In section 19, line 6, it is recommended that, after the word "proper," the words "in his judgment" be inserted.

With these minor changes I think the bill is an improvement upon H. R. 6044, and might with advantage be substituted for the same.

Cordially yours,

. F. K. LANE, Secretary.

EXHIBIT C.

DEPARTMENT OF STATE,
Washington, August 20, 1919.

Hon. M. P. KINKAID,

House of Representatives.

Sir: In further reply to your letter of August 4, 1919, in which you requested me to furnish your Committee on Irrigation of Arid Lands with my views as to the bearing of treaty provisions in force between the United States and Mexico upon the provisions of H. R. 6044, being a bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes, I beg to advise you that the matter has been given careful consideration and a conclusion reached as below stated.

It appears that section 6 of the bill in question provides for the construction of a canal entirely within the United States to convey water from the Colorado River at the Laguna Dam on the border between the States of Arizona and California to the districts within the United States which it is proposed to irrigate with such water.

Article IV of the Treaty of Boundary, Cession, or Territory, etc., concluded between the United States and Mexico, December 30, 1853, provides as follows:

"The provisions of the sixth and seventh articles of the treaty of Guadalupe Hidalgo having been rendered nugatory for the most part by the cession of territory granted in the first article of this treaty, the said articles are hereby abrogated and annulled, and the provisions as herein expressed substituted therefor. The vessels and citizens of the United States shall, in all time, have free and uninterrupted passage through the Gulf of California to and from their possessions situated north of the boundary line of the two countries, it being understood that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land without the express consent of the Mexican Government; and precisely the same provisions, stipulations, and restrictions in all respects are hereby agreed upon and adopted, and shall be scrupulously observed and enforced, by the two contracting Governments in reference to the Rio Colorado so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty.

"The several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall remain in force only so far as regards the Rio Bravo del Norte below the initial of the said boundary provided in the first article of this treaty, that is to say, below the intersection of the $31^{\circ} 47' 30''$ parallel of latitude, with the boundary line established by the late treaty dividing said river from its mouth upward, according to the fifth article of the treaty of Guadalupe."

The sixth and seventh articles of the treaty of Guadalupe Hidalgo referred to in the before-quoted provisions of the treaty of 1853 are as follows:

"ART. VI. The vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California and by the River Colorado below its confluence with the Gila to and from their possessions situated north of the boundary line defined in the preceding article, it being understood that this passage is to be by navigating the Gulf of California and the River Colorado and not by land without the express consent of the Mexican Government.

"If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal, or railway which should in whole or in part run upon the River Gila, or upon its right or its left bank, within the space of 1 marine league from either margin of the river, the Governments of both Republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

"ART. VII. The River Gila and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico being, agreeably to the fifth article, divided in the middle between the two Republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries, and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right, not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the censure of both Governments.

"The stipulations contained in the present article shall not impair the territorial rights of either republic within its established limits."

I am of the opinion that the said provisions of the treaty of 1853, taken in connection with the quoted provisions of the treaty of Guadalupe Hidalgo of 1848, contain a prohibition of action by either Government along the common boundary line which might impede navigation in the Colorado River. However, with respect to a work, such as is provided for in the bill under consideration, being wholly within United States territory and not along the common boundary line, I am of the opinion that the treaty provisions mentioned would not be applicable, and in this connection I refer to an opinion of the Attorney General, dated December 12, 1895, holding that the taking of water for irrigation purposes from the Rio Grande in the United States, above the point where it forms the boundary line between the United States

and Mexico, is not prohibited by treaty provisions between the two countries. I quote from that opinion as follows:

"The minister contends that the irrigation ditches in Colorado and New Mexico, which result in diminishing the flow of water at El Paso, come within the treaty prohibitions of 'any work that may impede or interrupt, in whole or in part, the exercise of this right' (of navigation), because, as he says, 'nothing could impede it more absolutely than works which wholly turn aside the waters of these rivers.' But article VII is limited in terms to 'the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico.' Article IV of the treaty of 1853 continues the provisions of said Article VII in force 'only so far as regards the Rio Bravo del Norte below the initial of said boundary provided in the first article of this treaty.' It is that part alone which is made free and common to the navigation of both countries, and to which the various prohibitions apply. It is plain that neither party could have had, in framing these restrictions, any such intention as that now suggested. The fact, if such it were, that the parties did not think of the possibility of such acts as those now complained of would not operate to restrain language sufficiently broad to include them, but the terms used in treaty are not fairly capable of such a construction.

"They naturally apply only to the part of the river with which the parties were dealing, and to such works alone as either party might construct on its own side if not restrained. Though equally divided, in theory, between the two nations where it is their boundary, the river is in fact a unit for purposes of navigation, and therefore the treaty required the consent of both for the construction of 'any work that may impede or interrupt' navigation, even though it should be 'for the purpose of favoring new methods of navigation.' (Art. VII.) Up to the head of navigation no such work could have been constructed save by one of the two Governments or by its authority. The prohibition was, therefore, appropriately made applicable to them alone, and not to the citizens of either—'neither shall, without consent of the other, construct,' etc. Above the head of navigation, where the river would be wholly within the United States, different rules would apply and private rights exist which the Government could not control or take away save by the exercise of the power of eminent domain, so that clear and explicit language would be required to impose upon the United States such obligations as would result from the construction of the treaty now suggested." (Vol. 21, Op. Atty. Gen., pp. 276-278.)

In this connection I also refer to the following language, contained in an opinion and report, dated September 28, 1903, of M. C. Birch, special assistant to the Attorney General, following an investigation requested by the Department of State, in large part at least, on account of a protest addressed to it by the Mexican Embassy at this capital on November 27, 1901, against a proposed diversion of waters of the Colorado River within the United States by a concern styled "Imperial Canal System":

"The first thought from a reading of this last quotation would naturally be that the provisions of Article VII of the first treaty, relative to the construction of any work that might impede or interrupt navigation on the Colorado, were retained. But when carefully considered, the italicized language gives evidence of a restriction of such provision to that portion of the stream where the same is a boundary line. And the diversion of the water by the canal of this company being wholly within the United States and within the purview of the restriction, relieves the company from any claim of conflict with these treaties." (Report to the Attorney General of the United States concerning the condition of Colorado River in California, etc., p. 58.)

The foregoing appears to answer your inquiry, but there are certain other considerations connected with the matter which I desire to bring to the attention of your committee.

Although the provisions of the bill in question are not clear upon the point as to whether the works, for the construction of which the bill provides, would result in the use of practically the entire flow of the Colorado River at a point a little north of the boundary line between the United States and Mexico, information coming to me from other sources appears to indicate that such would be the case during certain seasons of the year. If this information be correct, I may say that it would seem to me that considerations of equity and comity would require that the bill should be so amended as to provide that the works contemplated thereby should not be constructed until the conclusion of an agreement between the Governments of the United States and Mexico for the equitable distribution of the waters of the Colorado River.

In this connection, I may point out that following the delivery of the before-mentioned opinion of the Attorney General, the Government of the United States decided upon the adoption of a liberal policy and one not involving insistence on its legal rights; namely, the negotiation of a convention for the equitable distribution of the waters of the Rio Grande. Thereafter and while the question of the regulation of the use of these waters was thus under consideration by the two Governments, the Rio Grande Dam & Irrigation Co. was proceeding with a project for the construction of a dam at Elephant Butte, N. Mex., which project, if it had been carried through, would have placed in private hands the waters of the Rio Grande at that point and thus have nullified the efforts of the two Governments for an arrangement for the equitable distribution of the waters. For the purpose of forestalling this project, the Attorney General of the United States instituted injunction proceedings against the company in question based on the following provision of the act of Congress of September 19, 1890 (26 Stat., 454) :

"That the creation of any obstruction * * * to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited."

The proceedings thus instituted terminated in the decision of the Supreme Court of the United States upholding the Government's contention. (*United States v. Rio Grande Dam & Irrigation Co.*, 174 U. S., 690.)

Following the rendition of that decision Congress authorized the construction by the Government of a dam called the Engel Dam, and on May 21, 1906, a convention was concluded between the United States and Mexico providing for the equitable distribution of the waters stored by means of this dam.

With relation to the proceedings had, as above outlined, in the case of the waters of the Rio Grande, I may call to the attention of your committee the apparent inconsistency which would result should the Government of the United States, having acted to prevent the monopolization by private parties within the United States of the waters of the Rio Grande, provide in an analogous case for monopolization by the authorities of the United States of the waters of the Colorado River.

I may add that the Government of the United States proposed in 1912 to the Government of Mexico that a convention be concluded providing for the appointment of a commission "to study, agree upon, and report" the basis of distribution and appropriation of the waters of the Colorado River, the findings of the commission, if and when approved by the two Governments, to be embodied in a treaty. After an exchange of several draft conventions, a form of convention seems to have been practically agreed upon in May, 1913, but apparently because of the strained relations then existing between the Government of the United States and the so-called Huerta administration in Mexico, the convention was never signed, and the matter has since been in abeyance. I have the honor to be, sir,

Your obedient servant,

ROBERT LANSING.

EXHIBIT D.

TREASURY DEPARTMENT,
Washington, September 30, 1919.

MY DEAR CONGRESSMAN: I have received your letter of September 26, 1919, inclosing a copy of H. R. 9421, introduced (by request) by Mr. Hayden, to authorize the construction of the Lower Colorado River reclamation project, and regret to say that with a few minor exceptions the objections which I urged in my letter of June 30 as to H. R. 6044 apply equally to H. R. 9421. The changes which have been made, as, for example, the change in terminology so as to authorize the issue of bonds and notes as well as certificates of indebtedness, the enlarged authority given to the Secretary of the Treasury to fix the terms of the issues, and the modified provisions as to the disposition of the surplus proceeds of the sale of bonds, notes, or certificates, do not save the bill from the objection which, from the Treasury point of view, is fundamental, namely, that it imposes upon the Treasury of the United States the burden of financing the project, but attempts to avoid making a direct appropriation, which would be the orderly and businesslike thing to do if the project is found to be meritorious, by directing the Secretary of the Treasury to sell obligations of the United States to provide the funds required for the purposes

of the bill. I feel very strongly that if it should be determined that the project is meritorious and one which the United States should finance, the only satisfactory way to handle the matter would be to make a direct appropriation of a specific amount for the purpose, leaving the Secretary of the Treasury, acting under the general authority conferred upon him by Congress, to finance the requirements of the project as from time to time might be found to be expedient. To attempt to provide for financing the project by authorizing special issues of obligations of the United States without making a direct appropriation tends to confusion of thought in the consideration of the bill, and, in my opinion, is certain to prove embarrassing in the long run to the credit and financial operations of the United States.

Very truly yours,

CARTER GLASS.

Hon. M. P. KINKAID,
House of Representatives, Washington, D. C.

EXHIBIT E.

{University of California, College of Agriculture, Agricultural Experiment Station, Berkeley, August, 1918.]

A PLAN FOR RECLAIMING AND PEOPLING THE MESA LANDS BORDERING THE IMPERIAL IRRIGATION DISTRICT.

By ELWOOD MEAD.

In Imperial Valley, on the Southern border of California, there are over 200,000 acres of public lands which can be irrigated from the Colorado River by a canal which would start at the Laguna Dam and carry water, both to the mesa land and to the Imperial Irrigation district. This dam was built by the United States Reclamation Service and belongs to the Government. A survey to locate the canal from this dam to the Imperial Valley, and an estimate of its cost, have been made at the joint expense of the United States Reclamation Service and the Imperial Irrigation district. The writer of the letter which follows was the chairman of the board which had charge of the survey and which made the estimate of its cost.

This land is the upper part of the gently sloping sides of the Salton Basin. The lower part of this great bowl, or basin, is the Imperial Irrigation district, watered by a canal from the Colorado River, but starting farther down and making a long loop into Mexico before reaching the land to be irrigated.

It is planned to build a high line canal, large enough to supply both the unirrigated mesa land and the Imperial district, and to have the entire canal on American territory. The Imperial district and the higher unirrigated land are both to share in its cost, hence less than half the expense of the main canal referred to in the letter which follows would be a charge on the mesa land. A bill has been introduced in Congress, authorizing the sale of the irrigable public land in tracts of 160 acres and the use of money thus obtained to help finance construction; the greater part of the money to come, however, from an issue of certificates of indebtedness by the United States Treasury.

These unirrigated mesa lands are now an arid desert where a horned toad can hardly live, but they have great prospective value. They are separated from the irrigated land of the Imperial district by only the width of a canal. Below the canal land sells for \$150 to \$300 an acre. If irrigated, the higher lands would be worth as much, and on 20 to 40 acres a family could make a comfortable living. If these lands are sold in their present arid condition they will be bought at arid-land prices, but not by landless homeseekers. These will come after canals are built and water is available and they will have to pay irrigated-land prices. Such a sale will make the mesa a fat field for speculation.

The letter which follows was written in response to requests from the two gentlemen to whom it was addressed and who are residents of the valley, asking for a statement of the methods and policies which the writer believes should control the reclamation and peopling of this area.

The policy advocated is approved by the State land settlement board and those members of the faculty of the State university who have studied the conditions and problems of the proposed development.

MR. JACOB LORANG,
R. D. 1, box 32, Imperial, Calif.
 MR. A. M. NELSON,
El Centro, Calif.

MY DEAR SIRS: I have recently had letters from each of you of much the same tenor. Both refer to the efforts being made by the people of the Imperial Valley to secure the irrigation and settlement of the mesa lands, and both ask for a statement of my views on certain matters connected therewith.

The public interest shown in this matter is a good feature. It is an undertaking that needs to be thought out to a conclusion before work begins. This is one of the largest, if not the largest, body of irrigable land in public ownership yet awaiting settlement. The control of the land and the plan to be followed in its settlement will do much to shape the social and economic results. These results, in times like the present, are of great moment.

IRRIGATION WORKS SHOULD BE BUILT BY THE GOVERNMENT.

To reclaim and people this land will require a very large expenditure. The main canal, built large enough to supply the whole valley, with the main supply canals for the mesa lands, and the storage works which will be required to insure ample water, will cost between \$30,000,000 and \$40,000,000. The improvement and equipment of small farms on the mesa will cost from \$15,000,000 to \$20,000,000. So that, in some way, about \$50,000,000 must be raised and spent. I think all realize that use of the Government's credit will be needed in obtaining this money and the best results will come from making it a cooperative State and national undertaking. The Government can provide money to build the needed canals and storage works at a lower rate of interest and under more favorable conditions than it can be secured in any other way and low interest rates and long-time payments will be needed to enable struggling settlers to succeed.

If the Government furnishes the money, the reservoir and main canals should be built by the United States Reclamation Service. The simplest plan would be for the Government to sell water to the present Imperial district, and to any districts which may be formed on the mesa, at a price which will maintain the works and return 3½ or 4 per cent interest on the investment. The distributing systems in each district should be owned and operated by the district.

Title to the land should be retained by the Government until the irrigation works are completed and water is available for irrigation. Settlers could then begin the improvement and cultivation of their farms as soon as they went on the land. It should be sold only to actual settlers in small individual farms. The town sites should be located and laid out, like the farms, according to some carefully thought-out-plan, so that the people who make their homes on what is now a desert will feel that they have all the aid that science and experience can give.

NEED FOR A MORE SOCIAL LAND SETTLEMENT POLICY.

This means a new kind of development, but there are weighty reasons why the primitive practices of the past should give way to better ones. We are living in a time when people are thinking as never before about the right of those who live on the land to own the farms they cultivate. The longing for this and the satisfaction of those who enjoy this privilege is seen in all countries. Where the land is owned by its cultivators, as in France and Denmark, Government is stable. Where no attention has been paid to land hunger, and where tenantry has prevailed, countries are in the throes of revolution. Hungary and Russia are two illustrations.

Since the beginning of this century some countries have sensed this growing desire for landed independence and have spent huge sums to gratify it. It has resulted in one of the greatest agrarian advances of all time. Believing that no expenditure or effort was too great to insure the retention of the right kind of people in the country, Governments have bought privately-owned land and sold it in small individual tracts to its former cultivators under conditions that enable them to pay for it. In this way tenantry has given way to home-owned farms and the movement of land-born people to the city has been checked.

Every nation that adopted this policy has derived immense benefits from its action. All except those prevented by war are to-day doing more than ever before. California was the first State in America to recognize the importance of this matter. It has utilized the experience of other countries in framing a successful policy of State aid and direction in land settlement. The benefits of the first experiment at Durham were so marked that the last legislature, without opposition, appropriated \$1,000,000 to buy more land and establish other settlements. A bond issue of \$10,000,000 has been authorized and will be voted on at the next election. The State has, therefore, a working plan and the likelihood of a large fund with which to create new communities, made up of both soldier and civilian settlers, and which will give broader opportunities to people of small means to become home owners. The land-settlement law ought to be utilized in the development of a part of the mesa lands.

There is now pending in Congress a soldier settlement bill, which, if passed, will provide for planned rural development throughout the Nation. A part of this land ought to be settled under the national soldier settlement act. If this plan is adopted, two public agencies, the Nation and the State of California, would work in friendly emulation to show what skill, knowledge, and experience could do. Both settlements would have 2 and 4 acre homes for farm workers, the feature of Durham which has proven of such social and economic value. There would be farms of different sizes to meet the needs of men with and without families, and for different kinds of culture.

The first step in this planned development would be classification of the land, based on its fertility and on the cost of preparing it for irrigation. The acreage price of the different farms would not be the same, but would be fixed so as to make them, as nearly as possible, equally attractive. There would be organized, cooperative action in building houses, grading land, seeding crops, buying live stock, seeds, and implements. This would save losses of time and money by settlers and insure a rapid and prosperous development. Land opened to settlement under this plan would be sought by people who would not only be good farmers, but good citizens. They would all live on their farms and be interested in the enduring success of that section. Such an outcome would make development sound financially and the social and economic results would justify the expenditure of public funds to bring them about. The policy will appeal to the common sense and sympathy of the whole Nation. Legislation by Congress to provide money for this development can, I believe, be secured.

OBJECTIONS TO THE PROPOSED SALE OF THE LANDS.

The land policy outlined in the Kettner bill is based on a different idea. It leaves each settler to shift for himself and makes the peopling of this area and the creation of towns and farm homes a matter of uncoordinated individual effort. This, for people to whom the problems of irrigation are strange and new and who have little money, is a hard and risky undertaking. It proposes, as the first step, to raise a guaranty fund by selling the public land in 160-acre tracts. The land would be sold, therefore, before there was any water for irrigation or any certainty as to when it would be provided. Those who would buy under such conditions might want to farm, but many would buy to reap the increments of value which would follow development. Every landowner who bought at this sale would, to that extent, restrict the opportunities of landless farm seekers.

The land is to be sold under this bill without any proper classification of the soil. This classification should be made to enable people not familiar with the valley to know the relative value of different areas. The size of the unit in which the land is to be sold is too large. The land is to be sold before any one can live there and without conditions which will insure residence by the owner. These lands would not, therefore, be bought by people who ought to find homes here. Land-hungry people of small means can not invest \$1,600 in cash or provide it in five years while waiting for Government or corporate canal building.

Another bad outcome of this plan would be that all the land would not be sold. Only the best areas would find purchasers. The Government would hold the culls, with the most desirable areas in private hands. Irrigation is to be provided by the use of the Government's credit. The help would go largely to those who do not need aid to become farm owners. I do not believe that public opinion will regard this with favor.

If such a plan should be adopted, it would make soldier or civilian settlement on this area, by the California Land Settlement Board, costly, if not impossible. No large area could be secured without paying high prices to those who had, under this act, bought from the Government at a nominal price. Such a performance would be a travesty. It would show an entire absence of foresight.

SETTLEMENT SHOULD BE AIDED AND DIRECTED BY THE GOVERNMENT.

I believe, therefore, that the sale of these lands in advance of development would be a social and economic mistake. The mesa lands ought to be regarded as one of the fields where democracy can show what it can do for those that need its aid. Every influence which those interested in the progress of rural civilization could exert would, I am sure, be brought to bear to secure the funds for the construction of the irrigation works as a part of this policy. This matter has not been brought to the attention of the State land settlement board, but, at our meeting on Thursday, August 14, I will call attention to the benefits which would come to the State and to settlers by its undertaking to aid and direct the settlement of, say, 40,000 to 50,000 acres of this area found to be suitable by the soils experts of the university. Some of the funds to be provided by the State bond issue could nowhere be used to better advantage than in helping to create homes on this unpeopled area. If the State were to direct and aid in the development of such an area, it would mean loans to the settlers of fully \$2,000,000 to help to improve and equip their farms. It would put these settlers on their feet and in a position to meet payments on water rights and improvements and create in a short time homes of comfort and prosperity that would make this valley a source of pride and satisfaction, not only to the State, but to the Nation. The same results would follow soldier settlement on a larger area under the Mondell bill. No such results would follow the plan outlined in the Kettner bill. It would be an unplanned development where a large percentage of the land would be held by nonresident owners and cultivated by tenants. This is a feature that we must struggle to avert with energy and persistence.

I sympathize with the efforts of all those that are seeking this development, even where I differ with them as to methods. The land and water are unused. Great values can be created, but I believe we have come to the point when we must consider public resources like land and water as a trust to be administered in the public interest and thus make economic democracy a concrete reality which all can see and understand.

I hope that these views will commend themselves to you and others interested and that steps will be taken to amend the Kettner bill along the lines indicated. I would suggest, as helping to bring about an agreement, that a conference be held where this matter would be dealt with as a State problem. That is what it is. People in all parts of the State long to own farms. Many of these people would like to secure homes in this area. The university would be a convenient place for a gathering of State agencies interested in rural progress. These would include, among others, the State engineering office, the State water commission, the irrigation investigations, the State land settlement board, the college of agriculture, the United States Reclamation Service, and delegates from the Irrigation district, the board of supervisors, the American Legion, and the farm bureau of Imperial County and district. Can not such a conference be held in the near future?

Sincerely, yours,

ELWOOD MEAD.

OPINION OF PHIL. D. SWING IN RE UNITED STATES TREATIES WITH MEXICO.

OUR TREATIES WITH MEXICO DO NOT PROHIBIT TAKING OF WATER OUT OF COLORADO ON AMERICAN SOIL, EVEN THOUGH IT AFFECTS THE NAVIGABLE CAPACITY OF THE RIVER.

A great deal of confusion seems to exist in the discussion of legal and treaty rights in and to the waters of the Colorado River. I think in some instances the confusion has been induced through geographical uncertainty and the fact that some rivers have more than one name.

Article VII of the treaty of 1848 (Guadalupe Hidalgo), which deals solely with the Rivers Gila and Rio Bravo del Norte, has sometimes been quoted as

constituting a guarantee to Mexico of the navigability of the Colorado River. It is as follows:

"The River Gila and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico being, agreeably to the fifth article, divided in the middle between the two Republics, the navigation of the Gila and of the Bravo below said boundaries shall be free and common to the vessels and citizens of both countries, and neither shall, without the consent of the other, construct any works that may impede or interrupt, in whole or in part, the exercise of this right, not even for the purpose of favoring new methods of navigation. Nor shall any tax or contribution, under and denomination or title, be levied upon vessels or persons navigating the same or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If for the purpose of making said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments. The stipulations contained in the present article shall not impair the territorial rights of either Republic within its established limits."

It is apparent, however, from the mere reading of this article that it refers solely and wholly to the Gila and the Rio Bravo del Norte. The Rio Bravo del Norte was and is another name for the Rio Grande, and was so understood and intended by the plenipotentiaries, as shown in the first sentence of Article V where they refer to the "Rio Grande, otherwise called Rio Bravo del Norte." The Gila, of course, is a tributary or branch of the Colorado River, flowing into it from an easterly direction at Yuma, Ariz. It might be thought by some that the name "Gila" was intended to cover not only the tributary proper but also that part of the Colorado River below the juncture of the two streams. Article V, however, shows that the plenipotentiaries knew that the name Gila applied only to the tributary and that below its juncture with the Colorado the river was called the Colorado.

In describing the boundary line, they say—
"thence northward along the western line of New Mexico, until it intersects the first branch of the Gila; thence down the huddle of said branch and said river, until it empties into the Rio Colorado; thence across the Rio Colorado, etc."

That they knew that the river below the Gila was called the Colorado, and that they so used the name is further shown in Article VI, where it is said:

"The vessels and citizens of the United States shall in all times have a free and uninterrupted passage by the Gulf of California and by the River Colorado below its confluence with the Gila, it being understood that this passage is to be by navigating the Gulf of California and the River Colorado and not by land, etc."

From the foregoing it must be very apparent that Article VII is wholly foreign to the Colorado River, which is neither mentioned nor in anywise referred to therein.

The only provisions in the treaty of 1848 relating to the Colorado River are to be found in the first paragraph of Article VI and are as follows:

"The vessels and citizens of the United States shall in all times have a free and uninterrupted passage by the Gulf of California and by the River Colorado below its confluence with the Gila to and from their possessions situated north of the boundary line defined in the preceding article, it being understood that this passage is to be by navigating the Gulf of California and the River Colorado and not by land, without the express consent of the Mexican Government."

From this Article VI it is clear that the right to navigate the Colorado River was not guaranteed "free and common to the vessels and citizens of both countries" (as was the case with the river Gila and Rio Bravo del Norte, under the provisioin of Article VII, but only to "the vessels and citizens of the United States."

However, the provisions above quoted were expressly "abrogated and annulled" by Article IV of a subsequent treaty negotiated in 1853 and proclaimed June 30, 1854, known as the Gadsden Treaty, and new provisions "substituted therefor." Said Article IV is as follows:

"The provisions of the sixth and seventh articles of the treaty of Guadalupe Hidalgo having been rendered nugatory for the most part by the cession of territory granted in the first article of this treaty, the said articles are hereby abrogated and annulled and the provisions as herein expressed substituted therefor. The vessels and citizens of the United States shall, in all time, have free and uninterrupted passage through the Gulf of California to and from

their possessions situated north of the boundary line of the two countries, it being understood that this passage is to be by navigating the Gulf of California and the River Colorado and not by land without the express consent of the Mexican Government; and precisely the same provisions, stipulations, and restrictions, in all respects, are hereby agreed upon and adopted and shall be scrupulously observed and enforced by the two contracting Governments in reference to the Rio Colorado, so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty.

"The several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall remain in force only so far as regards the Rio Bravo del Norte below the initial of the said boundary provided in the first article of this treaty; that is to say, below the intersection of the $31^{\circ} 47' 30''$ parallel of latitude, with the boundary line established by the late treaty dividing said river from its mouth upward according to the fifth article of the treaty of Guadalupe."

Article IV is divided into two paragraphs: the first, after providing for abrogating and annulling articles 6 and 7 of the former treaty, defines the rights of the two countries in the Colorado River; the second paragraph deals solely with the Rio Bravo del Norte (Rio Grande). In this second paragraph "the several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo" are expressly referred to and re-adopted by direct reference for the Rio Bravo del Norte, but in the first paragraph where the Colorado River is discussed, absolutely no reference whatever, either direct or indirect, can be found to Article VII of the former treaty, except to say that it is "abrogated and annulled."

So much of the former treaty as applied to the Colorado River was readopted in the subsequent treaty by rewriting into the first paragraph of Article IV thereof practically word for word the provisions of Article VI of the old treaty. To this was then added the following sentence, which is the source of all trouble:

"And precisely the same provisions, stipulations, and restrictions, in all respects, are hereby agreed upon and adopted and shall be scrupulously observed and enforced by the two contracting Governments in reference to the Rio Colorado so far and for such distance as the middle of that river is made their common boundary line by the first article of this treaty."

The meaning of this sentence is not entirely clear, but to say that it refers to Article VII of the treaty of 1848 necessitates bodily writing into it or grafting on to it a reference to said article where such reference in fact does not exist. If the makers of the treaty intended to refer to the provisions of Article VII and make them applicable to the Colorado River, they could have easily done so in few and simple words. That they knew how to adopt, by apt reference, the provisions of the former treaty is admirably exemplified in the last paragraph of Article IV and again in Article V. The fact that they could have easily expressed such intention, but did not, raises a strong presumption that they did not so intend.

Again, if it had been the intention of the plenipotentiaries that both rivers where they form the common boundary should be governed by the same provisions, it would have been more natural and reasonable to have simply included the Colorado River in the same sentence which dealt with the Rio Bravo del Norte, and, for instance, to have said that the several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall be continued in force and made applicable to the Colorado River and the Rio Bravo del Norte so far as the middle of said rivers constitutes the common boundary line between the two countries. The fact that the two rivers are treated separately and differently shows an intention at the two rivers were not to be governed by the same provisions. Also the fact that in the paragraph relating to the Rio Bravo del Norte an express reference is made to Article VII of the former treaty, while in the one relating to the Colorado River such reference is omitted, evidences a further intention on the part of the makers that the provisions of said Article VII should not apply to the Colorado River.

As the sentence under discussion contains no express reference to the former treaty or to any of its articles, either by name or number, it might, with equal force, be contended that the reference—if any there is—referred not to Article VII but to Article VI of the 1848 treaty; and reading the sentence in that light it would mean that precisely the same provisions as were then in force on the Colorado River were readopted and continued in effect under the new treaty.

This interpretation seems no more unreasonable or unnatural than the one based on making a reference to Article VII.

Again, if the provisions of Article VII of the old treaty are, by any construction placed on the first paragraph of Article IV of the treaty of 1854, made applicable to the Colorado River, then said Article VII applies to both the Colorado River and to the Rio Bravo del Norte, because the next paragraph expressly adopts the provisions of said Article VII for the latter stream. But this can not be, for the treaty of 1854 expressly limits and restricts the provisions of said article to the said Rio Bravo del Norte. The wording of the treaty in that respect is as follows:

"The several provisions, stipulations, and restrictions contained in the seventh article of the treaty of Guadalupe Hidalgo shall remain in force only so far as the Rio Bravo del Norte below the initial of said boundary line prescribed in the first article of this treaty, etc."

While, perhaps, no one of the foregoing considerations standing by itself would appear conclusive, yet when taken altogether they seem to clearly indicate an intention that the provisions of Article VII should not apply to the Colorado River as was the case with the Rio Bravo del Norte, but that the Colorado River should be governed by different provisions. This seems to be the interpretation placed on these treaties by no less eminent authority than John Bassett Moore, who says:

"The territorial situation having been changed by the cession to the United States of the Mesilla Valley by the treaty of December 30, 1853; it was stipulated by the same treaty (Art. IV) that the vessels and citizens of the United States should continue to have free and uninterrupted passage of the Gulf of California and the River Colorado to and from their possessions north of the new boundary, and that the stipulations and restrictions of the treaty of Guadalupe Hidalgo as to the Rio Grande should remain in force only below latitude 31° 47' 30". (Vol. 1, Moore Digest International Law, p. 639.)"

Finally, there seems to be a reasonable interpretation which can be given to the sentence in question without doing violence to its construction. The whole controversy begins and ends with the meaning to be given to the word "same."

"And precisely the same provisions, stipulations, and restrictions in all respects are here agreed upon and adopted and shall be scrupulously observed and enforced by the two contracting Governments in reference to the Rio Colorado, so far and for such distance as the middle of that river is made their common boundary line, by the first article of this treaty."

The interpretation which makes this sentence refer to and adopt the provisions, stipulations, and restrictions of Article VII of the former treaty must construe the word the "same" as being a correlative conjunction used in the sense "the same—as." But this presumes the vital word "as" was unintentionally omitted. Furthermore, there is nothing which precedes the word "same" to which it can possibly refer. I believe the word "same" is used in this sentence as a simple adjective meaning "similar," "like," or "identical"; and that the makers of the treaty had in mind that for that part of river which constituted the common boundary line "precisely the same (i. e., identical) provisions" should be observed and enforced by each nation; for although equally divided, in theory, between the two nations, where it is their boundary, the river is in fact a unit and engineers agree it must be treated as such to avoid dangerous consequences. Hence it was proper for the treaty provided that for the distance it was their common boundary it should be governed by "the same"—i. e., like or identical—provisions, stipulations, and restrictions. While this interpretation imposes certain obligations on the United States, they fall far short of guaranteeing the navigability of the Colorado River to Mexico.

And this further point should be noted, that whatever the treaty obligation may be that is thus imposed upon the United States, it is only obligated to observe it "so far and for such distance as the middle of that river is made their common boundary line by the first article of the treaty." No restriction is imposed or attempted to be imposed on what the United States may do with the river within its own boundaries.

Finally, a word about the treaty of 1884, proclaimed 1886. That this was not a treaty intended as changing existing rights or giving new ones is clearly indicated in the preamble which sets forth its purpose, as follows:

"To avoid difficulties which may arise through the changes of channel to which those rivers (Rio Grande and Colorado) are subject through the opera-

tion of natural forces, the Government of the United States of America and the Government of the United States of Mexico have resolved to conclude a convention which shall lay down rules for the determination of such questions."

The reference to navigation is to be found in the second paragraph of Article V. The first paragraph provided that the jurisdiction of either country over that part of its lands separated by a change in channel should continue. Paragraph 2 is as follows:

"In no case, however, shall this retained jurisdictional right affect or control the right of navigation common to the two countries under the stipulations of Article VII of the aforesaid treaty of Guadalupe Hidalgo; and such common right shall continue without prejudice throughout the actually navigable main channels of the said rivers, from the mouth of the Rio Grande to the point where the Rio Colorado ceases to be the international boundary, even though any part of the channel of said rivers through changes herein provided against, may be comprised within the territory of one of the two nations."

The mere reading of this provision shows it was not intended to "affect" existing rights, but that "such" rights should "continue" in force as they were before without change. As I have shown, the only place where Article VII applies is on the lower Rio Grande. The former treaties did not make the navigation of the lower Colorado common to both countries, but only to the vessels and citizens of the United States. Again assuming it was intended to make the right of navigation on the Colorado River common to both countries, it appears, if at all, only to the "actually navigable channels" of said river, and, as I will hereafter show, the lower Colorado is not actually navigable.

And finally the reference as to what part of the Rio Grande and the Colorado was intended to be affected by this treaty provision is so inapt, ambiguous, and unintelligible that it is void for uncertainty. Only one of the termini for the Rio Grande is actually given and that is its mouth. The second point by some unexplainable but apparent mistake is omitted. Likewise only one of the termini is given for the Colorado and that is "where the Rio Colorado ceases to be the international boundary." But there are two points on that river, 20 miles apart, which exactly fit this description, one at the intersection of the southern boundary of California and the other at the southern boundary of Arizona.

My conclusion, therefore, is that the treaty of 1884-1886 was not intended to, nor does it affect navigable rights on the Colorado, but that such rights continue as before under the treaty of 1854 (Gadsden treaty).

This view of our Mexican treaties is vigorously supported in the opinion of Attorney General Judson Harmon (21 Official Opinions, 274) in interpreting similar provisions relating to the Rio Grande, and also in the opinion and report of Judge M. C. Burch, special assistant to the Attorney General, rendered in 1903, upholding the right of American citizens to divert the water of the Colorado River, where the diversion is made within the United States. Nothing is to be found to the contrary in the decision of the Supreme Court in the case of the United States *v.* Rio Grande Dam & Irrigation Co. (174 U. S., 690). In the decision the Supreme Court avoided passing on the treaty provisions and decided the case on the construction of the United States statute adopted in 1890 (26 Stat., 454, sec. 10), prohibiting "the creation of any obstruction not authorized by law to the navigable capacity of any waters of which the United States has jurisdiction."

The decision, however, sets out an important distinction, which, in my opinion, shows that they would have given the treaties a different interpretation from that given the statute of 1890. Referring to the language of the statute above quoted, they said: "It is not a prohibition of any obstruction to navigation, but any obstruction to the navigable capacity." "Navigation" is the act of navigating or passing up or down upon the waters of a stream. "Navigable capacity" describes the depth, width, and general condition of a stream with reference to the possibility of vessels passing over its waters. Navigation is a fact; navigable capacity is a theory. So there can be "navigable capacity" where no "navigation" in fact exists.

In none of the treaties with Mexico does the United States undertake to guarantee the navigable capacity of any of the rivers. In Article VII of the treaty of 1848 the United States does guarantee navigation on the Gila and Bravo where they are the common boundary line, and agrees not to "construct any works that may impede or interrupt the exercise of this right" (i. e., navigation).

But in order to "impede or interrupt" navigation, navigation must actually exist, else there is nothing to impede or interrupt, and the fact is that there is not, and has not been for many years, any navigation of any sort whatsoever on the Colorado River. (See statement herein on navigability of the Colorado River.)

Finally, these treaties have been given an actual construction by our Government on the very point here involved, which decision is a precedent for any future controversy. Under date of November 27, 1901, the Mexican ambassador wrote a protest to our Secretary of State, complaining of the operations of this company (California Development Co., which made the original appropriation and diversion for Imperial Valley) as being in contravention of the treaty between the United States and Mexico of 1848, commonly known as the treaty of Guadalupe Hidalgo, and article 4 of the subsequent treaty of 1853, commonly known as the Gadsden treaty. This protest was referred to the Department of Justice for investigation and report, and after very full and exhaustive investigations and study a report and opinion was made to the Department of State to the effect that the diversion of the water of the Colorado River by this company, being accomplished wholly within the United States, was not in conflict with the provisions of any of the treaties. Under the protection of this ruling of our Government 400,000 acres in Imperial Valley, Calif., have been reclaimed and made the home of some 60,000 American citizens.

The Mexican Government apparently has acquiesced in this interpretation of the treaties, and no longer claims any right to object to diversions made within the United States. The report of Engineer Emeterio de la Garza, Jr., on the Colorado River, made to Mexican minister fomento September 23, 1912, contains the following:

"Every taking of water in the American territory diminishes the property which the nation has in the part of the river which traverses Mexican territory, and, consequently, causes an injury to the nation. The Republic, however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory; thence if waters have been taken, decreasing the volume of the river to the prejudice of the nation, the nation has the right to close the door to the entrance of these waters into Mexican territory, because it does not have to lend itself to that which may injure it or result to its prejudice."

Since the making of these treaties each of the contracting parties have done acts independent of each other and without the other's consent, the direct effect of which was to destroy the "navigable capacity" of the river, if any it ever had.

The United States in 1904 commenced and in 1909 completed the Laguna Dam, a solid bar across the Colorado, a few miles above Yuma, Ariz., which contains absolutely no provision for passing vessels through or around it.

Under the reclamation act of 1902, our Government has commenced and is rapidly developing numerous projects along the Colorado River whose success depends entirely upon the diversion of waters from that river, and it is the proud boast of our Government that these contemplated projects are so extensive that when they are fully developed they will require and use water in excess of the natural flow of the river during low-water season.

All the official reports of our Government on the subject have always declared that the Colorado River was not a worthy subject for the expenditure of money to make it navigable.

Mexico, for its part, has given the Colorado the "same" treatment. In 1904, Mexico, by a contract or concession, issued by an act of their Congress with the approval of their President, authorized the Sociedad de Irrigación y Terranos, a Mexican corporation, to cooperate with the California Development Co., an American corporation, to divert from the Colorado River, in the United States, 284 cubic meters per second (10,000 second-feet) and also authorized the same corporation to divert from the Colorado River, in Mexico, an additional 284 cubic meters per second. The fact that Mexico was fully cognizant of what such a diversion would mean is shown by a further quotation from the report of Engineer Emeterio de la Garza, Jr., to Secretary Fomento:

"The most reliable data which we have to date for estimating the division of the water is that the river carries 442 cubic meters per second, and with this data I compared the quantity of water which the concession gives that in Article I authorized the company to pass through the Mexican territory 284 cubic-

meters per second of the water which it takes in the American territory, and in Article IV authorized the same company to take another 284 cubic meters per second from the Mexican territory—that is, to take in the aggregate below Yuma in both territories 568 cubic meters per second—and as we have seen before, all the Colorado River only carried 442 cubic meters per second; so that all the water of that river is not sufficient to satisfy the concession, therefore I said at the beginning that my attention was called to the quantity of water which was being taken from the Colorado River and conceded to the company.

"The conditional part which appears in Article IV that the 284 cubic meters taken from the Mexican territory shall be without prejudice to navigation, can be converted into an affirmative, in my judgment, for with the 284 cubic meters in the Mexican territory, the Colorado River would remain completely without water and absolutely destroyed forever for navigation from the California boundary line to the Gulf of Cortez."

One of two conclusions must be drawn from these acts, first, that the contracting parties have by their subsequent acts given the treaties the construction contended for herein, to wit, that the treaties were not intended to guarantee the navigable capacity of the Colorado; or, secondly, if the treaties contained any such provision originally, they were subsequently abrogated by the acts of both contracting parties inconsistent therewith.

INTERNATIONAL LAW LAYS NO OBLIGATION UPON THE UNITED STATES TO FURNISH MEXICO WITH WATER.

The right of American citizens within the jurisdiction of the United States to appropriate and use American waters in accordance with the laws of the United States for the reclamation and improvement of American lands, seems to follow as a necessary corollary from the sovereignty of our Nation over its own territory.

Chief Justice Marshall, in *Schooner v. McFadden* (7 Cranch, 136), said:

"The jurisdiction of the Nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving its validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power, which could impose such restriction.

"All exceptions, therefore, to the full and complete power of a nation within its own territories must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

Attorney General Judson Harmon, in an exhaustive and conclusive opinion (21 Official Opinions, 274), holds, there is no obligation imposed upon the United States, by international law, to restrain its citizens from making a beneficial use of American waters so long as said waters are within the United States. He held:

"The rules, principles, and precedents of international law impose no duty or obligation upon the United States of denying to its inhabitants the use of the water of that part of the Rio Grande lying entirely within the United States, although such use results in reducing the volume of water in the river below the point where it ceases to be entirely within the United States.

"The fact that there is not enough water in the Rio Grande for the use of inhabitants of both countries for irrigation purposes does not give Mexico the right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied, entirely within its own territory. The recognition of such a right is entirely inconsistent with the sovereignty of the United States over its national domain."

This view of international law has never been doubted or criticized by any American authority, and even the Mexicans recognize the force of it and invoke this same doctrine of exclusive territorial sovereignty in their own behalf. As we have seen, Engineer Garza quotes with approval the opinion of Emilio Valazco:

"The Republic (of Mexico), however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory, etc."

Indeed, it would be a curious application of the principle of International law or the comity of nations or the doctrine of natural rights, to deprive our

own citizens of the means of life that it might be bestowed upon the citizens of another country. No authority has been found that holds that the proprietary country may not make use of the stream within its own territory that was necessary to maintain the comfort or life of its inhabitants. If this be not true, then the lower country would have control of the lives and property of the upper country. The fundamental principle of international law is absolute sovereignty of every nation against all others. If, then, our treaties with Mexico put us under no obligation to furnish it with water which is gathered wholly on our own soil, for its use either for navigation or agriculture, certainly no law of nations or law of right calls upon us for such a sacrifice. Humanity, common sense, national self-preservation, all cry out against it.

NO STATUTE RELATING TO NAVIGABLE WATERS PROHIBITS IMPERIAL IRRIGATION DISTRICT TAKING WATER FROM THE COLORADO RIVER BECAUSE IT IS NOT A NAVIGABLE STREAM.

The Supreme Court has, in the case of the United States *v.* Rio Grande Dam & Irrigation Co. (174 U. S., 690), defined when a stream is navigable:

"It was said in the Montello (20 Wall, 430, 439), that those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used or susceptible of being used in their ordinary condition as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade or travel on water."

Let us apply this law as enunciated by the highest court in the land to the facts as found to exist by United States Government officials.

In 1903, J. B. Lippincott, then supervising engineer of the United States Reclamation Service for California, rendered a report on the Colorado River in which he said:

"Prior to the construction of the railroads to the lower Colorado, the river afforded the only feasible means of entrance into the desert regions of southeast California and western Arizona, and therefore great efforts were made to navigate it. Subsequently, however, navigation on the river practically ceased. The shifting shallow character of the bed of the stream prevents the maintenance of a permanent channel particularly during periods of high water and when the river is falling. The improvement of the river for navigation has been considered on several occasions by Army engineers and has always been condemned." (Water Supply Papers, No. 93, pp. 168-169; H. Doc. No. 692, 58th Cong., 2d sess.)

In a report made in 1904, the Acting Attorney General referred to an investigation of the Colorado River made by the Department of Justice, and said:

"It was determined by the experts who conducted this investigation that while the river may be technically characterized as navigable, it is not so for ordinary practical and business purposes, such as would come within the broader meaning of the word 'navigable,' and that to make the river navigable in this latter sense would require a gigantic and perhaps futile financial outlay." (33 Land Decisions, 391, 395.)

In 1907 C. E. Grunsky, then consulting engineer for the United States Reclamation Service, made a report on the Colorado River in which he said:

"Owing to unusual difficulties, such as lack of depth on the bars, swift shoal waters, and a tidal bore in the river's mouth, where the range of tide is reported to be upward of 30 feet, there has been practically no commerce on the river below Yuma since 1876, the time of the completion of the Southern Pacific Railroad, which crosses the river at this point." (S. doc. No. 103, 65th Cong., 1st sess., p. 16.)

In 1914 Army engineers, under a resolution of Congress, investigated the navigability of the Colorado River. In their report the following statements are found:

"There is no commerce on the river at present.

"Below Yuma the river flows through a delta country, which is being constantly built up by the large quantity of silt carried by the river. The channel is unstable and can not be made stable at reasonable cost.

"The improvement by the United States of Colorado River with a view of developing and improving navigation is not deemed advisable at the present time." (H. Doc. No. 1141, 63d Cong., 2d sess.)

In 1916 was published E. C. LaRue's exhaustive report on the Colorado River and its utilization (Water Supply Paper No. 395). In his report, at page 188, Mr. LaRue says:

"It has been conclusively shown by engineers that it is not commercially feasible to maintain a channel on the lower Colorado suitable for navigation."

Other authorities could be quoted to the same effect, but I think the foregoing sufficient to show that the Colorado is not navigable in fact, and so not navigable in law, and that therefore there is no inhibition against the appropriation and diversion of its waters for irrigation on the ground that that would constitute an impairment of the navigable capacity of the stream which is prohibited by Federal statute.

Respectfully submitted.

PHIL D. SWING,
Attorney for the Imperial Irrigation District.

COMMUNICATION FROM MARK ROSE IN RE OPINION OF SECRETARY OF STATE RELATING TO TREATIES BETWEEN UNITED STATES AND MEXICO.

WASHINGTON, D. C., August 22, 1919.

Hon. MOSES F. KINKAID,

Chairman Committee on Irrigation of Arid Lands,

House of Representatives, Washington, D. C.

DEAR SIR: In behalf of the 60,000 American citizens residing in Imperial Valley, Calif., represented before your committee by myself and other members of the Washington committee of the Imperial Irrigation district, and also residents of Coachella Valley and adjacent communities represented by myself, I desire to file this communication anent the letter of the Secretary of State addressed to you on the 20th instant in reply to the letter of your committee addressed to him the 4th instant asking for certain information as to the bearing of treaty provisions in force between the United States and Mexico upon the provisions of H. R. 8044, Sixty-sixth Congress, first session, a bill to assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calif., and for other purposes.

I note that while the Secretary of State is, according to his reply to your committee, of the opinion that the provisions of the treaties of 1848 and 1853 are not applicable and that he supports his opinion by quoting from the opinion of the Attorney General dated December 12, 1895, he, for some reason, has failed to quote the particular portion of the opinion of the Attorney General referred to which deals directly and clearly with the main question involved, namely, the right of the United States to divert water wholly within its own territory. Upon that question the Attorney General in his said opinion held:

"The rules, principles, and precedents of international law impose no duty or obligation upon the United States of denying to its inhabitants the use of the water of that part of the Rio Grande lying entirely within the United States, although such use results in reducing the volume of water in the river below the point it ceases to be entirely within the United States.

"The fact that there is not enough water in the Rio Grande for the use of the inhabitants of both countries for irrigation purposes does not give Mexico the right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory. The recognition of such a right is entirely inconsistent with the sovereignty of the United States over its national domain."

This language, which refers to the Rio Grande, is applicable to the Rio Colorado.

Apparently not content with replying to the letter and question or questions of the committee and giving his opinion as above stated, the Secretary of State appears to have gone out of his way to offer unsolicited suggestions with relation to the bill referred to, which action seems to me to ill become a high official of this Government charged with the duty of protecting United States, not Mexican, interests, or interests of a few millionaire Americans in Mexico.

The Secretary states:

"Although the provisions of the bill in question are not clear upon the point as to whether the works, for the construction of which the bill provides, would result in the use of practically the entire flow of the Colorado River at a point

a little north of the boundary line between the United States and Mexico, information coming to me from other sources appears to indicate that such would be the case during certain seasons of the year. If this information be correct, I may say that it would seem to me that considerations of equity and comity would require that the bill should be so amended as to provide that the works contemplated thereby should not be constructed until the conclusion of an agreement between the Governments of the United States and Mexico for the equitable distribution of the waters of the Colorado River.

The adoption of the amendment suggested by the Secretary would result in giving to Mexico a right which the Attorney General held, as above shown, can not be given to that country, and in subjecting "the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory." Truly, "the recognition of such a right is entirely inconsistent with the sovereignty of the United States over its national domain," as stated by the Attorney General, and yet the Secretary of State recommends such action. He suggests an "equitable distribution of the waters of the Colorado River." In whose interest would this "equitable distribution" be? Manifestly, not in the interest of those 60,000 American citizens in Imperial Valley whose servant he is and who help to pay his salary, but in the interest of a few millionaires who are now, in effect, making every effort to annex themselves to the waters of the Colorado River. The action of the Secretary may not seem strange to some, but it appears to me almost impossible of belief. To find the Secretary of State of the United States, charged with the sole duty of protecting the interests of the American people, advocating action by the Congress which would and could only injure to the benefit of private interests below the international boundary line and be destructive of the interests of the United States citizens, is, indeed, alarming. It would seem that the regard for the duties and obligations of his high office and a proper appreciation of his relations to the people of the United States, which he is supposed to entertain, should have guided him and controlled his action.

Instead, he makes a recommendation which would, if adopted, assist private foreign interests and injure the very people he is required to protect. In whose interests was his suggestion or recommendation made? Manifestly, not in the interest of any citizens of the United States whose interests lie within the United States, for his recommendation suggests the arresting of development in the United States and the denial to its inhabitants of the use of a provision which nature has supplied entirely within United States territory. The effect of his amendment, if adopted, would be to place an embargo upon the further use of the waters of the Colorado River on lands lying in the several Western States constituting the watershed of this great river, and at the same time placing any settlement of the use or division of the waters thereof in the hands of the Mexican Government, such as it is, and those of a half dozen multimillionaires, mostly Americans who own some million and a half acres of land in Lower California and Sonora, Mexico, irrigable from this source. And if the waters of the Colorado River are to be divided in imaginary equity and comity, and other than upon our treaty rights and the rights of American citizens to use that which belongs to them by inheritance, it would naturally follow that these large private interests south of the line, who have as yet never diverted and put to beneficial use on Mexican soil any of the waters of the Colorado River, would purposely delay action until they could, through United States sources, put the entire flow of the Colorado River to a beneficial use on lands entirely within a foreign country held in private ownership; and the Mexican Government would naturally prefer to hold back any settlement of this question until she could put as much of the water to a beneficial use as possible in Mexico, thereby greatly enhancing her national wealth and improving her domain.

This would naturally be the policy of any government toward its own national domain and its own citizens if foreign influence were not brought to bear. In January, 1916, it was very aptly stated before the Interior Department that the private interests below the line were then constantly making efforts to take from the Colorado River as quickly as possible as much water as possible for the irrigation of their lands in Mexico, upon which action and use to later found a plea for an equitable adjustment and distribution of the said waters. The suggestion of the Secretary of State made a few days ago discloses that the statement made to the Interior Department in January, 1916, was prophetic, for the plea apparently is now being made, although from a source not then contemplated.

If, as the Secretary of State holds, there is no treaty prohibiting the United States from taking the waters of the Colorado River, and if Mexico has no right to subject the United States to the burden of arresting its development and denying to its inhabitants the use of a provision which nature has supplied entirely within its own territory, and if such a right would be inconsistent with the sovereignty of the United States over its national domain, why should he now advocate upon "considerations of equity and comity" a division of the waters of said river between the United States and Mexico? Mexico has not requested such a division. In fact and indeed Mexico has acquiesced in our interpretation of the treaties and no longer claims any right to object to diversions made within the United States. In the report of the proceedings before your committee on this bill will be found a reference to a report of Engineer De la Garza made to the Mexican minister fomento January 23, 1912, in which it is stated:

"The Republic (Mexico), however, can not prevent the waters from being taken in American territory, but has a perfect right to prevent the waters taken in American territory from being carried across the Mexican territory," etc.

This situation, namely, the carrying of water through Mexican territory, is the very thing the citizens of Imperial Valley are trying to get away from, and the bill now before your committee above referred to will, if enacted into law, accomplish this result.

Does it not appear to the committee strange that Mexico has never asked for a treaty dividing the waters of the Colorado River, or for an agreement dividing those waters upon "considerations of equity and comity" or otherwise?

Does it not also seem strange that, in view of our treaty rights and the opinions of the legal department of the United States Government upholding them, any citizen or official of the United States should suggest a treaty or agreement by which to give away the waters of the Colorado River to the detriment of the citizens of the United States and in violation of their property rights?

For whom should the Secretary of State be asking equity? For the citizens of the United States within the United States, or for a number of renegade millionaire Americans in a foreign country?

The Secretary of State appears willing to waive the legal right of the United States to the waters of the Colorado River. Thereby the millionaire Americans referred to would enjoy the use thereof under a foreign flag.

I note the Secretary's reference to the Rio Grande case and in that connection desire to say:

Why did the Secretary of State cite a case which was ended adversely to the interests of the United States, unless it was an attempt to strengthen his suggestion that the water be divided between the United States and Mexico? The iniquity of the Rio Grande case was pointed out by Senator Thomas of Colorado in 1914, and I will later in this communication quote from his speech. Suffice it to say at this time that the able Senator looked with prophetic eye upon the Colorado River question, for he said, in reference to the Rio Grande case:

"If the Government can take the waters of our State for a project like this, then it can enter into similar relations with Mexico concerning the peninsula of Lower California with reference to the waters of the Colorado River, and lay a like inhibition upon the States where the sources of that great river are found."

The Secretary of State says that the United States, following the delivery of the opinion of the Attorney General above referred to (vol. 21, Opinions Attorneys General, pp. 274-283), decided upon the adoption of a liberal policy and one not involving insistence on its legal rights. This is news to me. I deny that any such policy was adopted by the United States, and in support of this denial, refer the committee to the convention referred to by the Secretary of State (Treaty of May 21, 1906), wherein it is set forth: "Nor does the United States in any way concede the establishment of any general principle or precedent by the concluding of this treaty" (see Art. V). Did not Mexico, by ratifying this treaty, and particularly the portion thereof above quoted, preclude herself from again objecting to the United States putting to beneficial use waters which rise wholly within her border? But not that alone would control, for it is well settled that, as stated by Attorney General Harmon in his opinion above referred to, "The fundamental principle of international law is the absolute sovereignty of every nation as against all others

within its own territory." From this principle the United States has never deviated, and that it intended to make this clear in the treaty of 1906 is evident from the use of the language above quoted which expressly states that she does not concede the establishment of any general principle or precedent which might be inferred from her signing of the said treaty.

That Mexico was precluded from setting up any precedent was evidently the opinion of Congress, for it passed an act providing for the construction of the Laguna Dam in the Colorado River, which dam has been constructed and in conjunction with which the United States has expended nine millions of dollars in the Yuma reclamation project immediately north of the boundary line between the United States and Mexico. In addition, the Department of the Interior entered into a contract with the Imperial Irrigation district October 23, 1918, under which the district was to construct the canal the financing of which is provided for in the bill now before your committee and providing for the making of the first payment December 31, 1919. If the amendment suggested by the Secretary of State be adopted, the Government would be guilty of interfering with its own contract and stopping the carrying out of provisions which it itself inserted therein under the provisions of an act of Congress. In addition, the Government, under the reclamation act, has expended approximately one hundred millions of dollars on reclamation projects which obtain their water from the Colorado River and its tributaries. Therefore, we find two branches or departments of the Government—Congress and the Department of the Interior—upon the advice of another branch—namely, the Department of Justice—providing, at an expense to the people of the United States of many millions of dollars, the utilization of the entire Colorado River for the purpose of developing the agricultural resources of our own country, and another branch—the Department of State—while apparently agreeing with the opinion of the Attorney General as to our legal right, suggesting a division of the waters of the said river, which supply many unfinished projects, and deliberately giving it in effect to a few millionaires in a foreign country. This could not be done without great injury to United States governmental and private irrigation enterprises.

If the amendment and policy suggested by the Secretary of State be adopted, such action would not only stop all development on the Colorado River and deprive the citizens of the State from which that great river receives its water supply of their right but it would enable Mexico to hold up any settlement or solution of the Imperial Valley problem until the private interests referred to could divert and put to beneficial use the entire flow of water from the Imperial Valley main canal, which traverses Mexican territory for 60 miles, and thereby turn one of the richest agricultural districts in the United States into a desert, deprive 60,000 American citizens of their homes and their property and the Nation of an annual output of food valued at this time at approximately fifty millions of dollars. The Rio Grande case can not properly be used as a precedent for action of a similar nature in the Colorado River case. The former is distinguished from the latter particularly because when all of the territory acquired by the United States under the treaty of 1848 was Mexican territory, and indeed as long ago as 200 years previously, the waters of the Rio Grande were diverted and used for irrigation by Mexicans living below the present boundary line at that point, and these Mexicans had a perfect legal right up to the date of the treaty of 1848 to divert and use the said waters, the sources of which were then in Mexican territory, which right had existed for several hundred years. In the Colorado River case, conditions as to the actual use of water in Mexico are absolutely different. Previous to 1904 no one had used the waters of the Colorado River for irrigation purposes in Mexico, and since that date there has been no irrigation in Lower California (Mexico), excepting by the use of water diverted in the United States and at the sole cost of the American farmer.

In addition, all the canals which deliver water to Mexican lands were constructed with moneys provided by American farmers, and said canals were built for the purpose of carrying American water through Mexico and back into the United States, not for the purpose of delivering water to Mexico or Mexican lands. The water taken by the interests below the line was in the form of toll exacted by those interests for the right on the part of United States farmers to carry their water through Mexico on to their own lands in the United States. Many years previous to 1904, the United States had twice served notice upon Mexico, once in the Rio Grande case through opinion of Attorney General Harmon, and once through opinion of Special Assistant Attorney General Burch in the Colorado case, both being in response to protests

made by Mexico to the diversion of the waters on United States soil, that such diversion was well within the treaty and sovereign rights of the United States. Then, in May, 1906, Mexico acquiesced in this position as I have shown, following which in 1912 it took the position that she could not prevent the waters being taken in American territory, the only thing she could prevent being to prevent waters taken in American territory from being carried across Mexican territory.

The Secretary of State supports his suggestion regarding a division of the water of the Colorado River with Mexico by a reference to the treaty of 1906 and the case of the United States v. Rio Grande Dam and Irrigation Co. (174 U. S., 690). I desire to call attention to the fact that this is the same treaty and the same case referred to by United States Senator Charles S. Thomas, of Colorado, in his speech delivered in the Senate March 23 and 24, 1914, wherein among other things he said:

"Now, Mr. President, that treaty upon its face is an ordinary engagement between two sovereign powers, one of which engages to settle certain controverted local matters between them by furnishing and delivering at its own expense for all time 60,000 acre-feet of water to the other. It is, in fact, the consummation, Mr. President, of a sordid, shameful, and successful intrigue, conducted in the interests of private parties impelled by greed and gain, based upon the existence of no legal, equitable or moral claim whatever on the part of the Mexican Government or any of its citizens against this Government or any of its citizens. * * *

"I have referred to the fact that the treaty requires the United States to furnish annually as a maximum of only 60,000 acre-feet of water to Mexico to satisfy and compromise controversies growing out of the use of waters of the Rio Grande in the United States for agricultural and other purposes. I want to emphasize at the outset the proposition that these claims of the people of Mexico were absolutely groundless. * * *

"I propose to show before I get through that not only has the treaty power of the Government been successfully utilized or perverted so as to carry out this scheme, but the purpose and funds of the reclamation law and project are being utilized and perverted to the same end. * * * Mr. President, I do not hesitate to brand this treaty scheme as a huge speculative enterprise conceived by greed and fostered by governmental agencies; a scheme the needs of which are out of all proportion to the ends finally accomplished in its name. * * * What I complain of, Mr. President, is that in this general scheme of Anson Mills the rights of the people of New Mexico, the rights of the people of Colorado, and, indirectly, the rights and interests of the people of the United States were not only ignored but wantonly sacrificed. * * *

"The Government, Mr. President, has no power to take the property of the citizen without making compensation, yet on the 5th day of December in 1896 it laid its interdict upon the people of my State and forbade them the use of any of the flood waters of this great river, except those which had been previously appropriated. This action has arrested the growth and development of the great San Luis Valley. * * * But the project (referring to Wagon Wheel Gap) has been paralyzed for 18 years, to the end that the Government of the United States through a treaty whose history is a scandal and a shame may give to the people of the Republic of Mexico 60,000 miserable acre-feet of water every year for 25,000 acres of land at a cost of \$10,000,000, plus the reimbursement of the money expended by the Rio Grande Dam & Irrigation Co., plus this tremendous loss that is inflicted upon the people of my State. * * *

"It is the most preposterous, the most expensive, the most indefensible enterprise of the sort that this or any other country ever attempted, and its outrageous progress is attended by delay in the completion of reclamation projects throughout the West—in Washington, in Wyoming, in Utah, in Colorado, in Arizona—because the millions of money belonging to the reclamation fund and needed for them are being diverted for the completion of this mad and senseless project. * * * Mr. President, I trust I have said enough to impress those who have done me the honor to listen to me with the magnitude and importance of the subject locally. Certainly in these days no man need argue the proposition that whatever benefits or injures one of our 48 sovereignties also benefits or injures the rest of the United States. If the Government can take the waters of our State for a project like this, then it can enter into similar relations with Mexico concerning the peninsula of Lower California with reference to the waters of the

Colorado River, and lay a like inhibition upon the States where the source of that great river are found. Indeed, the same doctrine can be applied in every direction. It is wrong; it is injurious; and I am amazed that such a treaty should have been ratified by the Senate of the United States, composed in part of Senators representing the States of the Union, to be so vitally affected by the operations required for the due observance of its covenants."

Can it be possible that, with the Rio Grande case staring it in the face, the Congress will adopt the suggestion of the Secretary of State to give to Mexico, but really for the use of a few millionaire Americans upon their lands in that country the waters of the Colorado River which belong to the people of the United States?

The Secretary of State states that in 1912 the United States Government proposed to the Government of Mexico that a convention be concluded for the appointment of a commission to study, agree upon and report the basis of distribution and appropriation of the waters of the Colorado River, the findings of the commission, if and when approved by the two Governments, to be embodied in a treaty. He further says that after an exchange of several draft conventions, a form of convention seems to have been practically agreed upon in May, 1913, but apparently because of strained relations then existing between the Government of the United States and the Huerta administration in Mexico the convention was never signed, and the matter has since been in abeyance. It would be interesting no doubt, to know at whose instance "the Government of the United States" made the proposal in 1912 to give away the water of the Colorado River. Who influenced the Government of the United States to take this step and to agree in May, 1913, to sign the treaty? Who would be most likely to do this, the few millionaires who own a million and a half acres of land in Sonora and Lower California, Mexico, or the American farmer above the line in the United States who is going to be deprived of his water by such a treaty? The suggestion of the Secretary referred to arouses my curiosity as to whether or not the same interests are still at work, although it is not difficult to guess from whence such efforts emanate, and doubtless they are some of the "sinister and unscrupulous influences" to which President Wilson referred in a statement to the public March 26, 1913, dealing with the Mexican situation. Exactly what was contained in the convention "practically agreed upon in May, 1913," no one outside the State Department seems to know. Its contents would probably be very interesting reading to the people of Imperial Valley, whose very life or death might depend upon the wording of such a treaty. No one in Imperial Valley ever heard of the existence of such a treaty, except in a vague way, and then not until long after Mexico had refused to consummate the deal. I have made repeated verbal requests for a copy of said treaty, but have been refused, doubtless upon the theory that citizens of Imperial Valley have no right to know its contents, although they are the ones most vitally affected thereby. Had they known of the pendency of such a treaty, they would have immediately filed a protest against the giving to Mexico of any of the waters of the Colorado River. To neglect to do so would have been to virtually have held up one hand and with the other pressed a gun to their heads while they were being robbed of their birthright.

The Secretary of State directs attention to "the apparent inconsistency which would result should the Government of the United States, having acted to prevent the monopolization by private parties within the United States of the waters of the Rio Grande provide in and analogous case for monopolization by the authorities of the United States of the waters of the Colorado River," but does not appear to fear the monopoly which the adoption of his suggested amendment would give to the private interests below the line. There is an element of sadness in the action of the Secretary basing his said suggestion upon the Rio Grande case and practically suggesting that what was there done to the citizens of the United States should be done again in the case of the Rio Colorado.

I am sending a copy of this communication to the Secretary of State as a protest upon behalf of the people of Imperial Valley, Coachella Valley, and vicinity against the making of a secret treaty giving to Mexico any of the waters of the Colorado River, and also a demand that if any negotiations along that line are begun, or contemplated, public notice be given to the people of said valleys and vicinity and an opportunity be afforded them to be heard in the premises.

Yours, respectfully,

MARK ROSE.

344 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

REPORT OF THE ARIZONA-CALIFORNIA RIVER REGULATION COMMITTEE OF THE LOS ANGELES CHAMBER OF COMMERCE ON THE ALL-AMERICAN CANAL, AND ADOPTED BY THE CHAMBER AUGUST 28, 1919.

AUGUST 18, 1919.

BOARD OF DIRECTORS,

Los Angeles Chamber of Commerce,

Los Angeles, Calif.

GENTLEMEN : The Arizona-California river regulation committee, to which has been referred United States bill 6044, entitled, "A bill to assist in increasing the productive agricultural area of the Imperial Valley and Coachella Valley, Calif., and for other purposes," together with letter of the San Diego Chamber of Commerce indorsing said bill, beg to report as follows:

The bill proposes the construction of an all-American canal connecting with the Laguna Dam, for the purpose of conveying water through American territory to the Imperial Valley, and for the additional purpose of carrying water up and around the Salton Sea, thereby irrigating a large portion of the Coachella Valley and intervening territory, and thereby serving about 400,000 acres of land in addition to that already under ditch.

The plan proposed by the bill provides for the issuance of bonds by irrigation districts formed or to be formed in the land to be benefited and served by the new system, and the delivery of these bonds to the Secretary of the Interior, and are to be by him deposited with the Secretary of the Treasury, who is authorized to collect the principal and interest. The Secretary of the Treasury is authorized to issue certificates of indebtedness of the United States in an equal amount, bearing interest at the same rate as the bonds, said certificates to fall due not less than 60 days after the corresponding dates for the payment of the bonds. With the money obtained from the issuance of the certificates of indebtedness the system is to be constructed. For the purpose of protecting against default on the bonds, the sum of \$10 per acre is to be collected on all unentered public lands sold, and also on all lands entered but not patented—also on patented lands that do not have a valid water right. These payments to constitute a bond guaranty fund which is intended to guarantee the payment of principal and interest on the bonds.

A copy of the bill is annexed to this report, as is also a copy of Secretary Lane's letter of date July 3, 1919, to the Committee on Irrigation of Arid Lands, wherein he indorsed the bill with some proposed minor amendments thereto relating to procedure, and with a further proposed amendment reciting, in substance, that when in the opinion of the Secretary of the Interior the bond guaranty fund is no longer necessary for guaranty purposes, he may use it for the construction of a reservoir or reservoirs to provide by storage a full water supply for the lands affected by this act, and shall make such additional charges against the land requiring water as may be necessary to meet the cost of such storage in excess of the amounts previously paid to the United States on account of each tract of such lands as provided in the bill, and that the Secretary may in advance make such contracts as may be necessary to insure such excess payments, upon such terms as he may deem reasonable. We especially direct attention to this letter of Secretary Lane's, and suggest that it be read in full to the members of the board.

The committee has given very careful consideration to the questions involved and has held a number of meetings, at which have been present representatives of the different conflicting interests. The importance of the subject has warranted the time and consideration given to it by this committee. The first meeting was held two months ago and the last meeting (exclusive of the meeting called to approve this report) was held on the 25th of August, 1919. Besides this, some of the different members of the committee have from time to time given private audience with men purporting to be representatives of the sentiment of the Imperial Valley. So many different conflicting statements have been made that it has been very difficult to arrive at the real situation, and it was not until the meeting of Friday, August 15, that this committee felt that all the facts had been properly laid before it. At this meeting of August 15 a three-hour session was held with representatives from the Imperial Valley, including among those present Mr. Phil Swing, the attorney representing the Imperial Irrigation district, who was in Washington in a consultation with Secretary Lane and Mr. Davis, Chief of the Reclamation Bureau, at the time the bill was being formulated; Mr. J. A. Davis, representing the El Centro Chamber of Commerce; Mr. J. S. Nickerson, representing the Imperial irrigation district; Mr. Marshuts, representing the Westside irrigation district; Mr.

Brooks, president of the board of supervisors; Mr. J. Stanley Brown, the assemblyman from the Imperial district; Mr. Stoddard; and Mr. Elliott. All of these gentlemen were very warm in supporting the plan proposed and in declaring that they represented the sentiment of a very large majority of the landholders of the Imperial Valley.

Stress was laid upon the fact that every year a weir has to be constructed across the Colorado River in order to raise the water to a sufficient level to be diverted at the heading now used by the Imperial Valley. That this weir costs approximately \$150,000, and has to be destroyed each year before the flood waters commence to come down. That in the past rock weirs have been constructed, but that such weirs are not now permitted by the Government; that an injunction has been issued by the superior court of Yuma County restraining the construction of such weir, and that inasmuch as one end of the weir, when constructed, must, of necessity, be in Yuma County, it is impossible to construct the weir without the consent of the court; that the people of Imperial Valley have been advised by the Yuma interests that this is the last year they will permit the construction of such weir unless plans are under way for the construction of an all-American ditch; that unless this weir is permitted to be constructed the summer crops of the entire Imperial Valley must fail. It further appears that an all-American canal will cause a great saving in loss from evaporation. At the present time the water, after being diverted from the Colorado River, runs miles through Mexican territory in an old water course, so that the resultant loss from evaporation is very considerable. The advantages, of course, of having the ditch on the American side in case of war with Mexico is patent. Complaint is made that at the present time a large sum is collected annually from the Mexican Government by duties on tools and equipment shipped into Mexico to maintain the canal within that country. Also, that the cost of upkeep assessed against the holders of Mexican lands having the use of the Colorado River water for irrigation is just one-fourth that assessed against owners of American lands.

At the conference held on Friday, August 15, Mr. Joe Simons was also present. Mr. Simons at that time stated to us that he was president of the Imperial Valley Land Owners' Association. He objected to the proposed bill on the ground that it would impose a charge against his land for the benefit of other lands not now under ditch. Mr. Simons, however, when requested so to do, did not undertake to enumerate the names of the landowners whom he represented in objecting to the proposed plan. Since that time, however, he has filed the names of the parties who are members of the Imperial Valley Land Owners' Association, the names of whom are appended hereto, and has also filed the articles of association of said Imperial Valley Land Owners' Association.

After the meeting of August 15, and after the report of this committee was partially formulated, there was represented to this committee that certain land owners of the Imperial Valley desired to appear before the committee and manifest their objections to the proposed plan. A meeting of the committee was called, at which it was determined to hear these gentlemen, and they were invited to appear before us on Monday, August 25. On August 25 a meeting was held at which was present six members of your committee and the following land owners from the Imperial Valley:

A. M. Schenk, a large land owner, owning lands in the vicinity of Calexico; H. H. Clark, of Calipatria, representing the Imperial Valley Farm Lands Association, which own approximately 47,000 acres in the Imperial Valley; Mr. Clark is also a director in No. 3 Mutual Water Co. and No. 9 Mutual Water Co.; Messrs. J. L. Van Warmer, Peter P. Hovley, of Brawley, and Vincenz Schmitz, of Brawley.

These gentlemen claimed that protection to the Imperial Valley could be given by constructing a canal from the Yuma Dam to the Hanlon heading, connecting at that point with the canal running into Mexico and that such a canal could be built for approximately \$3,000,000; that it is unfair to make a charge against developed land for the benefit of outside acreage, and that while such canal below the Hanlon heading must, of necessity, be constructed and maintained through Mexican territory, that this nevertheless was of minor importance because in any event it is necessary for the American interests to maintain levees in Mexico to prevent the flood water of the river from overflowing the Imperial Valley which lies below sea level. However, it finally seemed to be the concensus of opinion that they would have little if any objection to the plan proposed, provided that contemporaneously with the construction of the system reservoirs should be created

for the purpose of conserving the surplus waters, and provided further the plan involved the expenditure of a larger per cent of the costs of the system against lands now having no present water supply, and provided further, that large tracts of lands in private ownership now having no water right should be required to be sold at prices to be fixed by the Secretary of the Interior as a condition of participation.

In considering the question as to whether there is sufficient water in the Colorado River flowing to waste to irrigate such a large body of land, and whether if there is not sufficient water, the bill contemplates the storage of water to meet the necessity, there has been urged upon us by the Imperial people and we find:

1. That the normal flow of the Colorado River is sufficient in volume to irrigate the added lands, except for a short period of from one to two months each year, and that certain crops may be grown to maturity by use of water during such times as it is abundant.

2. The bill, with the Secretary's proposed amendments, provides that money obtained from the sale of public lands, within said district, together with assessments made against patented lands having no water rights, shall be used, together with additional moneys required and assessed by the Secretary of the Interior, for that purpose, in building storage reservoirs to meet the necessities for water during the dry season.

3. The bill has the entire approval of the Secretary of the Interior, and is the first step in the development of the secretary's plans for conserving the waters of the Colorado River.

4. Under a contract made between the former owner of the land in Mexico through which runs the canal leading into the United States, and the Mexican corporation owned by the California Development Co., which contract has been approved by the Mexican Government, as a condition for permitting the water to be run over the Mexican land, such lands are entitled to one-half the flow of the water running through the canal. If, therefore, the plan suggested by Mr. Schenk and his associates were adopted, and the water taken from the Yuma dam were carried through American territory through the Hanlon heading and thence through the old canals through Mexican territory into the United States, such Mexican lands would be entitled to one-half of these waters, even though it had been greatly augmented at great expense by storage in the United States.

5. It is impracticable during low water to further maintain the weir in the Colorado River, and thus, unless we are to give Mexico and the Mexican lands one-half of the flood waters of the river which may hereafter be conserved by storage, an all-American canal system must be constructed.

6. The bill gives to the Secretary of the Interior the power to fix and determine the proportionate amount to be paid by each district for the construction of a canal or canals, and which determination shall be based upon the number of acres in each district susceptible of practical reclamation. We believe that it can be fairly left to the secretary to determine the proportionate amount to be paid by the different districts for the construction of the canal, and that in assessing the amount to be paid, the secretary will properly gauge the benefits to be derived, and make his determination accordingly.

7. The plan as construed by the Secretary of the Interior does not contemplate the diversion of the full flow of the Colorado for use exclusively on United States soil. In this connection the secretary says: "This proposition does not contemplate the diversion of the full flow of the Colorado for use exclusively upon United States soil, for it would be entirely feasible to connect such a canal with that now in Mexico for the supply of lands therein, which are at present supplied, and the supply could be extended by storage."

8. We believe, from the representations made to us, that the sentiment of the residents of the Imperial Valley taken as a whole, is in favor of the bill with the amendments proposed by Secretary Lane.

9. Finally we find, that it is of the utmost importance that contemporaneously with the construction of the proposed canals, reservoirs be constructed to store the flood and normal waters of the river; unless this is done, and waters are in storage ready to meet the added need when the great area of desert land is placed under cultivation, this plan will spell only disaster for its proponents, and we can not urge too strongly that the Government undertake at the very earliest moment, the constructions of the reservoir.

We direct attention, however, to the fact that an all-American canal does not entirely solve the problem of the Imperial Valley. The Imperial Valley largely lies below sea-level, and unless the Colorado River, where it runs

through Mexican territory, is not at flood times kept within its banks through levees properly maintained, the flood waters will spread over the country, flow into the Imperial Valley basin and imperil the whole valley. There is no question but that all the land served by the Colorado River, together with Magdalena Bay which in the hands of an unfriendly naval power will be a great menace to this country, ought to belong to the United States, and that steps should be taken to purchase the same from Mexico.* However, even though all this Mexican territory were to be purchased by the United States, it would still be necessary to build the canal proposed, if the great Coachella Valley is to be given water. If it is impracticable to obtain the Mexican lands through purchase, then the United States should arrange by treaty with Mexico that the United States and officials and citizens of the United States should have the right, without the payment of duty, to enter Mexico for the purpose of maintaining the levees along the Colorado River.

The bill in effect provides that no person shall be permitted to purchase more than 160 acres of unentered land and leaves free any person having a valid entry of land not yet patented, to acquire title under the act. A great deal of land under the proposed ditch has simply been entered and no work has been performed upon the entry. The committee from the valley acquiesced in our suggestion that all such entries should by the bill be reduced to 160 acres.

In conclusion, the committee recommends that the chamber of commerce indorse the aforesaid bill, with amendments thereto proposed by Secretary Lane in his letter of July 3, 1919, to the House Committee on Irrigation of Arid Lands and with the added recommendation that the Government take steps to provide that of all Government land lying within the all-American canal district, whether entered or unentered, only 160 acres shall be disposed of to any one person. We further strongly recommend that inasmuch as the canal can never reach its greatest usefulness until the present water supply of the river at low stages is supplemented by conserved waters, that proceedings be begun at once by the construction of suitable reservoirs for the conservation of flood waters of the river.

It further appears to your committee that a large portion of the land not now under ditch, but in the territory to be benefited by the proposed plan, is held in large tracts in private ownership. A great deal of this land is without water and is worthless until some plan is developed for irrigating it. When through the act of the Government in financing this plan water is placed upon these lands they will become of great value.

Our returning soldiers have been promised land by the Government at fair prices based on the present value of the lands to be entered or purchased. Where desert lands are reclaimed, either by the Government directly or indirectly, through its act in financing an enterprise of this character, they should be subdivided into small holdings and sold at a price based largely upon their present value, and we strongly urge that the Secretary of the Interior as a condition to permitting the owners of these lands to participate in the proposed plan require that lands be sold in lots of not to exceed 160 acres at a price to be fixed by the Secretary commensurate with the present value of the land, plus merely a reasonable profit, and that such condition be embodied in the bill and the rules and regulations of the Secretary of the Interior thereunder.

Respectfully submitted.

THE ARIZONA-CALIFORNIA RIVER REGULATION COMMITTEE.
By LUCIUS K. CHASE.
T. E. GIBSON,
C. A. DUCOMMUN.
A. P. JOHNSON.
S. F. ZOMBRO.
H. W. PETTEBONE.
J. B. LIPPENCOTT.

I hereby certify that the above is true and correct copy of report adopted by the board of directors of the Los Angeles Chamber of Commerce at their regular meeting, Thursday, August 28, 1919, and that copies were ordered transmitted to all organizations, newspapers, and other interested parties located in the Imperial Valley, as well as to Secretary of the Interior and southern California's Representatives in Congress.

WATT S. MORELAND, President.

FRANK WIGGINS, Secretary.

Attest:

WEST SIDE IMPERIAL IRRIGATION CO.,
Los Angeles, July 5, 1919.

Congressman MOSES P. KINKAID,
Washington, D. C.

DEAR SIR: This company was organized for the purpose of securing water from the Colorado River by means of an all-American canal for the irrigation of 200,000 acres of arid land lying on the west side of Imperial Valley. Ours is the part of the great project which has for its purpose the reclaiming of 600,000 acres of America's most fertile land—land which is unexcelled in productivity, but which at the present time is nothing but a barren waste.

To this end we have had, and still have, representatives in Washington, who, together with representatives of the other sections of the valley, have been working with the Government officials and Congressmen to secure the legislation which will make this desert land an agricultural empire, settled by thousands of loyal and patriotic Americans. Fundamentally, we believe that American water should be used for the benefit of American lands rather than for the benefit of Mexican lands. The net result of our representatives' labors is bill H. R. 6044.

We inclose herewith a clipping from the morning edition of the Los Angeles Times, which speaks for itself. If this article states the facts correctly, the work of years, and the expenditure of thousands upon thousands of dollars has been wasted. We can not believe that such is the case. We have every confidence in the patriotism, farsightedness, and good intentions of Secretary Glass. We believe this report to be sadly garbled. We are confident that the Secretary is desirous of placing this land under cultivation. We realize, however, that the mere fact that such an article as this can be published indicates that our project has virulent opposition.

We respectfully bespeak, therefore, your assistance in bringing to Secretary Glass and other governmental officials the true facts regarding, and the importance of, this project.

Representing American citizens who have claims in this arid region, which they took with the belief that the Government would assist them in making homes and gardens on this arid waste, we ask you to use every influence which you have to secure the passage of this bill.

Most respectfully yours,

WEST SIDE IMPERIAL IRRIGATION CO.,
By D. W. SHOEMAKER, *Secretary.*

The Los Angeles Times article referred to follows:

ALL-AMERICAN CANAL KILLED—GLASS KNOCKS OUT IMPERIAL VALLEY PROJECT—FINANCIAL FEATURES OPPOSED BY TREASURY HEAD—POSSIBLE HELP VIA STATE DEPARTMENT IS HOPE.

[By Robert B. Armstrong.]

WASHINGTON, July 2.

Secretary of the Treasury Glass has hit in the head with a sledge-hammer blow the all-American canal project for the Imperial Valley Irrigation district. He has written the Committee on Irrigated Lands of the House, in response to its request for his opinion of the bill introduced by Congressman Kettner at the request of the committee from the Imperial Valley. In this letter he objected to every proposal for financing the canal and the extended irrigation districts. He declares that the proposal to have the United States issue certificates of indebtedness running for a period as high as 40 years is all wrong. He further declares that the United States is asked to place its credit back of a proposition where the securities are issued without any control on the part of the United States and without any safeguards. He says that if Congress wants an all-American canal the money should be appropriated without any camouflage, such as provided in the bill. He ends his letter by absolutely refusing to consent to the bill in its present form and with any of the financial features now contained therein retained.

The result of the action of Secretary Glass is equivalent to the death of the bill for the Interior Department will follow the lead of the Treasury; and, while the committee of seven here from the Imperial Valley is still trying to save something from the wreck, no reason exists for hoping for any legislation of the sort proposed.

Some progress may be made through the State Department for an international agreement on the matter between the United States and Mexico but the bill now proposed is dead and contemplated hearings before the committee, if held at all, will be perfunctory.

IMPERIAL ALL AMERICAN CANAL ASSOCIATION OF LOS ANGELES,
*Los Angeles, Calif., July 7, 1919.*Hon. MOSES P. KINKAID,
Washington, D. C.

DEAR SIR: The Los Angeles Times of the 3d issue states, that Secretary Glass has killed the prospects for an all-American canal. We, as representatives of the All-American Canal Association of Los Angeles, Calif., representing 200 members, beg of you to use your influence to secure the passage of the Kettner bill, H. R. No. 6044. This bill represents the hopes of thousands of American citizens who are anxious to go into the desert and reclaim it.

There is a large number of returned soldiers, members of our organization, who are claimants for land in this desert, and other returned soldiers who are waiting to offer their filings under the homestead and desert land laws of the United States. The 600,000 acres of American lands that will come under this bill would make homes for thousands of American citizens, and without the support of the Government in reclaiming this land it must remain a desert to the detriment of the United States.

To kill this bill would give encouragement to a few syndicates and big private land holders below the boundary line in old Mexico.

We pray you to give this matter your serious consideration and see if you can not assist this all-American canal to take all-American water and put it on American land to make homes for American citizens.

Yours, respectfully,

HARRY WM. ELLIOTT, *President.*

EL CENTRO, CALIF., *August 4, 1919.*

Hon. M. P. KINKAID,
Washington, D. C.

Sorry to learn your committee unable visit Imperial Valley as soldier organizations wished personally present your committee recommendation for amendment to House bill 6044 by Kettner. Can committee continue consideration of bill giving us reasonable time to present matter? Please answer, wire collect.

EXECUTIVE COMMITTEE EL CENTRO POST AMERICAN LEGION.

WASHINGTON, D. C., *August 5, 1919.*

EXECUTIVE COMMITTEE.

El Centro Post, American Legion, El Centro, Calif.

If you will mail your proposed amendments to the Kettner bill our committee will give the same due consideration.

M. P. KINKAID, *Chairman.*

EL CENTRO POST THE AMERICAN LEGION,
El Centro, Calif., August 18, 1919.

Hon. M. P. KINKAID,
*Chairman Committee on Irrigation of Arid Lands,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN: Please accept our thanks for your telegram stating that your honorable committee will give due consideration to the amendment we wish to propose to House bill No. 6044, now before your committee.

Pending a general conference between our organization, the directors of the Imperial Irrigation district and the returned members of our valley Washington committee, which is scheduled for next week, we are not at this time able to formally present the amendment to you, but ask your indulgence for a short time longer.

The amendment which is under consideration will be drawn to provide that honorably discharged soldiers, sailors, and marines be given six months as a preferential period in which to purchase the public lands to be disposed of by this bill. Such a change will not disturb the primary object of the bill, which is to construct canals and works to better the valley's present water supply and to bring into cultivation lands now unproductive.

Assuring you of our appreciation of whatever consideration your committee may give our request, we are,

Yours, very truly,

ARTHUR M. NELSON,
Chairman Temporary Executive Committee.

EL CENTRO POST THE AMERICAN LEGION,
El Centro, Calif., August 23, 1919.

Hon. M. P. KINKAID,

Chairman House Committee on Irrigation of Arid Lands.

Washington, D. C.

SIR: Upon instructions from the temporary executive committee of the Imperial County posts of the American Legion, given at a regular meeting of that body held August 22, 1919, in El Centro, Calif., I inclose resolution covering amendment to House bill No. 6044, which amendment provides for a preferential right of six months to be given to all persons who served in the military or naval service of the United States in time of war and who have received honorable discharges or have been placed on inactive duty.

I also inclose resolution from San Diego Post No. 1 of the American Legion in regard to an amendment of this kind.

Thanking you in behalf of the Imperial Valley posts of the American Legion for your courtesy in this matter, I remain,

Respectfully,

JOHN M. KEPLEY,

*Secretary of Temporary Executive Committee of the
 Imperial County Posts of the American Legion.*

RESOLUTION.

Whereas there is now pending in the United States Congress House bill No. 6044, which has been referred to the House Committee on Irrigation of Arid Lands, and consideration of said bill is now pending before said committee; and

Whereas the posts of the American Legion at El Centro, Brawley, and Imperial, in the county of Imperial, State of California, have directed their several executive committees to take such action as may be expedient, in an attempt to procure an amendment of said bill, by the insertion therein of a provision to the effect that a preference right be granted to all persons who served in the military or naval service of the United States in time of war, who have received honorable discharge, or have been placed on inactive duty, for a period of six months, to purchase said lands, upon the terms therein provided; and

Whereas the said respective posts have authorized their said respective committees to take such steps as may be deemed advisable in an attempt to secure such a preference right in any bill or act of Congress which may provide for the disposal of those certain lands known as the Eastside Mesa Lands, lying in the county of Imperial, State of California; and

Whereas the said respective posts have not expressed any opinion, nor given any direction to their said respective executive committees with reference to any other provisions of said House bill No. 6044, or any bill which may be introduced having for its purpose the disposal of said lands: Now, therefore, be it

Resolved by the said respective executive committees in joint meeting duly assembled at the county court house in the city of El Centro, Calif., this 22d day of August, 1919, that it is the sense of the various posts of the American Legion of the county of Imperial, State of California, that the lands known as the Eastside Mesa Lands in the county of Imperial, State of California, and now being public lands of the United States should not be opened for sale, entry, or settlement, unless the right shall be given to all persons who served in the military or naval service of the United States in time of war, who have received honorable discharge, or have been placed on inactive duty, to purchase, enter, or settle upon said lands; which right shall be exclusive for the period of six months from and after the time when the said lands or any part thereof shall have first been declared open to such purchase, entry, or settlement: And be it further

Resolved, That we do now in joint meeting duly assembled respectively petition the United States Congress to so amend said House bill No. 6044 that it may provide a preference right as hereinbefore set forth: And be it further

Resolved, That the chairman and secretary of this meeting be and they are hereby instructed and directed to forward copies of this resolution to the chairman of the House Committee on Irrigation of Arid Lands, to the Hon. Franklin K. Lane, Secretary of the Interior of the United States, and to the Hon. William C. Kettner, Member of Congress from this district.

SAN DIEGO POST No. 1, AMERICAN LEGION,
San Diego, Calif., August 14, 1919.

Whereas there has been presented to the House of Representatives of the United States, by Congressman William Kettner, House bill No. 6044, authorizing the sale of public lands in Imperial and Coachella Valleys, Calif., And whereas a movement has been inaugurated to request the Committee on Irrigation of Arid Lands of the House of Representatives to amend said House bill No. 6044, said amendment to provide in substance that all persons who served in the military or naval service from April 6, 1917, to November 11, 1918, and such as still remain in the service, be given preferential right of entry and purchase for a period of six months from date of public opening: Be it, and it is hereby

Resolved by the San Diego Post, American Legion, in regular meeting assembled. That the post unanimously favors incorporation of said amendment in said House bill 6044.

SAN DIEGO POST, AMERICAN LEGION,
 DAVID N. MILLAN, *Secretary.*

SAN DIEGO CHAMBER OF COMMERCE,
San Diego, Calif., August 18, 1919.

Mr. MOSES P. KINKAID,
Chairman, Committee Irrigation of Arid Lands,
House Office Building, Washington, D. C.

DEAR SIR: The extreme necessity of the adoption by the Congress of legislation to make possible an all-American irrigation canal in Imperial Valley is of the greatest possible importance not only to Imperial Valley, but to San Diego County and all of the southern part of California.

The final method of construction which may be adopted is in our judgment of no particular importance at this time, for the reason that this can only be determined after a very exhaustive research into all of the conditions upon which the construction and utilization of the canal may rest, and for that reason we are not basing any opinion upon the various types or plans which have been suggested.

It hardly seems reasonable that during these times of urgent necessity for conservation, a measure which so greatly governs increased productivity of the soil of southern California should not merit not only the earnest consideration of the Congress of the United States, but that it should receive favorable consideration as early in the next session as the calendar will permit.

We are therefore respectfully urging you to do everything in your power to bring about this very desirable result.

Very sincerely yours,

SAN DIEGO CHAMBER OF COMMERCE.
 JAMES H. APP, *Industrial Secretary.*

RESOLUTION OF BOARD OF SUPERVISORS, LOS ANGELES COUNTY, CALIF.

On motion of Supervisor Cogswell, duly seconded and unanimously carried, this board of supervisors hereby indorses and urges the immediate construction of the all-American canal for Imperial Valley, and the United States Senators from California and Members of Congress from southern California districts, are hereby urged to do everything possible to hasten the construction of said canal so that it may be completed and available for irrigation purposes at the earliest possible moment.

The foregoing resolution was adopted by the board of supervisors of the County of Los Angeles, State of California, on August 18, 1919.

A. M. MCPHERSON,
Chief Clerk, Board of Supervisors.

CITY OF LOS ANGELES, CALIF.,
August 25, 1919.

HOUSE COMMITTEE ON ARID LANDS AND IRRIGATION,

Washington, D. C.

HONORABLE SIRS: I wish to take this occasion to put my stamp of approval on the proposed "all-American canal," as outlined in H. R. No. 6044, which is to serve the people of Imperial Valley.

After a careful investigation of the situation I have arrived at the conclusion that this canal is a matter of vital necessity to the ranches of Imperial Valley, and if this fertile section of southern California is to be properly farmed, the "all-American canal" must be built.

Sincerely, yours,

MEREDITH P. SNYDER,
*Mayor.*HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D. C., August 27, 1919.

Hon. M. P. KINKAID,

*Chairman, Committee on Irrigation of Arid Lands,
House of Representatives.*

DEAR MR. CHAIRMAN: I am in receipt of a telegram from Mr. Walter Brinkop, chairman Los Angeles Post, American Legion, in regard to an amendment they desire to be added to H. R. 6044, introduced by the Hon. William Kettner, providing for what is called the all-American canal, such amendment to provide a preference right of entry for six months from date of opening the land to entry, in favor of honorably discharged soldiers of the late war.

May I respectfully ask the committee to give this request their careful consideration?

Very cordially, yours,

H. Z. OSBORNE, M. C.

LOS ANGELES, CALIF., August 5, 1919.

Hon. M. P. KINKAID,

House of Representatives, Washington, D. C.

Reference to House bill No. 6044 by Kettner, the American Legion here requests same be not reported out of committee until we have had reasonable time in which to submit amendments providing some preference to ex-service men. Bill now being studied and further communication will be forwarded to you promptly.

EXECUTIVE COMMITTEE LOS ANGELES POST, AMERICAN LEGION,
H. H. HARRIS, *Secretary.*

LOS ANGELES, CALIF., August 26, 1919.

Hon. WILLIAM C. KETTNER,

House of Representatives, Washington, D. C.

We request that House bill 6044, Kettner bill, include provisions giving all persons honorably discharged from the military or naval service of the United States a preference right of entry for a period of six months from the date of the opening of the land to entry, or that it contain provision making at least part of this and subject to Secretary Lane's soldier-settlement plan. We are wiring Secretary Lane and Representatives H. Z. Osborne and M. P. Kinkaid.

WALTER BRINKOP,
Chairman Los Angeles Post, American Legion.

LOS ANGELES, CALIF., August 27, 1919.

Hon. M. P. KINKAID,

House of Representatives, Washington, D. C.

We request that House bill 6044, Kettner bill, include provisions giving all persons honorably discharged from the military or naval service of the United States a preference right of entry for a period of six months from the date

of the opening of the land to entry, or that it contain provision for making at least a part of this land subject to Secretary Lane's soldier-settlement plan. We are wiring Secretary Lane and Representatives H. Z. Osborne and William C. Kettner.

WALTER BRINKOP,
Chairman Los Angeles Post, American Legion.

BERKELEY, CALIF., August 27, 1919.

Hon. MOSES P. KINKAID,
Washington, D. C.

The State land settlement board and other State agencies strongly favor early construction by United States Government of canal to water mesa land. Sale of public land in advance of reclamation is objected to. Believe ownership should be returned by Government until water for irrigation is provided and then land settled under State soldier-settlement act and national soldier-settlement act. Letter giving reasons follows. Hope action on Kettner bill by committee can be deferred until it reaches you.

ELWOOD MEAD.

DEPARTMENT OF THE INTERIOR,
Washington, September 4, 1919.

MY DEAR MR. KINKAID: I inclose herewith for your consideration copy of telegram sent me by the Los Angeles Post, American Legion, relative to H. R. 6044, commonly known as the Imperial Valley bill.

Cordially, yours,

F. K. LANE, *Secretary.*

Hon. M. P. KINKAID,

Chairman Committee on Irrigation, House of Representatives.

LOS ANGELES, CALIF.

Hon. FRANKLIN K. LANE,

Interior Department, Washington, D. C.

We request that House Bill 6044, Kettner Bill, include provisions giving all persons honorably discharged from the military or naval service of the United States a preference right of entry for a period of six months from the date of the opening of the land for entry, or that it contains provisions making at least part of this land subject to Secretary Lane's soldier-settlement plan. We are wiring Representatives M. P. Kinkaid, H. Z. Osborne, and William C. Kettner.

WALTER BRINKOP,
Chairman Los Angeles Post, American Legion.

NEWPORT BEACH CHAMBER OF COMMERCE,
Newport Beach, Calif., September 6, 1919.

Hon. WILLIAM KETTNER,

House of Representatives, Washington, D. C.

MY DEAR MR. KETTNER: At a regular meeting of the Newport Beach Chamber of Commerce, held Thursday, September 4, 1919, the bill, introduced in Congress by you, entitled "To assist in increasing the productive agricultural area of the Imperial and Coachella Valleys, Calexico, and for other purposes," was heartily indorsed.

Yours, very truly,

W. W. WILSON.

WEST SIDE IMPERIAL IRRIGATION CO.,
Los Angeles, September 22, 1919.

Mr. MOSES P. KINKAID,

Committee on Irrigation of Arid Lands, Washington, D. C.

DEAR SIR: The bill now before Congress known as the Kettner bill, H. R. No. 6044, for the relief of Imperial and Coachella Valleys, whereby the Government is to underwrite the bonds so that the people of these valleys will be able to build an all-American canal, now has the indorsements of the following:

Board of county supervisors of Los Angeles County.

130088-19-PT 2—7

Chamber of Commerce of Los Angeles, with recommendations for conservation.

Mayor and the City Council of Los Angeles.

Chamber of Commerce of San Bernardino and the board of county supervisors.

Chamber of Commerce of Riverside and the board of county supervisors.

Chamber of Commerce of San Diego and the board of county supervisors.

Chamber of Commerce of Santa Ana.

Board of County Supervisors of Orange County.

We wish to state that there are at least 500 people living in Los Angeles who are holding claims or own land in these two valleys who will be affected by this bill.

The building of this canal will open up an empire comprising 500,000 acres of rich farming land which is now a waste, but which with proper development will greatly affect the future and prosperity of Los Angeles.

Yours, respectfully,

HARRY WM. ELLIOTT, President,
D. W. SHOEMAKER, Secretary,
West Side Imperial Irrigation Co.
WM. LINDSEY, President,
C. L. WELCH, Secretary,
All-American Canal Association.

EL CENTRO, CALIF., September 2, 1919.

MOSES P. KINKAID,

Chairman House Committee on Irrigation of Arid Lands,

Washington, D. C.:

Respectfully urge speedy and favorable action on bill H. R. 6044 for protection Imperial Valley water supply. We must have relief at earliest possible date. Crisis confronts us. Further action on our part now held up pending report of your committee.

IMPERIAL IRRIGATION DISTRICT.
By J. H. NICKERSEN, President.

EL CENTRO, CALIF., September 18, 1919.

MOSES P. KINKAID.

Chairman House Committee on Irrigation of Arid Lands,

Washington, D. C.:

Board of directors of Imperial Irrigation District by resolution adopted request that House bill 6044 be so amended as to provide, under such rules and regulations as may be prescribed by the Secretary of the Interior, that a preference right to purchase the vacant public lands described in the bill be granted to persons who served in the military and naval service of the United States in a period of war, should they receive honorable discharge, such purchases to be made under terms prescribed in the bill.

F. H. McIVER,
Secretary Imperial Irrigation District Board.

BERKELEY, CALIF., September 17, 1919.

Hon. MOSES P. KINKAID, M. C.,

Washington, D. C.:

Imperial irrigation district favors conference at Berkeley to consider legislation for reclaiming and settling lands of Imperial Valley. Meeting called for October 1. Entire State interested. Hope action on Kettner bill can be deferred until after that date.

ELWOOD MEAD.

EL CENTRO, CALIF., September 22, 1919.

MOSES P. KINKAID,

Chairman Arid Lands Committee,

Washington, D. C.:

Board of supervisors of Imperial County, Calif., in regular session this 22d September, request that House bill No. 6044, including amendment for soldiers' preferential right, be reported out of committee without delay.

W. H. BROOKS,
Chairman Board of Supervisors, Imperial County, Calif.

ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF. **355**

EL CENTRO, CALIF., September 18, 1919.

Hon. M. P. KINKAID,

Chairman Arid Lands Committee,

United States House of Representatives, Washington, D. C.:

While El Centro Post of the American Legion has accepted Dr. Meade's invitation to send delegates to a conference requested by him to be held at Berkeley, the executive committee in meeting to-night explicitly disclaim any desire to further postpone action on House bill No. 6044, containing the soldier preferential right provision by the Committee on Arid Lands, and has directed me to so notify you by wire.

J. P. HERTEL,

Secretary Executive Committee, El Centro Post, American Legion.

EL CENTRO, CALIF., September 24, 1919.

Hon. MOSES P. KINKAID,

Chairman Arid Lands Committee,

Washington, D. C.:

Board of directors of Seeley Chamber of Commerce urgently request immediate action of your committee on Kettner bill, H. R. 6044, with soldier settlement preference.

WILEY A. MAGRUDER,

Secretary Seeley Chamber of Commerce.

EL CENTRO, CALIF., September 25, 1919.

Hon. MOSES P. KINKAID,

Chairman Arid Lands Committee,

Washington, D. C.:

The board of trustees of El Centro, Calif., urgently request your committee to take immediate action upon Kettner bill H. R. 6044, with preferential right for soldiers.

GEO. WATKINS, *Mayor.*

EL CENTRO, CALIF., September 30, 1919.

MOSSES P. KINKAID,

Chairman of Arid Land Committee,

House of Representatives, Washington, D. C.:

At a mass meeting held under the auspices of All-American Canal Association of Imperial County, as president of said association I was instructed to wire you as follows: We emphatically protest against terms of Hayden bill for the following reasons: First, it absolutely ignores prior rights to Imperial Irrigation district in waters of Colorado River; second, it does not provide for All-American Canal delivering waters in Imperial and Coachella Valleys; third, it vests arbitrary discretionary power in the Secretary of the Interior; fourth, it will delay any legislation for our relief which must come quickly and is complicated and will bring opposition that the Kettner bill does not provoke. By this we have no reference to soldiers' preference which we indorse; and fifth, it permits the Secretary of the Interior to recognize rights of Mexican lands to water and to contract therefrom in opposition to opinion rendered by the Department of the State.

ALL-AMERICAN CANAL ASSOCIATION OF IMPERIAL COUNTY.
By LEROY HOLT, *President.*

BERKELEY, CALIF., October 1, 1919.

M. P. KINKAID,

Arid Lands Committee,

House of Representatives, Washington, D. C.:

A conference held at the State University to-day attended by 68 delegates, representing departments of the State Government, the American Legion, and various organizations of the Imperial Valley recommends the following amendments to the Kettner bill and the Hayden bill: "That the State of California

shall have the right as its option for a period of 12 months next after the passage of the bill to acquire from the Government by purchase or otherwise the title to 50,000 acres or any part thereof of the public lands susceptible of irrigation by the canals and works mentioned in the bill for settlement under the provisions of the State lands settlement act provided, however, that the State of California or the settlers therein shall pay the full costs and charges per acre which provided therein to be paid for construction and storage purpose of the act which shall be assessed by the Secretary of the Interior provided that the charge of \$10 an acre shall not be paid on lands reserved for settlement under the State land settlement act or for soldier settlement the lands described in said bill remaining in Government ownership and lying south of the third standard parallel and east of Imperial irrigation district not selected by the State of California shall be set apart and reserved for one year or until water is brought to said land for soldiers' and sailors' and marines' preferential entry or settlement, and also, that said bill shall be amended to provide for a district appropriation by Congress or the issuance of Government bonds in amount sufficient to cover the proportional cost of construction of the works specified in said bill of all lands lying outside of Imperial irrigation district," and recommend that the Kettner bill be reported out at the earliest possible moment with the amendments theron.

E. KIRK,
Secretary of Conference.

BERKELEY, CALIF., October 1, 1919.

M. P. KINKAID,
Arid Lands Committee, House of Representatives,
Washington, D. C.:

A conference held at the State university to-day, attended by 68 delegates, representing departments of the State government, the American Legion, and various organizations of the Imperial Valley, recommends the following amendments to the Kettner bill and the Hayden bill: "That the State of California shall have the right, at its option, for a period of 12 months next after the passage of the bill, to acquire from the Government by purchase, exchange, or otherwise, the title of 50,000 acres, or any part thereof, of the public lands susceptible of irrigation by the canals and works mentioned in the bill for settlement under the provisions of the State lands settlement act: *Provided, however,* That the State of California, or the settlers therein, shall pay the full costs and charges per acre which are provided therein to be paid for construction and storage purpose of the act, which shall be assessed by the Secretary of the Interior; *Provided,* That the charge of \$10 an acre shall not be paid on lands reserved for settlement under the State land settlement act or for soldier settlement, the lands described in said bill remaining in Government ownership, and lying south of the third standard parallel and east of Imperial irrigation district, not selected by the State of California, shall be set apart and reserved for one year or until water is brought to said land for soldiers' and sailors' and marines' preferential entry or settlement, and also that said bill shall be amended to provide for a district appropriation by Congress or the issuance of Government bonds in amount sufficient to cover the proportional cost of construction of the works specified in said bill of all lands lying outside of Imperial irrigation district," and recommends that the Kettner bill be reported out at the earliest possible moment with the amendments thereon.

E. KIRK,
Secretary of Conference.

EL CENTRO, CALIF., October 7.

Moses P. KINKAID,
Chairman Arid Lands Committee, House Office Building,
Washington, D. C.:

I emphatically protest against the terms of the Hayden bill. It absolutely ignores prior rights, Imperial irrigation district, to waters of Colorado River. It does not provide for all-American delivering waters to Imperial and Coachella Valleys. It will delay any legislation for our relief which must come quickly, and is complicated and will bring opposition that Kettner bill does not provoke. By this I have no reference to soldiers' preference, which I indorse. My kindest regards to members of the Arid Lands Committee.

MIKE LIEBERT.

EL CENTRO, CALIF., October 9.

M. P. KINKAID,*Chairman Arid Lands Committee, Washington, D. C.:*

Whereas two legislative enactment bills have been introduced in the House of Representatives of the United States, known as H. R. 6044, by Hon. William Kettner, and H. R. 9421, by Hon. Carl Hayden; and

Whereas a conference of representatives of interested organizations was called by Dr. Meade, to be held in Hilgard Hall, in Berkeley, Calif., on the 1st day of October, 1919; and

Whereas at the conference held as called recommendations were made and adopted that amendments be made to the bill H. R. 6044 providing the State of California shall have the right at its option for a period of 12 months next after the passage of the bill to acquire from the Government, by purchase, exchange, or otherwise, the title to 50,000 acres or any part thereof of the public lands susceptible of irrigation by the canals and works mentioned in the bill for settlement under the provisions of the State land-settlement act: "Provided, however, That the State of California or the settlers therein shall pay the full charges per acre provided therein to be paid for the construction and storage purposes of the act, which shall be assessed by the Secretary of the Interior," "provided that the charge of \$10 an acre shall not be paid on lands reserved for settlement under the State land-settlement act or for soldier settlement," the lands described in said bill remaining in Government ownership and lying south of the third standard parallel and east of the Imperial Irrigation district not selected by the State of California shall be set apart and reserved for one year or until water is brought to said land for soldiers', sailors', and marines' preferential entry or settlement, and that said bill shall be amended to provide for a direct appropriation by Congress of the issuance of Government bonds in an amount sufficient to cover the proportional cost of construction of the works specified in said bill of all lands lying outside of the Imperial Irrigation district: Therefore be it

Resolved, That the board of supervisors of Imperial County approve the amendments as recommended by the said Meade conference; and be it

Resolved further, That the board of supervisors of Imperial County does hereby urgently request that the Arid Lands Committee of the United States Congress do report out of committee favorably the Kettner bill, H. R. 6044, with the amendments incorporated, or any other bill containing the said provisions of H. R. 6044, with amendments incorporated, as the committee may deem proper; and be it

Resolved further, That a copy of this resolution be wired to the Arid Lands Committee, to Hon. William Kettner, to the Secretary of the Interior, and to Senators Johnson and Phelan, Washington, D. C.

M. S. COOK, *County Clerk.*

SAN FRANCISCO, CALIF., October 12.

HON. MOSES P. KINKAID,*Chairman House Committee on Irrigation of Arid Lands,**Washington, D. C.:*

American Legion of California in convention assembled yesterday unanimously adopted resolution recommending that so-called Kettner bill, H. R. 6044, be amended so as to reserve for soldier settlement or entry all public lands in Imperial Valley lying south of third standard parallel and east of Imperial Irrigation district except that not exceeding 50,000 acres of above-described area shall be optioned to State of California for settlement purposes, and for immediate enactment of the legislation. We are confident your committee will give this recommendation thoughtful consideration.

FRED F. BEBERGALL,
*Secretary American Legion of California,
Flood Building, San Francisco.*

EL CENTRO, CALIF., October 14.

MOSES P. KINKAID,*Chairman Arid Lands Committee, Washington, D. C.:*

The following resolution was adopted unanimously by the district board:

Resolved, That the board of directors of the Imperial Irrigation district does hereby indorse and approve of the principle of State and soldiers' land settlement as affecting the sale and disposal of the vacant public lands in Imperial

County lying south of the third standard parallel and east of the present boundaries of the said district and hereby declares that the dedication of said lands to such settlement is in complete harmony with the efforts of desire of this board and the people of Imperial County to provide ways and means for the construction of the canals and works necessary to be constructed to stabilize and protect the water rights of owners of lands in the Imperial irrigation district, together with all of such public lands pursuant to the terms and provisions of that certain contract entered into between the Imperial irrigation district and the Secretary of the Interior under date of October 23, 1918; be it

Resolved further, That the secretary of this board be and he is hereby directed to wire the chairman of the Arid Lands Committee in Washington, D. C., requesting and urging said committee to so amend H. R. 6044 as to give full force and effect to the said principle of State and soldiers' land settlement in the manner suggested and approved at the conference held in Berkeley, Calif., under date of October 1, 1919; be it

Resolved further, That the Arid Lands Committee be requested when said bill, H. R. 6044, be so amended to report the same out for passage at the earliest possible date.

F. H. McIVER, *Secretary*.

BRAWLEY, CALIF., *October 16.*

Hon. MOSES P. KINKAID,

Chairman Arid Land Committee, Washington, D. C.:

Whereas opposition to Kettner bill (H. R. 6044), and to the proposed amendments thereto as adopted by the Mead conference held at Berkeley, Calif., October 1, 1919, providing for State and soldier settlement on the mesa lands, Imperial County, Calif., has developed by proposal treaty negotiations with Mexico; and

Whereas we believe such negotiation will annul or delay the passage of the above-amended bill: Now, therefore be it

Resolved, That the Imperial Interpost consul of the American Legion, represented by the Brawley, Calexico, El Centro, Holtville, and Imperial Coast, vigorously protest against such negotiations as well hinder the immediate passage of Kettner bill with proposed amendment, and that we hereby request that the said bill incorporating said Mead conference amendments be favorably reported out of committee immediately.

INTERPOST CONFERENCE OF AMERICAN LEGION,
By P. L. HEDRICK, *Secretary.*

IMPERIAL WATER Co. No. 6,
Calexico, Calif., October 15, 1919.

CHAIRMAN ARID LANDS COMMITTEE,

Washington, D. C.

DEAR SIR: Inclosed please find copy of resolution passed by the board of directors of Imperial Water Co. No. 6, located at Calexico, Calif., at a recent meeting held by that body.

Yours, truly,

IMPERIAL WATER Co. No. 6,
By B. F. McCOMB, *Secretary.*

Resolved, That the board of directors of Imperial Water Co. No. 6, representing the landowners of approximately 25,000 acres of land in Imperial irrigation district, hereby declare their opposition to the so-called Kettner bill, now pending before the Arid Land Committee and the House of Representatives at Washington, and that we are only in favor of an all-American canal, provided the recommendations made by the conference between Imperial Valley representatives and California State authorities at Berkeley on October 1, 1919, are carried out and made a feature of any proposed all-American canal.

Members supporting: Dool, Lyons, Brockman, Pulliam.

Member opposing: Harbison.

This is to certify that the foregoing is a full, true, and correct copy of a resolution passed by the board of directors of the said Imperial Water Co. No. 6 at a meeting on Saturday, October 11, 1919.

In witness whereof I have set my hand and the seal of said Imperial Water Co. No. 6 this 15th day of October, 1919.

B. F. McCOMB,
Secretary Imperial Water Co. No. 6.

RESOLUTION.

The following resolution was reported by a committee of 15 created by the Berkeley conference held October 1, 1919, and by appropriate action has been indorsed and ratified by the board of directors of Imperial irrigation district, and all other civic and municipal organizations of Imperial Valley:

Whereas the principle of State and soldiers' land settlement as affecting the disposal of vacant public lands, adopted at the Berkeley conference held October 1, 1919, when written into the provisions of H. R. 6044, will tend to change or modify certain provisions contained in the original draft of the bill, providing funds for the construction of storage works for the service of lands affected by the terms of the bill; and

Whereas in the judgment of this committee, it will be the duty of the Secretary of the Interior and the Arid Lands Committee to retain in said Kettner bill a storage plan to insure an adequate supply of water for all lands outside of the present boundaries of the Imperial irrigation district: Now, therefore, be it

Resolved, That this committee does hereby declare that the inclusion in the terms and provisions of said H. R. 6044, in amended form, of such requirements and provisions as may be necessary and adequate in the opinion of the Secretary of the Interior and the Arid Lands Committee, to provide sufficient stored waters for the use of said land in the United States outside of said district boundaries, will be indorsed and approved by this committee as in full harmony with the principles recommended by the Berkeley conference, and unanimously indorsed and approved by the district board and all other civic organizations of this valley; be it further

Resolved, That the irrigation district board, and all other organizations which have heretofore indorsed and approved the principles announced at said Berkeley conference, be requested, likewise, to concur in and indorse this further announcement of policy.

LOS ANGELES, CALIF., October 20, 1919.

Hon. M. P. KINKAID,
Chairman Arid Lands Committee, Washington, D. C.

DEAR SIR: We have been pleased with the reports received from Mr. Rose and other members of the Imperial Valley committee regarding the prospects of an early favorable report on the Kettner bill; also the tenor of the letters received from the members of your committee gave assurance of a proper appreciation of the great importance of this measure and a desire to grant the request of the people most vitally concerned, viz, the people of Imperial Valley who expressed their will on this all-American canal question at the polls by a majority of over three to one. These are the people who will ultimately have to pay for the canal.

It seems, however, that outside organizations and individuals (such as Dr. Mead, who, as was shown to your committee, has been opposing this canal project for years), have succeeded in delaying action. We know that this was the purpose of Dr. Mead's call for a conference at Berkeley.

If you gentlemen have been convinced that this legislation is meritorious, why not give us a favorable report and let Dr. Mead make his contentions through any friends he may have on the floor?

In other countries unrest and disrespect of law and order exist simply because those in authority have, in the past, disregarded the desires or needs of the people.

We of Imperial Valley are 100 per cent American. Have during the recent trying years stood loyally by our Government and propose in the future to do so, but we do ask that you, as American lawmakers, grant us this legislation which means so much to us at this time.

Yours, very respectfully,

WEST SIDE IMPERIAL IRRIGATION CO.
Wm. LINDSEY, President.

BERKELEY, CALIF., October 22.

HON. MOSES KINKAID,*Chairman Arid Lands Committee, Washington, D. C.:*

The California State Federation of Farm Bureaus, representing 35 county farm bureaus, now in session at Berkeley, most earnestly request that your committee report out Kettner bill, No. 6044, with amendments adopted by the Mead conference.

DR. W. H. WALKER, President.

EL CENTRO, CALIF., October 28.

HON. MOSES P. KINKAID,*Chairman Arid Lands Committee, Washington, D. C.:*

Reported here H. R. 6044 be reported out of committee within next two or three days; all valley interested now; united upon policy of construction of all-American canal, and a committee consisting of two members irrigation district board, two of American Legion, one representing committee of 15 appointed at Mead conference have been delegated by irrigation district board to proceed to Washington at once to work for the Kettner bill with Mead amendments and storage for California lands, said plans being satisfactory to our entire valley. May we not respectfully request that the report of your committee be deferred pending the arrival of the new committee[

ALL-AMERICAN CANAL ASSOCIATION.
LEROY HOLT, President.

SAN FRANCISCO, CALIF., October 28.

Hon. MOSES P. KINKAID,*House of Representatives, Washington, D. C.:*

In behalf American Legion of California, request that Kettner bill be not reported by Arid Land Committee until Imperial Valley committee reaches Washington with recommendation for amendment relative ex-soldier settlement.

AMERICAN LEGION OF CALIFORNIA,
DAVID P. BARROWS, President.COACHELLA VALLEY COUNTY WATER DISTRICT OF RIVERSIDE COUNTY,
*Coachella, Calif., October 30, 1919.***Hon. MOSES P. KINKAID,***Chairman Committee on Irrigation of Arid Lands,
Washington, D. C.*

DEAR SIR: There has been before your committee for some time a bill introduced by Hon. William Kettner, California.

This bill provides a way for the people of the Imperial irrigation district and other peoples outside of the Imperial irrigation district, owning property in various districts which are now arid, to finance and construct the proposed all-American canal, which canal will supply these lands with water.

The Coachella Valley County Water District has had its attorney, Thos. C. Yager, in Washington for some time for the purpose of assisting the committee in coming to some conclusion about the bill under consideration.

Under date of October 25, 1919, Mr. Yager wired the district that the committee refused to report bill out, claiming Imperial Valley not in accord and that they did not know whether the majority of the people want the bill.

I wish to call your attention to the fact that at a public election, held within the Imperial irrigation district, five out of every seven electors voted favorably for the construction of an all-American canal, and for the expenditure of the necessary money to build it.

The Kettner bill, or any of the bills that have been introduced, deal with the financing of this canal, because without Government aid it would be impossible for the Imperial irrigation district or outside districts to finance to advantage the construction of the canal.

If your committee would report the bill favorably, and it were passed by Congress and become a law, it would not obligate the Government to the ex-

penditure of a single dollar until the people of the Imperial irrigation district and other districts had voted bonds necessary to carry on the work. It would, therefore, seem that a delay in reporting out the bill, upon the ground that has been given, would in no way tend to clear the situation.

There can be no doubt, from the information that we have received, that there have been a number of adverse telegrams, letters, and resolutions forwarded to your committee as a body, and to individual members of the committee. These would always be forthcoming, because there is no proposition undertaken that does not have its opposition.

In view of the fact that there must be an expression of the electors in the Imperial irrigation district and other districts in regard to the issuing of bonds, it would seem that the Kettner bill, or some other bill looking toward financing the building of the canal, might be favorably reported out of committee, with a reasonable time limit set upon the various districts for the holding of an election for the issuing of bonds, so that the proposed support of the Federal Government must be taken advantage of at once in order to become effective.

This proposed all-American or high line canal has been under consideration for a great many years, has continuously met with opposition by certain interests, and will meet with the same opposition as long as the question of its construction is agitated, and inasmuch as the electors of that district have already expressed themselves in a public vote of five for the canal and two against the canal, it certainly shows that the majority of the people within the district are for the proposed canal.

This district would like to urge upon you the necessity of favorable action upon the Kettner bill, and respectfully ask that a favorable report be made at this session of Congress.

Yours, very truly,

COACHELLA VALLEY COUNTY WATER DISTRICT,
By S. S. M. JENNINGS, President.

RESOLUTION OF IMPERIAL COUNTY FARM BUREAU.

UNIVERSITY OF CALIFORNIA,
COLLEGE OF AGRICULTURE,
El Centro, Calif., November 6, 1919.

Whereas the Hon. William Kettner introduced a bill in Congress known as H. R. 6044, having for its purpose the building of an all-American canal; and Whereas on October 1, 1919, at Berkeley, Calif., at a conference largely attended by representatives of the various organizations of the Imperial Valley certain amendments to said bill were suggested and adopted, reserving certain lands for State and soldier settlement and soldier entry on the East-side Mesa; and

Whereas the Imperial irrigation district has by resolutions asked that a provision be added to said bill to provide storage water for such lands outside of the Imperial irrigation district and within the United States of America: Now, therefore, be it

Resolved, That the Imperial County Farm Bureau indorse the Berkeley amendments and said provision for storage of water as passed by the Imperial Irrigation district and ask the Arid Lands Committee for an early report on said bill when so amended.

MIKE SIEBERT,
Chairman of Committee.

EL CENTRO, CALIF., November 18, 1919.

Hon. MOSES KINKAID,
Chairman Arid Lands Committee, Washington, D. C.:

Our board directors, in regular session, unanimously adopted the following resolutions yesterday:

Whereas opposition to Kettner bill, H. R. 6044, with proposed amendments, has developed by proposed treaty negotiations; and

Whereas the proposed negotiations are intended solely for the purpose of delaying and eventually defeating the building of the all-American canal; and

Whereas we believe such negotiations will not only delay but will defeat the passage of the Kettner bill: Now, therefore, be it

Resolved, That the All-American Canal Association of Imperial County, representing 80 per cent of the taxpayers and citizens of Imperial County, as evidenced at an election held on January 21, 1919, at which the construction of an irrigation canal on all-American territory was the direct issue, vigorously protested against such negotiations as will delay or prevent the immediate passage of the Kettner bill with proposed amendments, and we hereby request that said bill with proposed amendments be favorably reported out of Arid Lands Committee at once.

ALL-AMERICAN CANAL ASSOCIATION OF IMPERIAL COUNTY,
C. M. BERRY, *Secretary*.

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ON 19 1920

ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

HEARINGS

BEFORE THE

COMMITTEE ON IRRIGATION OF ARID LANDS

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS
SECOND SESSION

ON

**THE BILL TO ASSIST IN INCREASING THE PRODUCTIVE
AGRICULTURAL AREA OF THE IMPERIAL AND
COACHELLA VALLEYS, CALIF., AND
FOR OTHER PURPOSES**

JANUARY 28, 29, 30; FEBRUARY 3, 4;
AND MARCH 3, 5, 1920

PART 3



GOVERNMENT PRINTING OFFICE
WASHINGTON
1920

COMMITTEE ON IRRIGATION OF ARID LANDS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

MOSES P. KINKAID, Nebraska, *Chairman.*

NICHOLAS J. SINNOTT, Oregon.

CHARLES J. THOMPSON, Ohio.

EDWARD C. LITTLE, Kansas.

EDWARD T. TAYLOR, Colorado.

ADDISON T. SMITH, Idaho.

CARL HAYDEN, Arizona.

JOHN M. BAER, North Dakota.

MILTON H. WELLING, Utah.

BENIGNO C. HERNANDEZ, New Mexico.

CHARLES R. EVANS, Nevada.

JOHN W. SUMMERS, Washington.

C. B. HUDSPETH, Texas.

HENRY E. BARBOUR, California.

DAN F. REYNOLDS, *Clerk.*

ALL-AMERICAN CANAL, IN IMPERIAL VALLEY, CALIF.

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Wednesday, January 28, 1920.

The committee met at 10.30 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. Now, gentlemen, we are going to restrict the hearing this morning to the issue formed between Mr. Rose from Imperial Valley and the department in regard to the acreage of land that Mr. Rose will be permitted to hold, but as partially introductory we will hear from Attorney Kibbey about this bill now as it is amended and proposed to be amended, this new bill, and if the Commissioner of the General Land Office comes we will cut you off at 5 minutes—not allow you more than 5 minutes if Commissioner Tallman arrives before you get through. You may proceed, Mr. Kibbey, on the bill as it is proposed, and you can refer as far as you please to the Rose proposition.

STATEMENT OF MR. WALTER B. KIBBEY, EL CENTRO, CALIF.

Mr. KIBBEY. I will not take up very much time, Mr. Chairman. The committee has had the old bill, 6044, before it for a great many months. There was discussion in the Imperial Valley over the provisions of that bill, particularly with reference to the disposition of the lands themselves—probably I had better state who I am and who I represent.

Mr. CHAIRMAN. Yes; I wish you would make that plain.

Mr. KIBBEY. In the first place I am simply a country lawyer. I live at El Centro, in the Imperial Valley. I have lived there since January, 1914. I came to the Imperial Valley from Los Angeles, having gone to Los Angeles from Arizona. I have lived in an irrigated area all of my life. I lived under the Salt River project before the days when there was any project: I have been through the conditions there as well as in the Imperial Valley. I am now chairman of the land settlement committee of the American Legion of California, and a member of the American Legion. I am also the representative—one of the representatives of the committee composed of the committee of five appointed by the Imperial irrigation district.

When some of the members of the first committee which were here—and this committee is intended to be a continuation of that committee—returned to the Imperial Valley, the American Legion was just in formation. The boys were just getting back; the matter was taken up with reference to a soldier preference with the members

of that committee. Prior to that time the Spanish-American War veterans had communicated with your committee, I understand. We were informed, and the people of the Imperial Valley were informed, that if the bill was amended to grant a preferential right to ex-service men it would kill the bill, and that Congress would, because of that, deny to the people of the Imperial Valley the relief which I think everybody concedes they must have.

Our local post of the American Legion was organized, and we then took up the fight. We endeavored to convince them that we did not believe that the American Congress was so constituted that the proposed amendment would have the effect of killing the bill, as they had said.

Mr. SUMMERS. Will the gentleman permit me to ask a question?

Mr. KIBBEY. Certainly.

Mr. SUMMERS. Who gave the impression that an amendment or a provision of that kind in the bill would have that effect?

Mr. KIBBEY. The committee which had been here before from the Imperial Valley stated unanimously that that was their opinion gathered from their visit in Washington.

Mr. SUMMERS. It seems very strange, indeed, to me. I can't imagine with whom they had been talking. That was what it seemed to us—very strange.

Mr. TAYLOR. I don't believe there was ever any such sentiment here by any member of the committee.

Mr. SUMMERS. I have never heard an expression of that kind around this table from any member of the committee.

Mr. KIBBEY. I will state that I, as a member of the local Legion, was present at a meeting held with some of the members of that committee, and we tried to get them to state upon what basis they made such a statement. They coined what was to me a new political phrase. They said it was a sixth sense; that it was formed as a result of general conversation. I conceded there might be such a thing as a sixth sense, but that that sixth sense must be based upon some statement made by some one.

Mr. SINNOTT. On the fourth dimension, probably.

(At this point Commissioner Tallman and Mr. Finney entered the committee room.)

The CHAIRMAN. Gentlemen, I feel that we owe you an apology for calling on you so suddenly. It was on account of the misunderstanding about thinking you were notified yesterday. I am glad you have come on such short notice.

Mr. LITTLE. Do you represent the settlers or the soldiers, or both?

Mr. KIBBEY. Both.

Mr. LITTLE. Which ones do you more represent?

Mr. KIBBEY. Well, in the first place, I am a resident of Imperial Valley and of the irrigation district. The district appointed me to represent them.

The CHAIRMAN. As attorney?

Mr. KIBBEY. No; I can not say as attorney. Mr. McPherrin is a director of the district, and also is an attorney, and he is present.

The CHAIRMAN. Are you an attorney?

Mr. KIBBEY. I am an attorney by profession. I will suspend now.

The CHAIRMAN. Now, Mr. Rose, the commissioner is here, and Judge Finney, and they were invited here so that they could hear your case, the case that you are going to make. Do you wish to be heard, either individually or through your attorney, Mr. Gates?

Mr. MARK ROSE. I will be heard first, through my attorney.

**STATEMENT OF MR. R. WOODLAND GATES, COLORADO BUILDING,
WASHINGTON, D. C., REPRESENTING THE IMPERIAL-LAGUNA
WATER CO.**

Mr. GATES. Mr. Chairman and gentlemen, on the 14th instant Secretary Lane addressed a communication to Mr. Kinkaid reading as follows:

MY DEAR MR. KINKAID: In connection with my report to your committee of even date herewith upon H. R. 11553, I inclose for your consideration a petition filed with me by Mr. Mark Rose, president of the Imperial-Laguna Water Co., which petition, in my opinion, presents matters more properly determinable by your committee and by Congress than this department.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

Hon M. P. KINKAID.

*Chairman Committee on Irrigation of Arid Lands,
House of Representatives.*

With that letter he transmitted a letter addressed to him December 24, 1919, by Mr. Mark Rose and myself, reading as follows:

WASHINGTON, D. C., December 24, 1919.

The SECRETARY OF THE INTERIOR.

Washington, D. C.

SIR: In the department's letter of date April 16, 1918, addressed to Mr. Mark Rose, president Imperial-Laguna Water Co., postponing, at our request, action upon the contract of July 6, 1917, between the United States and the said company for the irrigation of the east side mesa lands, Imperial County, Calif. it was stated:

"As you are aware, there have been extensive negotiations and conferences with representatives of the Imperial Valley irrigation district with a view to a connection with the Laguna dam and the construction of an all-American canal for the irrigation of the lands in the Imperial irrigation district, and to that end a tentative contract has been drafted and submitted to the Imperial irrigation district. It is apparent that construction and operation under both of these contracts can not proceed independently. Mr. Holt, the representative of the district, repeatedly represented to the department that he is favorably disposed toward inclusion of the mesa lands or a part thereof in the irrigation district, and of making provision for the reclamation of such lands with a view to decreasing the cost per acre of all lands to be reclaimed through an all-American canal. It has become more and more apparent in the course of these negotiations that an all-American canal is an extensive and expensive proposition, in the construction of which all interests that may possibly be benefited thereby should cooperate and contribute, and the department is favorably disposed toward working out some feasible plan of accomplishing this object.

"The Reclamation Service is now, in cooperation with the Imperial irrigation district, making a survey with a view to determining the feasibility of an all-American canal. To require you to proceed at this time under alternative "a" might result in a useless duplication of work. Under the circumstances, therefore, it is deemed advisable at this time not to take action under either alternative "a" or "b," but rather to grant your request for more time by suspending further action at the present. This will give an opportunity to consider the results of the surveys and investigations now in progress and will also afford your company and the people of the Imperial irrigation district an opportunity to consider further the advisability and ways and means of bringing in the mesa lands."

Following these suggestions, the Imperial-Laguna Water Co. continuously endeavored to cooperate with the Imperial Irrigation district, Coachella Valley County water district, and the west side irrigation district, and to that end all the above-named interests had their representatives in Washington and a bill satisfactory to all was prepared and introduced by Hon. William Kettner (H. R. 6044), and on June 19, 1919, said bill was referred to the Secretary of the Interior for report. July 3, 1919, the Secretary of the Interior reported upon said measure favorably, stating, among other things, that—

"The provisions of the bill covering the details of this procedure have been carefully worked out and it is believed will be found practicable in application to the conditions."

* * * * *

"The proposition involved in this bill has had consideration of this department for a number of years, and the gravity of the situation has long been recognized as one which must necessarily be met as soon as practicable.

"In my opinion this bill as amended presents a satisfactory and feasible method of working out the problem, and I therefore suggest favorable action thereon."

Since said report of the Secretary of the Interior was received by the House Committee on Irrigation of Arid Lands interests foreign to Imperial Valley have requested certain amendments to the bill H. R. 6044, which amendments, if adopted, might be claimed to prevent the carrying out of the provisions of the aforesaid contract between the United States and the Imperial-Laguna Water Co.

A redraft of the bill (H. R. 6044), containing the proposed amendments will, we are informed, soon be presented to the Secretary of the Interior for report, and in order that the interest and investments of the Imperial-Laguna Water Co. under said contract may be fully protected (yet not desiring to do anything that may bring about delay or interfere with legislation) we respectfully make the following suggestions with the approval of all the interests above referred to for the purpose of providing a means whereby the stockholders of the Imperial-Laguna Water Co. will be able, without conflicting with the State settlement or soldiers' preference right plans, to acquire a sufficient portion of said mesa lands covered by the said contract to enable them to reimburse themselves for their outlay. We desire to call attention to the fact that the Imperial-Laguna Water Co. is a mutual water company, a nonprofit organization, and not a private corporation operating for profit. It is exactly the same character of corporation as the other 13 or 14 mutual water companies now operating in Imperial Valley.

The matter of an adjustment in the light of the new elements entering into the situation has been discussed by the representatives of the Imperial Irrigation district and the other organizations, including the representatives of the State of California and the American Legion (the two latter being the foreign interests referred to), and also Representative William Kettner, representing the congressional district in which the lands affected are located, and a conclusion reached that if the adjustment hereinafter suggested receives the sanction of the department it will meet the situation, will be satisfactory to them, and that they will, if requested, so state to the Secretary of the Interior.

We therefore respectfully suggest the following adjustment to meet a situation newly arisen, due solely to the soldiers' settlement agitation and the desire of the State of California to acquire 50,000 acres of land in Imperial Valley for State settlement purposes:

The Imperial-Laguna Water Co. to surrender its said contract with the United States of date July 6, 1917, excepting as to the lands hereinafter described, or to surrender its entire contract and to immediately enter into a new contract covering only the lands hereinafter described.

The Imperial-Laguna Water Co. to withdraw its application for certain rights of way filed under the act of March 3, 1891, Los Angeles Serial No. 027026.

The Imperial-Laguna Water Co. to limit the location of its stock to lands in township 16 south, range 17 east, fractional township 17 south, range 17 east, and a fractional portion of township 17 south, range 18 east, S. B. M., containing approximately 23,000 acres of irrigable land.

The adoption of the above suggestions would open the way to deal with the soldiers and the State Land Settlement Board of California, if it is the desire of the department to do this, and at the same time would permit the Imperial-Laguna Water Co. to come out whole. Under the adjustment the company

would be limited in its activities to about one-tenth of the amount of land covered by its original contract with the United States. In other words, it would be releasing approximately 200,000 acres from the provisions of its contract, but would be enabled, nevertheless, to reimburse its stockholders for their outlay, amounting to approximately \$50,000, expended in good faith during the past six years in their efforts to bring about the irrigation of the east side mesa lands.

We submit herewith a rough plat of the particular lands to which the suggestions refer.

If the suggestions meet the approval of the Secretary of the Interior, we will be pleased to take up with the department the details of adjustment to meet the situation.

Yours, respectfully,

MARK ROSE,
President *Imperial-Laguna Water Co.*
R. WOODLAND GATES,
Attorney for *Imperial-Laguna Water Co.*

The CHAIRMAN. What was the date of that letter?

Mr. GATES. December 24, 1919.

The CHAIRMAN. Addressed to whom?

Mr. GATES. Addressed to the Secretary of the Interior by Mr. Mark Rose and myself. The quotation commencing on the first page of our letter is from a letter addressed by the department to us April 16, 1918, postponing, at our request, action upon the contract with the Imperial Laguna Water Co., copy of which contract will be inserted in the record.

The land referred to in our said letter as being covered by the contract is this land [indicating on blue print].

The CHAIRMAN. You mean the mesa land?

Mr. GATES. Yes, sir; this is the East Side mesa land. That is covered by the contract. Our letter of December 24, 1919, to the Secretary of the Interior was written in order to meet a new situation which had arisen because of the request of the American Legion for a preference right, as set forth in the bill now under consideration (H. R. 11553), and the desire of the State of California to obtain 50,000 acres of land under said bill for soldier-settlement purposes. In our said letter we agreed to release from the provisions of the contract approximately nine-tenths of the land covered thereby if it were the desire of the department to favor such soldier preference right and to allow the State to obtain the 50,000 acres for soldier-settlement purposes. This offer, if accepted, would leave the land shown in yellow on this blue print to be irrigated by means of the Imperial Laguna Water Co. In other words, instead of irrigating more than 200,000 acres of land, the company would be restricted in its operations to approximately 23,000 acres of irrigable land.

Mr. SMITH of Idaho. You say "release" it. What claim has Mr. Rose to what is covered there?

Mr. GATES. All of this East Side mesa land, Mr. Smith, is covered by the Rose contract.

Mr. SMITH of Idaho. You mean to curtail the contract to the extent of that?

Mr. GATES. Yes, sir. One of the main questions before this committee to-day is whether or not this land that is embraced in this contract is in such a condition that Congress can now deal with it without taking care in some way of Mr. Rose's contract.

Mr. SMITH of Idaho. Because of the money he expended under the contract?

Mr. GATES. Because of the existence of the contract, and, in addition, the moneys the company expended. To act without taking care of the contract would be to violate the obligations thereof.

Mr. BARBOUR. Why not state briefly there the substance of that contract?

Mr. GATES. The contract provides—it is a 20-page document and it is difficult to recollect all its provisions in detail; but—

Mr. SMITH of Idaho. Is that township of land in the public domain now?

Mr. GATES. Yes; but it is withdrawn from entry excepting a little more than two school sections.

Mr. ROSE. All but two sections of it.

Mr. GATES. I have the whole history of this matter from the time Mr. Rose first took it up in 1912, but do not know whether you gentlemen wish to go into this entire history or merely to consider the question raised by the letter of Secretary Lane referring our offer to this committee.

Mr. BARBOUR. State it briefly.

Mr. GATES. Mr. Rose was here first in 1912, asking that those lands, which were withdrawn first in 1903 and again at later dates, be restored to entry under the desert-land law.

Mr. SMITH of Idaho. Why were they withdrawn?

Mr. GATES. They were withdrawn under the reclamation act, and in 1913 the Director of the Reclamation Service reported to the Secretary of the Interior that they were no longer needed in connection with the Yuma project. We thought then that, following the provisions of the reclamation act, the Secretary would restore the land. It has never been restored. After several years' effort we finally obtained the contract of July 6, 1917—the Imperial Laguna Water Co. contract with the Government. This contract provided that we should make surveys, plans, specifications, and estimates of cost of the construction of certain canals and works therein specified, and that upon the submission of our engineers' report the Secretary was to take one of three courses.

The CHAIRMAN (interposing). What kind of a survey was to be made? For what purpose?

Mr. GATES. I will read that portion of the contract.

Mr. TAYLOR. I suppose that contract ought to go into the record.

The CHAIRMAN. Yes.

Mr. GATES. Regarding surveys that contract provided as follows:

SECTION 1. *Surveys*.—That immediately on the execution of this contract the company shall proceed with diligence to make a complete and detailed survey, specification, and estimates of cost for the following:

(a) All necessary works and structures for the diversion of water from the Colorado River at and through said Laguna Dam, thence through said existing main canal of the United States supplying said Yuma project and such enlargement and modifications thereof as may be sufficient to divert and carry all water needed by the company for the reclamation of the lands herein described as contemplated by this contract without impairing the utilization of said diversion works and canal of the full extent necessary to supply said Yuma project on its complete development.

(b) A main supply canal, with all necessary appurtenant structures for the practical operation thereof, of sufficient capacity and proper and durable construction, connecting with said main canal of the United States referred to in

(a) above at or about said point described as "Syphon Drop" as may appear most feasible and practicable, and thence continuing and extending, either in part through the Republic of Mexico or entirely in the United States, as hereinafter provided, on such line of elevation and to such points as to cover and supply water for all requisite laterals and ditches for the practical and sufficient irrigation and reclamation of all lands susceptible thereof described in the premises and contemplated by this contract: *Provided*, That the company shall make and submit separate surveys, specifications, and estimates of cost for a canal built partially in the Republic of Mexico and for a canal built entirely within the United States.

(c) Any and all works, structures, and equipment for power development or pumping operations which may appear feasible and practicable in connection with or as a part of said irrigation system contemplated by this contract.

(d) Also to make sufficient preliminary investigation upon which to base estimate of the cost of sufficient main laterals and appurtenant works connecting with the said main canal described in (b) above to convey all water needed for irrigation purposes as herein provided for, within one mile, over which a practicable ditch can be constructed, of every smallest legal subdivision (40 acres) of land for which the company is under contract to furnish water for irrigation purposes.

Sec. 2 *Time for surveys*.—That said surveys, specifications, and estimates of costs aforesaid shall be completed and full report thereof submitted to the Secretary of the Interior within six months from the date of this contract, or such extension of time as the Secretary of the Interior may in writing grant.

Mr. GATES. With the permission of the committee I will at this point insert the contract in the record.

CONTRACT BETWEEN THE UNITED STATES AND THE IMPERIAL LAGUNA WATER CO.

This agreement, made and entered into this 6th day of July, A. D. 1917, by and between the United States of America, acting in this behalf by Franklin K. Lane, Secretary of the Interior, hereinafter styled the United States, party of the first part, and the Imperial Laguna Water Co., a corporation duly organized and existing under and by virtue of the laws of the State of California, hereinafter styled the company, party of the second part.

Witnesseth:

Whereas, there are now withdrawn from entry certain public lands located in the county of Imperial, State of California, lying north of the international boundary line between California and Lower California, Mexico, and north and east of the East Side High Canal in Imperial Valley in township 9 south, range 13 east, sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, and 36; township 9 south, range 14 east, sections 19 to 36, inclusive; township 10 south, range 14 east, sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 35, and 36; township 10 south, range 15 east, all; township 11 south, range 15 east, sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, and 36; township 12 south, range 15 east, sections 1, 2, 11, 12, and 13; township 10 south, range 16 east, sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; township 11 south, range 16 east, west half; township 12 south, range 16 east, west half; township 13 south, range 16 east, sections 4, 5, 9, and 16; townships 14, 15, and 16 south, range 17 east, all; townships 15 and 16 south, range 18 east, all; township 16 south, range 19 east, all; fractional township 17 south, ranges 17, 18, and 19 east, all; fractional townships 14, 15, and 16 south, range 16 east, sections 1, 12, 13, 24, 25, and 36; fractional township 17 south, range 16 east, sections 1, 11, 12, 13, and 14, all of San Bernardino meridian; and

Whereas in connection with the Yuma project, Arizona-California, a dam on the Colorado River known as the Laguna Dam, situate about 10 miles northeast of Yuma, Ariz., together with a main diversion and supply canal extending from said dam southerly to a point known as "Syphon Drop," situate in section 10, township 16 south, range 22 east, San Bernardino meridian, has been constructed and completed by the United States Reclamation Service under the provisions of the reclamation act of June 17, 1902, and acts amendatory thereof and supplementary thereto; and

Whereas the company proposes to construct an irrigation system for the purpose of irrigating the above-described lands and is for that purpose desirous of connecting said irrigation system with said Laguna Dam and canal and making

its main and principal diversion of water for irrigation from the Colorado River at said Laguna Dam and through said canal or enlargement thereof; and

Whereas by the act of February 21, 1911 (36 Stat., 925), the Secretary of the Interior is authorized to cooperate in the construction and use of reservoirs and canals under reclamation projects with irrigation districts, water users' associations, corporations, entrymen, or water users, for the construction of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water users' associations, corporations, entrymen, or water users, for impounding, delivering, and carrying water for irrigation purposes:

Now, therefore, for and in consideration of the mutual covenants, agreements, and considerations to be kept and performed and paid as hereinafter stipulated and provided, it is hereby agreed as follows, to wit:

SECTION 1. Surveys.—That immediately on the execution of this contract the company shall proceed with diligence to make a complete and detailed survey, specifications, and estimates of cost for the following:

(a) All necessary works and structures for the diversion of water from the Colorado River at and through said Laguna Dam, thence through said existing main canal of the United States supplying said Yuma project and such enlargement and modifications thereof as may be sufficient to divert and carry all water needed by the company for the reclamation of the lands herein described as contemplated by this contract without impairing the utilization of said diversion works and canal of the full extent necessary to supply said Yuma project on its complete development.

(b) A main supply canal, with all necessary appurtenant structures for the practical operation thereof, of sufficient capacity and proper and durable construction, connecting with said main canal of the United States referred to in (a) above at or about said point described as "syphon drop" as may appear most feasible and practicable, and thence continuing and extending, either in part through the Republic of Mexico or entirely in the United States, as hereinafter provided, on such line of elevation and to such points as to cover, and supply water for, all requisite laterals and ditches for the practical and sufficient irrigation and reclamation of all lands susceptible thereof described in the premises and contemplated by this contract; provided that the company shall make and submit separate surveys, specifications, and estimates of cost, for a canal built partially in the Republic of Mexico and for a canal built entirely within the United States.

(c) Any and all works, structures, and equipment for power development or pumping operations which may appear feasible and practicable in connection with or as a part of said irrigation system contemplated by this contract.

(d) Also to make sufficient preliminary investigation upon which to base estimate of the cost of sufficient main laterals and appurtenant works connecting with the said main canal described in (b) above to convey all water needed for irrigation purposes as herein provided for, within 1 mile, over which a practicable ditch can be constructed, of every smallest legal subdivision (40 acres) of land for which the company is under contract to furnish water for irrigation purposes.

SEC. 2. Time for surveys.—That said surveys, specifications, and estimates of costs aforesaid shall be completed and full report thereof submitted to the Secretary of the Interior within six months from the date of this contract, or such extension of time as the Secretary of the Interior may, in writing grant.

SEC. 3. Federal and State inspection and cooperation.—That in the making of said surveys, specifications, and estimates of costs aforesaid, the company shall employ at its sole expense, deposit sufficient to cover which shall be made in advance, one engineer to be designated by the Secretary of the Interior at a compensation to be fixed by him, such engineer diligently to work and cooperate with the engineers of the company and to have available all data procured by the company and its engineers, in making such surveys, specifications, and estimates, but with the privilege and duty of making a separate and independent report to the Secretary of the Interior in case he is unable to concur in the conclusions arrived at by the company and its engineers; likewise, the State of California shall be entitled to assign an engineer to work and cooperate with said company engineers, with the same privileges as said engineer appointed by the Secretary of the Interior, such engineer to be designated by the governor of California, and his services to be rendered at the sole expense of the State of California.

SEC. 4. Mexican concession.—That in case said company shall decide or prefer to build its said canal partially in the Republic of Mexico, then it shall submit to the Secretary of the Interior satisfactory evidence that it has procured from the Republic of Mexico a franchise or concession for such privilege which in the judgment and opinion of said Secretary is satisfactory and sufficient for the purposes sought to be accomplished by this contract, otherwise construction of a portion of said canal through the Republic of Mexico shall be rejected, abandoned, and not further considered; but said Secretary may nevertheless require said canal to be built entirely in the United States, notwithstanding any franchise or concession granted by the Republic of Mexico.

SEC. 5. Action on report of survey.—That on receipt and consideration of the report or reports of said surveys, specifications, and estimates as hereinabove provided for, and of evidence of the procurement of said franchise or concession from the Republic of Mexico in case same shall be submitted, the Secretary of the Interior shall—

(a) Require further or additional surveys, specifications, and estimates, or a changed or modified plan in whole or in part to be made and submitted, together with such other requirements as may by said Secretary be deemed necessary to insure the permanency and success of the enterprise, all within such time or times as said Secretary may prescribe, whereupon the plans, surveys, specifications, and estimates as so modified and amended may be rejected and disapproved or accepted and approved in their entirety, as provided in subdivisions (b) and (c) of this section; or

(b) Reject and disapprove of said surveys, specifications, and estimates in their entirety for any reason in his judgment deemed sufficient, in which case this contract shall be and become void and of no further force and effect whatsoever; or

(c) Accept and approve same in their entirety as representing a practical and sufficient plan and scheme of works and reclamation for the purposes of this contract, in which event the company shall have the right to connect its said proposed irrigation system with the said Laguna Dam and to enlarge said main canal of the United States on compliance and in accordance with the terms and conditions of this contract.

SEC. 6. Change of articles of incorporation and by-laws.—That prior to any acceptance or approval of the surveys, specifications, and estimates hereinabove provided for the company shall cause its articles of incorporation and by-laws to be so modified and amended, not inconsistent with the laws of the United States or of the State of California, as to conform with the requirements of the Secretary of the Interior, and no change shall be made in said articles of incorporation without the consent and approval of the Secretary of the Interior until after the payment to the United States of all sums provided to be paid under sections 10 and 12 of this contract.

SEC. 7. Contracts for sale of stock to be approved by Secretary.—That pending the completion of all payments to be made to the United States hereunder, except for operation and maintenance as provided for in section 15 hereof, or pending the prior termination of this contract, the company shall not sell or otherwise dispose of any of its stock or rights to the use of water, except upon such terms and conditions as shall have been approved by the Secretary of the Interior.

SEC. 8. Sales of stock.—Sales of stock or rights to the use of water or contracts therefor by the company may be in amounts sufficient to furnish a water supply appurtenant to 160 acres of land and no more, to any one person, at a price not exceeding actual and necessary cost of constructing said irrigation system, and all such sales or contracts shall be subject to the conditions and limitations of section 2 of the act of February 21, 1911 (36 Stat., 925).

SEC. 9. Escrow deposit of first payments for stock.—That the first payments on account of the purchase of stock or water rights in said company pursuant to the terms hereof, shall be not less than \$10 per irrigable acre of the land to be reclaimed by use of water thus procured, and the entire amount of such first payment shall be deposited in escrow in such national banks as the Secretary of the Interior may designate, not exceeding \$300,000 in any one bank, to be later paid over to the company, its authorized officers and agents or returned to the purchasers of the stock, as hereinafter provided.

SEC. 10. Requirements as to sales of stock or water rights.—That in case the company shall have sold or contracted to sell stock or water rights sufficient for the reclamation of 120,000 acres of said lands, and first payments on account

of such sales shall have been made in escrow, as aforesaid, and applications of the purchasers of said stock or water rights to enter an equal or greater area of said lands have been approved, or are entitled to be approved by the Land Department of the United States, within 90 days from and including the day on which said lands are opened to entry by order of the Secretary of the Interior, then and thereupon on the direction of the Secretary of the Interior, such escrow banks shall, out of such escrow deposits, pay over to the United States, to be covered into the Treasury to the credit of the Yuma project, pursuant to the provisions of the act of February 21, 1911 (36 Stat., 925), the sum of \$200,000 to apply on the total amount to be paid by said company for the permanent and perpetual right to use said dam and diversion works and enlarged canal of the United States as in this contract provided, and the balance remaining, together with any accrued interest, of such funds deposited in escrow as aforesaid, shall be paid over to the company, its authorized officers and agents.

SEC. 11. Result of rejection of plans, specifications, and estimates or of insufficient sales of stock or water rights.—That in the event of the rejection by the Secretary of the Interior as provided in section 5 hereof, of the plans, specifications, and estimates, or in case the stock or water rights sold and areas entered shall fail to equal the amounts specified in the last preceding paragraph within the time therein specified or such extension of time as the Secretary of the Interior may elect to grant, then and thereupon all of such deposits on account of the purchase of stock or of water rights, together with any accrued interest, shall, on the certificate of the Secretary of the Interior, be repaid by said escrow-holding banks to the respective purchasers of stock or water rights, or their successors in interest in law entitled thereto, whereupon this contract shall be and become terminated and of no further force or effect: *Provided*, That no extension of time by the Secretary of the Interior under this or the previous section shall extend to a date more than one year from the date of the order of the Secretary opening said lands to entry on a specified future date, as provided in section 10 hereof.

SEC. 12. Cost of connection with the Laguna Dam.—That in case the conditions and payments provided for in section 10 hereof shall be complied with and made as therein provided, then the company shall pay to the United States for the credit of said Yuma project the further sum of \$760,000, in six equal annual installments, the first installment thereof to be due within 2 years from the date of the payment provided for in section 10 hereof, the remaining installments to be paid within 3, 4, 5, 6, and 7 years from the date of said first payment, respectively, making a total of \$960,000 to be paid to the United States to the credit of said Yuma project for the right to the perpetual use of said Laguna Dam, diversion works and enlarged canal as in this contract provided; and on the failure of the company to make any such payment at the time and in the amount specified, then and thereupon all or any payments theretofore made shall be and become forfeited to the United States to the credit of said Yuma project, as liquidated damages, and as further consideration for entering into this contract on the part of the United States, the said company hereby releases and relinquishes any and all claims whatsoever for said moneys or any portion thereof so forfeited and paid as liquidated damages as aforesaid: *Provided*, That the Secretary of the Interior may, in his discretion, extend the time for any such payment on the payment of 4 per cent interest in advance: *Provided further*, That said entire sum of \$960,000 shall in any case be paid within 10 years from the date of said first payment; also, on failure to make such payment or payments within the time or extension thereof as herein specified, this contract may be canceled in its entirety by the Secretary of the Interior.

SEC. 13. Construction.—That in the event said balance of said first payments for stock or water rights is paid to the company as provided in section 11, the company shall proceed at once with diligence to build, construct, and install such diversion works, canals, laterals, and other structures and equipment, all pursuant to and in strict accordance with such plans, surveys, specifications, and estimates of costs theretofore approved by the Secretary of the Interior as in this contract stipulated, and said company shall continue such construction operations to the completion of said works and appurtenant structures in their entirety with all reasonable diligence commensurate with the size and importance of the enterprise: *Provided*, That, in the judgment of the Secretary of the Interior, all or any part of such work of construction and installation as pertains to the connection with the Laguna Dam or the enlargement or modification of any existing works of the United States may be per-

formed by the United States, in accordance with said surveys and specifications, at the expense of the company on advances of funds by the company to the United States from time to time as needed for that purpose. If any portion of the work of construction, installation, enlargement, or modification pertaining to the connection with the Laguna Dam or any other existing works of the United States shall be done by the Imperial Laguna Water Co., its successors or assigns, all such work shall be subject to the direction and supervision of the Secretary of the Interior.

SEC. 14. Supervision and inspection of construction.—That all work of construction and installation aforesaid, whether in modification or enlargement of existing works of the United States or otherwise, and materials used therein, shall be subject at all times to the inspection and approval of the Secretary of the Interior or his authorized agents and engineers, to the end that all of such works of construction shall conform strictly with said surveys and specifications, or such modification thereof as said Secretary may approve in writing; and in case of failure to construct any of said works in accordance with said surveys and specifications said Secretary may, at his option, replace such unsatisfactory construction work at the expense of the company, or stop said work of construction, or cancel this contract, or resort to any other lawful remedy, and the decision of the Secretary of the Interior as to whether or not said surveys and specifications or modifications thereof have been complied with shall be final and conclusive. It is further agreed that the company shall make complete and detailed fiscal and progress reports of all its business and operations to the Secretary of the Interior annually, or at such other times as required, and its books and records shall be open to inspection by the Secretary of the Interior or his authorized agents until such time as the project is completed.

SEC. 15. Operation and maintenance.—That subject to the provisions of the act of February 21, 1911 (36 Stat. 925), and the act of June 17, 1902 (32 Stat. 388), and supplementary or amendatory legislation by Congress, the United States shall have and retain perpetually the complete control, operation, and management of said dam, diversion works, and enlarged canal and appurtenant structures, and the company shall pay quarterly on demand to the United States, to the credit of said Yuma project, its proportionate share of the cost of operation and maintenance of said dam, diversion works, and enlarged canal for the preceding quarter, such payment by the company to consist of such proportion of the total cost of such operation and maintenance as the amount of water carried by the company bears to the total amount of water carried in said main canal at the point of delivery to the company's canal, and no greater charge shall be made by the company to its customers or water users for the service thus rendered by the United States than the amounts thus paid to the United States: *Provided*, That in the event of the failure of the company to pay all operation and maintenance charges as they shall become due to the United States, the Secretary of the Interior, in addition to any other remedy which may be available to him for recovery of such charges, is hereby authorized to shut off the water from the intake of said company until such time as all sums due have been paid, with interest thereon at the rate of 7 per cent per annum.

SEC. 16. Title to diversion works.—That the title to, and ownership of, said dam, diversion works and enlarged canal and appurtenant structures, shall be and remain in the United States, subject, however, to the provisions of the act of February 21, 1911 (36 Stat. 925), and the act of June 17, 1902 (32 Stat. 388), and supplementary and amendatory legislation by Congress.

SEC. 17. Priority of water rights.—That the company hereby acknowledges, admits, and concedes the prior and superior right of the United States to the waters of the Colorado River for the full and perpetual irrigation and reclamation of all lands under and irrigated from said Laguna Dam on project constructed by the United States, either in California or Arizona, which can be irrigated under structures and works now constructed and in operation, or which may be constructed and put into operation within 10 years from the date hereof, and in operating said Laguna Dam and diversion works the United States shall be required to deliver to the company only such water as may be available in excess of the requirements of the United States, as aforesaid, of which the United States, its authorized officers and agents shall be the sole judge, as long as the United States shall remain in control of said dam and diversion works. And furthermore, the United States, its officers and agents, make no guaranty or representations whatsoever as to the quantity of water

that may be available, without storage, for delivery to the company or that such amount will be sufficient for the irrigation and reclamation of the lands under the company's project, or any part thereof, and the company undertakes and agrees to so advise the public in all water stock or contracts issued by it. It is further agreed and mutually understood that nothing herein contained shall be construed as affecting, or intending to affect, the right of third parties under lawful existing appropriations of water for irrigation purposes, or as applicable to any irrigation project south of the international boundary line between the United States and Mexico.

SEC. 18. *Assignment of contract.*—This contract shall be assigned or transferred only with the approval of the Secretary of the Interior.

SEC. 19. *Forfeitures and waivers.*—That in addition to the particular penalties or liquidate damages in this contract described, the Secretary of the Interior shall have the right, upon due hearing, to cancel and terminate this contract at any time for failure of the company or its successors to comply with any of its conditions or provisions, notwithstanding no specific penalty is attached to such provision, and in addition the penalties or damages in this contract prescribed shall not be exclusive, the Secretary of the Interior may resort to all legal remedies for the enforcement of this contract; and it is further agreed and understood that a waiver of any condition or modification hereof by the United States shall not be construed as a modification of the contract except to the extent of the particular waiver or modification.

SEC. 20. *Inhibition on Government officers.*—No Member or Delegate to Congress, or Resident Commissioner, after his election or appointment or either before or after he has qualified and during his continuance in office, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company where such contract or agreement is made for the general benefit of such incorporation or company, as provided in section 116 of the act of Congress approved March 4, 1909 (35 Stat., 1109).

In witness whereof the parties hereto have caused the execution of these presents as of the day and year first above written, the Secretary of the Interior acting for and in behalf of the United States and the Imperial Laguna Water Co., a corporation, by its proper officers theretofore duly authorized by resolution of its board of directors.

FRANKLIN K. LANE,
Secretary of the Interior.

MARK, ROSE,
For the Imperial Laguna Water Co.

Mr. GATES. Now, the Secretary in effect adopted course A. He required further and additional surveys to be made, as will appear from the letter addressed to Mr. Mark Rose, president Imperial Laguna Water Co., April 16, 1918, which will later be placed in the record, but not by us. While we were making our survey the Secretary of the Interior negotiated a contract with the Imperial irrigation district—

The CHAIRMAN (interposing). The Secretary did?

Mr. GATES. Yes, sir; for another survey of a canal of much larger capacity than that provided for in the Rose contract and extending on to connect with the Imperial irrigation district. In the first draft of the proposed contract submitted by the Secretary of the Interior to the Imperial irrigation district for approval and ratification it was stated in paragraph 9 thereof that "It is understood and agreed that this contract is subject to a certain other contract between the United States and the Imperial Laguna Water Co., dated July 6, 1917." In January, 1918, we filed the report of our engineers, together with maps, plans, specifications, and estimates of cost. They were made by Mr. Charles G. Frisbie, chief engineer of Imperial Laguna Water Co.; Mr. C. S. Alverson, hydraulic consulting engineer and for many years city engineer of the city of San

Diego, Calif.; and Mr. James W. Reagan, consulting engineer and chief engineer of the Los Angeles County Board of Flood Control.

Mr. SMITH of Idaho. I didn't understand whether the Secretary approved this contract.

Mr. GATES. Well, I will show you that in just a moment, Mr. Smith. On July 6, 1917, the Secretary of the Interior transmitted the approved contract to Mr. Rose accompanied by a letter reading as follows:

DEPARTMENT OF THE INTERIOR,
Washington, July 6, 1917.

DEAR MR. ROSE: Referring to application for canal from Laguna Dam for irrigation of lands in southern California, adjacent to or near the present irrigated areas in Imperial Valley, I have approved and transmit herewith form of contract providing for surveys and investigations and for the carrying forward of the plan if found feasible.

Cordially, yours,

FRANKLIN K. LANE.

Mr. MARK ROSE,
Representing Imperial Laguna Water Co., Washington, D. C.

Mr. LITTLE. May I ask you a question right there? How much land is there in that corner you have set off up there?

Mr. GATES. You mean that yellow portion I just showed you?

The CHAIRMAN. One township, isn't it?

Mr. GATES. It is, I should say, an irrigable area of about 23,000 acres.

Mr. ROSE. It is approximately 30,000 acres, but there are approximately 23,000 acres of that that are reasonably irrigable lands. It will probably all be irrigable, but it would cost in the neighborhood of \$200 an acre to level quite a little of it.

Mr. LITTLE. And you want that under your contract?

Mr. ROSE. Our people went into this with the idea of acquiring a little piece of land. There were lots of people who put up money to back this proposition whose sons have grown up since Imperial Valley was settled and who wish to obtain some of this land.

Mr. LITTLE. I understand you waive the rest of the contract?

Mr. GATES. Yes, sir; if our offer is accepted; but only as to the area embraced in the contract. We would then irrigate about one-tenth of the lands embraced in the contract instead of all of it.

Mr. LITTLE. You claim you have some sort of a lien upon the rest of it?

Mr. GATES. Yes—well, not a lien on the land, but an agreement as to the disposition of the land.

Mr. SINNOTT. You don't want that subject to the farm unit?

Mr. GATES. No, sir.

Mr. SMITH of Idaho. Now, what has Mr. Rose done since, during the two years?

Mr. GATES. Since 1918, following out the suggestion contained in Mr. Bradley's letter of April 18, 1918, suggesting that all parties get together, Mr. Rose has endeavored to cooperate with all the interests involved; and to that end a proposition was made to the board of directors of the Imperial irrigation district February 21, 1918, as follows:

Upon condition that the Imperial irrigation district will, within six months from date and execution of written agreement to be entered into in accordance with this offer, commence and diligently pursue to completion the work of

building a main canal from Laguna Dam to a point on the mesa west of the sand hills, at an elevation of approximately 138 feet and of sufficient capacity to irrigate all the lands in Imperial and Riverside Counties, Calif., susceptible of irrigation from said main canal, the Imperial Laguna Water Co. will agree that said Imperial irrigation district shall have the right to build said main canal and that said company will come into the Imperial irrigation district with the 200,000 acres of land lying immediately north of the international boundary line and east of Imperial irrigation district (said lands to be described by townships, ranges, and sections in the contract to be entered into) upon equal terms with all lands now in said district, the Imperial Laguna Water Co. reserving the right to build the distributing system as a mutual water company, and paying its pro rata cost of the said main canal from Laguna Dam to the initial point of irrigation as the said main canal is paid for by the rest of the district; provided, such agreement is satisfactory to the Department of the Interior.

Mr. GATES. You will note that a proviso was inserted in the proposition reading: "Provided, such agreement is satisfactory to the Department of the Interior."

That was inserted in the proposition made to the irrigation district because our contract provided that the contract itself should not be assigned without the consent of the Secretary of the Interior.

Mr. ROSE. I want to say that the representatives of the Imperial Irrigation District, Mr. Swing and Mr. Holt, who were here representing it, asked the Government several times to be permitted to take over the contract with the Imperial Laguna Water Co., and to be allowed to proceed under it, but they did not do so. The department thought it would probably get a better contract out of the district and did not allow them to proceed. We could have proceeded that way.

Mr. SINNOTT. Is that township public land now?

Mr. ROSE. Yes, sir; all but two school sections. It is withdrawn public land.

Mr. SINNOTT. And the Secretary gave you some preference right as to that township?

Mr. GATES. He covered that in this contract, the entire contract embracing more than 200,000 acres.

Mr. LITTLE. To which you claim a preferential right?

Mr. GATES. Not to the land; simply to the right to irrigate it.

Mr. SINNOTT. What authority did he have to make such a contract? Under what law?

Mr. GATES. I think he states here in the contract. My recollection is it is the act of February 21, 1911.

Mr. FINNEY. The Secretary did not give a preference right to any land to anyone. He gave them the right to construct a canal under the provisions of what is known as the Warren Act of February 21, 1911, whereby the Secretary may enter into a contract with a corporation to build irrigation works for the irrigation of public lands.

Mr. SINNOTT. That is the Carey Act?

Mr. FINNEY. No; the Warren Act.

Mr. LITTLE. He gave them authority to go ahead and build the canal with certain privileges on the land, then, if they built it?

Mr. FINNEY. This contract, if it had been carried out and if the Secretary had found their scheme feasible and had approved the surveys, would have been under this so-called Warren Act, under which this irrigation district could have built the canal and watered these lands. The lands then, of course, would have had to be disposed of.

Mr. LITTLE. But what did these people get out of it?

Mr. FINNEY. Quantities not exceeding 160 acres each.

Mr. LITTLE. What did these people get out of it if they did that?

Mr. FINNEY. I don't know, except they said they were a mutual water company formed for public benefit, and I presume the company may have had some private land in the great area covered.

Mr. LITTLE. Would they secure any right, interest, or claim, from your standpoint, upon this land if they built this canal?

Mr. FINNEY. No.

Mr. LITTLE. Why did they get that idea?

Mr. FINNEY. That is, they got no rights to take land and get title to the lands themselves, because the Warren Act prohibited the furnishing of water to any acreages in excess of 160 acres.

Mr. TAYLOR. What was Uncle Sam to get out of this deal?

Mr. FINNEY. The object, of course, was to reclaim arid public lands, absolutely worthless without water, and, of course, the only way to make them worth anything was to put water on them.

Mr. LITTLE. What would they get out of it?

Mr. FINNEY. Of course, it would solve, in part, this perpetual trouble with Imperial Valley.

The CHAIRMAN. The constructors of the canal would get paid for the water rights—that is, pay for the construction. They would have a lien upon the lands?

Mr. FINNEY. Yes.

The CHAIRMAN. To be reimbursed for all that it cost, and that would be fixed by the Secretary of the Interior?

Mr. TALLMAN. There was no lien on the land, Judge.

Mr. FINNEY. They would have water rights to sell, however.

Mr. GATES. Just exactly like they would under the desert-land law; they would sell the water rights.

The CHAIRMAN. And they would withhold the water until they got paid for the water right?

Mr. GATES. Yes, sir.

Mr. LITTLE. If they built a ditch they could sell the water?

Mr. FINNEY. Yes; and possibly they might have owned some private school sections in the area.

Mr. LITTLE. Is this the All-American Canal that they were thinking about?

Mr. FINNEY. Well, this contract authorizes them to make one survey on the American side and one on the Mexican side from Laguna Dam to Imperial Valley.

Mr. SINNOTT. Was that under the act of February 21, 1911?

Mr. FINNEY. Yes; we call it generally the Warren Act.

Mr. ROSE. The agreement was this, gentlemen, in a nutshell: That that 200,000 acres of land was withdrawn, and our understanding was that if this improvement was found to be feasible the department would restore that land to desert entry, recognizing the Imperial Laguna Water Co., and, of course, a desert entry requires a man to show where he can get water to irrigate land, and it would have allowed our people who put up \$75,000 or \$80,000 on this proposition to have gone out there and filed and gotten a piece of that land and built a system and reimbursed themselves for the money actually expended.

Mr. SINNOTT. That is, the individuals?

Mr. ROSE. The individual stockholders.

Mr. LITTLE. How much would each of them get?

Mr. ROSE. They could file on only 160 acres each.

Mr. LITTLE. How many of them were there?

Mr. ROSE. About 100 of them in the Imperial Laguna Water Co. That is, men who have their families there. A good many men who have farms in Imperial Valley put up money, and they have one or two or three sons who have grown up since the Imperial Valley lands were taken, and they were trying to provide, in the same way that we have in Imperial Valley, an opportunity for the rest of their family to acquire a piece of this desert land.

Mr. SINNOTT. Have they filed on it as desert land?

Mr. ROSE. They can not. It is withdrawn. But they intend to file when the land is restored.

Mr. LITTLE. They would have a preferential filing?

Mr. ROSE. No; they would only have the water stock. They would take their chances on filing. They would own stock in the water company, and would take their chances on going into the local land office and filing on the land. But my understanding was that the company would be recognized if this was feasible, and an applicant would be required to show stock in this company in order to get a filing, the same as on a desert-land entry a man has got to show where he is going to get the water.

Mr. WELLING. But the company could have refused to sell water to anybody.

Mr. ROSE. No; because under the contract it is left up to the department to fix the rules and regulations, etc., to whom they could sell. They could not have done that. They could have gotten their money back, but what they hoped was to get a piece of land.

Mr. LITTLE. Now, you want to go on and build a ditch and just get authority to go in and take 160 acres in that 23,000 acres?

Mr. ROSE. Now, these other people come in and say: "We want to handle this situation." And we say, "Now, if the State and the soldiers and the Imperial irrigation district want to handle this, give us a chance to get a little piece of that land over by ourselves and let us take it."

Mr. LITTLE. You want the right for your people to settle 160 acres each in that corner, the preference right over anybody else, provided you waive your rights?

Mr. ROSE. Just as all other American citizens would have if you didn't put in this bill special legislation saying what should become of the rest of us.

Mr. LITTLE. You want to have your people have the right to go in and take 160 acres down in this corner, if somebody else builds that ditch besides you, providing that you waive any claim that you have? Is that right now?

Mr. ROSE. No; here we have submitted an amendment that provides for the Secretary setting this tract of land aside and selling it at a price to be determined by him at not less than \$10 per acre, giving the holders of the Imperial Laguna Water Co. stock a preference right to purchase. That is what we are asking. We are not asking for the land; we are asking to buy the land, enough of it to take care of our people who have put their money in.

Mr. LITTLE. You want the first right to buy the land?

Mr. ROSE. Yes, sir.

Mr. LITTLE. If somebody else builds a ditch?

Mr. ROSE. And we will pay our just proportion for the building of the main canal.

Mr. LITTLE. That isn't clear to me now. Are you going to build this ditch or not?

Mr. ROSE. No.

Mr. LITTLE. Who is going to build it?

Mr. ROSE. It would be up then to the lands covered by the district and the outside lands.

Mr. LITTLE. Then, your theory is if you get out of the road and let somebody else build the ditch, you waive all claims of any kind, providing they will let you have the first chance to buy in that corner?

Mr. ROSE. Yes, sir.

Mr. SUMMERS. Meanwhile you will pay your proportionate part of the main ditch?

Mr. ROSE. Yes, sir.

Mr. WELLING. And in justification of your claim you urge the fact that you have already expended some money?

Mr. ROSE. We have expended in money about \$50,000, and it will take probably \$25,000 to clean up the liabilities of the company. Now, that is the situation exactly.

Mr. SINNOTT. Under what section of this Warren Act is your contract formally drawn?

Mr. GATES. Section 2.

The CHAIRMAN. Just let me ask Mr. Rose one question there. You desire the right for yourself and your associates who have been working in this matter, to be accorded the preference right to take these lands. Now, do you claim that regardless of how much land you already have, what other lands you have in the Imperial Valley?

Mr. ROSE. We limit that to the purchase of 160 acres.

The CHAIRMAN. No difference how much land either of you have?

Mr. ROSE. We would not object, if the committee wanted to say that no man who already has 160 acres should have any land there. I would not make any objection to that, although I have more than that.

Mr. TAYLOR. If the Government made this price \$300 an acre to you people, what would be the result?

Mr. ROSE. We would lose out. Of course, if the Government put up that land and sold it for \$30 or \$40 an acre, and our people didn't want it, and somebody else took it, we would be out.

The CHAIRMAN. You would be willing to allow the preference right to be restricted to those who are qualified homesteaders?

Mr. ROSE. Well, if they purchased it—I would not want to purchase it and then homestead it, because I would be paying \$30 or \$40 an acre for the right to homestead; but if they are allowed to homestead, I am perfectly willing to let that go in; but not to purchase a homestead. That would be giving us a double shot on it.

Mr. KIBBEY. May I ask Mr. Rose a question?

How much, Mr. Rose, was spent after the date of the contract with the Government?

Mr. ROSE. Well, I suppose probably \$35,000 or \$40,000.

Mr. KIBBEY. That was subsequent to 1917?

Mr. ROSE. Yes, sir.

Mr. KIBBEY. And how much was spent—what was that spent for?

Mr. ROSE. Surveys and in any way that we could promote the building of the All-American Canal and irrigation system.

Mr. KIBBEY. The representatives of the Imperial Irrigation District have offered to submit the question as to whether you spent any money—as to whether or not you should be compensated, either morally, legally, or equitably—to the Secretary of the Interior or any disinterested person, have they not?

Mr. ROSE. No; I will say no; but I will say what they have made. They have made me the proposition to submit to the Secretary of the Interior what I should be reimbursed, the amount that I should be reimbursed providing this bill becomes a law. Now, if the Secretary of the Interior would say that I was entitled to \$75,000 under such an agreement as that, there isn't a man on this committee who would give me 10 cents on the dollar for it, on the condition of that bill becoming a law. That is the situation.

The CHAIRMAN. Now, when you speak of yourself, you do not mean you individually; or do you mean the company?

Mr. ROSE. The Imperial Laguna Water Company.

The CHAIRMAN. That is what you mean?

Mr. ROSE. That is what I mean. I am president of the company and their representative here.

Mr. KIBBEY. If the bill doesn't become law, you contend your contract still is in force?

Mr. ROSE. I contend it is still in force now.

Mr. KIBBEY. What is your objection to that plan of settlement?

Mr. ROSE. There is quite a little objection, because this bill might be tied up in Congress for two or three years. It might tie my hands and not get anywhere. I haven't had so awfully much encouragement on this bill becoming a law. I listened to the representatives from the West make statements to the convention of governors and heard them say that a bill providing for an appropriation has no chance of passage. I have talked to a good many individuals about it and they concur. They are not offering me a cent for my time or anything else, but just simply offering to reimburse whatever money the Secretary may say the company is entitled to, nothing for my time, contingent upon the passage of the bill. Now, I have been generally known as the one who originated this plan, and am I to go home and say: "I will take my money upon condition of your carrying out your agreement if this bill becomes a law?"

Mr. KIBBEY. I would like to make this statement right now: We are authorized in behalf of the Imperial Irrigation District to submit the question to any disinterested person, to the Secretary of the Interior preferably, as to whether or not they have any rights under the contract, morally, legally, or equitably. Let the Secretary or whoever the question is submitted to determine how much Mr. Rose and the Laguna Water Co. should be paid, if anything, and the Imperial Irrigation District will pay the money.

Mr. ROSE. Now?

Mr. KIBBEY. Conditioned upon the passage of the bill.

Mr. ROSE. Oh, yes.

Mr. LITTLE. How much do you suppose that would be?

Mr. KIBBEY. I have no idea. Mr. Rose made a counter proposition that we pay him \$65,000 at once for the Laguna Water Co., and \$10,000 for his personal services. Of course, anything that occurred prior to the date of the contract could not be chargeable against the contract. He now says there is \$30,000 or \$40,000 due.

Mr. LITTLE. If this bill is not passed, what then?

Mr. KIBBEY. Mr. Rose's contract, if valid and subsisting so far as we know, will remain in force and effect.

The CHAIRMAN. Now, let Mr. Gates proceed.

Mr. TAYLOR. Mr. Gates, will you tell us, incidentally what position this committee would be in, or what position Congress would be in, trying to legislate to carry out some contracts or some tentative agreements or something that hasn't been attended to? Where does that land us? What position would we be in on the floor of the House? Would they charge us with trying to legislate to pay somebody for trying to promote something and not succeeding?

Mr. GATES. The question as to whether we agree with the Secretary in sending the matter to you is not for us to decide, because we are not here of our own volition; we are here because of the Secretary's letter referring it to this committee, in which he says the matter is more properly determinable by this committee than by him. Frankly I say personally I don't agree with that. He made the contract. I think Congress can not pass legislation which would have the effect of violating our contract.

Mr. TAYLOR. It seems to me we ought to get at the beginning of this thing and go through it.

Mr. SINNOTT. How are we interfering with the contract?

Mr. GATES. If you pass a law covering all of this land and making it impossible for us to work under this contract your are violating the obligations of it, whether you intend to or not.

Mr. SINNOTT. How does your contract relate to the lands outside of the canal or some reservoir?

Mr. GATES. It relates to the whole of the land mentioned in the contract, which covers that whole east-side mesa.

Mr. WELLING. This committee has had hearings, extended hearings, and so far as I can recall your client has been most active of all of these California gentlemen in pushing the passage of this law.

Mr. GATES. Yes; under his contract he could proceed under H. R. 6044 or H. R. 12013, but not under H. R. 11553 unless amended as we suggest.

Mr. KIBBEY. Is that the reason Mr. Rose was pressing before this committee the passage of the bill, because he would gain privately by it?

Mr. GATES. Not at all.

Mr. KIBBEY. Then I misunderstood you.

Mr. GATES. He has been, as you know, the father of the American canal, if it has a father; if it can be brought into being—

Mr. KIBBEY. Yes; I understand that.

Mr. GATES. You admit that the district board passed resolutions favoring his plan; you admit that nearly every civic organization in the valley has done it. I can show you telegram after telegram and resolution after resolution to that effect, and now when he comes

to the end almost, when the American canal must be built, then you want to take it away from him and wipe him off the map.

Mr. KIBBEY. May I ask you whether or not, after the introduction of the Kettner bill, it was not generally stated throughout the valley by the Laguna Water Co. that all rights that they might have under a contract had been done away with? Upon the strength of that statement Mr. Rose was selected as one of a committee of the Imperial Irrigation District.

Mr. GATES. Not to my knowledge; no, sir. Mr. Rose probably can answer that; I can not. I was not there.

Mr. KIBBEY. I understood you to say a moment ago that the reason Mr. Rose was here urging this thing—

Mr. GATES (interposing). No; you said it; I did not.

Mr. KIBBEY. Then I misunderstood you.

Mr. LITTLE. Are you for or against the original bill, for the all-American canal?

Mr. KIBBEY. I am for the all-American canal and was one of the original men in favor of it.

Mr. LITTLE. Were you for the Kettner bill to do that?

Mr. KIBBEY. No; I was against the Kettner bill, because of the disposition of the lands under the Kettner bill.

Mr. GATES. If you are for the all-American canal, why do you want to wipe the father of the canal off the map without any consideration whatever?

Mr. KIBBEY. We are offering to compensate him.

Mr. GATES. You are offering it to him contingent upon the passage of the bill.

Mr. KIBBEY. Certainly.

Mr. TAYLOR. Supposing we don't do anything, what then?

Mr. GATES. We would go right back to the Secretary of the Interior. We think we can carry out that contract, sell that stock, and have enough money to build that canal; and we will ask the Secretary of the Interior to restore that land and approve our surveys and let us proceed. That is what we will do.

Mr. SINNOTT. If the land is restored you would be justified in going ahead with your expenditures?

Mr. GATES. Yes, sir.

Mr. ROSE. I want to answer one question. Mr. Kibbey says they have offered to compensate us. I don't want the impression to get out that they have offered to compensate us anything. They have offered to hand back as much of our money as the Secretary of the Interior says we are entitled to. That is not compensation; that is reimbursement, and I don't want the word "compensation" to get out here, because they haven't offered to do anything of the sort.

I can show you articles in the Los Angeles Times, the very enemy of this bill, where they refer to "Mark Rose, father of the All-American Canal." I have brought this up to where it is at present, and I have resolutions from the district, even as late as last March, saying they were willing to cooperate with the Imperial Laguna Water Co. and the Coachella & West Side Water Co. in the construction of this canal. I have wires from the heaviest property owners and from all the county officials asking the district to co-operate, and they did come here and ask to take over this contract and build under it.

Mr. LITTLE. What is their objection to the disposition of the land that the gentleman just mentioned?

Mr. ROSE. The soldiers want this land at \$1.25 an acre after it has been irrigated. They want Congress to appropriate the money for it. I have no objection to that, excepting I have asked as to this small tract that the same language that was in the original Kettner bill apply to it; that the land be sold at a price fixed by the Secretary of the Interior, not less than \$10 per acre.

Mr. LITTLE. I don't quite get this. Does Mr. Kibbey object to the disposition of the land you had planned in order that it may go to the soldiers?

Mr. KIBBEY. If I may state what my objections are, Mr. Little. My objections originally to the bill were that it provided for the sale of lands prior to the time when water was available. I stated that I objected to that. I do. I object seriously as being opposed to the sale of public lands in general, and in addition we have a condition in the Imperial Valley to-day which is becoming intolerable. A large number of the owners of the land, a large percentage, are non-residents. The nonresidents rent those lands to Hindoos and Japanese. We don't want that condition to follow upon the east side mesa: we want the east side mesa to be settled by actual settlers. We believe that the men who acquire the east side mesa should be men who want to make homes for themselves. Now, those were my objections.

Mr. LITTLE. How would that be prevented the other way? Why wouldn't that come to pass the other way?

Mr. KIBBEY. I don't think it is possible that there are very many farmers, at any rate, who could afford to buy the land, as proposed under the original bill, hold that land until water was available, and pay taxes on it for four or five years before being able to reclaim it.

Mr. LITTLE. It was to be in pieces how large?

Mr. KIBBEY. Not to exceed 160 acres.

Mr. LITTLE. No one could get very much of it, could they?

Mr. KIBBEY. Well, 160 acres is quite a little land.

Mr. TAYLOR. It is a bad proposition to let people own title to land long before they can get any water. That is putting the cart before the horse. We all know that is a bad arrangement in reclamation projects. We want to hold them off until they are ready to do something.

Mr. WELLING. Mr. Gates, in view of the recent development out there and the situation as it exists to-day, is your client opposed to the Kettner bill and the substitutes that have been introduced since it was considered by this committee?

Mr. GATES. You mean the first Kettner bill?

Mr. WELLING. Yes.

Mr. GATES. He is not opposed to the Kettner bill and is not opposed to the other bills. He is coming in here now and laying his cards on the table and saying he is perfectly willing to meet every condition, to compromise in every proper way in order to allow the State to get 50,000 acres, if you think that that provision should remain in the bill—and the soldiers to get theirs—but at the same time you are giving them that, you should not wipe him out.

Mr. WELLING. But you are insisting on certain amendments to the legislation in order to protect the interests of your client?

Mr. GATES. Absolutely. Let me read our suggested amendments. This is to the bill H. R. 11553:

Section 9, after the word "district," at the end of line 22, page 7, insert "excepting all of township 16 south and fractional township 17 south, range 17 east, and section 6 and fractional section 7 in township 17 south, range 18 east, San Bernardino Base and Meridian."

Mr. GATES. Then add a new section reading as follows:

That upon the surrender by the Imperial-Laguna Water Co., a mutual water company organized and existing under and by virtue of the laws of the State of California, of its certain contract with the United States, dated July 6, 1917, providing, among other things, for the reclamation of certain lands therein described located in Imperial Valley, Calif., and known as the east side mesa lands, all lands in township 16 south and fractional township 17 south, range 17 east, and section 6 and fractional section 7 in township 17 south, range 18 east, San Bernardino Base and Meridian, except the lands mentioned in section 11 of this act, shall immediately after the passage of this act be offered for sale by the Secretary of the Interior at a price to be fixed by him, but at not less than \$10 per acre, upon such terms of payment as the said Secretary may determine, not more than 160 acres to be sold to any one person, preference right of purchase being given to the owners of stock in the said Imperial-Laguna Water Co., and said company shall limit the sale of its water stock to the lands above described, said lands to bear their just proportion of the cost of construction of the main canal and works herein provided for, the distribution system for the irrigation of said lands to be constructed by the purchasers of said lands at their own cost and expense.

Mr. WELLING. Now, do these gentlemen representing the Imperial Valley, as against Mr. Rose's position, oppose that restriction?

Mr. GATES. I don't know as they have seen these amendments. I don't know as he submitted that to them.

Mr. ROSE. They said to me and said to the subcommittee that they would not oppose any just settlement, if I had any just and equitable claim.

Mr. WELLING. That is all the claim you make, isn't it?

Mr. ROSE. That is all. And they told be in a meeting that if the Department cared to make any adjustment on this, they would not oppose it.

Mr. WELLING. And with this amendment you would be for the bill?

Mr. ROSE. Absolutely.

Mr. WELLING. And they would be for the bill, so far as you know?

Mr. ROSE. And they would get practically 180,000 acres covered by the contract which I hold.

Mr. LITTLE. You couldn't take more than 160 acres of this land?

Mr. ROSE. That is all.

Mr. LITTLE. I mean you yourself.

Mr. ROSE. No; I couldn't take any under the amended bill. When I say, "me," I mean the company. I represent the company.

Mr. LITTLE. But you couldn't personally take 160 acres?

Mr. ROSE. I couldn't take 160 acres; no.

Mr. WELLING. You couldn't take a foot of it?

Mr. ROSE. I haven't any member of my family who could take a foot of land; but there are lots of other stockholders who could, and lots of them who are soldiers too, and had their money in long before the war.

Mr. MCPHERRIN. May I make a very brief statement there?

Mr. LITTLE. We had better conclude with Mr. Gates and then give this gentleman full time. I think these gentlemen should be given an opportunity in full, and if they slip in now they will be cut short and not given a fair chance.

Mr. MCPHERRIN. My only suggestion, Mr. Chairman, was that in this discussion Mr. Gates is proceeding upon the assumption that the department has recognized the standing of the contract, and since he has quoted from the letter of Secretary Lane addressed to Mr. Mark Rose in this behalf, it seems to me that the original letter in its entirety ought to be now read to the committee in order that they may get the full meaning of the argument, because as a director of the Imperial Irrigation District I am frank to say that we are here before you now and have been all the time in connection with this proposed legislation on the theory that the Mark Rose contract, so-called, has been abrogated by the execution at a later date of the contract between the Imperial Irrigation District and the Secretary covering the same work.

Mr. WELLING. Would you oppose the proposed limitation in the bill?

Mr. MCPHERRIN. On general public policy; yes. And for the further reason that our efforts as a district up to this time have proceeded upon the theory that the lands were to be disposed of under the terms of a general bill and not under the limited terms of the Mark Rose contract.

Mr. WELLING. Would the people that you represent suffer material loss from the inclusion of this amendment in the bill?

Mr. MCPHERRIN. No, sir; that isn't our contention at all. I am inclined to agree with Mr. Gates that the matter might properly have been disposed of with the Secretary without reference to this committee. If the department had seen fit, upon the theory that rights were vested in the Imperial Laguna Water Co., to set aside some portion of this amount of public lands through the operation of the contract we would not have been in a position to oppose it. But we are before you now on the reported last draft of the bill, on our clear understanding with Mr. Mark Rose that after having made his proposal that we agreed to segregation of a certain amount of land being made for his benefit, we stated that we were opposed to it, and his statement to us then made was that he would offer no further objection or make no further claim under the contract.

Mr. ROSE. The gentleman is mistaken.

The CHAIRMAN. Let Mr. Gates proceed now.

Mr. GATES. The draft of the contract dated December 11, 1917, submitted by the Secretary of the Interior to the district, contains this clause:

9. It is understood and agreed that this contract is subject to a certain other contract between the United States and the Imperial Laguna Water Co., dated July 6, 1917.

It is true the district did not adopt that, that the district would not ratify that, so if they thought that the contract was abrogated or canceled, it was canceled in their own minds, never by the Secretary. The Secretary sends down here to you the proposition of accepting or adjusting this compromise; that is all. The question

of feasibility has been established by our engineers and confirmed by the joint board of engineers representing the Government, the State of California, and the Imperial irrigation district.

Now, on December 23, 1916, the board of directors of the Imperial irrigation district passed this resolution:

"Resolved by the board of directors of the Imperial irrigation district, That we favor the early development of the east side mesa lands by the conduction of water thereon from the Colorado River, and that we herewith express our friendly feeling toward the efforts of the Imperial Laguna Water Co. to accomplish that end, and that we are willing to cooperate with said Imperial Laguna Water Co. under such conditions, restrictions, and limitations as may be required by our engineering and legal departments, to absolutely insure the priority of our water rights and to protect the district in every way against any added burdens or liabilities resulting therefrom, either in United States or Mexico, and against any injury to or interference with the operation and maintenance of our own irrigation system."

The foregoing resolution was duly seconded by Director McPherrin, stated to the board by the president, and prevailed.

As secretary of the board of directors of Imperial irrigation district, I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said board and appearing on the minutes of December 23, 1916.

[SEAL.]

F. H. McIVER, *Secretary.*

The resolution was introduced by Director Manning.

Mr. GATES. On March 11, 1919, the district board adopted the following resolution:

Whereas representatives of the West Side Irrigation Co., the Coachella Valley County water district, Imperial Laguna Water Co., and the All American Canal Association of Los Angeles, and other owners of arid lands in Imperial and Riverside Counties have this day appeared before this board and have declared their desire to cooperate in all proper ways in an immediate effort to carry into effect the terms and conditions of the district's contract for the construction of an all-American canal, to the end that such canal when constructed shall be of capacity sufficient to supply the needs of such arid lands in Imperial and Riverside Counties, not now included within the boundaries of the Imperial irrigation district: Now, therefore, be it

"Resolved, That this board express its appreciation of the proffered assistance and invite all accredited representatives of the above-mentioned associations and other owners of such arid lands to cooperate with the officers and directors of the Imperial irrigation district in making such representations to Secretary Lane, the Director of the United States Reclamation Service and the Congress, as may be required to secure necessary departmental and congressional action to finance and construct such canal and storage works as may be required for the irrigation of the whole of said arid lands."

The foregoing motion was seconded by Director Nickerson, stated to the board by the president and prevailed unanimously.

As secretary of the board of directors of Imperial irrigation district, I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by said board and appearing on the minutes of March 11, 1919.

[SEAL.]

F. H. McIVER, *Secretary.*

Mr. GATES. This resolution was also introduced by Director Manning.

Mr. BARBOUR. What was that you were just reading?

Mr. GATES. A resolution adopted by the board of directors of the Imperial irrigation district on the 11th of March, 1919. What is the date of this petition, Mr. Rose [showing]?

Mr. ROSE. It was when Mr. Swing was here representing the District.

Mr. GATES. I now read a petition, or petitions, rather, in printed form, addressed to "Hon. Franklin K. Lane, Secretary of the In-

terior, Leroy Holt, president Imperial irrigation district, and Mark Rose, president Imperial Laguna Water Co.

We, the undersigned, citizens and residents of Imperial irrigation district, California, do hereby respectfully represent as follows:

1. That we are residents, taxpayers, and water users in the Imperial irrigation district, Imperial County, Calif.

2. That we favor an all-American canal, and diversion of water at Laguna Dam, as the only satisfactory water supply for our lands.

3. We favor a joining of forces between the district and the Imperial-Laguna Water Co., for building the all-American Canal, on a basis of benefit and use according to expenditures made by each party.

4. As taxpayers and water users under the district, we urge the advisability of the district, availing itself of the great advantages contained in the contract now held by the Imperial-Laguna Water Co. with the United States, and recommend that the district come under the said contract as the best, most advantageous and easiest method of accomplishing the great object of securing our water supply from Laguna Dam, through an all-American canal.

Mr. GATES. I will not burden the record with the names of the signers, nor read the second petition, which is similar to that just read, but will state that they are the owners of several thousand acres of land in Imperial Valley.

I have read to you, gentlemen, the proposition that was made by the Imperial Laguna Water Co. to the Imperial irrigation district, Mr. Holt and Mr. Swing being here in Washington at the time. They asked permission, as we have told you, to have the Imperial Laguna Water Co. contract assigned to the district, but such permission was not given. The resolutions of the board of directors of the district read to you and the attempt made by Mr. Holt and Mr. Swing to obtain the contract for the district disclose that an attempt was made to grant the petitions of taxpayers praying for cooperation between the irrigation district and the Imperial Laguna Water Co. The people of Imperial Valley were at last awakened. They saw the necessity for united action if the best results were to be obtained. The following telegram illustrates their position, I think, clearly. It reads:

EL CENTRO, CALIF., April 4, 1918.

MARK M. ROSE,

Care R. Woodland Gates.

Colorado Building, Washington, D. C.

People of Imperial Valley watching negotiations in Washington for a water supply with deep interest. The people will be satisfied only with contract that provides for canal all on American territory. They are determined to be free from Mexican domination. We urge joint construction of canal by district and Laguna Co. Copy to Holt, Rose, Kettner.

C. W. Collins, postmaster; D. W. Wiest, chief deputy assessor; Floyd K. Brown, deputy tax collector; Galen Nichols, district attorney; W. M. Weaver, county assessor; Nont J. Reid, tax collector; H. B. Webb, deputy recorder; J. Stanley Brown, county treasurer; Maj. S. Cook, county clerk; E. R. Simon, deputy district attorney; W. D. Gary, county auditor; F. W. Petersen, county coroner; F. C. Farr, register United States land office; C. M. Applastill, sheriff Imperial County; Frank Erzinger, recorder Imperial County; G. Watkins, city trustee; G. W. Reagan, president South Alamo Water Co.; Dan V. Noland, attorney; E. W. Burger, city trustee; T. P. Banta, A. P. Repkhof, T. J. Douglas, E. E. Forrester, J. S. Larew, city attorney; R. B. Whitelaw, judge police court; William Egerer, mayor of El Centro; W. H. Brooks, supervisor second district; D. R. Crawford.

Mr. LITTLE. Do you concede that under your system there would be any more probability of Hindoos and Japs getting in there than there would be under the other?

Mr. GATES. Not in the way we propose to handle the project.

Mr. LITTLE. You think it is about an even break?

Mr. GATES. No; I do not, for the simple reason that we propose to proceed in exactly the same way that we would have proceeded had the lands been restored to entry, through the Commissioner of the General Land Office.

Mr. LITTLE. Is there any more likelihood of a Hindoo getting a farm there—

Mr. GATES (interposing). If he had the money to pay for it, possibly, although I do not believe a Hindoo can own land in California.

Mr. LITTLE. If you fellows have it, then can Japanese get it?

Mr. GATES. No, sir. California law prevents Japanese owning land in that State.

Mr. BARBOUR. As I understand it, the objection is that if the land is sold to individuals prior to their putting water on it, then nonresident owners can get hold of a large part of it. In the past nonresident owners have rented to Hindoos and Japs, and the supposition is that such owners would acquire lands and would continue to rent to Hindoos and Japs if the land is sold before the irrigation works are constructed.

Mr. LITTLE. A man could do that afterwards, couldn't he?

Mr. BARBOUR. But he said that their idea is to put actual settlers on the land, and then that condition is not so apt to exist as it does where there are nonresident owners.

Mr. GATES. But under the desert-land law the Commissioner of the General Land Office would recognize this company as a source of water supply and all eligible applicants would have to show ownership of water stock in the Imperial Laguna Water Co.; they would have to show at least a declaration of citizenship also, which a Hindu or Japanese can not do. Besides, the law of California forbids a Japanese purchasing land, and I think Hindoos are also prohibited. However, they could rent land.

Mr. LITTLE. Is this the bone of contention, then: That you folks want to put the land on the market before there is water, and that they want to hold the land until there is water?

Mr. GATES. No.

The CHAIRMAN. Mr. Gates, pardon me; we are going to hear you entirely through in time, but inasmuch as it is nearly 12 o'clock now, and we must adjourn at 12, I would like to hear very briefly from the commissioner and perhaps from Judge Finney and see if they have some suggestions about this issue before we adjourn. We will have to meet tomorrow.

Mr. GATES. Will you allow me to read a wire first? I suppose that to-morrow if I desire to go on I may proceed?

The CHAIRMAN. Certainly.

Mr. TALLMAN. Mr. Chairman, I can come up to-morrow if you want to have another session.

Mr. TAYLOR. We will have to have another session of the committee, of course.

The CHAIRMAN. We had expected to hear you further and did not know but what you might make some suggestions to-day.

Mr. TALLMAN. I would just as soon leave it till to-morrow.

The CHAIRMAN. Then you may proceed, Mr. Gates.

Mr. EVANS. Mr. Chairman, would it be possible to meet at 10 o'clock to-morrow?

The CHAIRMAN. Yes; we can meet at 10 o'clock, I think. I will state also that we want to hear from Dr. Elwood Mead when we can get around to it.

Mr. GATES. January 26, 1916, I addressed a letter to Commissioner Tallman, and I desire to call attention to the second paragraph of that letter, as showing Mr. Rose's attitude at that time:

At the outset I desire to say that I am instructed by Mr. Rose to inform you that, although his company is desirous of irrigating said lands by an irrigation system to be connected with the Laguna Dam on the Colorado River, his principal object in visiting Washington on this matter is to get the lands restored to entry so that they may be irrigated as speedily as possible, and it makes little difference to him what company furnishes the irrigation system.

Subsequently Mr. Rose informed Commissioner Tallman, as that gentleman can bear me out, that if the department could find anyone at that time who had a better plan for the reclamation and irrigation of these lands, he not only would step aside, but he would turn over the surveys, plans, and even the stock of the Imperial Laguna Water Co. free of charge to that party or that company, and if the Government itself wanted to do the work, he would donate them to the Government, if it could accept them, and the Government could proceed with the project; that he wanted those lands restored to entry and irrigated, or a means found whereby they could be irrigated.

Mr. ROSE. The water was being used on Mexican land; that was the reason why I was rugging it.

Mr. GATES. Every day more land was being put under irrigation below the line, upon which development the interests in Mexico could and would later base a claim for equitable adjustment. They have continued on that course and are doing that very thing to-day.

Feeling they will be of interest to the committee, I will now read several telegrams, copies of which were filed in the Department of the Interior after the reading of the originals at hearings:

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

Or Heads of Government Departments.

201 D Street NE., Washington, D. C.:

The board of trustees of the city of Holtville indorse the plan of the Imperial Laguna Water Co. to irrigate the mesa lands and have passed a resolution to that effect similar to one passed several months ago. The majority of the people are in favor of early action.

C. D. HARTSHORN,

*Chairman of Board of Trustees
of the City of Holtville.*

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

Or Heads of Departments,

201 D Street NE., Washington, D. C.:

We, the trustees of the city of Imperial, Imperial County, Calif., do earnestly urge opening of mesa lands and irrigating them under plans of Laguna Water Co.

J. ROY ADAMS.
CHAS. W. WAITE.

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

Or Department Heads,

201 D Street NE., Washington, D. C.:

Ninety per cent of the people here favor reclamation of mesa land and appropriation Colorado River water in Imperial County. If not appropriated here, will be in Mexico. People indorse Laguna Water Co. plan.

H. L. WELCH,

Commissioner United States District Court.

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

Or Heads of Departments,

201 D Street NE., Washington, D. C.:

Mead report and Davis letter received and published. No change made in wishes of people. A great majority strongly in favor of opening mesa lands and irrigating same from Laguna Dam as soon as possible. They indorse Imperial Laguna Water Co.

F. G. HAVENS,

Court Commissioner Imperial County, Calif.

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

201 D Street NE., Apartment No. 3,

Washington, D. C.:

Reclamation Davis writes supervisors that your plans are of doubtful feasibility and do not provide for storage. Quotes sections 29, 34, and 36, Mead report. Does not believe Secretary would approve if condemned by majority of people here. Asks supervisors for expression of people here.

E. E. BENNETT.

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,

Or Department Heads,

201 D Street NE., Washington, D. C.:

This board is still in favor of having mesa lands restored and irrigated, as expressed by our resolution of January 2.

L. F. SHAW,

Chairman of Board of Supervisors of Imperial County.

The resolution of January 2, 1917, referred to in the telegram I have just read reads as follows:

Resolved by the board of supervisors of Imperial County. That we are earnestly in favor of the early development of the mesa lands situated east of the Imperial irrigation district in Imperial County, Calif., by conducting water thereon from the Colorado River, and that we herewith express our friendly feeling toward the Imperial Laguna Water Co. and urge the speedy restoration of the aforesaid lands to entry.

COUNTY OF IMPERIAL ss:

I, M. S. Cook, county clerk of the county of Imperial, in the State of California, and ex officio clerk of the Superior Court of the said Imperial County and State aforesaid, hereby certify that I have compared the foregoing copy with the original resolution adopted by the board of supervisors at a regular meeting held January 2, 1917, and that the same is a full, true, and correct copy of such original and of the whole thereof.

Witness my hand and the seal of said court this 2d day of January, A. D. 1917.

M. S. COOK, Clerk.

By E. B. WILSON, Deputy Clerk.

(Seal of Superior Court of Imperial County.)

Here is another telegram:

EL CENTRO, CALIF., April 6, 1917.

MARK ROSE,
Or Department Heads,

201 D Street NE, Washington, D. C.

Mead report and Davis letter received and filed, but this board has not rescinded its resolution of December 23, 1916.

LEROY HOLT,
President of Board of Directors Imperial Irrigation District.

The resolution of December 23, 1916, to which Mr. Holt referred in his said telegram has already been read by me. It expresses its friendly feeling toward the Imperial Laguna Water Co. and a willingness to cooperate with said company in its efforts to bring about the irrigation of the east side mesa lands.

Other resolutions, petitions, telegrams, and letters, all urging the restoring of the lands to entry and their irrigation under the plan of the Imperial Laguna Water Co., could be referred to by us and placed in the record, but we do not deem it necessary to burden the record unnecessarily. We believe we have demonstrated that all the way through the negotiations covering several years Mr. Mark Rose has been recognized as the pioneer in the movement to irrigate the east side mesa lands and as the father of the all-American canal plan.

The CHAIRMAN. Now, Dr. Mead, we want to hear from you at your convenience, say to-morrow.

Mr. GATES. I am practically through, Mr. Chairman, but I have a telegram I received yesterday from the West Side Imperial Irrigation Co. which I desire to file with the committee at this time. It suggests an amendment to the bill now under consideration and reads as follows:

LOS ANGELES, CALIF., January 24, 1920.

O. N. SHAW or R. WOODLAND GATES,
Colorado Building, Washington, D. C.:

Amend section 10, revised bill, "Provided, That as 160 areas of such excess pass into hands of persons not owning other lands within area subject to this legislation such units shall automatically become subject to the rights, privileges, benefits, and obligations of the district and entitled to participate in the use of the water." This will mean no more than is intended by present reading but will satisfy objections to many holders of lands that would otherwise be excluded and without which it would not be practical to carry canal around Coachella and West Side.

WEST SIDE IMPERIAL IRRIGATION CO.

The original telegram I will file with the clerk of the committee.

Now, I am practically through, gentlemen, unless I think of something further between now and to-morrow morning. I wish, however, to again call attention to our engineers' report and the maps and plans, etc., which we filed in the Department of the Interior in accordance with the terms of our contract, so that if any members of this committee desire to inspect them they may be available for that purpose.

The CHAIRMAN. We will adjourn then until to-morrow morning at 10 o'clock.

(Whereupon, at 12 o'clock noon, the committee adjourned until 10 o'clock a. m., Thursday, January 29, 1920.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Thursday, January 29, 1920.

The committee met at 10.15 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. You may proceed, Mr. Gates.

STATEMENT OF MR. R. WOODLAND GATES—Resumed.

Mr. GATES. Mr. Chairman and gentlemen, yesterday I read from the letter of April 16, 1918, addressed to Mr. Mark Rose by Mr. E. C. Bradley, assistant to the Secretary. That was not read in full yesterday. I would like to read it in full.

Mr. LITTLE. Why don't you just insert that in the hearing and save time? Is that satisfactory, Mr. Chairman?

The CHAIRMAN. Yes; certainly.

The letter referred to follows:

THE SECRETARY OF THE INTERIOR,
Washington, April 16, 1918.

Mr. MARK ROSE,

*President Imperial Laguna Water Co.,
Care of R. Woodland Gates, Attorney,*

Colorado Building, Washington, D. C.

MY DEAR MR. ROSE: Your letter of January 30, 1918, and report transmitted therewith by your chief engineer and two consulting engineers, under contract with the Secretary of the Interior, dated July 6, 1917, have been given careful consideration.

The most important provision of the contract is the requirement to "make a complete detailed survey, specifications, and estimates of costs" for the works listed in the contract. An examination shows that the data furnished fails to fulfill these requirements and that such data does not afford a sufficient basis for any reliable estimates on which further procedure under the terms of the contract could be approved at this time.

Under the contract the duty of the Secretary of the Interior is to adopt one of three courses:

No. 1. (a) Require further or additional surveys, specifications, and estimates of a changed or modified plan in whole or in part to be made and submitted, together with such other requirements as may by said Secretary be deemed necessary to insure the permanency and success of the enterprise, all within such time or times as said Secretary may prescribe; whereupon the plans, surveys, specifications, and estimates as so modified and amended may be rejected and disproved or accepted and approved in their entirety, as provided in subdivisions (b) and (c) of this section; or

(b) Reject and disprove of said surveys, specifications, and estimates in their entirety for any reason in his judgment deemed sufficient, in which case this contract shall be and become void and of no further force and effect whatsoever; or

(c) Accept and approve same in their entirety as representing a practical and sufficient plan and scheme of works and reclamation for the purposes of this contract, in which event the company shall have the right to connect its said proposed irrigation system with the said Laguna Dam and to enlarge said main canal of the United States on compliance and in accordance with the terms and conditions of this contract.

From the foregoing it is apparent that alternative (c) can not be exercised at this time. The question, therefore, presents itself as to whether further or additional surveys, specifications, and estimates should be required under alternative (a), or whether the surveys and estimates heretofore presented should be rejected and disproved under alternative (b).

As you are aware, there have been extensive negotiations and conferences with representatives of the Imperial Valley irrigation district with a view to

a connection with the Laguna Dam and the construction of an All-American canal for the irrigation of the lands in the Imperial irrigation district, and to that end a tentative contract has been drafted and submitted to the Imperial irrigation district. It is apparent that construction and operation under both of these contracts can not proceed independently. Mr. Holt, the representative of the district, repeatedly represented to the department that he is favorably disposed toward inclusion of the mesa lands, or a part thereof, in the irrigation district, and of making provision for the reclamation of such lands with a view to decreasing the cost per acre of all lands to be reclaimed through an All-American canal. It has become more and more apparent in the course of these negotiations that an All-American canal is an extensive and expensive proposition, in the construction of which all interests that may possibly be benefited thereby should cooperate and contribute, and the department is favorably disposed toward working out some feasible plan of accomplishing this object. The Reclamation Service is now, in cooperation with the Imperial Irrigation district, making a survey with a view to determining the feasibility of an All-American canal. To require you to proceed at this time under alternative (a) might result in a useless duplication of work. Under the circumstances, therefore, it is deemed advisable at this time not to take action under either alternatives (a) or (b), but, rather, to grant your request for more time by suspending further action at the present. This will give an opportunity to consider the results of the surveys and investigations now in progress and will afford your company and the people of the Imperial irrigation district an opportunity to consider further the advisability and ways and means of bringing in the mesa lands.

Cordially yours,

E. C. BRADLEY,
Assistant to the Secretary.

Mr. GATES. The record of the efforts of Mr. Mark Rose and the Imperial Laguna Water Co. to have the East Side mesa lands and other American public lands reclaimed and irrigated constitutes a long story. It is the record of continuous effort, covering the period from 1912 to this day, during which, or the greater portion of which, determined opposition from various sources was met and, in some instances, overcome. We are prepared to show every step that has been taken from 1912 to date by Mr. Rose and the company to bring about the irrigation of these lands, but as our offer of compromise is the only question before the committee at this time, so far as we are concerned, I have refrained from burdening the record with a complete recital, a recital which would contain, of necessity, some unpleasant features. I have endeavored to confine myself to the question raised by the presentation to the committee of the letter of Secretary Lane referring to our offer to adjust to it. The various interests here represented agreed that our offer, such as is contained in our letter to Secretary Lane dated December 24, 1919, was fair. Indeed, they went further. They stated that, as set forth in said letter, if the Secretary of the Interior requested them to do so they would say to him that the proposed adjustment was satisfactory to them. Our offer was made solely in the interest of harmony and to accede, so far as we could, to the wishes of the soldier and the State of California elements. We have always endeavored to cooperate where and when opportunity for cooperation seemed possible. We believe that the committee in any legislation it recommends will protect our interests. We think that it will not recommend, nor Congress pass, legislation which would in effect violate the obligations of our contract with the Government.

Finally, gentlemen, when you come to consider this matter in executive session, we ask you to remember that through all the years

of this contest Mr. Rose and the Imperial Laguna Water Co. have been absolutely fair, ever having in mind the irrigation of these American public lands and not personal gain; that Mr. Rose is the pioneer in this movement and has given eight years of his life to the matter, for his American spirit rebelled when he saw private interests below the international boundary line using water diverted on American soil for the irrigation of private lands in Mexico to the detriment of American public lands; that he determined to do what he could toward preserving for American lands the waters of the Colorado River and sacrificed much in the doing; that his honesty of purpose has never been doubted; that his splendid manhood successfully resisted offers of bribes (for such offers have been made) and refused settlements based upon the surrender of the public interest involved; that had he craved money or desired land in Mexico, ample opportunity for satisfying such craving and gratifying such desire were forthcoming; that he has been for all these years a man of one idea, actuated by one purpose, namely, to work for the reclamation and irrigation of these American public lands, practically devoting his entire time to this matter; that he viewed with alarm the ever increasing area of irrigated lands in Mexico to the detriment of the American public lands and never lost hope of being successful in his efforts to have the American lands irrigated from their only source of water supply, the Colorado River; that, commencing with a small following, he has, little by little, added to his supporters until I think it can be truthfully said that nine-tenths of the people of Imperial Valley and vicinity favor the construction of an all-American canal.

Shall such a man be cast aside, although recognized as the father of the all-American canal plan, and allowed to lose not only his time, but the money he and his associates have in good faith expended to bring about the irrigation of these American public lands, the major portion of it having been expended in compliance with a contract with the Government of the United States? Can any man with an iota of fairness in his make-up justly oppose a fair settlement with the Imperial Laguna Water Co. I regret that gentleman representing the Imperial irrigation district are opposed to the amendment we have suggested and to any settlement with the company unhampered by contingencies. I am surprised at their position in view of their admission that Mr. Rose is the father of the all-American canal plan, and further that the adoption of the amendment we have suggested would not be detrimental to the interests of the district they represent, a position they have taken in direct opposition to the resolutions of their own board of directors expressing a friendly feeling for and a willingness to cooperate with the Imperial Laguna Water Co. The resolutions referred to disclose that in their opposition to the Imperial Laguna Water Co. and Mr. Rose these gentlemen do not correctly represent the Imperial irrigation district. It would almost seem that they personally have been willing heretofore that the district should cooperate with the company and Mr. Rose, but that now they feel they can get along without the assistance or cooperation of either. There is raised in my mind a doubt as to whether or not they really favor the construction of an all-American canal. However, I leave their attitude to the approval or condemnation of their consciences. We believe that they

have no right to object to any settlement between the Government of the United States and the Imperial Laguna Water Co. It is not their affair. They can not be held to have any say as to the terms of any adjustment between us and the Government.

This has been a contest between right and wrong and of years standing. Wrong can not always triumph, and we feel sure that we will receive at the hands of this committee that justice which the facts undoubtedly warrant. The half of the story has not been told, but I believe we have established, or will when we have completed our showing on the particular question we are here upon, that Congress can not legislate away our rights or violate the obligations of the contract, and that the offer of adjustment we have made for the reasons stated is eminently fair.

Mr. SINNOTT. Let me interrupt you there. A few lines back you stated the amount of money he had expended in compliance with the contract? How much was that?

Mr. GATES. I believe Mr. Rose stated yesterday that so far as he could estimate now, without looking at the books, it was between \$30,000 and \$40,000.

Mr. ROSE. Yes.

Mr. SINNOTT. In compliance with the contract, he had spent how much?

Mr. LITTLE. How much did he spend in compliance with the contract?

Mr. GATES. He said between \$30,000 and \$40,000.

Mr. LITTLE. And how much before that?

Mr. ROSE. The total amount would run probably to about \$75,000 after our liabilities are settled.

Mr. SINNOTT. What was that expended for in compliance with the contract, that \$30,000 or \$40,000?

Mr. GATES. Principally for surveys, investigations, etc.

Mr. SINNOTT. Surveying the line of the canal?

Mr. GATES. Yes, sir.

Mr. LITTLE. Or the lands?

Mr. GATES. Mr. Rose can tell you more about the details, because he was there on the ground; I was not.

The CHAIRMAN. We will leave that for Mr. Rose, then, later.

Mr. LITTLE. If you gentlemen want much more time, the committee suggests that you had better wait until these gentlemen from the department are through, and I suggest you had better do that and take plenty of time. At present you are going to be crowded in presenting your case, and why don't you wait a few minutes? The Commissioner of the Land Office is here, and I think the committee will give you time later.

The CHAIRMAN. I think there is enough here now to advise the commissioner and Judge Finney what the real issue is, and we will now hear from Commissioner Tallman, or Judge Finney, whichever you prefer.

STATEMENT OF HON. CLAY TALLMAN, COMMISSIONER OF THE GENERAL LAND OFFICE.

Mr. TALLMAN. Gentlemen, I understand you have had very extensive hearings on various aspects of this question. I do not want to duplicate what you have already said or take any more of your time

than is necessary. If there is any particular aspect of the case in which I can be of any assistance, of course I will be glad to do so.

The CHAIRMAN. Some one incidentally stated yesterday, I think, that you drafted this contract. That would mean that you are well acquainted with its provisions, and you have heard here the statement of Mr. Gates, attorney for Mr. Rose, and also the statements of Mr. Rose, and if you differ with them or make any distinctions on any lines from the construction they placed upon the contract, or what should be done in any respect, we would be glad to have you state that voluntarily, in your own way.

Mr. TALLMAN. It might not be amiss to take just a minute to clear up, perhaps, some uncertainties about what this Rose contract is.

Referring to the map up there [indicating] which you are all more or less familiar with, you will notice a tract of land generally outlined as the east side mesa. That area, with various other areas in Imperial Valley, has been withdrawn for a good many years, since along about 1902 or 1903. Those withdrawals were originally made with a view to constructing this project as part of the Yuma and Colorado River development. The Government built the Yuma end of it and abandoned the other part of it, largely because private interests had built a canal around into Imperial Valley proper, into what is now known as the Imperial irrigation district, and had re-claimed a large part of it.

When I came into office we were beset with strong petitions, letters, correspondence, urging that those lands be restored to entry, and arguing that there was no good reason why they should remain withdrawn under the reclamation act, so long as the Government was not intending to reclaim them. You are doubtless familiar with the character of those lands. This whole area that is designated the east side mesa, generally speaking, is simply drifting sand dunes. There is no water available for the irrigation of those lands that is known, except along the lines of the plans you have heard described, of getting a higher connection with the Colorado—Laguna Dam, for instance—so as to get a sufficient level to bring the water around here and get the water onto this area by gravity.

We had some withdrawals down here—the area now irrigated—with which we had much difficulty. Those withdrawals led to complications that are not necessary here to relate, but which we had to adjust and restore the land and settle up various claims that had arisen as the result of filings and attempted filings on withdrawn lands. That still left the east side mesa withdrawn.

Now, our answer to all the requests to have those lands restored was that in their present condition and without some large, comprehensive, practical scheme for irrigation of those lands, it was absolutely impossible for anybody to comply in good faith with any public land law, and that any restoration of those lands would simply result in an era of speculation without any real value behind it, and for the purpose of future irrigation of those lands it was highly advisable that the entire tract be kept intact without any claims being placed thereon, so that, either by legislation or otherwise, there would be a solid tract of land without private claims of any consequence to deal with. That is the reason we have not restored those lands. That led, of course, to various plans to get the

lands reclaimed. We always said that we were perfectly willing and anxious to have the lands restored immediately anybody should devise, or Congress should provide a method for their reclamation. Mr. Rose started coming to the department when I first came into office, in 1913 I think it was, and I have seen much of him since. He was anxious to start some plant to irrigate these lands. He was anxious to work out what seemed to be the only practical plan for a connection here at the Laguna Dam with the canal, to be brought across here [indicating]—very expensive—through the sand hills; or less expensive, down around here in Mexico [indicating]. Now, roughly, from here up to about here [indicating] there are about 200,000 acres in that area—

Mr. LITTLE (interposing.) As I understand it, that is simply shifting sand dunes now?

Mr. TALLMAN. Exactly.

The CHAIRMAN. And yet, Mr. Commissioner, you distinguish between that and what is sand hills there, which is much higher?

Mr. TALLMAN. Well, the difference in character, I think I am right in saying, is largely—more particularly in topography than anything else. This is the lowest part here [indicating]. The Salton Sea, of course, is the lowest part of that belt, which is below sealevel, and as you go back either way you get to higher ground. Now, there is an old beach line that runs along here [indicating] and makes a perfect level to the eye. It is a dead level from here to the west and from there to the east. Then here is a rise [indicating]. This beach line, quite a sudden, perceptible drop of, I suppose, 8 or 10 feet, is it not?

Mr. ROSE. About 30 feet.

Mr. TALLMAN. It didn't look to me to be that much. I saw it at one time, but it may be. At any rate it is very misleading.

Then we come to a higher area, rather rough, the east side mesa. It is going to cost a good deal of money in all of those areas for farmers who take that land to level it down and bring it under irrigation.

The CHAIRMAN. Where the canal is indicated there, the canal is to be?

Mr. TALLMAN. That is right along the foot of another rise of still higher sand hills that are higher than any practical source of water supply.

Mr. SINNOTT. Mr. Tallman, if it doesn't divert you, I am interested in knowing the depth of that sand, or whether there is a substrata. I want to get some idea as to how porous that sand is and whether it will require enormous water duty that would make it impractical?

Mr. TALLMAN. Others can speak on that more intelligently than I can; but this portion [indicating] is practically all silt sea bottom.

Mr. LITTLE. That is the Imperial Valley?

Mr. TALLMAN. That is Imperial Valley proper. It has been my understanding that this is about the same; but others can advise you more accurately than I.

The CHAIRMAN. But the mesa is mostly silt?

Mr. TALLMAN. I think so.

Mr. LITTLE. That is under it? Under the sand?

Mr. ROSE. I can answer that question, if you care to have me. I have the highest irrigated area to-day under the present Imperial irrigation system, which is 30 feet above sea level. I am farming a portion of the land precisely the same as the mesa land. It is very productive, and the minute water is put on it it will grow anything. It is a red loam, not sand, except some loose sand in spots that has drifted over. The mesa is covered with brush anywhere from as high as this ceiling up to higher than my head, scattered around over it. It has a gravel covering on the surface, with occasionally now and then a streak of sand.

Mr. SINNOTT. The water does not sink away?

Mr. ROSE. No.

Mr. SINNOTT. Does a water table form there?

Mr. ROSE. No; and it is about 20 to 100 feet to water under there. And another thing: It does not require the water of the valley, because when you put water on there the roots go down 8 or 10 feet to water.

Mr. LITTLE. I thought the commissioner said that the east mesa that they are now disputing about was shifting sand territory.

Mr. TALLMAN. This was the same way [indicating Imperial Valley] before they reclaimed it.

Mr. LITTLE. Am I correct in supposing that that is an area of shifting sand?

Mr. TALLMAN. Yes.

Mr. LITTLE. And the Imperial Valley was the same way?

Mr. TALLMAN. The same thing.

Mr. LITTLE. Now, am I correct in this: That it is substantially the same as far as crop growing and irrigation is concerned as the Imperial Valley proper was before it was reclaimed?

Mr. ROSE. Excepting it is a sandy loam soil. It turns red when you put water on it.

Mr. LITTLE. I have seen the same thing done in Egypt, so it is not incredible; but I just wanted to be sure I understood you.

Mr. TALLMAN. At the time when those matters were being presented to us there were various bills pending in Congress, as there have been ever since, and numerous delegations from Imperial Valley proper, as we call this area [indicating], and Mr. Rose and his associates appeared before us from time to time. I understand you are fully advised as to the problems in the Imperial irrigation district with respect to their bad diversion point here on the river [indicating] and their desire also to get further up and make a diversion at a more practical point.

The CHAIRMAN. That has been gone into very fully.

Mr. TALLMAN. None of those bills seemed to make much progress, none of the various schemes for legislation seemed to have any future at that time, and the Reclamation Service did not see fit to take it up; they could not, as a matter of fact; their funds were practically exhausted and they needed all the additional funds they could get to complete existing projects, so that those considerations rather forced us to give very serious consideration to some plan or other by which private enterprise on some safe and reasonable basis could reclaim these lands by private capital. That is what led to the Rose contract.

Now, briefly we contemplated in the Rose contract that title to those lands should be acquired under the desert-land act. The desert-land act authorizes a qualified entryman to take up 320 acres of land, paying 25 cents an acre down, paying \$1 an acre at the time he makes final proof within four years; he must expend and show that he has expended for the reclamation of the land not less than \$1 an acre per year for three years. In other words, the minimum requirement is that he must spend \$3 an acre on the land and pay the Government \$1.25 an acre.

Mr. SINNOTT. To show that he has irrigated it?

Mr. TALLMAN. The principal thing, of course, that he must show when he makes his final proof, is an available, permanent water supply sufficient to irrigate all the irrigable land within his entry.

Mr. LITTLE. Has most of the public land in the West been disposed of for \$1.25 an acre?

Mr. TALLMAN. No; I should say most of it has been disposed of for much less than that. The great dispositions are made under the homestead law, with no charge whatever except the fees and commissions.

Mr. LITTLE. The sales of lands were mostly at \$1.25 an acre, though?

Mr. TALLMAN. Yes; but most of the great cash sales were farther east.

Mr. LITTLE. But if you prove out in six months you pay \$1.25.

Mr. TALLMAN. Under the homestead law—under the original homestead law—you could commute by paying \$1.25 an acre. Now many of the desert-land entries which are made show for their water supply stock or interest in some irrigation company? For instance, the best example, I think, that I can give you is this portion of Imperial Valley. Practically all that land has been taken up under the desert-land act. There are some homesteads, and these desert-land entrymen—for instance, a man for a desert land entry in here to-day [indicating]; he makes proof of the formal requirements, and in addition to that he shows that he owns stock in one of these companies which is a going concern, qualified to furnish him with water, and he has enough stock to furnish him sufficient water to reclaim his land, and that the land is within the boundaries at the present time of this irrigation district and has the advantage of that.

Mr. SINNOTT. The stock calls for water, does it?

Mr. TALLMAN. Yes. The mutual companies are distributors; they buy from the district and take the water at these main headings. In many other cases throughout the country we have private individuals who build an irrigation project for the purpose of selling water rights to desert-land entrymen. Now, in that case we investigate that company, ascertain its title to water and the character of the structures and its ability to deliver water, and determine as best we can whether stock or water contracts in that company represent such a permanent water right for the irrigation of the land in the entry as will be acceptable. That is what we have in mind here.

Now, there is only one place to get water to irrigate this land. We conceived the notion that if we should make a contract with one outfit to connect up at the Laguna Dam, there would be no opportunity for anybody else to reclaim these lands. Then we would open the land

under the desert-land act, restore it; those entrymen would take the land, and in order to make a filing which would be acceptable they would have to show stock or water contract in some acceptable company, and we planned that this, if it went through, would be an acceptable company. Now, by reason of the fact that they desired to connect with the Laguna Dam, we considered that it gave us the right under the Warren Act to make a very effective contract with the construction company, such as would subject it to very close supervision of the Government from start to finish.

Mr. SINNOTT. That construction company was Mr. Rose's company?

Mr. TALLMAN. That was Mr. Rose's company. My thought was in that connection that we would tie him up so tight in that contract that if he went ahead at all he would have to make a success of it, and it would have to be a company which would be acceptable for the reclamation of those lands under the desert-land act.

Mr. LITTLE. At that time were there any other parties desirous of securing such a contract and taking over the opportunity?

Mr. TALLMAN. No; not seriously. The only other party to be considered in that connection was the Imperial Valley.

Briefly, that contract provided that Mr. Rose should have the right, or his company should have the right, to connect right here [Laguna Dam]. They were to pay the Government \$960,000 for the right to make this connection. Now, the Government has this canal built from there down here [indicating]—

Mr. ROSE (interposing). Ten miles.

Mr. TALLMAN. Ten miles down here to a point called Siphon Drop, I think it is. The idea was to enlarge that and extend it. It already has branches off here [indicating] and comes down here onto the Yuma project.

We further provided that all of his operations, all of his surveys, all of his plans and specifications by which he was going to build this project should first receive the approval of the Secretary of the Interior. He was not to make a move nor gain a single right until he had submitted plans and specifications that were satisfactory, and the first step in the contract required him to make extensive surveys and tests of the conditions existing here for the purpose of construction. Further than that, it was provided that the plans and specifications he submitted were to be accompanied with estimates of the cost, and before he went ahead the charge that he was going to make for water contracts to irrigate this land were to be fixed and subject to the approval of the Secretary. It was provided in the contract that when the land was opened to entry his company could sell water contracts. He was to collect not less than \$10 per acre down, and that \$10 was to go in escrow in a bank to be designated by the Secretary and remain there until he had sold 120,000 acres of water contracts and gotten the \$10 down in escrow, making \$1,200,000.

Mr. LITTLE. What reason had you to anticipate that he was so situated financially, he and his associates, that they could carry this out, Mr. Tallman?

Mr. TALLMAN. That plan is to finance itself, Judge. He was to sell water contracts to people who would make filings on this land to the

extent of 120,000 acres. Now, those water contracts would result in his collecting in \$1,200,000, and his having outstanding contracts against those people who had made that first payment of sufficient additional money to pay the estimated cost of this whole construction.

Mr. LITTLE. It sounds awfully big. Now, do you feel sure that that is a reasonable proposition or is that just dreamland?

Mr. TALLMAN. Our proposition was this, that at such a time as Mr. Rose's company had gotten the \$1,200,000 in the Treasury, had paid the Government \$200,000 to apply on the claim of \$960,000, and had outstanding contracts for enough more money to build the project with these first payments made, that that was a pretty good start on financing the enterprise. Now, whether it was a practical thing or a dream, that was the plan that we were going to try out.

Mr. TAYLOR. That was his company?

Mr. TALLMAN. That was his company.

Mr. SINNOTT. That compelled him to raise enough money to finance the thing.

Mr. TALLMAN. Of course, there was more than 120,000 acres. We put that as the limit to start with. Now, briefly, that is just what the Rose contract was.

Mr. EVANS. What has occurred since to throw any doubt upon the reasonableness of that contract entered into at that time? Is there any reason to doubt that that can not be carried on?

Mr. TALLMAN. I don't think there is. I went over that the other day and came to the conclusion that it was still a feasible scheme.

Mr. EVANS. Can you conceive that there is any reason to doubt its practicability?

Mr. TALLMAN. Well, I should say in this connection that from the very first we always advised Mr. Rose and everybody in connection with this matter that the entire Imperial Valley should be developed as a unit, as it was clearly evident that to distribute the large cost over this entire area would be more economical and likely to succeed.

Every opportunity was given the Imperial irrigation district to come in and take part in that contract, or to become a party to it, and it is my recollection that at the very last minute before the Secretary signed that contract, a telegram was sent to the officers of the district asking them if they had any objection or if they wanted to come in, because we fully realized that there was going to be ultimately the necessity of the Imperial district making a new point of diversion.

Mr. LITTLE. At that time, of course, it was evident that it would cost a lot of money to survey and experiment around, and they didn't care to take the chance?

Mr. TALLMAN. Well, they came on very shortly afterwards with a delegation, and wanted to do something. They considered it imperative that they should have a new diversion point, and the Secretary then took up the matter with them and eventually that led to a contract with the Imperial irrigation district, which I find has been put in your hearings here on page 245. Perhaps you are familiar with it. Their idea and their necessities simply required that they connect up here to come down here [indicating], and go straight down across here to connect with their existing canal sys-

tem. They were not interested in this [indicating], except as the reclamation of those lands in a unit scheme would naturally carry some of the burden of the immense cost of these works up here [indicating].

Mr. TAYLOR. Perhaps you had better tell us a little bit about what that contract was; what was its nature and extent.

Mr. TALLMAN. That contract was very much like Mr. Rose's contract in some respects—in many respects.

Mr. TAYLOR. Did it conflict with it, or supplant or supersede or revoke it, or have any effect upon the Rose contract; and if so, what?

Mr. TALLMAN. Well, it gave consideration to it. In a sense it conflicted. The original contract said it was made subject to it, and paragraph 11—

Mr. LITTLE (interposing). I didn't get that. Which original contract said it was made subject to what? I didn't quite follow you there.

Mr. TALLMAN. The first draft of the contract with the district.

Mr. LITTLE. Oh, yes; I see.

Mr. TALLMAN. That provided that their contract was subject to the Rose contract. I think that, you said, was afterwards taken out?

Mr. FINNEY. Yes; that was changed.

Mr. TALLMAN. But I find a provision in the Imperial Valley contract in section 11 which states:

That the United States reserves the right to arrange for the connection with and use of Laguna Dam on such terms as the Secretary of the Interior may deem expedient, by any other irrigation enterprise, district, corporation, or individual; also of the headworks and main canals and the other governmentally constructed works, works constructed jointly by these parties after proper enlargement and modification on terms herein stipulated, without, however, impairing the utilization of said dam, canal, and other works to the extent necessary to irrigate the land within the boundaries of the Imperial irrigation district.

Mr. LITTLE. That would seem to reserve the right to the Laguna project, would it?

Mr. TALLMAN. Well, the situation was this: They were not necessarily inconsistent with each other; they conflicted simply to the extent of this piece of canal down here and over to here [indicating]. They both wanted to take water from here to here. Now, of course, they could not both have a separate canal in the same place, but it was perfectly simple for them to enlarge one canal so as to supply them both, and that is the only actual conflict, as I recall, on the ground between the full operation of the two contracts.

Mr. LITTLE. Right there, Mr. Commissioner, it seems to be evident that legally they could both build, but practically never but one of them, would they?

Mr. TALLMAN. As a practical matter we felt all along that necessarily if these two contracts operated separately they would be forced together by some means or other to build a single canal. Their own interest would make it absolutely necessary that they do that, because it would be prohibitive if they built it otherwise, and by throwing their funds together, of course, they could build it much more advantageously.

Mr. TAYLOR. It would be mutually beneficial to them to work together.

Mr. TALLMAN. Of course it would.

Mr. TAYLOR. And there is no reason why they should conflict?

Mr. LITTLE. When was this last contract made?

Mr. TALLMAN. It was made a long time before it was finally ratified by the district. I find it dated the 21st day of October, 1918. I don't know when the district finally ratified.

Mr. ROSE. The 11th of December, 1918, was the first draft; and then it went on and was finally ratified in the fall.

Mr. SINNOTT. Did Mr. Rose's plan contemplate the smaller canal?

Mr. LITTLE. That applied to 1919?

Mr. SINNOTT. Did his plans contemplate a smaller canal?

Mr. TALLMAN. Well, possibly—yes; it naturally would be, because it did not contemplate the irrigation of so much land. Of course, those plans for that canal were to be submitted and accepted by the department.

Mr. LITTLE. May I ask a question there? There was a bill presented here by Mr. Kettner, I believe, for the Government to sort of O. K. a \$50,000,000 bond issue. Was that in furtherance of the Imperial Valley Irrigation Co.'s contract with you? Were they the people that were to get the authority to issue that \$50,000,000 worth of bonds, the Imperial Valley people, or was it the Laguna people?

Mr. TALLMAN. The bill, as I recall, was one to authorize the Secretary of the Interior to take the bonds of various irrigation districts that would be formed, and if they found them satisfactory they would be deposited in the Treasury, on the basis of which the Treasury was to furnish funds to the extent of \$50,000,000.

Mr. LITTLE. Who were they to furnish them to; the Laguna project or the last contract?

Mr. TALLMAN. None of them under that. That was a different scheme to finance this whole proposition. It might or might not be consistent with these various contracts we have told about—that we have referred to.

Mr. WELLING. Mr. Tallman, how long was it after the Rose contract was perfected and signed by the Secretary of the Interior that the Imperial irrigation district obtained their contract with the Secretary?

Mr. TALLMAN. Well, the Rose contract was signed in July, 1918.

Mr. GATES. July 6, 1917.

Mr. TALLMAN. In 1917, and this other contract they did not finally get together on until the fall of 1918.

Mr. WELLING. One year later.

Mr. GATES. It was not ratified by the vote of the district until January, 1919.

Mr. TALLMAN. I think the Imperial district, though, had delegations up here pretty shortly after your contract.

Mr. ROSE. They got their contract December 11, after I signed mine July 6.

Mr. SINNOTT. I have been called out for a few minutes. When you were advocating this Imperial Valley bill I don't recall whether or not you were seeking any protection then for your company?

Mr. ROSE. We did not need it. The contract provided for the selling of that land and applying not less than \$10 an acre for

anybody who came and bid. That did not interfere with us, because it would have allowed us to bid against anybody else for a little piece of land and would have allowed us to construct our system. But under the new bill it is different. We have argued all the time that that land should be sold to the highest bidder, and under the original Kettner bill it could have been sold.

Mr. LITTLE. Do I understand that if the original Kettner bill went through, you did not ask any favors of anybody?

Mr. ROSE. Absolutely, I would have taken my chances with anybody, but class legislation came in and shut me out, and I feel differently about it now.

Mr. SINNOTT. Now did Mr. Rose's plan contemplate a smaller canal?

Mr. TALLMAN. Naturally it would be smaller, because it would not have to provide for this supply at all [indicating].

Now you asked me about this contract with the district. It has a number of provisions in it different from the Rose contract. There is a chance to develop power here and somewhere along about here [indicating], and that power development is all provided for in that contract. That contract provided for a joint development, each to furnish part of the money, and they were to get joint benefits from that power development. The Government had primarily in mind the use of the power development for pumping operations over on its new project known as the Yuma-Mesa over here [indicating], which has just been recently sold.

Mr. LITTLE. You reserved the right for the Government to use that power, didn't you?

Mr. ROSE. Part of it.

Mr. TALLMAN. Yes; part of it. It provided for the use of what they needed over here for these pumping operations.

Mr. WELLING. Are the Yuma-Mesa lands comparable in their value to the East Mesa lands in the Imperial Valley?

Mr. TALLMAN. I am unable to speak from personal knowledge. I think they are about the same.

Mr. WELLING. What did the Yuma-Mesa lands bring?

Mr. TALLMAN. The minimum price for the land and the water contract, I believe, was \$225 an acre. I am told they have just recently been offered for sale and a large part of them have been disposed of on that basis. They paid 10 per cent down, I believe.

Mr. FINNEY. Part of them brought more than that.

Mr. TALLMAN. I say the minimum price was \$225.

Mr. WELLING. Now those lands to-day, that sold at that price, are high and dry and above every available source of water unless it is pumped.

Mr. TALLMAN. Yes.

Mr. WELLING. Now if the East Mesa land were sold under a similar contract, wouldn't it bring enough money for the Government to go ahead and build this all-American canal itself?

Mr. TALLMAN. I think so.

Mr. LITTLE. Well, for heaven's sake, why don't they do it?

Mr. TAYLOR. Because we have got a lot of knockers over there in the House all the time, and we can't do anything practical and sensible.

Mr. TALLMAN. The Rose contract in effect contemplated the same thing. Under the law we could require more for the land, but the charge is made for the water contract, and it gets the same place. The Rose contract contemplates the financing of the proposition on the land itself.

Mr. WELLING. I want to get that straight, Mr. Tallman. If the East Mesa lands were sold to-day under the same terms that the Yuma-Mesa lands were sold a year or two ago—two or three months ago—would the returns from the sale of those lands, plus whatever rights the Imperial irrigation district received in the improvement of their water system, be sufficient money to finance this whole scheme?

Mr. TALLMAN. Well, that is an engineering problem. I think it would, Mr. Welling. You have got here some 200,000 acres. You would not have to sell it for as much as they sold that. Suppose you sell it at \$100 an acre flat.

Mr. WELLING. That is \$20,000,000.

Mr. TALLMAN. There is \$20,000,000.

The CHAIRMAN. You mean \$100 without water right or with?

Mr. TALLMAN. With the water right—as a minimum price. I understand there is altogether under this large high-line canal scheme—how many acres of Government land?

Mr. ROSE. There are about 400,000 acres of Government land where the title still remains in the Government, but about 250,000 acres unentered public land subject to sale.

Mr. TALLMAN. Two hundred and fifty thousand acres unentered public land?

Mr. ROSE. Yes.

Mr. TALLMAN. And there is a lot of other land entered that would have to carry its part of the burden under any scheme devised.

Mr. ROSE. Yes; there is about 500,000 acres outside, and about half of it would have to bear the burden.

Mr. WELLING. Are you familiar, Mr. Tallman, with the terms of the so-called Smith bill, 12013?

Mr. TALLMAN. I have read it, Mr. Welling.

Mr. WELLING. Does that contemplate the development of that area under a plan similar to what you have outlined for the sale of these lands?

Mr. TALLMAN. In some respects; in other respects not. It is similar in that it seeks to finance it out of the land in advance. It is different in that the Government has absolute control of all construction—in fact, it does the construction with the money which it gets.

Mr. WELLING. Is the Government going to do the construction work on the lift of the Yuma-Mesa project?

Mr. TALLMAN. Yes. You asked me, though, if it was different, did you not, from these contracts?

Mr. WELLING. Oh, no.

Mr. TALLMAN. You want to know if the Smith bill was the same as the Yuma-Mesa?

Mr. WELLING. Yes.

Mr. TALLMAN. The principle is very much the same; yes.

Mr. WELLING. What is the objection to proceeding on the theory, then, of selling the lands and allowing the receipts from the sale of lands to finance the project itself?

Mr. TALLMAN. That is a question of policy, of what you want to accomplish. This matter of financing these projects out of the lands themselves, where so much money is required as is required in these projects, means disposing of the lands to people who have money. It is a business proposition purely, without any reference to the question of who will make the best settlement, without any reference to affording a home to the man who hasn't one or giving an opportunity to the man who has no means to work out a home with his hands. Now, the question is, what do we desire to accomplish most? Over here on the Yuma-Mesa nobody without money need come.

Mr. WELLING. Well, is the Government getting any undesirable settlers on the Yuma-Mesa project?

Mr. TALLMAN. I don't say that it is. It is not getting any settlers at all, necessarily. It is getting people who buy the land and are willing to pay for it, of course, with the purpose of using it. Immediately they get title they can do anything with it they please.

Mr. WELLING. You don't know how that is working out as to its benefit to the people? Are land hogs getting in there and getting that land?

Mr. TALLMAN. Well, the only limitation, I think, was in acreage that any one person could get.

Mr. WELLING. Isn't it a fact that it is limited so that one man can't get more than 40 acres on the Yuma-Mesa project?

Mr. TALLMAN. I believe so, generally.

Mr. WELLING. If that is true, wouldn't it provide for a proper distribution of the lands among a great number of people?

Mr. TALLMAN. Well, in the first instance, there would be a distribution among people who have means to buy.

Mr. LITTLE. Suppose you split it up, how many people could you put in there? In other words, how many poor people would it help?

Mr. EVANS. The lessors have an opportunity there, Mr. Tallman.

Mr. TALLMAN. Oh, yes.

Mr. LITTLE. At 40 acres apiece, the whole thing would give 5,000 people 40 acres apiece, if it is all redeemable, but 5,000 people is a very small part of the people who need that land. It would not help the rest of them any.

Mr. EVANS. You will find the lessors and people not owning the land working there and all around, busy.

Mr. TALLMAN. Undoubtedly, in my judgment, the best way from the Government standpoint to build that whole scheme would be for the Government simply to provide the funds and turn it into the reclamation fund, with the idea of getting real settlers on every acre of land under the homestead law. I understand that is practically out of the question at the present time. That being out of the question, the next question is, are we so anxious to see that development go on as to lay aside any question of home building but simply look to the main end of getting the money to build the project and trust to the general outcome to work out a development which we desire?

Mr. WELLING. If you were willing to take that chance, you think the project can be financed without a cent of Government money?

Mr. TALLMAN. I believe it could be; yes, sir. That is on the assumption, of course, that you are able to enter into a proper contract with the Imperial Irrigation District to carry their part of the burden for the additional water they want, and this district up here,

the Coachella Valley, the same way, so that all those interests will be combined, making one big unit project.

Mr. WELLING. Even if the Yuma district, the Imperial district, and the Coachella Valley, didn't want to come in, the project could be built by the proceeds from the sale of the east mesa lands, themselves could it not?

Mr. TALLMAN. I think it could, but it is necessary to bring in the district. This diversion situation, as I understand it, down here, is absolutely impossible. It has got to be taken care of.

Mr. LITTLE. You referred then to the districts through Mexico?

Mr. TALLMAN. Yes; and I referred to the physical conditions of trying to divert water at this point here [indicating].

Mr. LITTLE. That is where the Imperial Valley now gets its water?

Mr. TALLMAN. Yes.

Mr. WELLING. There isn't any doubt in the world, then, but what the Imperial Irrigation District would want to come into the project, is there?

Mr. TALLMAN. I have no doubt about that.

Mr. LITTLE. Mr. Tallman, do I understand that this could be handled as Mr. Welling's question suggests, if the sales are restricted to 160 acres to each individual?

Mr. TALLMAN. I think it could; yes.

Mr. LITTLE. Suppose they said 30 acres?

Mr. TALLMAN. I think it could.

Mr. LITTLE. How about 40 acres?

Mr. TALLMAN. It had better be 80.

Mr. WELLING. You don't know of any undue or illegitimate speculation in land on the Yuma-Mesa project, thus far, Mr. Tallman?

Mr. TALLMAN. No; they haven't had an opportunity. There would not be much, because they are paying what it is worth. They are putting a lot of money into it, and they must be men who mean to make a good development. They can't do much speculating now on that dry land.

Mr. WELLING. You don't know whether they are bona fide residents of that district around the present Yuma project or not?

Mr. TALLMAN. I don't think they have to be.

Mr. WELLING. Well, of course they don't have to be under the terms of the law; but you have no knowledge of the general character of the purchasers that have applied for those lands?

Mr. TALLMAN. No; I think they are from all over.

Mr. FINNEY. I know, as a matter of fact, quite a number of them are from the State of Arizona; but there are others, as Mr. Tallman says, from all over the country.

Mr. WELLING. What will the annual water charge be on that Yuma-Mesa project, Mr. Tallman?

Mr. TALLMAN. I am not familiar with the details of that project.

Mr. WELLING. Well, it would be, at any rate, two or three times—

Mr. TALLMAN (interposing). It would be pretty high, because they have got a pumping charge here. There is a rise of about 80 feet.

Mr. WELLING. It would be two or three times as high as this mesa charge on account of the 80-foot rise, would it not?

Mr. TALLMAN. There would be an additional charge. Of course, the Government contemplates providing power for that for pretty near nothing over here [indicating], if they get this development. Here will be power they own and have paid for.

Mr. WELLING. What I want to get at is this: The east mesa lands at \$100 an acre, with a gravity water right, would be very much more advantageous to the purchaser than the Yuma-Mesa lands which have been purchased at \$225 an acre, with a contemplated added charge for water which must be pumped 80 feet high.

Mr. LITTLE. You mean they would be worth more because the water would not cost so much?

Mr. WELLING. The water would not cost so much and the lands would not cost so much at \$100 an acre.

Mr. LITTLE. How much of this Yuma land is there under cultivation, Mr. Tallman?

Mr. TALLMAN. Well, the Yuma project is already under irrigation down here [indicating]. I don't know how much. I am not familiar with those figures.

Mr. ROSE. Forty thousand acres.

Mr. TALLMAN. And how many acres was it they offered for sale there?

Mr. ROSE. They offered 6,000 acres out of 40,000. There are about 50,000 down in the bottom under cultivation by gravity at the present time.

Mr. LITTLE. What has that cost to get it to the place they are now?

Mr. ROSE. The pump lift, it would be just a matter of purchasing and installing.

Mr. LITTLE. I don't mean in detail, but what is the general cost of the Yuma project so far?

Mr. FINNEY. \$75 an acre.

Mr. LITTLE. What is the total amount?

Mr. ROSE. \$9,000,000.

Mr. FINNEY. I think about \$9,000,000, including the big dam at Laguna. That may be recouped, in part, by allowing these fellows to hook on and help pay for it.

Mr. WELLING. Now, Mr. Tallman, I can understand how there may be a small group of people that would purchase 6,000 acres of land if that is what is contained in the Yuma-Mesa project, but is there any sufficient market for the disposing of 200,000 acres of land, as is contemplated on the east-mesa project?

Mr. FINNEY. May I answer that in part? This Yuma-Mesa project is much larger than that. It covers thirty to forty thousand acres.

Mr. WELLING. But only 6,000 acres thus far have been disposed of?

Mr. FINNEY. As a matter of expediency and in accordance with the funds we had on hand, we decided to open it in units, so it is divided into several units. The first one opened up was six or seven thousand acres, the sale lasted two or three days, and the land was snapped up immediately. I have no doubt more could have been sold if we had been in shape to open a larger unit.

Mr. WELLING. How are you going to furnish the water for these fellows that you have sold land to now?

Mr. FINNEY. That water will come from the Yuma Canal.

Mr. WELLING. You haven't got that pumping plant arranged for, have you?

Mr. FINNEY. We are going to build a pumping plant with the money derived from the sale of the land.

Mr. WELLING. I see; but Mr. Tallman referred to the project as developing power as a drop in the All-American Canal?

Mr. FINNEY. Well, we will buy power for the time being from some one of the power companies if necessary.

Mr. LITTLE. Where is the most valuable land in the United States, the most valuable farm land, and what is it worth? Where is land held highest?

Mr. FINNEY. I don't know that I am an expert on that, but I would say nonirrigated land probably in the State of Iowa.

Mr. LITTLE. How much is it worth an acre?

Mr. FINNEY. I have heard of sales there at \$275 and \$300 an acre.

Mr. LITTLE. In Monmouth County, N. J., there are thousands of acres of land selling at \$500 an acre, potato land.

The CHAIRMAN. Land has sold in Nebraska this year for \$600 an acre.

Mr. LITTLE. That was irrigated land?

The CHAIRMAN. No; not irrigated at all.

Mr. SINNOTT. We have got \$5,000-acre-land in my district.

Mr. LITTLE. What do they do with it?

Mr. SINNOTT. That is in apple orchards.

Mr. KIBBEY. May I ask Mr. Tallman a question or two, Judge?

The CHAIRMAN. Yes.

Mr. KIBBEY. Do you know how much it will cost to level the Yuma-Mesa lands, Mr. Tallman?

Mr. TALLMAN. No.

Mr. KIBBEY. Do you know of the character of the lands with reference to leveling?

Mr. TALLMAN. Only that I understand it will be pretty expensive.

Mr. KIBBEY. On the Yuma-Mesa?

Mr. TALLMAN. Yes.

Mr. KIBBEY. Do you know them as compared with the east side mesa?

Mr. TALLMAN. No.

Mr. KIBBEY. What is the amount bid by the Yuma-Mesa as compared with the cost? What I am getting at is this: There was a certain amount for water, a certain amount for improvement of that particular unit, was there not?

Mr. TALLMAN. I understand so.

Mr. KIBBEY. How is that cost divided?

Mr. TALLMAN. \$25 was the price put on the land, minimum, and \$200 was the construction charge.

Mr. KIBBEY. That went into improvement of the land itself, did it not? That went back into improvements for this particular unit?

Mr. TALLMAN. It was to build the project, to put in the pumping system and the canals.

Mr. WELLING. You didn't contemplate leveling the land for the purchaser?

Mr. TALLMAN. I don't think so.

Mr. KIBBEY. Did you contemplate building roadways on the land?

Mr. TALLMAN. I don't know whether they do or not.

Mr. KIBBEY. Those lands were sold practically in 10-acre tracts, were they not?

Mr. TALLMAN. I understood that 40 acres was the limit?

Mr. FINNEY. I think they were plotted down as small as 10-acre lots; but the maximum lot which could be bought was 40 acres. Now, I can't say, though, just how agreement was, but I don't think any of that money derived at that sale is to be expended for leveling land or building roads. It is to be spent for the pumping plant and irrigating canals.

Mr. KIBBEY. I have been informed, whether accurately or not I don't know—that is what I am trying to find out—that there is a large portion of that money that is to build roads and concrete roads.

Mr. TALLMAN. I am not familiar with the plans of the Reclamation Service as to the details of how they are going to spend the money at all.

Mr. KIBBEY. I get my information from a member of the Laguna Water Co.

The CHAIRMAN. We can get this all from Director Davis. We are going to have him here. Now, it seems we are through with the commissioner.

Mr. EVANS. I would like to ask Mr. Tallman a question, Mr. Chairman.

What arrangements, under the Rose plan, have been made for providing for the security of the old Imperial irrigation district, for their water? What different arrangements would they have with this all-American canal from the old, providing their security for water?

Mr. TALLMAN. There was no arrangement in the Rose contract for the security of the old irrigation district.

Mr. EVANS. Well, was the old irrigation company to be supplied in the usual old way, or by the new way?

Mr. TALLMAN. So far as anything in the Rose contract was concerned, yes.

Mr. EVANS. They were to be continued under the old plan?

Mr. TALLMAN. Yes. Of course, we anticipated—we knew the necessities of the district, and we anticipated and hoped that they would eventually get together in some sort of common development there.

Mr. TAYLOR. Mr. Tallman, what is the position of the department now on this Rose contract, if you care to tell us, and what is your judgment, and what is your advise to this committee, and what information, in other words, do we obtain here that will be beneficial to us toward determining this interminable consideration of these half dozen different bills and conflicting interests and claims? Is it the opinion of the department that we ought to slough along here and do nothing, and, if not, what ought we to do. If the department has any concrete advice to give on this matter, or any suggestions that would be helpful, I would like to know what they are.

I would like to know what the Government thinks about the Smith bill and the Kettner bill and the Rose contract, and what we ought to do or what we can do as a matter of practice or policy or anything else, that will be beneficial to us in helping determine this matter. The committee is in a rather hazy, chaotic frame of mind as to what is best to do, if I interpret their position correctly.

Mr. TALLMAN. Well, as to that, Mr. Taylor, in the first place, the Secretary has reported on some of these bills, and whatever he has stated constitutes the departmental view and policy in so far as he has stated it. I don't know that they have reported on the Smith bill.

The CHAIRMAN. No; they have not.

Mr. TAYLOR. But Mr. Rose tells me, do you not, that the Smith bill is satisfactory? Didn't you tell me that?

Mr. ROSE. It is to me; yes sir.

Mr. TAYLOR. Well, didn't you tell me it was also satisfactory to Mr. Tallman and Mr. Finney?

Mr. ROSE. Well, I said that they had expressed themselves favorably to me.

Mr. TAYLOR. I asked you if you had a report on it from the Secretary of the Interior, and you said no, but that these two gentlemen were favorable to it.

Mr. ROSE. That is right. I said I had talked to them, and they had expressed themselves favorably to me.

Mr. TAYLOR. Now I would like to have an expression as to the status of this matter. Shall we abandon the first Ketner bill; shall we disregard the Hayden bill; shall we abandon the second Kettner bill—H. R. 11553—and take up the Smith bill, or prepare some other substitute bill, or what is the up to date, concrete judgment of the Interior Department and the Reclamation Service as to what, if anything, this committee ought to do?

Mr. FINNEY. I would like to make a statement as to the Secretary's position myself.

Mr. TAYLOR. I would like to have you do it.

Mr. SINNOTT. Before you do that, will you let me ask Mr. Tallman a question? When I went out you were talking about the power there. How many second-feet will there be in that canal, and what will be the drop?

Mr. TALLMAN. I haven't that in mind.

Mr. ROSE. At Pilot Knob the contemplated canal will carry about six or seven thousand second-feet, with a drop of 30 feet. Then the idea was to use that during the construction of the system.

Mr. SINNOTT. That is all I want to know.

Mr. ROSE. Then, here are two drops here in the all-American Canal [indicating], when it is once built, one of 47 feet and one of 30 feet. That would be carrying about the same quantity of water before it was completed, but they figured on putting in units, and then whatever water went over to the Mexican side after the all-American Canal was completed would be also used over at their original power plant with 30-feet drop.

Mr. TAYLOR. Now I would like to get some information in the way of advice from the officials to this committee on this whole business in some specific, definite, and concrete form. I know the committee would welcome any official helpful information.

The CHAIRMAN. We were next to hear from Judge Finney, I believe.

Mr. TAYLOR. Mr. Finney said he would like to make a statement, and I think we should not interrupt him, but let him alone and let him do it.

STATEMENT OF MR. E. C. FINNEY, INTERIOR DEPARTMENT.

Mr. FINNEY. I haven't a very long statement to make, but I just want to say to the committee that the Interior Department has approved these two tentative contracts—the Rose contract and the Imperial Valley contract—and we have made reports on several bills, all in an effort to try to help untangle the mess in the Imperial Valley and Colorado River situation.

The difficulty with the Imperial Valley, of course, is the diversion of water from the present intake, where they are having trouble all the time; where part of the time they can't get water into the canal; where Yuma is kicking because they have got a diversion dam in the river, which endangers the levees on the Yuma side of the river. Every year they have to put up heavy bonds to protect the Yuma project—you probably know all about that.

So that Imperial Valley is really in a bad situation. Now, that is one interest that the department has in settling this matter in some way, because they are after us all the time to help work out some sort of a solution of their difficulties. That is really, possibly, more important, if anything, than is getting these two or three hundred thousand acres of land under irrigation. So that each step that has been detailed here, which the department has taken with respect to these contracts and reports on these bills, has been an effort to find something that would solve the difficulty and something that the people might work out themselves, or that Congress might see fit to adopt. So when the first Kettner bill, 6044, came down to the department for a report, which bill provided for the bond issue by the districts which are existing or which might be formed, the bonds to be deposited in the Treasury and made the basis of a bond issue, and the work to be done that way, the Secretary made a favorable report upon that bill because he thought possibly it offered a solution of the difficulty.

Mr. LITTLE. Is that the bill Mr. Rose said was satisfactory to him?

Mr. FINNEY. Yes, sir.

Mr. LITTLE. Is that satisfactory to these other Imperial Valley representatives?

Mr. BARBOUR. Is that the first Kettner bill?

Mr. KIBBEY. The first Kettner bill is not satisfactory to the present representatives, and I believe not to the people of the Imperial Valley.

Mr. FINNEY. I believe also the Secretary of the Treasury interposed some objection.

Mr. TAYLOR. I believe we have practically decided we could not raise that bond issue at this time and have to take some other course, if we do anything.

Mr. FINNEY. So that as a result a second bill, 11553, came to the department for report.

Now, that has a bond scheme somewhat different. The districts issue the bonds and the Secretary of the Interior sells them at par, if he can, and if he can not sell them at par within five years, then he can sell them for less than par.

Mr. WELLING. This is the bill the committee made up from the Hayden and Kettner combination?

Mr. FINNEY. Yes; and it provides for the preference right of the State of California to 50,000 acres for soldier settlement lands to be acquired by the State, either by purchase or by an exchange of State lands.

Mr. LITTLE. Is that the bill reported by the subcommittee?

Mr. FINNEY. Yes. And also for a preference right whereby soldiers of the late war can buy lands at \$1.25 an acre. Now, that came down for report, and the Secretary in another effort to get something to relieve the situation has made a favorable report on that bill with some recommendations for changes. For instance, he thought the sale of land at \$1.25 an acre would lead to speculation; that they would turn around and sell them at a higher price, and he recommended that residence be required on the land. On the State proposition he recommended that an exchange of State lands should not be permitted. I want to say that yesterday, at Dr. Mead's request, I took up with him again the question of the State exchanging some other lands for these, and the Secretary said that in view of the fact that the State is to get these lands and improve them itself, that they are not to be sold, he would not have any objection to the exchange part.

Mr. TAYLOR. What do these two reports—what bearing did they have, if any, on Mr. Rose's proposition? Did that eliminate him, or ignore him, or take him into consideration, or what was his connection with it, if any?

Mr. FINNEY. They made no mention of Mr. Rose or his plan.

The CHAIRMAN. How would it affect him?

Mr. TAYLOR. They just ignored him?

Mr. FINNEY. They ignored him.

Mr. TAYLOR. On what theory did they ignore him? Because he had not complied with the contract or what?

Mr. FINNEY. Under the first Kettner bill Mr. Rose and his associates, as I understand it, might have formed an irrigation district and come in under that bill and sought a contract with the Government to reclaim the lands within that particular district—the Government would deal with each district.

Mr. LITTLE. Just the same as anybody else?

Mr. FINNEY. Yes—under the Kettner bill.

Mr. LITTLE. Did the first bill give the Rose outfit privileges different from what anybody else would get?

Mr. FINNEY. No special privileges, except a general preference to soldiers to buy land.

Mr. LITTLE. That was the first bill?

Mr. FINNEY. Yes. Now, the second Kettner bill, the one you have before you now, gives a specific preference to the State to select 50,000 acres, and it gives a specific preference to the soldiers to purchase.

Mr. TAYLOR. Is that what the American Legion boys want?

Mr. FINNEY. I don't know about the legion. I presume they do, however.

So at that point came Mr. Rose with his letter to the Secretary saying that if preferences are to be given to the State and to the legion, or soldiers, that he thought he should be taken care of.

Mr. LITTLE. Do you mean he had no objection if the soldiers got the lands, but he thought that the fellows who had spent \$75,000 ought to be taken care of, too?

Mr. FINNEY. Yes, sir.

Mr. LITTLE. What do you think about that?

Mr. FINNEY. Well, I don't know—personally I don't favor granting a special preference to anyone. I am in favor, personally, of selling these lands to finance this project.

Mr. TAYLOR. You are not in favor of giving Mr. Rose a township of land here on the side?

Mr. FINNEY. I am not in favor of giving anyone any special preference. I would give soldiers a general preference right to acquire lands.

Mr. SINNOTT. Are you in favor of giving Mr. Rose's concern any consideration?

Mr. FINNEY. Yes; I feel that Mr. Rose's company has equities there that merit consideration. As has been set out here, he has been the pioneer. Under the Rose contract he made surveys and investigations, which data were filed in the department and which is available for anyone who chooses to go on and build the canal.

Mr. TAYLOR. Is it substantially beneficial?

Mr. FINNEY. That is an engineering question; but Mr. Rose asserts that it is, that his findings have been corroborated by what subsequent investigation has been made.

Mr. LITTLE. If the Rose plan went through would the Imperial Valley people be relieved of their troubles with Mexico?

Mr. FINNEY. If this plan was carried through and a canal was built of sufficient capacity to take care of the water, not only for the Rose lands but for the old Imperial Valley, they would be relieved of their embarrassments.

Mr. TAYLOR. Why hasn't he gone ahead and done it, then? Has the department stopped him?

Mr. FINNEY. When his field notes and plats of survey and investigations came up the department was not satisfied to approve the enterprise without further investigation, and the Imperial irrigation district was at our gates asking for the approval of their contract, so that a mutual agreement was entered into between the department and the Imperial irrigation district for further survey and investigation of this canal route, the district to contribute part of the expense and the reclamation fund the balance. That survey and investigation has now been made.

Mr. LITTLE. What did that cost?

Mr. FINNEY. Forty-five thousand dollars.

Mr. LITTLE. What was the necessity for that?

Mr. FINNEY. Well, the engineers and the Reclamation Service were not satisfied that the Rose survey had gone far enough, I guess; that enough borings had been made around the points of those sand hills to determine what the bottoms and sides of the canal would be like if built. Of course, I am not an engineer, and I can't enlighten you very much.

Mr. TAYLOR. If we employed another set of engineers we would probably get another and different report.

Mr. LITTLE. Your outfit thought they were better engineers than the other fellows, so they spent \$45,000 more to prove it?

Mr. FINNEY. Now, the Secretary would like to see something done to relieve the situation, so he has been reporting favorably on nearly every bill that came along that looked as though it might help. I spoke to him last night, and mentioned the Smith bill to him, which provides for the sale of the lands to finance the project, and he said: "Well, I have made a report to Congress upon Mr. Kettner's measure, and Mr. Smith's bill has not been referred to me—at least it hasn't reached me for report—so I have nothing to say on that; but if you and Commissioner Tallman have personal opinions, you are at perfect liberty to express them." So we have felt free to express our personal opinions. If the Smith bill comes down for report the Secretary will make some report on it. What it will be, I don't know.

The **CHAIRMAN.** Will you state, if you know, any reason why it would not be wise to encourage Mr. Rose and the representatives of the opposition interests—for instance, Mr. Kibbey here made a proposition yesterday that they would be willing to refer the differences to some third party, and it would be agreeable that that should be the Secretary of the Interior, who would be fair and just, who would decide what Mr. Rose should be paid in money. Now, it being recognized that Mr. Rose has equities here, and is entitled to consideration, why would it not be wise to ask these people to get together and settle that, the Government not being liable in any way for the amount to be paid, as I understand it?

Mr. FINNEY. Assuming that the committee was going to favor this last Kettner bill, Judge, I think possibly that might be one way out of it. I don't know that the Secretary would want to act as umpire, or that he would be in favor of leaving it to one man.

The **CHAIRMAN.** Let them settle it themselves.

Mr. FINNEY. If they can; yes. I feel that Mr. Rose has some equities that are entitled to consideration. Of course, it would be very much better if they could get together in mutual agreement. Possibly they could select umpires themselves.

Mr. LITTLE. What do you understand to be the objection of the second delegation to the original Rose plan? It seems from what you say that Rose's people, if they went ahead and finished their plan, would relieve the Imperial Valley people of the trouble with the Mexican ditch. Now comes along another series of gentlemen and they don't want that to be done that way. Now, just what is the objection to it as you understand it?

Mr. FINNEY. Well, Judge, the Rose canal, if built for his lands alone, would not have been sufficient to help out the Imperial Valley or relieve the Mexican situation. They would have had to join to meet that—the Rose interests, the old Imperial irrigation district, and any other interests, would have had to combine and build jointly this canal.

Mr. LITTLE. Wouldn't that ditch have brought enough water over to that east mesa so that they could have arranged to go on into the valley with it?

Mr. FINNEY. It could have been done very readily.

Mr. EVANS. Of all of the plans, which offers the more security to the Imperial irrigation district, the old way or the Rose way, or the more recent plan; which offers the greater security?

Mr. FINNEY. You see, nearly all of these plans contemplate taking the water out of the Laguna Dam and bringing it around onto American territory to a point in the Mesa, so it is a matter largely of financing, you see, a matter of handling the land.

Mr. EVANS. Then you think the Rose plan would have been an improvement over the old way?

Mr. FINNEY. Yes; anything would be better than the present method of water supply.

Mr. LITTLE. Isn't it unfortunate that any difference of opinion has arisen between those people down there?

Mr. FINNEY. It is very unfortunate, naturally. But I still think that the businesslike method is to utilize the assets that we have, namely, these Government lands.

Mr. WELLING. You are not in favor of giving anybody a preference right, but you do advise that we go ahead and sell those lands?

Mr. FINNEY. I am not in favor of giving anyone a preference right, unless it would be a general preference to soldiers to buy at the top price?

Mr. WELLING. It would not be objectionable to give the Rose interests preference rights on a small territory of land for a month or two months or three months—whatever the term might be?

Mr. FINNEY. No; they would not ask for that, as I understand it; and I don't think anyone should have the preference if we are going to use the lands as a basis of financing the project. I think these Government lands should be put up and sold substantially on the Yuma-Mesa plan. Then the Imperial Valley and the Coachella Valley and other districts interested could supplement that, and the thing could be built jointly.

Mr. EVANS. Then the Smith bill covers your ideas?

Mr. FINNEY. Yes.

Mr. LITTLE. Why isn't the sensible thing to do to go ahead with any of these projects and get rid of the Rose outfit by agreeing that out of whatever does come out of the Treasury they will be paid whatever they should be paid? Isn't that a sensible way out of it?

Mr. FINNEY. Well, that would be one way of disposing of the Rose interests.

Mr. LITTLE. Then they will have their money back and they won't have much kick coming. They will have some glory out of it, and will get their money back, and nobody else would kick.

Mr. KIBBEY. I will say, Mr. Little, that is entirely satisfactory to the Imperial Valley.

Mr. TAYLOR. That might be done, but how can we legislate to settle this matter of Mr. Rose now? How can we disregard what he says and what the other side says—how can we go ahead arbitrarily and settle this, in view of the fact that he has a contract now? We really do not possess any such province, as I see it.

Mr. FINNEY. Mr. Rose's legal rights would be determined either in the department or in the courts, I think.

Mr. LITTLE. Mr. Kibbey has just said it would be satisfactory to them, and it might be arranged definitely, a definite amount which this committee, of course, would have to fix, that would go to the Rose people.

Mr. FINNEY. That would only be necessary, Judge, in the event that this particular bill was agreed upon. If the original Kettner

bill, or the Smith bill were agreed upon, I understand that Mr. Rose has no claim at all, because he thinks he could work out his own salvation.

Mr. LITTLE. Of course, if Mr. Rose gets his money back, that is about all he will get anyway. Some of them that begin things never make anything out of it, and if Mr. Rose gets his money back he will be satisfied, I suppose, fairly well. Mr. Kibbey says that they will be well satisfied. Now, why don't we go ahead and put it into the bill and quit fooling with it?

Mr. FINNEY. We might provide a monument for him, too [laughter].

Mr. LITTLE. Oh, yes—probably they will give Rose a monument for starting it—after he is dead.

Mr. SINNOTT. Mr. Finney, when you speak of Mr. Rose's equities, you mean legal equities or moral equities?

The CHAIRMAN. Contractual, you mean?

Mr. FINNEY. Well, equities arising out of the efforts he has put forth to develop that situation, and there are equities arising out of the contract which is not terminated. That contract is in a state of suspension, as it were. It was entered into—he made these preliminary investigations which the Secretary might or might not accept. The Secretary did not accept the investigations as conclusive, but entered into the second contract with the Imperial Valley and authorized the further investigation to be made. In the meantime, this Rose contract seems to be in sort of a state of suspense.

Mr. WELLING. Do you think that the Smith bill violates the provisions of the Rose contract?

Mr. FINNEY. No.

Mr. WELLING. Does it violate the conditions of the contract with the Imperial Valley Irrigation Co.?

Mr. FINNEY. No.

Mr. TALLMAN. I think it does, Mr. Finney.

Mr. WELLING. And Mr. Rose is satisfied with the Smith bill?

Mr. FINNEY. I understand so.

Mr. LITTLE. You think if we put a provision in that bill to pay Rose what he actually has invested—what his people have invested—don't you think the committee had better fix it? There is no use in fooling around about this thing. That would get rid of him forever, wouldn't it?

Mr. FINNEY. It would take care of his equities.

Mr. LITTLE. That would satisfy the other people, and that would be a mere button in the sum that will come in.

Mr. FINNEY. That will be one way out of it, assuming you want to pass this particular bill.

Mr. BARBOUR. What effect would that have on the fund, Mr. Finney, so far as having money with which to do the construction work?

Mr. LITTLE. \$75,000 wouldn't be very much out of all the money involved here.

Mr. BARBOUR. If you take a certain amount of this money that you get from the sale of lands and pay it to Mr. Rose, what is going to be the effect upon the funds needed to pay for the construction work?

Mr. FINNEY. I understood Judge Little's proposition was not directed toward the Smith bill, but this bill here, which makes no appropriation at all.

Mr. BARBOUR. I understood that it applied to any of the bills.

Mr. LITTLE. Get it out of the returns that come in.

Mr. FINNEY. We would have to sell \$75,000 worth more of bonds under this bill.

Mr. WELLING. You don't want to force any money onto Mr. Rose; he don't want any money under the Smith bill, not a cent. I understand that he is willing to surrender his contract if the Smith bill were passed by Congress.

Mr. LITTLE. That would be satisfactory to the other boys, too.

Mr. WELLING. That is, I have heard it intimated here that he was in favor of the Smith bill; and if so, it seems to me it involves the cancellation of any contract he has with the Government to build the canal.

Mr. FINNEY. I understand his theory is that he can take care of himself under the original Kettner bill or the Smith bill, build his own laterals to the district where his people are interested, but under this bill, which gives a specific preference to the State and to the soldiers and makes no provision for preference to him, he would not have any preferential rights, and he could be provided for either by giving preference for land or a payment in cash, as you suggested.

Mr. LITTLE. To come out of the lands when sold?

Mr. FINNEY. Under this bill it would come out of the bond fund.

There is one feature about this bill that the Secretary did not mention in his report, and I just merely wanted to direct attention to it. The bonds are those issued by the districts, irrigation bonds, running for 40 years. Now, they are not guaranteed by the United States, differing from the original Kettner bill in that respect, but they are to be sold by the Secretary. Now, of course, that don't create any legal obligation on the part of the United States, but there might be sort of a moral obligation. If the Secretary sold these bonds the purchasers might say the Government sold them and the Government should make good in case there is any default.

Mr. LITTLE. But there is so much red tape around the Government that they never really would be seriously hurt.

Mr. WELLING. I would like to ask Judge Finney if he believes, as Commissioner Tallman does, that if the east mesa lands were sold under the same form of contract that you are now selling the Yuma mesa lands, that the receipts would be sufficient to finance this project?

Mr. FINNEY. No; not to finance the entire project. The receipts would be sufficient, added to the contributions, which the Imperial district and the Coachella should make, to amply finance it, in my judgment.

Mr. WELLING. And therefore it would finance itself if we just set the wheels in motion to permit that to be done?

Mr. FINNEY. I think so.

Mr. KIBBEY. May I ask a question in that connection? Suppose, Mr. Finney, that the lands do not come up to your expectations: suppose that they do not sell for enough, but they have been sold; then what happens?

Mr. FINNEY. Well, it would simply be a matter of the lands contributing a larger amount.

Mr. KIBBEY. Well, but they have already been sold.

Mr. FINNEY. I am speaking now of the Imperial irrigation and other districts.

Mr. KIBBEY. The Imperial irrigation district and the Coachella district would have to pay the difference between what those lands sold for and the amount due.

Mr. FINNEY. But that is not quite correct, because the Government, if it sold these lands under the Yuma plan would not be dealing only with land values; we would estimate the cost of putting water upon the land, that water-right proposition, just as we did in Yuma. We fixed the water-right cost there at \$200 an acre. Then we would put a minimum price on the land, so that our estimate, if anybody bought the land at all, he would have to pay his proportionate share of the water right.

Mr. KIBBEY. You would make that estimate before the land was sold?

Mr. FINNEY. Certainly, and it would be high enough to cover the cost.

Mr. KIBBEY. You are not in a position to assure the committee that those lands would sell for even \$50 an acre, are you?

Mr. FINNEY. I don't know a thing about the lands.

Mr. LITTLE. What do you think about that, Mr. Kibbey?

Mr. KIBBEY. I don't think they would average that amount, Mr. Little, to be honest. When you figure out the cost of leveling those lands, figure out the distance that they are now from railroads, comparing them with Yuma, I don't think it is possible that any man without an absolute assurance of getting water, would give \$50 an acre for them. Even if ultimately assured of water I don't believe he wants to take a chance and hold those lands for four or five years and pay taxes upon them before he can even get water.

Mr. FINNEY. I think you are mistaken, Mr. Kibbey. If the Government undertook this plan to put these lands up for sale under the Yuma plan, the purchaser would have an assurance that the lands would get water.

Mr. KIBBEY. Well, he would have to be assured that the Imperial Valley was going to issue its bonds and the Coachella Valley was going to issue its bonds, and he is buying upon an estimate then, and would have to wait four or five years for water.

Mr. FINNEY. I have been pretty well convinced by the statements that you and others have made to me of the value of Imperial Valley lands.

Mr. KIBBEY. Of the improved Imperial Valley lands.

Mr. FINNEY. Yes; you have told me about crop returns there and led me to believe that they were valuable lands.

Mr. ROSE. I would like just a second to answer Mr. Kibbey's question, and that is this: If you sold the lands and didn't get money enough for them, they would be in a position to organize a district and file their own bonds for the deficiency. That is one way of doing it, and another thing is this, gentlemen, there have been school lands sold as high as \$25 or \$30 an acre, which money didn't go into the fund to build a system but went into the private pockets of somebody with no guarantee of water. In addition to that, you are not selling the land exactly; you are simply collecting enough on all the land to get the system; you are simply putting up the money to make the land valuable.

Mr. WELLING. What do you believe is the value of those lands?

Mr. ROSE. I believe those lands under those conditions would sell anywhere from \$100 to \$125 an acre, and sell readily. I know I have seen Imperial Valley land actually given for the crop on it for one year, to the tenant. But that is because they don't have any water supply, because they are subject to a bunch of vultures in Mexico, but you build a good water system, and I will tell you right now those lands will sell, sell just as quick as the Yuma lands did, and will sell in sufficient quantity to build that system. You can't get away from the facts in this case.

Mr. KETTNER. Mr. Chairman, I think I should give a little short history of this whole affair, so that the committee will understand it.

The different bills that have been endorsed by the Secretary of the Interior and by his officers may seem inconsistent to you. They are not. The Secretary and the department have done everything in the world to help out the Imperial Valley people. I represented that district for some seven years. When I first came on here I found exactly where they stood and I told their officers at that time that the Imperial Valley had no substantial water right. They thought they had and they took that position—their attorneys claiming that they had a State right that was superior to the Government right for Yuma. The results speak for themselves.

Mr. WELLING. If the Kettner bill were found to be impractical, do you think the Imperial Valley, or the people of the State of California, would demand the passage of the Smith bill?

Mr. KETTNER. Gentlemen, as I stated before, I don't care whether my name is connected with the bill or not, if you will grant relief to Imperial Valley.

Mr. WELLING. But do you favor the plan—what I wanted to get at was this: Do you favor the plan of making the lands in the Imperial irrigation district, added to the Government lands on the East Mesa and the lands in the Coachella Valley, do you favor making those lands pay for the entire project?

Mr. KETTNER. No; I do not. The Imperial Valley is willing to pay its share.

Mr. WELLING. I know, but I say the Imperial Valley plus the East Mesa lands and the Coachella lands. Do you favor some scheme that will make them pay for the entire project, independent of any financing on the part of the Government?

Mr. KETTNER. I think they will pay for themselves, I have no doubt in the world that they will.

Mr. WELLING. But your bill, Mr. Kettner, provided for a bond issue which was to be guaranteed by the Government.

Mr. KETTNER. Not the last bill.

Mr. WELLING. But it has some bonding features in it.

Mr. KETTNER. But those bonds are not subject to the income tax, and I have satisfied myself that those bonds would sell readily on the market to-day at par.

Mr. KIBBEY. Before you adjourn, Mr. Chairman, may I suggest one thing to Mr. Kettner? At the Berkeley conference, every organization in the Imperial Valley was represented. Every organization was there. It finally resulted in a unanimous approval of the resolution, which is a part of the record here, approving the amendments suggested and now incorporated in H. R. 11553.

Mr. KETTNER. That is true, Mr. Kibbey, but right there I wish to state my position, that the Imperial Valley has passed up to me three or four different propositions inside of six months or a year.

Mr. LITTLE (in the chair). Gentlemen, we will adjourn now until 10 o'clock to-morrow morning.

(Whereupon, at 12 o'clock noon, the committee adjourned until 10 o'clock a. m. Friday, January 30, 1920.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Friday, January 30, 1920.

The committee met at 10.15 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. HAYDEN. Mr. Chairman, I gathered from listening to the proceedings of the committee yesterday that there was some confusion in the minds of the committee as to just what it is proposed to do through the enactment of the last bill introduced by Mr. Kettner, H. R. 11553. It seems to me that the orderly way to proceed is to have an explanation made of the bill by those who have prepared it.

The CHAIRMAN. That will be all right, but we want to get through with Dr. Mead this morning. Have you read the bill, Doctor?

Mr. ELWOOD MEAD. Yes.

Mr. HAYDEN. Dr. Mead spoke to me relative to the matter. He said he wanted to explain one feature of the bill after a general explanation of its terms has been made. I can state very briefly my conception of the bill.

You will remember that when Mr. Kettner introduced the original bill, which was prepared by Judge Swing and the former delegation representing the Imperial irrigation district, the idea was that the bonds of that district would be deposited with the Secretary of the Treasury, and that the bonds of the United States should be issued in lieu thereof, to raise the money for the construction of the all-American canal. Trying that idea out in the House among very influential members of committees, such as Banking and Currency and Ways and Means, we found that the United States had never guaranteed any kind of a bond; that the Government even refused to guarantee the Federal farm loan bonds, and that there was such strong opposition to that plan that it was practically impossible to pass it through the House. So the only other method was to adopt the plan suggested by the Secretary of the Treasury in his report on the bill; that was to authorize appropriations by Congress whereby the necessary irrigation works might be constructed, and that is the plan proposed in this bill. The scope of the work is described in section 1; that is, the connection with the Laguna Dam, the construction of an all-American canal and reservoirs, and other works. Provision is made that the work shall be done under the direction of the Secretary of the Interior, the title to the works shall remain in the United States, which is the same as is provided in the reclamation law, and that Congress has authority from time to time to appropriate money to carry on construction.

As security for appropriations made by Congress the Imperial irrigation district and the other irrigation districts benefitted are to deposit their bonds, and that is what has been previously done. There are now on deposit with the Secretary of the Interior the bonds of certain irrigation districts as security for the appropriations made by Congress for the construction of the project works.

The CHAIRMAN. What districts are those?

Mr. DAVIS (Director of Reclamation Service). Some of them are in Washington.

Mr. HAYDEN. Now this bill merely takes one step further. It says that the bonds deposited with the Secretary of the Interior as security for appropriations made by Congress may be sold at par by the Secretary of the Interior and that the proceeds of the bonds shall be used first to pay for any money appropriated by Congress, and second that the secretary may use the money thus obtained in prosecuting the work. There is nothing radical about that step. I can not conceive how Congress could have any objection to the deposit of bonds as security for appropriations that have been made or are to be made, because that is better security than the obligation of the individual water users. When such bonds have been deposited and there is a market for them then they can be sold at par and the United States is immediately recouped for any sums that have been advanced. If further sales can be made it is unnecessary to come to Congress for additional appropriations. Now that is the simple plan contained in this bill. There is nothing radical about it, nothing extraordinary about it, and nothing unprecedented about it, except the mere provision that bonds once deposited with the Secretary of the Interior may be sold at par.

So if the members of the committee have the idea that this is some complicated bonding scheme, some radical innovation, something new and untried, I hope they will get that nation out of their minds, because that is not the plan of your subcommittee nor that of the authors of the bill representing the Imperial Valley. It is nothing very different from what has been done heretofore.

Mr. WELLING. Now, can I ask you a question? Under the bill you can not sell the bonds of this irrigation district until the people are located there and the lands are reclaimed and the water is on the land?

Mr. HAYDEN. The bonds may be sold any time that the Secretary of the Interior can obtain par for them.

Mr. WELLING. Well, in that event he could not get par for them until he knew the water was going to be on the property.

Mr. HAYDEN. The ability to get part on the bonds depends entirely upon the frame of mind of the bond buyer. Now, the representatives of the Imperial Valley assure us that there are bond buyers in the United States who will purchase the bonds of the Imperial irrigation district at par, if the bond buyer is assured that the money that they are to pay for the bonds is to be expended under the direction of the Secretary of the Interior.

Mr. WELLING. Suppose that this East Mesa territory that we are familiar with here, on the map at least, was organized to-morrow into an irrigation district; how soon could the bonds of that irrigation district be sold at par, do you suppose?

Mr. HAYDEN. My judgment would be that the Secretary of the Interior in proceeding under this bill would not attempt to sell the bonds of the East Mesa district first. The completed plan, as you know, contemplates the irrigation of about as large an additional area as is now contained in the existing irrigation district, that is, an additional 400,000 acres.

Mr. WELLING. Yes.

Mr. HAYDEN. There being in existence a going concern, the Imperial irrigation district, with productive farms and lands, with values that greatly exceed the amount of the bonds that are to be issued, it will, of course, be better business for the Secretary to call upon that district, having apportioned the cost that the district shall pay, to issue its bonds first. He will dispose of those bonds first and proceed with the work. Enough money can be derived from the bonds of the existing Imperial and Coachella irrigation districts to complete half or more than half of the work.

Now, when the work is half or more than half completed, that means that the all-American canal has been constructed to a point where the lands on the east mesa are capable of being served with water. At that time, if additional irrigation districts are organized to include the lands on the east mesa and their bonds are placed upon the market, the Secretary of the Interior can say, "With the proceeds of these additional bonds I propose to continue the main canal and laterals and cover this mesa land so it will be placed in cultivation in the very near future." The bonds of the new district will then be very much more attractive than to attempt to sell them now when, as everybody realizes, three or four years must elapse, perhaps longer, before water can be placed upon the land.

Mr. WELLING. Assuming that H. R. 11553 becomes a law, how much money do you think the Government of the United States would have to advance to the Imperial irrigation project before its bonds could be marketed?

Mr. HAYDEN. My judgment is that if this bill passes and Congress makes an initial appropriation, which would commit the Government to the work, that from then on there would be no difficulty in disposing of the bonds at par.

Mr. LITTLE. Are you in favor of the bill?

Mr. HAYDEN. I am in favor of H. R. 11553, to which I have devoted some weeks of time in preparing for the consideration of this committee.

Mr. LITTLE. You were on the subcommittee?

Mr. HAYDEN. Yes; and I have just suggested, Mr. Little, that the orderly way to proceed is to permit a representative of the Imperial Valley to take up this bill section by section and tell the committee what is in it. After we find out what is in the bill we can all discuss it intelligently. There is apparently much confusion in the minds of the committee about three or four different bills which some of the members have not taken the time to read and study.

Mr. LITTLE. I will have to go now to attend a meeting of the Claims Committee, but this suggestion you make appeals to me as being the proper way to do it, and I will keep track of whatever is said here to-day.

Mr. HAYDEN. If you will be kind enough to read the hearings so that you can get a connected idea of what the plan is I am sure that we can depend on your support.

Mr. LITTLE. It appeals to me as the satisfactory way to do it.

Mr. HAYDEN. Unless some members of the committee want to ask further questions, that is all I have to say at present.

Mr. WELLING. How much would that initial appropriation be, in your judgment, Mr. Hayden?

Mr. HAYDEN. I think that an appropriation to cover such a sum of money as might be estimated by Mr. Davis for the work that the Reclamation Service could do in the first fiscal year, say three or four million dollars, would be ample. All that the bond buyer wants to know is that the Government of the United States approves of this project and that if the works are constructed as proposed in this bill, a successful irrigation district will be created which can pay its bonds.

I am making a conservative statement when I say that it might be necessary for the Government to make an initial appropriation. Beyond that I do not believe any further appropriations will be necessary. The representatives of the Imperial irrigation district say that they have presented to them now, by leading bond-buying concerns on the Pacific coast, the positive assurance that they will purchase these bonds at par from the very beginning without asking Congress to make any appropriation at all.

The CHAIRMAN. That is on the terms that they make the interest $5\frac{1}{2}$ per cent.

Mr. HAYDEN. We can increase the rate of interest as provided in the bill. The people of the Imperial Valley are willing to pay a little higher rate of interest. That is their concern and it can be financed in that way. You understand this bill does not carry an appropriation.

Mr. SMITH of Idaho. Of course, it does not carry any appropriation from this committee.

Mr. HAYDEN. I understand that. The bill carries authority to make appropriations. Now, if the bond buyer ascertains—and this is the view of the people representing the Imperial irrigation district—that the two Houses of Congress and the President of the United States have approved the plan; then they say from then on the financing is easy.

Mr. WELLING. Then you might just as well leave out any reference to the Government authorizing an appropriation.

Mr. HAYDEN. To do so would destroy the whole theory upon which the bill is based, because the plan is that the bonds that are issued by the irrigation districts are to assure the United States that any expenditures which it may make will be repaid.

The CHAIRMAN. That is why the Imperial Valley people have come here, to get the recognition of the Government. They haven't had that. They want it and they need such recognition, and as soon as they get it, that the money is going to be carefully expended under the supervision, under the absolute control and administration of the Reclamation Service, it will settle the question that the money is going to be used honestly for the purpose intended, and this will give the proposition standing.

Mr. WELLING. You don't understand, though, that there is an offer of the bond buyers, a bona fide offer? It is mostly up in the air yet.

The CHAIRMAN. Perhaps tentative. The thing that I am interested in here is that it is a good-faith offer. It has not been presented here, of course.

Mr. HAYDEN. I do not want you to take my word, because I am giving you secondhand information, but when Mr. Kibbey appears before the committee he can elaborate the financial details. The fact, as indicated by the chairman, is that but for the inability of the Imperial irrigation district to sell its bonds at par, they would not come to Congress asking for this legislation. They now have a contract with the Secretary of the Interior authorizing the construction of the all-American canal, to do the work themselves, but when they try to finance the scheme under the existing conditions, they find that they must sell their bonds below par and suffer a great loss, running into the hundreds of thousands of dollars, because the bond buyers, the people who would purchase their securities, say: "We do not know anything beyond what you say about the feasibility of your scheme. We do not know who you are going to employ to do the work; we do not know whether the money is going to be properly expended and that you will get results for your money that you should."

Now, if the Secretary of the Interior is given authority, as he is in this bill, to apportion the cost among the various districts, which somebody would have to do in order to unify them—if he declares the project feasible—if he is given authority to do the work; if the title to the works remain in the United States, it places the people of Imperial Valley in a vastly improved situation in selling their bonds, because the project will then have the engineering O. K. of the United States. The bill does not guarantee that the taxpayers of the United States will pay these bonds; no such thing is contemplated. The United States assumes no direct financial responsibility.

Mr. WELLING. Suppose the engineers of the Interior Department would make a very considerable mistake amounting to \$10,000,000 in the cost of the project; it would be that much more than the people of the Imperial Valley, or the people who purchased the bonds, believed it would, wouldn't the Government be under a moral obligation to make that good?

Mr. HAYDEN. No; we have made it perfectly clear that the people of the Imperial Valley and the adjoining districts assume an obligation to pay every cent of the cost of construction regardless of any estimate. We are not going to make the same mistake that was made under other reclamation projects where a promise was held out to the people that the project would be completed for a certain sum of money, and then changed conditions or poor engineering—whatever the excuse might be—led to an increased expenditure. It is distinctly understood that the people of the Imperial Valley and the adjacent irrigation districts will assume an obligation to pay every cent of the cost of the project regardless of what that cost may be, and there is not the least doubt about their ability to pay it. They now have a crop production on one-half the area of the land to be

irrigated which is almost equal each year to the total sum of money to be expended, doubling the area of that land will produce more every year than the total cost of these works, so why should anybody be afraid that the farmers will not meet their obligations?

I would like to have Mr. Kibbey take the bill and give us an explanation in his own way of its purposes. He has been here for some months devoting his entire time to this subject and is thoroughly familiar with it. He knows the reason for everything that is in this bill, and you could not get a better authority to explain it.

STATEMENT OF MR. WALTER B. KIBBEY, REPRESENTING THE IMPERIAL IRRIGATION DISTRICT.

Mr. KIBBEY. Right along the financial question that has been raised here, I wanted to say that as long as that has been discussed, the Imperial irrigation district is willing to put up the money by contract with the Secretary of the Interior which will be necessary in making the estimates which are required under the bill, as you will see as I compare it, in order to carry the expense to the time when the first issue of Imperial irrigation district bonds can be issued. When those bonds can be issued, I will say, as Mr. Hayden has suggested, that Mr. Gavin McNab, the attorney for the Anglo-American Bank, of San Francisco, was sent to us, to our committee; he stated that if an appropriation was authorized in the bill that Mr. Fleishhacker, the president of that bank, authorized him to state to us that if we would increase our rate of interest to $5\frac{1}{2}$ per cent he would take the bonds as issued at par.

Mr. HAYDEN. Has the Anglo-American Bank purchased any bonds of the Imperial irrigation district heretofore?

Mr. KIBBEY. I don't know. Mr. Fleishhacker personally is the owner of lands in the Imperial Valley. He is president of one of the largest banks on the Pacific coast.

Mr. BARBOUR. What is the capitalization of that bank?

Mr. KIBBEY. I don't know. It is a very large bank.

Mr. HAYDEN. I am advised by Dr. Mead that this bank has been the largest purchaser of the bonds of the Imperial irrigation district.

Mr. MEAD. These bonds have all been purchased by California banks. As I understand it, they have been underwritten by two banks, and this bank is one of the underwriters and is the principal purchaser of the bonds that have been sold heretofore. There are some \$8,000,000 of bonds that have been bought, and those bonds are being sold in California to-day—bought by the general public, just like any other irrigation-district bonds, and at about the same price.

The CHAIRMAN. At what price?

Mr. MEAD. Very close to par.

The CHAIRMAN. They will be worth par at once, and they would bring the entire amount of money.

Mr. BARBOUR. Some of the older district 5 per cent bonds are selling at par now, and all of them are very close to par.

Mr. KIBBEY. Now, Mr. Kettner will appear before you again, and he will make the statement that New York representatives came to him and made the same statement with reference to the rate of interest and the salability of the bonds.

The CHAIRMAN. That is, $5\frac{1}{2}$ per cent?

Mr. KETTNER. Five and a half per cent; yes.

Mr. SMITH of Idaho. Of course, Mr. Kibbey, if you expect this committee and Congress to seriously consider this proposition, the bonding companies should put the statements in writing instead of passing them around by word of mouth and expecting Congress to act on them.

Mr. KIBBEY. I assume they will not do it. I do not assume that any bonding company will bid for bonds before they are issued, with no certainty of getting them and with a changeable market. We are talking about the market conditions at this time. Under the law the bonds must be sold to the highest bidder when offered for sale, unless all bids are rejected.

Mr. SMITH of Idaho. Will they come before the committee and make a statement?

Mr. KIBBEY. Mr. Fleishacker lives in San Francisco. Mr. McNab was here and came to our committee, but he had to leave. I did not assume that there would be any question about my statement. I can wire to Mr. McNab.

Mr. SMITH of Idaho. You have not only to convince the members of this committee, but we have to convince the Members of the House and the Senate. We do not doubt your assertion that they have made such statements, but it seems to me we should have something more tangible than a mere verbal statement that has been passed around, a mere rumor.

Mr. KIBBEY. I thought it was tangible when we were offering on the part of the Imperial Valley to put up the money necessary to carry the expense where the bonds could be issued. A tangible statement, if you desire one, will be that we will assure you that no appropriation will be asked of the present Congress.

Mr. SMITH of Idaho. Well, if you are going to modify the bill to that effect, that is a different proposition.

Mr. KIBBEY. Now, Mr. McNab said, and so did the others, that we must have an authorization for an appropriation in this bill to give confidence in the bonds themselves—and that is what is desired, confidence. The only obligation, as I understand it, upon Congress to appropriate money after the passage of this bill is purely a moral obligation; there is no legal obligation upon Congress, as I understand it, to appropriate money within any definite term. We know of authorizations where years and years have elapsed before money was actually appropriated. That is left entirely with Congress.

Mr. SMITH of Idaho. Certainly.

Mr. KIBBEY. Now then, if we release you from that moral obligation to appropriate during the present crisis, which we can do by our statements—and, if necessary, I can get the full board of directors of the Imperial irrigation district to come here and make their statements that we will not ask you for one dollar in the present Congress; that the Imperial irrigation district will, by contract with the Secretary of the Interior, finance the proposition up until the time when the bonds can be issued of that district. Now, when the bonds of the Imperial irrigation district are issued, and if they

sell them—which I don't think there is any doubt of, unless a radical change in the market comes—they, together with the Coachella district, taking the proportion for the Imperial irrigation district under the proportion estimated by the board of engineers—which was 60 per cent of the total; assuming that the Coachella Valley will have 15 per cent of the total—that would build, as Mr. Hayden suggested, an all-American canal up to the point where the other districts could be organized and bonds issued. If any appropriation—assuming that the bonds are sold—is ever needed, it will be possibly \$100,000 or \$200,000 to carry the work on during the time between when the moneys are spent which have been raised from the Imperial district and the Coachella Valley, and during the time when the bonds of the new districts may sell. The bonds themselves, with the Government behind them, at $5\frac{1}{2}$ per cent interest, are a very desirable investment.

Mr. HAYDEN. Are such bonds free from taxation?

Mr. KIBBEY. They are: and that is what makes them so desirable. Now, with reference to the suggestion that the Imperial district cooperate with the Laguna Water Co. and issue bonds and sell those bonds in order to raise a fund in conjunction with the Laguna Water Co., I think I can state that the Imperial irrigation district will never do any such thing under any circumstances. The Imperial irrigation district is not under any circumstances going to raise millions of dollars and turn them over to private interests. They want the Government behind it.

Now, getting back to the bill—and possibly before I go to the bill there is one other statement that I want to make in connection with the statement that I made yesterday.

Mr. WELLING. Mr. Kibbey, would you mind answering a question for me? How much of these bonds would be sold this year? About \$10,000,000?

Mr. KIBBEY. That is a question which would have to be determined by the engineers, the amount that would be necessary. I don't assume that the Secretary is going to call for more than enough to carry the work on.

Mr. WELLING. Now suppose there was put on the market \$10,000,000 worth of these $5\frac{1}{2}$ per cent tax-free bonds: I quite agree with you that they would be eagerly sought after by the men who are now paying, if their incomes are sufficiently large, about 70 per cent or 80 per cent of all their income as supertaxes into the United States Treasury. Your bonds would be sought after if they were considered safe. Do you think the Government of the United States would be doing good sound business if it insisted in the flotation of a bond of that kind which will depress all the other Government securities that are out and now in the hands of the people?

Mr. KIBBEY. I consider the situation this: Now, we would undoubtedly come to Congress asking Congress for a direct appropriation, owing to our condition. I don't think there is any doubt in the world but that we are in the most serious situation of any people in the United States. I don't think there is any doubt in the world but that we are in the most serious position of any people living in

an irrigated area in the world to-day. I am afraid, gentlemen, that the Imperial Valley is liable to suffer more loss than some of our foreign countries who are refusing to pay the interest upon the obligations which they owe us. Now, we would ask Congress to appropriate that money, except for its financial condition at this time. Instead of doing that we are saying to Congress: "Get behind us and we will take care of ourselves in that situation," not by the sale of public lands for the benefit of private interests, but by our own efforts. All we ask is that the Government of the United States lend us the confidence which it has, which will enable us to sell our bonds.

Mr. WELLING. Well, that is very good, and we are all sympathetic with the situation. We all feel that the Imperial Valley is in a very hazardous position, and every member of this committee wants to correct it; but if the Government of the United States gets behind, as you say, the 5½ per cent nontaxable bond and permits it to go into the hands of men who will be eager for it because it will relieve them of paying taxes to the United States Government, don't you think that such a situation would depress the price of bonds held by everybody else, bonds which now draw 4 and 3½ per cent?

Mr. KIBBEY. I can not imagine that \$10,000,000 or even \$17,000,000 worth of bonds, or \$33,000,000 worth of bonds, would have that effect upon the bond market.

Mr. HUDSPETH. Isn't it a fact, Mr. Kibbey, that every city, municipal, and county bond is nontaxable, and they buy those bonds?

Mr. KIBBEY. Exactly what I was going to say.

Mr. BARBOUR. And as high as 6 per cent.

Mr. HUDSPETH. That is my understanding. If I am incorrect I would like to be corrected.

The CHAIRMAN. I think there are some slight exceptions, but that is the general rule.

Mr. HUDSPETH. What are the slight exceptions, Judge? I would like to be informed.

The CHAIRMAN. I don't know, but I believe there are some. I ran across recently some few exceptions.

Mr. HUDSPETH. No doubt you are correct about it. I was under the impression that it was universal.

The CHAIRMAN. The general rule is as you have stated.

Mr. KIBBEY. Now, in further answer to the question, a result might follow, as has been the result in other cases where bonds were sold without the Government behind them, that if they were sold they would have to be sold at 70 or 75 cents, which would tend to further injure the market than the method which we propose. The bonds would still be exempt from taxation.

Now section 1 of the bill is designed to cover the all-American canal.

Mr. HAYDEN. I will read section 1. We can discuss it better after hearing it read:

That the Secretary of the Interior is hereby authorized and empowered to construct a canal and necessary works, entirely within the United States, connecting the present irrigation system of the Imperial irrigation district with Laguna Dam, substantially in accordance with the plans and specifications of the joint survey made by the United States and the Imperial irrigation district under the contract entered into by them February 16, 1918, and to construct

canals and other necessary works for the reclamation of all lands, public or private, which in his judgment are susceptible of successful reclamation by the diversion of water from the Colorado River by said dam; to construct such storage reservoirs and other works as in his judgment are necessary to provide an adequate supply of water for the successful irrigation of such lands, and on behalf of the United States to enter into such contracts and agreements not inconsistent with the provisions of this act, with the Imperial Irrigation district, the Coachella Valley county water district, and other legally organized irrigation districts, water users' associations, and other legal organizations as may be necessary or expedient in carrying out the provisions of this act, insuring compliance therewith and securing the repayment of the total costs of the said canals, reservoirs, and works, and the operation and maintenance thereof.

Mr. HUDDSPETH. Is that the bill we have now under consideration?

Mr. HAYDEN. This is the bill which the subcommittee appointed by this committee prepared and which was introduced by Mr. Kettner.

Mr. HUDDSPETH. I haven't read that bill. I read the first Kettner bill.

Mr. KIBBEY. Now, of course, the principal object of that section is to provide for the construction of the all-American canal and for storage. I think the committee has heard enough testimony on the question of the necessity of the all-American canal, except that I will add that the necessity is greater now than it ever has been for the purpose of changing the point of diversion. The people of Yuma, as the committee already know, have a temporary injunction, which they have not served. Personally I do not think they will serve it as long as the efforts of the people of the Imperial Valley are honest and sincere in trying to remedy the situation. However, they have served notice that no further extensions will be permitted; that they will serve that injunction; that we will not be permitted to put in a weir any more. It is almost necessary that that weir be placed in the river and that work be commenced next month. I am informed through a report of the engineer of the district; when I say next month I mean next March.

If this bill goes through, if this committee reports this bill out and it appears that there is a possibility of the bill passing, I think that we can go to the people of Yuma and get a further extension of time, otherwise I am afraid that there will be a real shortage of water in Imperial Valley this summer. Likewise, in connection with that, I received through this morning's mail a copy of the El Centro Progress, dated January 23. I will not take time to read the article, but it is now said that the Government of Mexico below the line is proceeding to reclaim 350,000 acres of land, is actually at work upon that at this time.

Mr. BARBOUR. That is that land down in the neighborhood of that Volcano Lake, isn't it? The land that they were advertising last summer in the New York Sun that they were going to reclaim, 175,000 acres?

Mr. HUDDSPETH. About where is that, Mr. Kibbey, on that map? Does that map show it there?

Mr. KIBBEY. The purpose, of course, will be to irrigate by means of the canal which now is diverted from the United States and carried into Mexico.

Mr. BARBOUR. In that connection, right there, last August I talked with the Mexican agent in New York, and he told me that they were going to proceed to irrigate that section.

Mr. KIBBEY. I don't think there is any question but what it has been in contemplation for a long time.

Now, there is another feature. That work is being carried on, gentlemen, in connection with the Japanese Government.

Mr. TAYLOR. Is it also being carried on in connection with the Otis interests and people in Los Angeles?

Mr. KIBBEY. I would not be surprised. I can not say.

The CHAIRMAN. Well, what authority have you for saying it is carried on in connection with the Japanese Government?

Mr. KIBBEY. The Mexican Government some time ago, three or four months ago, ordered the registration for the third time of all lands held in private ownership in Lower California for the purpose of condemnation for Mexican use. That was done at the solicitation of the Japanese Government.

Mr. SMITH of Idaho. Where is your authority for making that statement?

Mr. KIBBEY. Well, it is rumor, if you want to know. Part of it is in here, in this paper.

Mr. SMITH of Idaho. But you are making the direct statement now.

Mr. KIBBEY. Well, I have seen the Japanese there. I have seen them interested in those things. I am stating my opinion; I wish the record to show that.

The CHAIRMAN. There are a good many Japanese down there; but what we want to know is what evidence is there that the Japanese Government is interested there in any way?

Mr. KIBBEY. The press reports have it that they were interceding; that a delegation representing the Japanese were there. I saw it in the press reports. The Associated Press correspondent said so. I was not present and I have not seen anybody personally who was present.

Mr. WELLING. Is most of this land being developed down there owned by Americans?

Mr. KIBBEY. This is mostly new land that they are talking of developing now.

Mr. WELLING. The lands referred to in that dispatch—are those lands owned by Americans?

Mr. KIBBEY. No; not all of them; the new lands are not. But the Government itself, the Mexican Government—the article says that "the lands belonging to the Mexican Government"—that these are the new lands that they are attempting to reclaim.

The CHAIRMAN. The reclaimed lands, Mr. Kibbey, the lands that are already reclaimed, mostly belong to Americans.

Mr. KIBBEY. There is no question of that. They belong practically to 8 or 10 Americans living in Los Angeles.

Mr. SINNOTT. Can they condemn that land for other purposes than canals and reservoirs?

Mr. KIBBEY. Under the Mexican law I understand that they can condemn it for any public use, and that is a public use under the Mexican law. I am not talking from personal knowledge but from rumor. My understanding is that they can condemn it for any pur-

pose for resale, for leasing; that they construe that provision relating to condemning for public use so broadly that they can condemn for any purpose.

Mr. HAYDEN. The effect of the cultivation of additional land, would be that the Mexican Government would insist upon the provisions of the concession which permits the Imperial irrigation district to convey water through Mexico and bring it back into the United States, that the Mexicans have a right to half of the water diverted. If half of the water is used in Mexico there will not be water enough left to irrigate the lands in Imperial Valley, so that every additional acre that is put under cultivation in Mexico is a direct menace to your prosperity?

Mr. KIBBEY. There is no question about it.

Mr. HAYDEN. And you are satisfied that new and additional areas are now being placed in cultivation in Mexico, and will continue to be?

Mr. KIBBEY. I am.

Mr. HAYDEN. Which makes it that much more urgent that this relief be granted.

Mr. KIBBEY. And I am also satisfied that it is done in conjunction with the Japanese Government.

Mr. SINNETT. That is on the idea that we ought to beat them to it.

Mr. KIBBEY. This article reads:

The recent visit of Japanese to Mexicali in connection with colonization is said to have been for the purpose of receiving and offering proposals relative to colonization on these lands when they are reclaimed. Many Japanese and a small number of Germans are employed on this project.

Now I think I have drawn a logical conclusion. [Reading:]

Leveling crews are at work on approximately 17,000 acres, 15 miles west of Mexicali, near the border. More than 50,000 acres were placed under cultivation in Baja, Calif., during 1919, and the efforts now to reclaim 250,000 acres, it is stated on authority, is for the double purpose of making available more land for Japanese colonization and to strengthen Mexico's claims against the Kettner measure.

Mr. TAYLOR. Wouldn't it be a good idea to let that article go into the record and let him go on and explain the bill?

The CHAIRMAN. Yes.

(The article referred to follows:)

TO RECLAIM VAST AREA ARID LAND BELOW LINE—MOVE IS DECLARED TO BE ANOTHER BLOW AT KETTNER BILL AN ALL-AMERICAN CANAL AND FOR JAPANESE COLONIZATION.

Approximately 350,000 acres of land in Baja California are being leveled and made ready for irrigation by the Mexican Government.

This sudden activity to bring vast tracts of desert land under cultivation is reported to be another move to support Mexico's claims to water from the Colorado River and that Government's opposition to the Kettner all-American canal and soldier settlement bill, which is now before the House of Representatives at Washington.

Work on 175,000 acres of land south of Volcano Lake has been in progress for several weeks and is entirely a Government undertaking. Water rights have been granted for this tract by the Mexican Government, and attempts have been made to market some of the land in the East.

Agents endeavoring to dispose of it, however, have not approached American investors. The recent visit of Japanese to Mexicali in connection with colonization is said to have been for the purpose of receiving and offering proposals relative to colonization on these lands when they are reclaimed. Many Japanese and a small number of Germans are employed on this project.

Fifty thousand acres of land in the eastern end of the 50-kilometer strip near the Cudaby ranch, which is the condemned area for Americans, are being developed for the second rank packing company of the Big Five.

A third tract of thousands of acres between Mexicali and Volcano Lake is also being prepared for irrigation, according to Americans who were in that district a fortnight ago.

Leveling crews are at work on approximately 17,000 acres 15 miles west of Mexicali near the border.

More than 50,000 acres were placed under cultivation in Baja California during 1919, and the effort now to reclaim 350,000 acres, it is stated on authority, is for the double purpose of making available more land for Japanese colonization and to strengthen Mexico's claims against the Kettner measure.

Mr. HAYDEN. You have finished your explanation of the first section?

Mr. KIBBEY. Yes.

Mr. HAYDEN. To summarize, the first section carries three proposals: First, to construct the all-American canal; second, to construct such other works as are necessary to irrigate the additional lands; and, third, to construct such reservoirs as are necessary. The section concludes by saying that the Secretary of the Interior shall enter into contracts so that the total cost of all such works shall be returned to the United States.

I shall read the second section, and then let Mr. Kibbey discuss it:

SEC. 2. That in carrying out the provisions of this act the Secretary of the Interior shall find and determine the just and equitable proportion or amount of the cost of any such canals, reservoirs, and works to be borne by or made a charge against any such irrigation district, State land-settlement board, soldier-settlement board, water-users' association, and other legal organizations, with due regard to the actual and comparative benefits to be derived by each thereof from the construction of such canals, reservoirs, or works, and no irrigation district, water-users' association, or other organization shall receive any of the benefits of this act nor secure the delivery of any water from the said canals, reservoirs, or works without first accepting the finding of the Secretary of the Interior, as herein provided, and paying, or entering into an agreement satisfactory to the said Secretary to pay, all costs assessed by the said Secretary, and otherwise fully complying with the provisions of this act.

Mr. WELLING. What do you mean by "State land-settlement boards"?

Mr. HAYDEN. The State of California has provided by law for a State land-settlement board, and funds are provided for placing settlers upon lands, building them houses, and furnishing them with live stock and implements, etc. It is to take advantage of that situation in California, and similar legislation in Arizona, where we have likewise authorized the establishment of a soldier-settlement board, whereby the State may aid the settlers. Dr. Elwood Mead, of California, who is in charge of that work, is here and will be very glad to explain the details of the California plan to the committee.

Mr. KIBBEY. Now, section 2, gentlemen, is the only obligation imposed by the bill upon the Secretary to do anything at once, prior to the issuance of the bonds. That is the section under which an appropriation would ordinarily be required at this time, and in connection with that I have stated our offer this morning in behalf of the irrigation district, to put up the money necessary for making that determination. That determination must be made before any work is done, and before the Secretary commences any work it will be logical and proper to require the deposit of the security of the districts already formed.

Mr. BARBOUR. How do you propose to get that money which the district is going to put up?

Mr. KIBBEY. I propose to take it out of the treasury of the district, as part of the expense of the engineering, and enter into a contract with the Secretary of the Interior that when we do put it up, that it will be credited to our portion of the cost.

Mr. BARBOUR. Have you now that money in the treasury of the district?

Mr. KIBBEY. We have very much more than enough to cover that.

Mr. BARBOUR. How much do you contemplate will be required?

Mr. KIBBEY. In talking to Mr. Davis the other day, he estimated \$30,000 or \$35,000.

Mr. WELLING. Hasn't a vast amount of this engineering work already been done, Mr. Kibbey?

Mr. KIBBEY. A great deal of it has been done; yes.

Mr. HAYDEN. As I understand the purpose of this section, there must be some authority, and the Secretary of the Interior is the proper authority, to say what lands shall be included in the area to be irrigated. He must ascertain that in view of the existing water supply, so that people will not be promised water who will not get it. Having determined the total area that may be irrigated, the Secretary will then apportion the costs to the various units into which the total area is divided, based upon the benefits conferred. That is a thing that is perfectly feasible for the Secretary to do, and it is the only way that the project can be unified.

Then the section winds up by saying that no irrigation district or anybody else can obtain any of the benefits of this act unless they accept the finding of the Secretary. That clinches the matter and places the obligation where, in the judgment of the Secretary of the Interior, it belongs, and makes everybody agree to pay for their share of the work.

Mr. BARBOUR. Right there, Mr. Hayden, it is not clear in my mind just the steps that are going to be taken, and just the order in which those steps are going to be taken. First there is going to be some money put up by the irrigation district.

Mr. KIBBEY. For the purpose of enabling the Secretary to determine what proportion the various lands will have to pay.

Mr. BARBOUR. I see; then following that?

Mr. KIBBEY. He will call for the issuance of bonds.

Mr. BARBOUR. By these various districts?

Mr. KIBBEY. By the district which are already formed.

Mr. BARBOUR. Following that, Mr. Kibbey, will you go right along and enumerate the steps that are going to be taken to complete this program?

The CHAIRMAN. He means that as a basis where to determine the amount the various districts will vote in bonds.

Mr. KIBBEY. Yes, sir.

Mr. BARBOUR. I would like to have a statement, all in one place, Mr. Hayden, just the steps that are going to be taken in carrying out this program.

Mr. TAYLOR. Give us a detailed chronological statement of just what they are going to or expecting to do.

Mr. KIBBEY. The first step will be the ascertainment of the proportion which the present organized districts and the new lands shall

pay of the cost. In order to pay the expense of that determination the Imperial irrigation district will enter into a contract with the Secretary of the Interior, agreeing to advance that money. Following that determination, the Secretary of the Interior will then call upon the organized districts to issue their bonds in the proportion which he has estimated. Then those bonds will be sold. Then the real work commences. It will cost, according to the estimate of the board of engineers, \$21,000,000 and a few hundred thousand to construct the all-American canal to the point where the lands known as the east side mesa lands can be irrigated. The Secretary may then, under this bill, determine that water is available for the reclamation of those lands. The Imperial irrigation district and the Coachella Valley County water district would put up, according to the estimate, according to the acreage contained in them, together 75 per cent of the cost, which will raise, according to the estimates made by the districts, an amount in excess of the amount necessary to build the canal to the east side mesa.

The east side mesa district would then be organized and issue and sell its bonds, and the west side mesa district would be organized at that time. You understand, those lands are not in a condition to be organized into a district right now. However, by the time the east side mesa district is organized and they issue bonds, they will raise from their bonds sufficient to complete the entire works. There may be a space, possibly a short period of time, in which there would be no funds, because of the length of time that it will take to issue bonds after a district is formed. That is a possibility, however, and only a possibility. The figures show that if the Secretary declares water available at the first opportunity, that that space of time need not occur; but if it does occur, the appropriation—and an appropriation would be required in that event, which would be three or four or five years from now—the appropriation would be very small and could be repaid instantly upon the issuance of bonds and the sale at par. I think that is the logical sequence.

Mr. BARBOT. That is what I wanted to get.

Mr. HAYDEN. The third section reads:

SEC. 3. That at such times as the Secretary of the Interior shall direct, in order to obtain the benefits of this act, each irrigation district, or other legal organization containing lands to be reclaimed under the provisions of this act, now organized or hereafter to be organized, shall issue bonds in due form as provided by State law, running for a period not exceeding 40 years and bearing interest at a rate to be fixed by the Secretary of the Interior, not exceeding 5 per cent per annum, for such sum as will cover the equitable proportion or amount estimated by the Secretary of the Interior as properly chargeable to such irrigation district or other organization for the construction of such canals, reservoirs, or other works, or of any part thereof, and such district or other legal organizations shall be bound to issue such additional bonds as, in the opinion of the Secretary of the Interior, shall be found necessary to cover all expenditures on account of the land in such districts. When the legality and validity of such bonds shall have been duly confirmed by the courts and their sufficiency for the purpose for which issued, taking into consideration the security which will exist upon the completion of said canals and works, shall have been ascertained by the Secretary of the Interior, he is authorized and empowered to accept such bonds and shall collect the principal and interest thereof and apply the same to the payment of the principal and interest when due to the United States for the cost of the irrigation works constructed under authority of this act.

Mr. KIBBEY. That is one of the sections that I have been talking somewhat about. It is the section which provides for the repayment of any moneys which the Government may be required to expend, and provides for their security by the issuance of bonds. Now, there are the districts organized as we know. All of the lands to be benefited which are not included in a district are to be organized into an irrigation district, and in that way those who acquire lands from the Government will have to repay the cost by means of their irrigation district bonds.

Now, in California we have a law which provides for the confirmation of bonds issued by irrigation districts. Before their sale we may go into court and test their validity, and for that reason I think that California irrigation district bonds are more salable than those of any State not having such a provision.

Mr. SINNOTT. We have that provision in Oregon, but a conclusive test may be made at any time.

Mr. KIBBEY. Our courts have determined that it is an action in rem. That is provided for, and those who fail to come in and contest after the notice required are forever barred.

Mr. HUDSPETH. Do you have the same provision, Mr. Kibbey, in your State that we have in my State, that the attorney general must pass upon the legality of those bonds as to form, and so forth?

Mr. KIBBEY. No; it goes directly to the court.

Mr. HUDSPETH. They are not passed upon by any State officer before they are offered for sale?

Mr. KIBBEY. No, sir; that is determined in the court proceedings themselves, and that is binding and conclusive.

The CHAIRMAN. It is done by the department of justice or the auditor in Nebraska; it used to be the auditor.

Mr. HUDSPETH. Before the bonds can be issued in my State they have to be passed upon by the attorney general of the State and O. K'd by him.

The CHAIRMAN. That is a very wise provision.

Mr. TAYLOR. It is a good provision, but still that doesn't make it a judicial determination.

Mr. HUDSPETH. No; it is not a judicial determination.

The CHAIRMAN. That gives them their day in court.

Mr. HUDSPETH. They, furthermore, have to have the permission of the State bond commission to issue the bonds in your State, Mr. Kibbey?

Mr. KIBBEY. Yes, sir.

Mr. SINNOTT. Do the State laws limit their bond issue to a certain valuation of the property?

Mr. KIBBEY. No; not in the irrigation districts.

Mr. HUDSPETH. It does in my State.

Mr. SINNOTT. And it does with us.

Mr. KIBBEY. That is left with the corporation commission.

Mr. HUDSPETH. They can only issue up to 50 per cent of the value in our State.

Mr. KIBBEY. I have a memorandum of those authorities here.

Mr. TAYLOR. You can put that in later on.

Mr. KIBBEY. I have it and I will say that that is the law in California.

The CHAIRMAN. We must hear Dr. Mead before we adjourn this morning, and I suppose he will take all the way from half an hour to three-quarters of an hour, or maybe an hour. That is owing to how many questions we ask.

Mr. HAYDEN. Dr. Mead said that he would prefer to have an explanation made of the bill to the committee so that they could understand what it meant.

Mr. MEAD. I might say, gentlemen, that I am here at the request of the State authorities, who are greatly concerned in the situation in this district. I have left my duties there and I must be back by the 6th. I can not be with you any longer than to-morrow. Now, whatever I can do to aid you I will be very glad to do.

The CHAIRMAN. I would rather not have a meeting to-morrow.

Mr. TAYLOR. Is Mr. Kibbey going to stay here?

Mr. KIBBEY. I will stay here just as long as is necessary.

Mr. MEAD. If you are not going to meet to-morrow, then this will be the last chance that I will have to appear.

Mr. HAYDEN. If that is the case, Mr. Kibbey will be at our service later. I did not understand that Dr. Mead's time was so limited.

Mr. KIBBEY. Just one thing, if I may suggest it. Dr. Mead asked me to make a statement before he does upon the general situation.

Mr. BARBOUR. Mr. Chairman, why wouldn't it be possible to hear Dr. Mead this afternoon?

The CHAIRMAN. We don't know when we will be called over to the House on a point of no quorum. Proceed with your general statement, Mr. Kibbey.

Mr. SINNOTT. Mr. Kibbey, on this section 3, what is the cost to be incurred by the United States? I was not clear that the United States was to put up any money.

Mr. KIBBEY. There is only a possibility that it may.

The CHAIRMAN. Mr. Sinnott, Dr. Mead has got to go, and I think we had better hear him now.

Mr. THOMPSON. I would like to make a suggestion here just a moment. I am the only member of this committee that is from east of the Mississippi River, and I have been sitting with this committee for some time. I am not very well versed in these questions of irrigation, but I have been becoming educated, but here you have able men on both sides of the table that understand this question. This bill has now been up since the first session; we are not getting anywhere with it, and these men are from the far distant parts of the Republic, and why wouldn't it be a good idea to get permission to sit during the sessions of the House and get this out of the way and report the bill and get some action on it and let the House wrestle with it; then if it goes to the Senate, if it is necessary let the conference committee wrestle with it, but let us do something. The time is going and we are doing nothing, and if we are going to do anything for these people I think we ought to do it.

Mr. SMITH of Idaho. I think you are laboring under a misapprehension. The bill prepared by the subcommittee is now being considered, is a new bill.

Mr. THOMPSON. Several bills have been prepared since last June, but we don't get anywhere.

The CHAIRMAN. Well, we will take it up. Mr. Thompson, after we get through at the next meeting.

Now, Dr. Mead, will you just state who you are? You have a chair in Berkeley College, Calif.?

STATEMENT OF MR. ELWOOD MEAD, CHAIRMAN OF THE STATE LAND SETTLEMENT BOARD, BERKELEY, CALIF.

Mr. MEAD. I am one of the professors in the University of California, and I am chairman of the State Land Settlement Board.

Mr. TAYLOR. I might say also that he is one of the most distinguished irrigation authorities in the world. He lived in Colorado and Wyoming for several years, and nobody in the United States ranks higher than he does. The West is proud of him.

The CHAIRMAN. And was called to go to Australia to help that government inaugurate a system of irrigation, where he served for many years with distinction.

Mr. MEAD. Every one who knows the situation feels a great admiration for what this district has done and realizes that it is now in a very precarious situation. Their prosperity, their rapid growth, has added to the gravity of the situation. There are 50,000 people producing a crop worth last year over \$50,000,000. That is menaced by three things. One is the fact that the land is below the sea level. It is menaced by floods from a turbulent river. There is an insecure headgate in that river, a temporary dam, that menaces the crop each season by danger of drouth.

Then, there is a very grave international situation. The canal going through Mexico, the protective work being in Mexico, the levees that save it from flood, there is the need of some means of dealing adequately with another government in regard to these international questions.

In 1917 I was a member of a board created by the Reclamation Service and the State of California to deal with the question of protection from floods. The other members of the board were Mr. Joseph Jacobs, of Seattle; Mr. D. C. Henning, of Portland, Oreg., both prominent engineers; and our report was to the effect that it was of the highest importance that the Government itself become a party to this development, so that its aid could be secured in dealing with international problems as they arose.

Then there was a contract between the district and the Reclamation Service for an investigation of the all-American canal. I was a member of the commission and I have the proof sheets of its report here.

The CHAIRMAN. Pardon me, Doctor, just a moment. I will suggest here, if it does not seem rude, that we let Dr. Mead proceed until he makes his statement clear through—until he says he is ready for us to ask questions—without interruption.

Mr. MEAD. There again, that board believes that, independent of every other question, it is highly desirable—in fact, it is necessary—that the Government become a party to the control and management of these works and in a position to deal directly with the Mexican Government in regard to international questions; that the construction of this canal does not at all change that situation.

Now, I make that as explanatory of my understanding of the situation. I have been connected with the investigation of it for a number of years. My connection with this legislation grew out of a letter from ex-servicemen who were not satisfied with a provision of the bill, and asking the opinion, our opinion, as to the provision for the sale of land in advance of settlement. Now, we regard that as bad business. We regard it as not calculated to promote the carrying out of this enterprise, but calculated to defeat it, and as leading to nonresident ownerships of land reclaimed—something that the State would greatly regret to see, for a reason that I wish to make clear to you gentlemen.

The legislature of California, mindful of the growing problems of tenantry and the need, if this is to be a real democracy, of keeping open the opportunity for poor landless men to obtain homes, which we had under the free-homestead act, passed in 1917 an act known as the State Land Settlement Act. Under that a board was created and provided with money to buy privately owned land, to subdivide that into small farms and sell those farms to worthy landless people on long-time payments; help them to form cooperative organizations; help them in their development, financing them, furnishing a kind of credit that is not furnished anywhere else in this country—a credit based on character and experience; and by giving them advice and direction, too, in numberless ways aid people to establish themselves permanently on the land with less risk of loss of time and money than is possible in any unorganized, unplanned development.

Now, that was begun as an experiment. The board was limited to 10,000 acres of land and given a small appropriation, but it bought a tract of land and began this kind of settlement. It was an immediate challenge to public attention. Before it was six months old it had been investigated by 20 States and by 5 foreign countries. At the end of the two-year period a committee appointed by the legislature investigated it, and it reported to the legislature that it was an entirely solvent proposition; that the social and political benefits were so great that there was no limit to the extent in which the States could go in carrying out this kind of rural development, and the State, without a single dissenting vote, did all our board asked them to do. They voted \$1,000,000 out of current funds to carry it on, and passed, as I say, without a dissenting vote, an act giving authority for a bond issue of \$10,000,000. Now, that bond issue will be voted on this year, but there is no opposition to it. It has behind it the support of all the important commercial bodies; it has behind it the powerful support of the American Legion, and there seems to be no question as to its passage. And I have received since I came here the form of the bonds to be issued, which has been prepared by the fiscal authorities of the Government for our scrutiny.

Now, the facts are that this new policy justified itself by results. When the inquiry came to us asking our opinion of a proposal to sell this land in advance of development to anyone who might buy, to the man who needed land or to the man who did not need it, we regarded it as a mistake and was not surprised that it had aroused the opposition of people who hoped to obtain farms, either under the State land-settlement act or under some other land act. We felt that when the State was buying land to get rid of certain conditions,

it would be a most unfortunate action for the Federal Government to pass a law to extend those conditions, and that was the ground of their opposition and of the opposition of the State.

I want to say that I have here a recent investigation of the State land-settlement act by the executive officer of the Imperial Land Settlement League of the British Empire, and I don't think it would be a bad idea if that went into the record, because it deals with one of the fundamental problems in this bill.

The CHAIRMAN. It may be placed in the record.
(The paper referred to follows:)

SOME PARTICULARS OF THE DURHAM (CALIF.) COMMUNITY LAND SETTLEMENT.

[By Herbert E. Easton, honorary secretary British Immigration League, who went over the area in November, 1919.]

AMERICA GETTING BUSY WITH THE LAND—HOW PEOPLE ARE BEING HELPED TO BECOME FARM OWNERS.

"Nations may battle, and the world rock with revolution, but the land will care for him who cares for it."

Realizing the only prospect of encouraging the birth of healthy children is to provide them with an environment in which they can flourish, and knowing that the root of most of the serious economic and industrial troubles the world has to face can be traced to the congested state of cities and large industrial centers, America is to-day actively engaged in promoting small land ownership on a community basis. In order to ascertain what progress has been accomplished Herbert E. Easton, the honorary secretary of the British Immigration and Land Settlement League, was invited to accompany Judge Shields, Dr. Elwood Mead (chairman of the California State Land Settlement Board), and several representatives of the California Fruit Growers' and Farmers' Association on a tour of inspection of the Durham (Calif.) land settlement. The following statistics and some particulars of the terms and conditions under which settlers are accepted have been kindly placed at the writer's disposal by the department of agriculture of the University at Berkeley.

Durham is a concrete expression of the California land-settlement act, the object of which is to help people of small means to become owners of farms. It was passed because the rapid growth of alien tenantry was causing political and social unrest. It was felt that private enterprise was not doing the things that public welfare required and that as a result the growth of the country was not keeping pace with the growth of the cities.

Under this act the State land-settlement board is buying privately owned land, cutting it up into small farms, and selling these to worthy landless people on long-time payments at a low rate of interest. It is giving them the benefits of practical advice and training. It is helping them to organize cooperative buying and selling agencies and in many ways saving them from costly mistakes and enabling them to become self-supporting in less time with less money or effort than is possible in an unplanned development.

The California Legislature was the first body to give government aid and direction in settlement in the United States and was regarded as an experiment. The area of land which could be bought was restricted to 10,000 acres. The first appropriation was only £52,000. This is to be repaid in 50 years with interest at 4 per cent. Certainly the State was not overgenerous, and the board, which, outside of its chairman, is made up of hard-headed business men who work without pay, inaugurated this experiment under rather hard conditions.

It began by inviting offers of land in areas of from 5,000 to 10,000 acres. Out of about 40 offers, the board bought a tract of a little over 6,000 acres at Durham, 90 miles north of Sacramento, the State capital. Durham is a village of about 500 people. It is served by two railways, the Southern Pacific, a steam railway, and the Northern, an electric railway. These two railways connect the settlement with the State capital and with San Francisco, the State's metropolis and chief seaport.

California has an extensive system of concrete highways. One which extends from the southern to the northern boundary passes along the western border of the Durham colony land. This State highway and the dozen or more trains

which pass each way through Durham every 24 hours gives the settlers convenient access to the markets of the outside world.

The land is irrigated from Butte Creek, which flows across the settlement by a system of works which belongs to the colony. When bought, there was a rudimentary ditch system, but this has been entirely rebuilt so that water is now delivered to every farm. The cost of the works was added to the price of the land, and every man who bought a farm bought with it a proportionate interest in the works, and all he has to pay is the expense of operating and maintaining the ditches, which will amount to about 6 shillings an acre per year.

Of the 6,200 acres of land purchased, 360 acres had been leased for a three-year period, and this land has not yet been sold. A little less than 700 acres is too high to be irrigated by gravity and it also has not been sold. The area that has been settled embraces, therefore, about 5,000 acres, and on this 90 farmers and 26 farm laborers and their families are now living. The farms, therefore, have an area of a little over 50 acres, but they are not uniform in size, ranging from 20 to 160 acres. The 26 farm laborers have allotments of 2 acres each. All of these are occupied by families living in comfortable homes, and the ground around them is being made attractive by planting and cultivation.

The first step after the purchase of the land was to make it ready for settlement. To do this a soil survey was made and a soil map prepared which showed the land that was best adapted to the growing of grain, fruit, alfalfa, lucerne, and vegetables. This soil map was the foundation of the valuation of the different farms and farm laborers' allotments, and has proven of marked practical usefulness. Then a contour survey giving every change of elevation of 6 inches was made. It was the basis for laying out the irrigation ditches and for the leveling of the surface of the different farms so that water would flow over it evenly. Following the preparation of the soil and contour maps a subdivisional plan of the area was adopted, and when the boundaries of the different tracts had been marked out and permanently witnessed by concrete posts the different farms were valued. It was necessary that the total sum received from the sale of the land should equal the amount paid for it plus the amount that had been expended in building the irrigation system and the estimated amount of money needed to cover further expenses and possible losses.

This has to be provided for, as the enterprise has to pay all expenses. The State gives nothing. It loans the board money at 4 per cent. The whole worked out to an average cost of £30 an acre, and the different farms were to be valued with a view to making them all equally attractive at this average price.

The result was a wide range in land prices on the different farms, the lowest being £15-10, the highest £47 an acre. The number of applicants was several times the number of farms, and so well had the valuations been made that every farm was the first choice of some applicant. The average value of the farms is £1,760; the average value of the farm workers' allotment is £80.

To obtain these farms, settlers are required to make a cash payment of 5 per cent of its costs. The remainder is paid in 40 semiannual amortized payments of 4 per cent, which pays off the debt (principal and interest) in 20 years. In a later settlement the semiannual amortized payments are 3 per cent, which pays off the debt (principal and interest) in 34 years, the interest in both cases being 5 per cent.

It was evident that if settlers' farms had crops growing on them they would be in a much better position to meet their payments than if they took the land wholly unimproved. The board therefore purchased a 75-horsepower tractor and cultivation equipment, which would enable large areas of land to be cultivated and settled quickly. Using this tractor day and night, with three shifts of men, more than half of the land had crops growing on it when the farms were sold.

The California act contemplates only community development, and it is the board's intention not to purchase any areas which will provide homes for less than 100 families.

The act provides that the lands to be allotted shall be thrown open for inspection for 30 days, during which time intending settlers can make their applications. The forms filled out give full information as to their past experience, the amount of capital and equipment they have, and state the assistance they desire. The board is authorized to lend £600 to farmers and £160 to farm laborers to be spent in the improvement of their places. The amount of capital which a settler is required to have is left to the discretion of the board. At Durham, it was the board's belief that to prepare the land for

irrigation, erect the needed farm buildings, and buy the farm equipment would involve a minimum outlay of £900. Of this, the board could furnish £600 as a loan. It held, therefore, that the settler must have the other £300, and no settler was accepted who had less than that. As the farm laborer would meet his payments from wages and would need nothing but the house, which the board could build, he was not required to have any capital.

Before the land was thrown open to settlement it had been examined by the experts of the State agricultural college, who advised the settlers to adopt a combination of dairying, stock raising, and the growing of fodder crops, of which lucerne is the most important. For this kind of agriculture cooperation in buying and selling was important. If the 90 farmers had been left to buy the live stock needed on their farms without any organization or cooperation, they would have been bidding against each other at sales, often buying unfit animals at high prices. Instead of this they formed a cooperative stock breeders' association. They adopted one breed of dairy cattle, the use of nothing but pure-bred sires, and elected a buying committee, which has purchased all the animals now on the settlement.

In this way they have secured better stock at far less money than would have been possible if each individual worked alone. The same principle of organized cooperation has run through the development of their farms. Instead of leaving each settler to look after the building of his house, the board employed a farmstead engineer, who, with competent assistance, has bought the material needed for houses at wholesale for cash, made the plans, and supervised their erection. This left the settlers free to go about the development and cultivation of their farms, increasing their first year's income by growing more crops, and they secured houses that are better built and far more attractive than is the usual rule in unorganized development.

The superintendent of the Durham settlement is a graduate of the Colorado Agricultural College. He had been for five years in Australia as the superintendent in the management of one of the closer settled irrigated areas in the State of Victoria and had spent two years as farm adviser in one of the counties of California. His experience had prepared him, therefore, to understand the needs of settlers and made him a valuable adviser.

The settlers at Durham had an average cash capital of £600. They could borrow £600 from the State land settlement board, and this has enabled them to finance themselves without loans from outside sources.

When the board purchased the land in the spring of 1918 no one had lived on it but tenants or hired laborers for 20 years. Now there are about 120 families, with more than 200 children, all living in comfortable houses, cultivating farms that are in most cases fully improved and on which there are many dairy herds of unusual excellence. What a contrast to the menace of the slum life of the cities; and how it should encourage those who believe in an enlarged use of the State as an instrument of direct service in those things that affect the general welfare.

The average income of settlers who have been on these farms for a year is over £400. They have met their payments to the State and they are in good condition to continue to do so. In 1919 a committee of the State legislature after investigating the colony reported that it was a kind of development that the State could expand indefinitely. An appropriation of £200,000 for immediate extensions was made without opposition, and a bond issue of £2,000,000 was authorized.

While freely admitting the climatic conditions, the extraordinary fertility of the soil and an assured supply of water greatly facilitate the success of settlements such as the one under review, those in other parts of the world conducted on somewhat similar lines would doubtless be equally successful. Of course, it is imperative that they should be controlled by men who, like Dr. Elwood Mead, have an expert knowledge of the business, combined with broad views and a due recognition of the magnificent asset to a country each successful settler becomes. Under such supervision small land community settlements throughout the British Empire could soon be commenced. A good step in this direction would be accomplished by the Empire's respective governments sending officials from their agricultural departments to visit this settlement for the purpose of conferring with the settlers on their holdings and receiving from the officials a full knowledge of the details which have been so thoroughly and carefully thought out.

The first duty of a government being the welfare of its citizens, administrations planning extensive arrangements for the settlement of people on the land can to-day confidently rely on receiving public support.

As most sections of the community, including the banks and other large financial institutions, are alive to the fact that in supporting measures of this kind, they are furthering the only movement that will act as an effectual antidote to the seeds of destructive poison which since the war have been so widely sown, and well known institutions such as the Young Men's Christian Association have already decided upon a vigorous campaign for the brightening and betterment of country life.

In the near future the number of small landowners will be increased by millions, and their influence will be felt to such an extent that those whose business it is to ferment discontent will find that they have lost their chief asset, namely, people who have no interest in a country beyond a parliamentary vote.

HERBERT E. EASTON,

Honorary Secretary, British Immigration League.

NOVEMBER, 1919.

Mr. MEAD. When the question came up of amending this bill so as to make it a bill that would provide actual homes for soldiers, the State land settlement board said: "We are willing to go in with you and give whatever assistance we can"; not that we have anything to gain from it, but simply that here is a board with a large fund for development and a good reputation, whose coming into this enterprise would strengthen it in the minds of bond buyers beyond anything that could be done in California. And I say that because the board has succeeded, and because of public confidence in the personnel of the board. Mr. Mortimer Fleishacker, one of the ablest business men of California, a man of large affairs and very high character. Ex United States Senator Frank P. Flint, is not only one of the leading lawyers but one of the leading business men of Los Angeles. Mr. Wangenheim is a large landowner and leading business man of San Francisco. Mr. Prescott F. Cogswell is a banker, farmer, and member of the board of supervisors of Los Angeles County.

Now, all those men are known all over the State as able, hard-headed business men, who would not be connected with anything that was going to be a failure, who are giving their time because they believe in State aid in land settlement, believe it is essential to the creation of the best kind of rural civilization in the State of California. The establishment of a State settlement in any section of the State is an advantage to that section. The location of such a settlement in any irrigation district is an advantage to that district independent of any money that they might contribute.

Now, we said we would go in to the extent of 50,000 acres of land, and that we would do there what we are doing elsewhere; we would help to develop those farms, so that when people went on them they would find them in such a condition that they could begin at once to lead comfortable lives and earn their living on them. We are developing a soldier settlement in the San Joaquin Valley. The people hoping to get homes are now at work on those farms getting them ready. We bought 100,000 grapevines, and we are saving the settlers \$5,000 by this purchase. We bought 7 tons of alfalfa seed and have saved settlers 12 cents a pound on that. In numberless ways by dealing with this as a unified undertaking, by economies of buying at wholesale for cash, those settlers are being put on those farms quicker and better than it is possible to do in any other way, and we will create a better community. We have offered to help develop and

settle those lands not because we had any selfish interest but because we wanted to help the credit of this enterprise and help create there the conditions that we believe ought to exist in that community. Whatever we do there will be done for a permanent population of farmers owning the land they cultivate, and it will be on small farms. They will not be 160-acre farms; they will be 40-acre farms; and if you will consider the amount of money that it is going to take to develop and pay for a 40-acre farm you will know that 160 acres is no proposition for a poor man. A man can earn a good, comfortable living on a 40-acre farm, and every time that you sell one of these 160-acre tracts to a man who is not a landowner, who is not going to live on it, and doesn't get it for that purpose, you are taking land away from somebody in California to-day that wants it and is willing to live on it; and you are not taking a home away from one family, but you are taking homes away from four.

We have in our files to-day over 3,000 applicants for farms from landless people—we had these when I came away, and they are coming in every day. A delegation came to my hotel here of young fellows who had been over on the other side, graduates of colleges, sons of farmers; the very best human material that this country affords for building up rural life, asking if there was any chance for them to secure farms in one of our land settlements, and I told them, "No; there is no use for you to go to California. There isn't a possible chance." If we had 40,000 acres, and if we were ready to-morrow to put people on 40-acre farms, we could not take care of more than one-third of the actual applications that we have waiting to-day. That is the reason I want you, gentlemen, to think what it means to incorporate in any bill a provision for selling this land to others than actual settlers, without making it an actual homestead settlement. There is no question that selling the mesa land in advance of development is no kindness to an actual settler. It condemns him to pay for land before he can use it, and to wait in uncertainty for years. It would be infinitely better to postpone sale or settlement until water is there, so that he can immediately move on his farm and begin work. It would be infinitely better to work out plans for the farms, to know what sized homesteads will give a living area to work out a scheme for helping settlers on public land as the State is doing in State colonies, to use cooperation, wholesale buying, and the creation at the outset of an organized community life.

Those are the reasons why we have objected to the earlier bills, and why we approve of this bill. I hope that the provisions that are in this bill for the sale of part of any part of the land will be stricken out.

Now, just a word in regard to the money that you would derive from the sale of this land in advance of settlement, or the building of works to supply water. I am quite sure that you gentlemen who are familiar with that country understand what would happen. If you put that land up for sale, it would not all be bought. Buyers would pick out the best tracts; the culls would all be left. There would be created a thing of shreds and patches, out of which an irrigation district would have to be created. It would be all Government land, nor all private land; the best areas would be picked up

by bargain hunters who are on the ground. This land ought not be sold this way; it ought to be considered a heritage of the whole people; everybody should have an opportunity to select a home there, with the sole limitation that they be people that are to live on this land and know enough about farming to utilize it properly.

Now, in regard to financing this proposition, the districts that are already formed, the lands that are in private ownership, ought to provide their share of the cost by the issue and sale of bonds secured by the land. There is no question as to the value or solvency of the Imperial irrigation district if it has an assured water supply, but it would not be a solvent institution if its water supply was in doubt; and that fact is known to every bond buyer. They know the exact situation, and the insistence of bond houses that the Government shall become an active agent in this development is not so much because of engineering questions as it is because of the international situation. People who own Imperial district bonds have been coming to me in increasing numbers for advice about the proposed legislation. What they want, both for the protection of the investments already made and to render secure the supply in the future, is that the Government shall become the directing mind in the carrying out of the proposed works. It is not a local project in any sense. If this mesa land is to be added to the area already irrigated, storage must be provided; otherwise settlers will be misled. There is not enough water in the river at critical times to irrigate this whole area, and if storage is to be provided the reservoir should be built while the main canal is being constructed. This reservoir will have to be located far up the river in another State. Arrangements for its location and construction can be best made by the Federal Government, and the best agency to build and operate this reservoir is the United States Reclamation Service. It has the organization and experience in reservoir building and a success in this kind of construction in the past that ought by all means to be utilized here.

No one is better informed regarding these matters than bond houses. As Mr. Kitbey has stated, these houses believe that the Government should be put in charge of this scheme, in order that they may be assured that the work, if begun, will be completed; that structures will be built solidly; that there will be an authority in charge competent to deal with international complications should they arise. All of these conditions will help to broaden the market for bonds and to give them additional value. There is no misgiving as to the fertility or selling value of the land; no question as to the money return which can be obtained from crops, or as to the desirability of this valley as a place to live.

This leaves one important element in the value of bonds which only those who live in California can understand. No State has a more alert conscience in regard to the ownership of land by its cultivators and the need of making the opportunity for such ownership as broad as possible. This grows in part out of the number of people who are seeking to settle there, in part out of the growing realization of the social injustice of nonresident ownership of land and the dangers of alien tenantry. It was this alert conscience which led to the action of the American Legion against any law which would permit of the sale of this public land to speculators. It is a kind of

opposition which is likely to increase and to become more active in the future, and would be a serious obstacle to carrying out this development under any plan which did not restrict the acquirement of the public land to actual settlers. The way is open to make this development one of the fine achievements of the Federal Government to strengthen the hands of the State in the work it is doing and to begin a movement for building up sound rural communities greatly needed in this country.

All of you know that the governor of Kansas is seeking legislation that will enable that State to do what California is now doing; the State of Washington has provided millions of dollars for Government aid in land settlement; Oregon, Arizona, and other States have passed similar legislation. The 300,000 acres of public land under this project gives the Federal Government an opportunity to do the most conspicuous act in this agrarian progress that can be done anywhere, because of the large area of land to be dealt with and the large number of people for whom it can be made to provide comfortable, prosperous homes. I hope, therefore, that no one will get an acre of this land, except on condition that he goes there and lives on it. So far as the 50,000 acres which the State has offered to develop is concerned, there need be no question regarding its share of the cost: there will be no bond issue to be sold by the Secretary: we will sell our own bonds and pay real money. Our bonds can be sold at home and would be so sold.

In connection with the proposal that the State aid in this development, we ask that the bill contain authority for an exchange of State school lands located in forest reserves or an equal area of desert land on the mesa, which would be developed and settled by the State. This exchange has the indorsement of Gov. Stephens, of the State board of control, which is the budget-making body of the State educational authorities, and the surveyor général. The State of California has 100,000 acres of school lands in the forest reserves; it will simplify management to have these lands all under the control of the forest-reserve authorities; they are of no present value to the State, because the timber can not be taken from them profitably in these isolated areas.

Turning over 50,000 acres to the Federal authorities helps Federal management. It would not be done unless the lands were approved by the Secretary of the Interior; but if he approved and the transfer was made the school authorities would sell those lands to the State land settlement board at about \$10 an acre, which the settlers would pay. This would give a substantial addition to the school fund and would help make this development popular throughout the State, because so many State interests would benefit. I was sure that the objection which had been raised was due to the fact that the nature of the transaction was not understood in the Department of the Interior, and when the president of the State board of control sent me a telegram giving the reason for that body's interest in the matter I at once sent it to Secretary Lane, as Mr. Finney explained to you yesterday, the Secretary approved the transfer under the conditions proposed, and the Interior Department has withdrawn its objection to this provision remaining in the bill.

I think I know as well as any one in California what will help to make irrigation bonds on this area attractive to bond buyers. I be-

lieve that if this bill becomes a law, the Imperial irrigation district can do what its representatives say it is willing to do. I believe that the Federal Government ought to finance a part of the cost; that is, it ought to provide the money needed to build works for its own land; but there will be no need of making any appropriation for this for some time to come—probably for two years; and this financing could be done through legislation that would create a district on the public land. The State's share of the cost would be paid beyond question. Its participation in the development will be only second in value to that of the Federal Government. Under this bill there is nothing to prevent not only building up an agriculture that will add yearly millions of dollars to the value of the products grown but also should create on this mesa land a kind of rural civilization that this Nation needs. It would be made up of people wedded to the land, having an affection for their individual farms, not holding them to obtain high rents but as a place where they and their children could live the life that they enjoy. We want to help make this new area the abiding place of a home only and home-loving people, and that is the reason why I am here.

Mr. EVANS. Will you read the telegram, doctor?

Mr. MEAD. Shall I read it?

The CHAIRMAN. Yes; go ahead and read it.

Mr. MEAD [reading]:

SACRAMENTO, CALIF., January 27, 1920.

Hon. ELWOOD MEAD,

Cosmos Club, Washington, D. C.:

Sincerely hope for cooperation between Departments of Agriculture and Interior in this land-exchange matter. California has about 100,000 acres of idle lands in Federal forest reserves received originally from the Government, and we are simply desirous of trading half of this amount for lands in desert available for soldier and sailor land settlements. The State of California has keen interest in this particular movement and if we get the land desired we will not only convert idle desert into productive farms but will place thereon men who have served the Nation in the World's War.

STATE BOARD OF CONTROL.
MARSHALL DEMOTTE, Chairman.

Mr. SMITH of Idaho. May I ask you a question there? Would it not be much more to the advantage of the State to buy this land at \$1.25 an acre than it would to exchange school lands for it?

Mr. MEAD. Well, the State is furnishing this fund for soldiers. It is just a matter of teamwork within the State.

Mr. SMITH of Idaho. Could they not exchange their school lands for lands elsewhere, Dr. Mead?

Mr. MEAD. No; there is objection to that.

Mr. EVANS. In that way California would be amply able to provide for her quota of soldiers that went away—or her proportionate number.

Mr. MEAD. Oh, I don't think if we did that we would restrict settlement to California soldiers.

Mr. EVANS. I mean an equal number.

Mr. SMITH of Idaho. Another question, Doctor. Do you think it would be advantageous to limit the homestead entries to 40 acres? Do you think you could find men who would go there and live on 40-acre tracts?

Mr. MEAD. I am not saying that in your act it is necessary to do it, but I am saying so far as our board is concerned we would do it.

If you undertake to figure what it cost to finance a settler on 40 acres, you will see the reason—now we have completed the Durham settlement—we say it is completed because the land was overapplied for when thrown open. The settlers on it have made three payments, and those payments have been made in full. They are made out of the earnings of the land.

Mr. BARBOUR. Right there, how does the land in the Durham settlement and the other settlements in California compare with this land on this east mesa?

Mr. MEAD. In location it is better; it is in the heart of the State.

Mr. BARBOUR. Well, in quality of soil and productivity?

Mr. MEAD. It is as good. I don't think there is much difference.

What I wanted to explain was the cost of development of farms that are only about 40 acres in area. It has involved an average investment of \$7,000. If we pay our proportionate share of the cost of the all-American canal, of the reservoirs, of the distributing canals, and then the leveling of the land, it will require an investment of about \$150 an acre. That is, \$6,000. Then, there is the cost of the house, the live stock, the equipment, the living expenses until the settler gets started; even on 40 acres, this involves a large outlay for each settler. In our first settlement the farms have an average area of a little over 40 acres; yet some of these men last year earned over \$5,000.

Mr. SMITH of Idaho. On 40 acres?

Mr. MEAD. Yes, sir.

The CHAIRMAN. What did they produce?

Mr. MEAD. They produced mainly alfalfa.

Mr. WELLING. Dr. Mead, what percentage of these men have fallen down on you?

Mr. MEAD. Have fallen down?

Mr. WELLING. Yes.

Mr. MEAD. Not one of them.

Mr. WELLING. Not one?

Mr. MEAD. No.

Mr. WELLING. Sort of hand picked, weren't they?

The CHAIRMAN. You sift them out in the first place?

Mr. MEAD. We did, but we didn't pick them for money; we gave preference to the tenant farmer, the man who was renting, who had a family, because we felt that we wanted children planted as quick as they could be on a piece of land that they owned.

We have one feature there that is new in this country, but it is the most important feature of this development. We have 26 farm laborers on homes that they own—2 acres of land—which a man that didn't have any capital could come and buy, and we would put him up a comfortable house and give him the same time to pay for it we gave farmers, which is 20 to 34½ years. He pays 6 per cent a year, and this pays off the principal and interest in 34½ years. The right kind of farm laborer is a skilled laborer; and if we are going to keep that kind of men on the farm, we have got to fix conditions so that they can marry and have a family and bring their children up so that the children will feel a pride in their home and the occupation of their father, and they will then be the farm owners of the future.

Now, the American was being driven off of the farm in California as a farm laborer. Everybody knows that. Every report of the

State showed it. We wanted to change this to make California an attractive home of the American farm laborer.

Mr. TAYLOR. And you want 50,000 acres of this project occupied by genuine Americans?

Mr. MEAD. Yes. We put 26 farm laborers in homes of their own at Durham. If we had had twice as many, we could have found work for them on these small farms.

Mr. THOMPSON. Is that the Durham settlement?

Mr. MEAD. Yes, sir.

Mr. THOMPSON. Where is that located?

Mr. MEAD. In Butte County.

Mr. THOMPSON. In northern California.

Mr. SMITH of Idaho. Have you any printed report of your activities there?

Mr. MEAD. Yes.

Mr. SMITH of Idaho. Could we be supplied with it?

Mr. MEAD. Yes; I will supply those for the committee.

Now those people, as I say, went on there and we furnished them houses; we built them comfortable homes. Some of those houses cost \$1,800. There isn't a single farm laborer that hasn't met his payments, and most of them have more than met them. We had farm laborers go on there that only had the \$20, and they have built and paid for their houses without our doing anything. We have had farm laborers there that made—that saved last year \$1,000. Of course wages have been exceptionally high, but they meet with the farmers in the cooperative associations. I would just like to show you some of the activities that do not belong to the ordinary rural communities.

Mr. EVANS. May I ask a question there, Doctor? Do you believe that if the State of California had the administration of their lands that it would be to the advantage of the development of this plan?

Mr. MEAD. Well, it might not have been in the past, but it will be under a system of this kind.

Mr. EVANS. Do you think it would be a good arrangement for the State and the Nation?

Mr. MEAD. There is very little land left. This is the only large body of public land that can be placed under this kind of cultivation.

Mr. SINNOTT. Doctor, I wish you could make your speech for the legislative committee of the National Grange and of the Patrons of Husbandry. I think they are people that need a little information.

Mr. MEAD. Now these pictures are taken in less than a year from the starting of that settlement [presenting photograph].

Here is a report on this matter, and I will be glad to send it to the members of the committee.

The CHAIRMAN. Just send them to the committee, and we will distribute them to the members.

Mr. MEAD. I know it is the belief of all the members of the State board that we have here the germ of something that is going to make us go on in the same course we followed in the century that closed.

Now let us take one of the members of our board, Mr. Fleishacker, who is, as I say, a very large business man of California—

Mr. BARBOUR. That is Mortimer Fleishacker, who was mentioned by Mr. Kibbey?

Mr. MEAD. No; that was his brother Herbert. But they are both bankers.

Mr. BARBOUR. Interested in the same bank, are they not?

Mr. MEAD. No. They own two banks. Each one is president of a bank.

The CHAIRMAN. Doctor, I would ask you to just state any specific objection, briefly, to the pending bill, the subcommittee's bill, 11553.

Mr. MEAD. Just let me finish what I started to say about Mr. Fleishacker. Mr. Fleishacker stated that in the past he had been largely connected, interested, in colonization enterprises; that since he has been connected with this board and has come to know intimately the lives of the people who were buying farms, and saw how severe the struggle was, he has come to the conclusion that colonization was not a private matter. He believes it is a function of the State, the duty of the State, and that the State in carrying it out is laying the solid foundations of its future.

Mr. TAYLOR. Dr. Mead, I would like to ask you, is I may, a kind of international question. You can make such answer as you deem proper to go into the record, or make it not for the record. The question is this: We are seriously considering the expenditure of some \$30,000,000 for an all-American canal as shown on that map. What I want to know is this: If Congress authorizes that vast outlay of money, does that let us get away from the menace and uncertainties and hostilities and other hazardous and very unsatisfactory conditions in Mexico? In other words, haven't we still got to always maintain elaborate dikes and dams and have caretakers down in that country all the time and be subject to whims and animosities of those people anyhow; and aren't we in such a condition that they can always wantonly, arbitrarily, and even maliciously impose upon us utterly unjust, unreasonable, and outrageous demands for the mere privilege of our being able to protect the Imperial Valley proper against the floods of the Colorado River? In other words, will the expenditure of this enormous sum of money really accomplish what every loyal, patriotic American citizen would like to accomplish, and that is to permit the Imperial Valley to get away from being held up and sandbagged and infamously bludgeoned and robbed by certain people in Mexico in conjunction with certain wealthy people in the United States? Now, can we accomplish it by this, and if so, how; and what is going to be the result if we go ahead and build this all-American canal? Now, tell us just where are we at in this situation.

Mr. MEAD. I would like to answer that with great candor, but I would rather it would not go into the record.

Mr. TAYLOR. I think you are correct, that for international reasons your answer had better not go into this printed record. But I know this committee would like to have your judgment on this situation, not to be printed.

(Mr. Mead made a statement which was not placed in the record.)

Mr. SINNOTT. I would like to ask you a question to go into the record on that matter.

I have inferred from your statement that there is not sufficient water to be obtained at the Laguna Dam with the present storage to irrigate this entire project, but that storage works, additional storage works, will have to be constructed up the stream?

Mr. MEAD. Yes, sir.

Mr. SINNOTT. That is correct, is it?

Mr. MEAD. Yes, sir.

The CHAIRMAN. Have you any objection, Doctor, that you would point out, to the bill H. R. 11553—the subcommittee's bill—which you have been discussing?

Mr. MEAD. There is only one provision that I would like to make in that bill—that all of that land is to be disposed of to actual settlers only.

The CHAIRMAN. With some homestead restrictions?

Mr. MEAD. Well, a homestead of not over 160 acres.

Mr. HAYDEN. You then approve of the suggested amendment submitted by the Secretary of the Interior, wherein he states that it should be a homestead settlement?

Mr. MEAD. Yes; I approve of that.

Mr. HAYDEN. And you have read the bill and are otherwise satisfied with its other terms?

Mr. MEAD. Yes, sir.

Mr. HAYDEN. Do you believe the plan proposed in the bill to be feasible?

Mr. MEAD. Yes, sir. We have already indicated our confidence in that bill by saying that we were ready to come in as a partner in it, as a board.

Mr. BARBOUR. In reply to the question asked by Mr. Sinnott, did I understand you to say that storage is necessary in order to provide water for the lands on the American side?

Mr. MEAD. Yes, sir.

Mr. BARBOUR. I have heard that discussed a good deal.

Mr. SINNOTT. How much additional storage is necessary, Doctor, in addition to what we have?

Mr. MEAD. I could not undertake to state in figures, but they grow crops of tremendous acreage value, and it is a hot country, and this justifies large expenditures to be sure that water is assured every day in the year. That is the main point. There may not be very much water needed.

Mr. SINNOTT. What is the general average used?

Mr. MEAD. Three and one-third to three and a half acre-feet.

The CHAIRMAN. It is time for us to adjourn now. We are very grateful, in the first place, to Dr. Mead, and I feel much instructed, and I am sure all the members of the committee do, by his able address.

Mr. MEAD. I am very glad to have had this opportunity to appear before you, gentlemen, to have you understand the situation in the State of California.

Mr. TOM C. YAGER. Before we adjourn, Mr. Chairman, may I ask the doctor just one question?

The CHAIRMAN. Yes.

Mr. YAGER. As I understand it, the estimated cost of the land under the project will run to the extent of about \$30 an acre over the land irrigable under this project. The question I would like to ask is, if the State of California is not at the present time prepared to put up that cost, \$30 an acre, for 50,000 acres?

Mr. MEAD. We would not be prepared to put it up now. We will be prepared to put it up just as soon as we are in a position to place

settlement in there. We are prepared to put up the money on the conditions stated in this bill.

Mr. YAGER. That is contingent upon the bond issue by the State of California of \$10,000,000?

Mr. MEAD. Yes.

Mr. YAGER. What portion of the \$10,000,000 would the State spend on this 50,000 acres?

Mr. MEAD. Well, we fix 50,000 acres as the area that we could carry.

Mr. YAGER. Is that to be expended for improvement work or for part of the \$30 cost of construction?

Mr. MEAD. That we would have to determine by the board. I am not in a position to go into those details.

Mr. YAGER. As I understand it, it is a matter of finance principally on the construction, and I ask those questions to see what portion the State could spend.

Mr. HAYDEN. There would be no reason why the settlers placed upon the land by the State of California could not organize an irrigation district?

Mr. MEAD. They can.

Mr. HAYDEN. And float their bonds the same as anybody else?

Mr. MEAD. We could float district bonds or we could make the payment and charge it into the land at the price we sell the land at.

(Mr. Mead submitted the following papers:)

[The Country Gentleman, Philadelphia, Dec. 20, 1919.]

Whenever the State—any State—tackles a business venture outside the narrow realm of routine government, the judicious always grieve. The range of activities in which the people's representatives can profitably engage seems to be about as limited as Aunt Susie's song repertory. Usually the taxpayer is forced to engage in a little game where the cards are all nicked and the joker is running wild—very wild.

This being so—and I'll warrant that most everybody except the chronic peddlers of sunshine think it is so—there was a good deal of headshaking and shoulder shrugging when the State of California voted, in 1917, "with the object of promoting closer agricultural settlement, assisting deserving and qualified persons to acquire small improved farms, providing homes for farm laborers, to acquire, on behalf of the State, agricultural lands suitable for cultivation and colonization in an area of not more than 10,000 acres—and to subdivide and sell such lands to approved bona fide settlers."

This quotation is made up of several sections of the legislative act which created the land-settlement board, but it is the gist of the California land-settlement act.

Section 1 of this act spoke as follows: "The legislature believes that land settlement is a problem of great importance to the welfare of all the people of the State of California, and for that reason, through this particular act, endeavors to improve the general economic and social conditions of agricultural settlers within the State and of people of the State in general."

Well, anybody could say that. That was like saying that there is a great deal of unrest in the world, and that it would be to everybody's advantage to have it stopped.

But in spite of the obese generalization with which the legislators of California began their act, there was one promising bit of evidence that perhaps the legislature had started something on the right foot. That was the shrill scream of indignant surprise which went up from every land shark and soil peddler from Siskiyou to Calexico.

The land speculators acted just as though somebody had rushed forward and stepped upon their pet corns. They shrieked something concerning the State's minding its own business; as if the State—any State—had any real business except the welfare of its people. Right there the judicious took a long swig of hope right from the spigot.

Because, as is well known, no State in the country has suffered more from the rapacity of land speculators than California. From the very beginning it has been a wild cry of caveat emptor, and let the devil take the hindmost. This will occur, inevitably, with the opening up of fat new lands. But in California the settler, unless he was a genius for business, usually started in his young life by getting sandbagged. The common method of settling a piece of land was to invite everybody to come and farm and get rich, to promise everything and perform nothing. To leave a settler as flat on his back as an inverted sea turtle was considered in land-speculative circles a rich joke.

Now, we all know that when a sucker is tolled onto a piece of land on which he is destined to go broke it isn't only the sucker who suffers. Everybody in the State where the sucker draws his last agricultural breath has to pay for the mistake. California has paid heavily for every simoleon torn away from the guileless settlers.

It was to put real settlers on real lands properly prepared for agriculture, with a real chance to stand the gaff till fruition came, that the Land Settlement Board of California was created. The notion of the board was to bite off only as much as it could chew. Or, so to speak, to vaccinate a small crew and then wait a bit to see if the virus took.

About a year and a half ago *The Country Gentleman* printed an article describing the functions of the land settlement board, telling what had been done at the first settlement—that at Durham, in Butte County. The settlement had then been going less than a year and it was a little too early to pass judgment as to its chances, though they seemed good. Consequently the article was written, properly enough, with some caution.

Now, at the end of another 18 months, with every tract of land of the colony under cultivation by settlers, it looks like a sure bet. It is a gladsome thing to be able to say that the State of California and the land settlement board have gone into business and made good. The Durham land settlement is so complete a success that the board is looking for another area, of 10,000 to 15,000 acres, or for two areas of 5,000 to 10,000 acres apiece, where more settlers can go and do likewise. There is a waiting list of competent men, with families, and money in hand, yards long.

The writer has just completed a trip of visit and search at the Durham colony. He confesses that he went to Durham in a skeptical frame of mind, partly because he is a conservative on legislative stunts for farming and partly because he was planning to write about it for a class of readers who do not get all perspiry about a scheme because it is new or because it looks well on paper.

For one thing, various schemes of putting the man on the land have been tried since Noah embarked on the ark—without too much success. Anybody can settle a piece of soil. In 10 minutes, on the main street of any large city, you could, with a blue print and some colored pictures of lambs gamboling on a green hillside, induce several hundred men to go right back to the land, especially if you didn't demand that they bet any money of their own on their chances, and if you didn't bind them to stay more than six weeks. But you wouldn't thereby lift the noble science of agriculture more than 2 inches from the ground, and when she fell back she'd fall hard.

Without qualification, I'm here to say that the State land settlement at Durham, Calif., is a success. It is a big, genuine, all-round success. And it is a success precisely for the reasons that the usual back-to-the-land movements are not successes—because it is based on shrewd, everyday, fundamental points of common-sense farming and judgment of human nature.

The lecture-hall wheezers on the subject of land settlement believe that all you have to do is put a man on the land, give him what is commonly considered a chance and he will be happy and the land satisfied. Dr. Elwood Mead and the other members of the land settlement board of California believe that if you find the right man and put him on the right land and give him nothing but the kind of help that will make him better able to use his own money and his own talent to the best advantage, he will be happy and the land will be satisfied and the State will gain.

A PLACE FOR SKILLED LABORERS.

And when I say happy I mean, of course, relatively happy. Some farmers—good farmers—are happy in staying where they are all their lives. Some are happier by moving once in a while. The personnel of the Durham colony will

change from year to year, or at least from decade to decade. No matter how much money they make there, some will want to move on to pastures new. But that will not hurt the colony. Later in the article I shall show why it won't.

The land settlement board was authorized to buy, improve, and sell to settlers 10,000 acres of land. A total of 6,219 acres, located in Butte County in the Sacramento Valley, were purchased by the State of California, and this acreage is now the Durham settlement. Part of the land was under cultivation at the time of purchase and had water rights from Butte Creek and a rudimentary irrigation system. The cost of the land which could be irrigated was \$100 an acre. About 700 acres, which were above the ditch, cost the State \$10 an acre.

Irrigation rights were made certain; sanitation was insured; a soil survey was made, and designs for houses and farm buildings were assembled. The sizes of the farms were determined so as to give considerable choice to intending settlers, but keeping each farm within such limits that one family with one farm hand could take care of it. Farms suited to fruit growing were small; units suited to farm crops were larger, even as high as 160 acres.

But the board foresaw that the needs of a rural neighborhood demand something more than farms and farm owners. There was need for carpenters, blacksmiths, laborers. So 26 areas of 2 acres or less were located in three groups at separate parts of the settlement. The notion was to permit the laborer to have enough land to raise a garden, keep a cow and hens, and take a genuine interest in his locality. If he developed a liking and a capacity for farming, he could later qualify for a farm in one of the future settlements.

And so now the lands, properly ready for cultivation and in some cases already under grain, alfalfa, and other crops which, already established, would have to be paid for by the settler, but would insure his being just so much ahead of starting with bare ground—now the units were ready for the men and their families.

This was, of course, the rub. The land kings who settled people on their speculative acres never worried about the kind of settlers they got, so long as they got the settlers' money. But to the State colony the man was all important. In the first place, the board insisted that each approved applicant should have not less than \$1,500 in money or its equivalent in live stock and farming implements. A good deal of objection was made to this provision by well-meaning persons who said that it would exclude worthy and deserving persons who needed just such a chance as the colony would offer. But most real farmers will see, I dare say, that this was another evidence that the land-settlement board was getting off on the right foot—using horse sense.

It is probably true that some worthy persons were thus debarred. But it is a fifty-to-one shot that a prospective colonist, of any age suitable for membership, who hadn't been able to accumulate the equivalent of \$1,500, wouldn't make a high-grade farmer at Durham. Besides, the assumption of the farm and improvements and equipment meant an investment of anywhere from \$5,000 to \$20,000. It is easy to see that a penniless man, besides the fact that he was gambling with other people's chips, would be staggering under too heavy a load.

The settlers had to make a cash payment on the land of 5 per cent and have 40 years, if necessary, to complete their payments. They can obtain a loan of 60 per cent of the cost of houses and other permanent improvements and have 20 years to repay this loan. Default of a settler calls for cancellation of the contract of purchase, though under deserving or unusual circumstances the board would probably carry a man along if he had the stuff in him.

The settlers had to begin actual residence within 6 months and must live on the farm at least 8 months a year for 10 years. Provisions are made to prevent the lands from being filed on by dummies for speculators. If any land speculators can get hold of these valuable Durham lands, in spite of the safeguards the board has thrown around them, they will deserve all they get.

But the intending settlers, though they were required to have at least \$1,500, had to have a good deal more than money. When there were several applicants for a single farm they were asked to appear personally before the board. Mind you, these Sacramento Valley lands which the board had selected were not the kind to go begging. The board was swamped with applications from the jump. Because I think my readers will be interested in the concise details of a land-settlement scheme of such extraordinary scope, with its import to agriculture, particularly in that phase which will have to do with locating ex-soldiers upon the land, I am going to quote here some of the leading questions which the applicant had to answer:

"For what business or purpose do you intend to use the land for which you apply?

"What experience in farming or stock raising have you had?

"What financial assistance will you require to enable you to work the land successfully?

"Are you single, married, or a widower? If married or a widower, state number of children dependent on you.

"What agricultural land or possessory rights thereto do you at present hold or have you an interest in? State particulars, including description.

"What is the value of such agricultural land or possessory rights thereto?

"Do you intend to breed live stock?

"Do you approve of the plan of having only one breed of dairy cattle, one breed of beef cattle, and one breed of hogs?

"I favor the following breed of live stock:

"Dairy cattle-----

"Beef cattle-----

"Hogs-----

"Sheep { -----

"I desire to become a breeder of-----

"Do you agree to become a member of a cooperative stock breeders' association, of which all stock breeders in the settlement shall be members, as required by the rules and regulations of the State land-settlement board?"

With answers to these questions and many others before them, Dr. Mead and his associates could decide whether the applicant possessed that true voltaic wiggle in his think tank which would make him not a brother to the ox but a successful, resourceful farmer. The answer is, anyhow, that the present colonists at Durham are a keen, eager, prosperous group of men.

The men who took the farm laborers' allotments were not required to have any capital or equipment, but the board had to exercise even more caution in disposing of these units. In general, married men with families were chosen. A lot of applications came from honest, nonindustrious people who thought they would dearly love to live in such pleasant surroundings as those of the Durham colony. Some of these applicants had education, refinement, incomes—almost everything but the desire to work. The heavy hand of restraint was laid upon these yearners.

THE RIGHT MEN IN CHARGE.

There was one thing more which tended to bring success to this experiment—the first of its kind in the country. The right men were in charge of the whole scheme from the beginning, and they, in turn, got the right men to execute the details. Dr. Elwood Mead, besides being an authority on land reclamation, colonization, rural credits, and the like, had made a long study, absorbing the best ideas of Australia, New Zealand, Denmark, and other countries which had colonized settlers. George C. Kreutzer, the superintendent, had been with Dr. Mead in Australia and was in earnest sympathy with the basic elements of the plans. As to irrigation, the board had the advice of a State university expert; the same was true of the problems of architecture, health conditions, surveys, and other vital departments of analysis and project.

These men, enthusiastic about the venture, inoculated others with their enthusiasm. After all, the galvanism of enthusiasm is what creates. Money alone, even the State money, has no magic. Knowledge alone seems to have the brakes set against it, without the winning accompaniment of faith. So far as I can learn, politics has been told to go back and lie down, throughout the achievement of the board's plans. That was a godsend.

It was a fine, sky-blue morning when I arrived at Durham and went to the colony office—no gorgeous affair with mahogany appointments, but a rude, workmanlike shack in which there was evidence that work had been done and more would be.

Mr. Kreutzer, the superintendent, was unavoidably absent on colony business, but the farmstead engineer, Max E. Cook, took me in hand and modestly offered his services as guide and interpreter.

The natural surroundings of the Durham colony are inspiring and beautiful. Away to the east is the rugged background of the Sierras, with Mount Lassen

In the distance; on the west the almond and prune orchards beckon for miles toward the foothills of the Coast Range. The floor of the valley is dotted with fine old oaks, and upon these oaks, in spots, huge wild grapevines have reared their thick foliage.

The wisdom of the land settlement board's plan of seeding as much land as possible to crops before the sale to settlers is immediately apparent. Instead of a half-barren crowd of units, upon which the settlers are struggling to do 10 things at the same time, there are rich fields of alfalfa, and in the early summer there were fine fields of wheat and barley ready for the knife and stubble thereon ready for the hogs.

The settlers paid the State all the expenses of planting the grain crops. It was no charity or pampering expedition. The profit to the board from these crops was more than \$2,000. The ditching and leveling of the land and the seeding to alfalfa were regarded as permanent improvements, and the settler paid 40 per cent of the cost.

There are two classes of settlers in whom the farmer, visiting such a colony, would be interested. There are the possessors of the farming units and the occupants of the laborers' areas. The latter are almost as important as the first, for reasons that any up-to-date farmer knows. The importance of having at hand capable artisan and field help when needed is elementary.

The first unit to which we came was that of Axel Lo Strom. Lonstrom is one of the few bachelors of the colony. He is a real farmer, with sugar beet and alfalfa experience in Kern County; something of a voyager, too. Altogether, you might say, one of those rolling stones that have defied the ancient adage by gathering moss as they rolled. He was in Alaska for a number of years. Now he is the proud possessor of 40 acres or so of valley land, much of it in alfalfa cutting an average of $2\frac{1}{2}$ tons to the acre at a cutting—some of it totaling 12 tons to the acre. He paid the State \$238 an acre for his unit and expects to pay for his place in three or four years and have it set clear, if everything goes well. He raised alfalfa before and knows what he is doing.

Lonstrom is the handler of the community boar. For you must know the colony has decided to specialize on certain breeds of live stock—Holstein cattle, Duroc-Jersey hogs, Romney Marsh and Rambouillet sheep. Also the beef breed will be Shorthorns.

THAT JOYOUS "T. B." DANCE.

Carl Nielson was the next man we visited. Nielson is one of the show settlers of the community. I had a feeling that I was reaching some unusual man and place when I observed that the embankments of the irrigation ditches on the farm we were approaching were all free from weeds and brush. Then we came to a rugged, ruddy man, with a flaxen-haired little girl, building fence along the roadside. That was Nielson. That was the settler who drove onto the Durham grounds one day in a creaking jitney and allowed that he was a candidate for an allotment. He didn't look like much of a farmer or anything, he had been traveling so far in the dust, but when they asked him if he had the requisite equivalent of \$1,500 he breathed a long sigh and said he had \$12,000. And while waiting for an allotment he shoveled concrete at day's wages. He was that kind of a man.

Nielsen, a born cattle handler, is the keeper of the community bull—or one of them. Fred Kiesel, the banker of Sacramento, gave the colony a Holstein sire of fine breeding; another sire was bought. And just to show how this bunch gets together, I'll tell how they bought it.

When the settlers decided on the sire, which was a grandson of Tilly Alcartra and cost them \$600, they didn't go out and borrow the money, as they might have done. They held a meeting and sold debentures. It took a few minutes by the clock to dispose of the debentures. Service fees of \$10 will soon take care of the baby bonds.

Then, here's another thing. The dairymen of the colony voted to produce grade A milk and nothing else. To do this, of course, barns and equipment have to be put in a certain degree of sanitary perfection. Also, it was necessary to have a tuberculin test. That meant that they lost cows. But a few weeks later they held a "T. B." dance and took in enough money to write off part of the loss. It is interesting to note that one of the men who was strongest for the test lost the most cattle. He never winced.

But if the Durham farmers are interesting, so are the farm laborers on their little areas, too. Last spring Dr. Elwood Mead offered prizes for the best

gardens grown by the laborers on their plots. The first prize went to D. H. LaGrone, who describes his venture as follows:

"My patch of corn, grown from a few grains taken from the ear you sent from North Carolina, is the wonder of all who see it. Now in tassel, the stalks are 15 feet high. I also have a wonderful hill of cantaloupes. About 60 grown cantaloupes have been taken from that one hill and it will probably yield 100 in all.

"My little potato patch of one-sixteenth of an acre made 1,000 pounds that sold for \$50. The potatoes were dug and sold before the 1st day of June and the land has been planted to cantaloupes and melons which are now in bloom.

"I have a single row of squash about 50 feet long and 2 short rows each about 25 feet long. I have sold from these more than 400 pounds at 5 cents a pound. I sold about half at 6 cents a pound to merchants. I have about 100 fine watermelons on vines which I expect to be as large as any grown in the State. I also sold a few snap beans, cucumbers and beets. The vegetables have brought over \$80. Were I to sell everything they would probably bring \$250.

"All grown on a piece of land 60 by 160 feet! My garden lies along the irrigation ditch. It was used several years ago as a hog lot, consequently it is a very rich piece of land."

This man came to the colony little better than a "blanket-stiff" as they call the roamers in California. Now, besides furnishing all the vegetables for use in his house and clearing a tidy sum on produce sold, he has been steadily working for wages and is a regular all-wool man.

Some of the holders of these two-acre allotments saved \$1,000 out of their first year's income. Think of it! In an article in *The Country Gentleman* lately, I recall Dean Davenport figured the farmer income, the country over, at possibly not more than \$600. Little wonder that the board has a rush of applications for allotments!

The families on the 2-acre allotments have done more than well. The laborers have earned from \$2.50 to \$3.50 a day, with board, or \$4.50 where they have boarded at home. Several holders of these allotments are figuring already on taking farms. On the other hand, there is the type of man who loves country life, but does not want the responsibility of owning a farm. One such case in the colony is that of a farm laborer who came with a capital of \$4,700. He could have taken over a big tract, but he preferred to work for others.

Of the men holding laborers' allotments 4 are ex-miners; 11 were common laborers; 7 were carpenters; 3 were farmers; 1 a ditch tender; 1 a motorman.

On the larger farm areas the diversity of former employment is worth noting. Of course, we begin with men who farmed before coming to the colony. Half the allotments are held by those men. Forty-two farmers in all have taken up the colony tracts. But behind them comes this bewildering list of men, some of whom are swinging the pick for the first time:

2 auditors.	1 cannery superintendent.
2 bank clerks	1 agricultural graduate.
1 railroad roadmaster.	2 agricultural instructors.
1 superintendent of water company.	1 college professor.
2 machinists.	1 farm adviser.
2 poultrymen.	1 street-car conductor.
1 real estate operator.	1 transportation manager.
1 miner.	3 civil engineers.
1 United States customs clerk.	1 railway mail clerk.
2 returned soldiers.	1 hay and grain broker.
1 commissary manager.	2 moving-picture operators.
1 gang man, telephone company.	1 dairymen.
1 wholesale liquor dealer.	1 blacksmith.
3 stationary engineers.	

The former farm adviser mentioned in the above list is H. F. Bahmeier, who previously assisted the farmers of San Bernardino County to get better crops. He says that, now on the land for himself, he is surprised to find that much of the advice he used to give was really good.

Well, this is fine, so far; but there was a question lurking in my mind as I went round through the Durham Colony. It was a very sordid question, but one I felt sure all who read my article would want to know. So finally I

asked. "How much money are your settlers making? Where do they stand, financially, compared with when they came to Durham?"

To answer this question, the office at Durham obligingly went through their records—the most minute records of progress on each allotment are kept—and picked out two typical farmers, whom I will call Farmer A and Farmer B. They give a fair view of the average success.

	Farmer A.	Farmer B.
Area in acres.....	32.17	30.40
Price an acre.....	<u>\$223.83</u>	<u>\$240.00</u>
Total price.....	7,201.81	7,291.00
Deposit on land.....	360.09	365.00
Amount advanced by State.....	6,841.72	6,931.00
Half yearly installment.....	273.66	277.24
Value of improvements.....	2,078.00	2,755.00
Deposit on improvements.....	180.00	310.00
Amount advanced by State.....	1,593.49	955.00
Half yearly installment on improvements.....	56.16	18.60
Value of live stock.....	1,261.16	900.00
Value of equipment.....	1,107.00	1,728.00
Initial capital.....	2,487.50	5,000.00
Present capital.....	2,878.57	7,000.00
Increase in net worth.....	391.07	2,000.00
Cash date of settlement.....	1,940.25	4,000.00
Income to date.....	2,904.89	1,399.00
Cash paid out to date.....	4,828.97	4,500.00

These figures seem clear enough to need little amplification. It will be seen that Farmer B came to the colony with \$5,000 capital, while A came with about half as much. The acreage taken was about the same. B's allotment cost him more an acre, which meant that it was worth more, because the land was better or because of improvements, probably the latter. Farmer B's increase in net worth—his profit for the year over all—was \$2,000. A tidy profit on a capitalization of \$5,000! Farmer A, it will be seen, made a little less than \$400.

The experiment of the California Land Settlement Board at Durham demonstrates several things.

A WAY TO KILL BOLSHEVISM.

First, it proves that, honestly and intelligently administered, with faith and enthusiasm, it is possible for a State to settle the right kind of persons upon the available agricultural lands and create not a vote-getting institution but a center of good farming and social content.

It demonstrated that the settlement of new and reclaimed lands need not be left altogether to the tender mercies of exploiters. I don't mean by that that all the land companies are dishonest or entirely mercenary, but it is only too obvious that many are. The Mead Board has shown one clear way of beating the land sharks to it.

It points a way to take care of such returned soldiers and sailors as have a true longing for the farm. Immediately after the armistice we were almost shell-shocked by the noise that rent the skies—to put the returned soldier on a grant of land. The noise has gradually diminished until it is only a faint murmur, of the kind one hears when one holds a shell to the ear. But if there are a goodly number of veterans of the Great War who want to farm on their own, preference may be given to them in just such a colony as California has established at Durham.

A bright man, one of the employees at Durham, shouted to me as I was being wheeled away in an automobile, "And don't forget, Mr. Tilden, that it's one of the ways to kill bolshevism!"

He was right, dead right. It is one of the ways. A prosperous farmer on his land does not turn berserker or run amuck. There isn't a man at Durham, no matter what his antecedents, who doesn't believe in government. One of the first things they all subscribed to was the breeding associations which they picked. That's government.

Finally, the State of California has safeguarded the future of the colony to a great extent. There is a little joker in the contract by which, though a set-

tler becomes owner of the property, he can't trade it at will. The State has an option on it at the price he paid, plus improvements. It is hard to see how the land speculator will break through that barrage.

Finally, the board says: "The next settlement will involve less labor than was required to start the first one. Its accounting forms have all been prepared, as have the forms of contracts for settlers. Plans and estimates for farm buildings for Durham can be used elsewhere. The tractor and its equipment, the teams and tools bought for the first settlement, can be moved to the next one, for the boards' development at Durham will soon be ended."

THE "LAND SETTLEMENT ACT" AS AMENDED IN 1919.

[Stats. 1917, p. 1566; Stats. 1919, p. 838.]

AN ACT Creating a State land settlement board and defining its powers and duties and making an appropriation in aid of its operations.

The people of the State of California do enact as follows:

SECTION 1. The legislature believes that land settlement is a problem of great importance to the welfare of all the people of the State of California and for that reason through this particular act endeavors to improve the general economic and social conditions of agricultural settlers within the State and of the people of the State in general.

Sec. 2. The object of this act is to provide employment and rural homes for soldiers, sailors, marines, and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the Central Powers and have been repatriated, and who have been honorably discharged, to promote closed agricultural settlement, to assist deserving and qualified persons to acquire small improved farms, to demonstrate the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement, and to provide homes for farm laborers.

To carry out the objects herein stated there is hereby created a State land settlement board to consist of five members appointed by the governor to hold office for a term of five years and until their successors have been appointed and shall have qualified: *Provided, however,* That of the members first appointed two shall be appointed to hold office until the first day in January, 1918, one until the first day in January, 1919, one until the first day in January, 1920, and one until the first day in January, 1921.

The governor shall designate one of the members as chairman of the board and director of land settlement. The secretary may or may not be a member of the board. The board shall appoint such expert, technical, and clerical assistance as may prove necessary, and shall define their duties. It shall fix the salaries of all employees, with the approval of the State board of control.

The four members of the board shall receive a per diem for each meeting attended, and the chairman shall receive a salary, said per diem and salary to be fixed by the State board of control with the approval of the governor. The members shall also receive their actual necessary traveling expenses in the discharge of their duties.

The said land settlement board shall have power to cooperate with and to contract with the duly authorized representatives of the United States Government in carrying out the provisions of this act. (As amended Stats., 1919, p. 839.)

Sec. 3. The State land settlement board, hereinafter called the board, shall constitute a body corporate with the right on behalf of the State to hold property, receive and request donations, sue and be sued, and all other rights provided by the constitution and laws of the State of California as belonging to bodies corporate.

Three members of the board shall constitute a quorum and such quorum may exercise all the power and authority conferred on the board by this act.

Sec. 4. For the purposes of this act, the board may acquire on behalf of the State by purchase, gift, or the exercise of the power of eminent domain, all lands, water rights, and other property needed for the purposes hereof, and may take title in trust and shall without delay improve, subdivide, and sell such land, water rights, and other property with appurtenances and rights

to approved bona fide settlers; the board shall have the authority to set aside for townsite purposes a suitable area purchased under the provisions of this act and to subdivide such area and sell or lease the same for cash, in lots of such size, and with such restrictions as to resale, as they shall deem best: *And provided, further*, That the board shall have authority to set aside and dedicate to public use such area or areas as it may deem desirable for roads, schoolhouses, churches, or other public purposes. (As amended Stats., 1919, p. 839.)

SEC. 5. Whenever the board believes that private land should be purchased for settlement under this act, it shall give notice by publication in one or more newspapers of general circulation in this State, setting forth approximately the area and character of the land desired and the conditions that shall govern the proposed purchase, and inviting owners of land willing to enter into a contract of sale on the conditions proposed to submit such land for inspection. (As amended Stats., 1919, p. 840.)

SEC. 6. Within 30 days thereafter the board shall direct an officer or officers in its employ, or one or more persons who may at its request be designated by the dean of the college of agriculture of the University of California, to inspect and report on all tracts of land suitable for closer settlement which are so submitted.

SEC. 7. The board shall give not less than one week's notice of the approximate date when tracts submitted will be inspected, and every report of such inspection shall as far as practicable specify the—

- (a) Situation and brief description thereof;
- (b) Extent and situation of land comprising so much of any tract as it is proposed to acquire;
- (c) Names and addresses of the owners thereof;
- (d) Character of water rights;
- (e) Nature of improvements;
- (f) Crops being grown on land;
- (g) Appraisement of value of land, water rights, and improvements.

SEC. 8. On receiving the reports on all of the land examined the board shall decide which of the areas is best suited to the purposes of this act. Before so deciding the board may examine the land, or it may employ one or more competent valuers to fix the productive value of the land and report the same in writing; the owner or his agent may give evidence as to its value.

SEC. 9. If from the evidence submitted or from the results of its personal inspection the board is satisfied that one or more of the tracts submitted are suited to intensive, closer settlement and can be acquired at a reasonable price, it shall submit to the governor its report, giving the reasons for recommending the purchase, and on the approval of the governor the board shall be authorized to purchase the same: *Provided*, That before such purchase is made, the attorney general shall approve the title of such lands and any water rights appurtenant thereto, and the State water commission shall certify in writing as to the sufficiency of any water rights to be conveyed. (As amended Stats. 1919, p. 840.)

SEC. 10. All sales to settlers of land under this act shall be made under such terms and conditions as shall give to the board full control of any subdivisions thereof until all moneys advanced by the State for the purchase, improvement, or equipment of such subdivisions are fully repaid, together with interest thereon as herein provided. (As amended Stats. 1919, p. 840.)

SEC. 11. Immediately upon taking possession of any land purchased as above, and after deducting any areas to be set aside for townsites or public purposes in accordance with section four of this act, the board shall subdivide it into areas suitable for farms and farm laborer's allotments, and lay out, and where necessary, construct roads, ditches, and drains for giving access to and insuring the proper cultivation of the several farms and allotments. The board, prior to disposing of it to settlers, or at any time after such land has been disposed of, but not after the end of the fifth year from the commencement of the term of the settler's purchase contract, may—

- (a) Prepare all or any part of such land for irrigation and cultivation;
- (b) Seed, plant, or fence such land, and cause dwelling houses and outbuildings to be erected on any farm allotment or make any other improvements not specified above necessary to render the allotment habitable and productive in advance of or after settlement, the total cost to the board of such dwellings, outbuildings, and improvements not to exceed one thousand five hundred dollars (\$1,500) on any one farm allotment;

(e) Cause cottages to be erected on any farm laborer's allotment and provide a domestic water supply, the combined cost to the board of the cottage and water supply not to exceed eight hundred dollars (\$800) on any one farm laborer's allotment;

(d) Make loans to approved settlers on the security of permanent improvements, stock, and farm implements, such loans to be secured by mortgage or mortgages, deed or deeds of trust on such permanent improvements, stock, or farm implements, and the total amount of any such loan, together with money spent by the board on improvements as above specified, not to exceed three thousand dollars (\$3,000) on any one farm allotment, or two thousand dollars (\$2,000) on any one farm laborer's allotment. (As amended Stats., 1919, p. 840.)

Sec. 12. Authority is hereby granted to the board, where deemed desirable, to operate and maintain any irrigation works constructed to serve any lands purchased and sold under the provisions of this act. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom, shall be deposited in the land-settlement fund created by this act and shall become available for the payment of any costs, expenses, or other charges authorized in this act to be paid from said land-settlement fund.

Sec. 13. After the purchase of land by the board under the provisions of this act and before its disposal to approved bona fide applicants the board shall have authority to lease such land or a part thereof on bonded or secured lease on such terms as it shall deem fit.

Sec. 14. Lands disposed of under this act, other than lands set aside for town sites or public purposes, shall be sold either as farm allotments, each of which shall have a value not exceeding, without improvements, fifteen thousand dollars, or as farm laborers' allotments, each of which shall have a value not exceeding, without improvements, one thousand dollars. Before any part of an area is thrown open for settlement there shall be public notice thereof once a week for four weeks in one or more daily newspapers of general circulation in the State, setting forth the number and size of farm allotments or farm laborer's allotments, or both, the prices at which they are offered for sale, the minimum amount of capital a settler will be required to have, the mode of payment, the amount of cash payment required, and such other particulars as the board may think proper and specifying a definite period within which applications therefor shall be filed with the board on forms provided by the board. The board shall have the right in its uncontrolled discretion to reject any or all applications it may see fit and may readvertise as aforesaid as often as it sees fit until it receives and accepts such number of applications as it may deem necessary.

If no applications satisfactory to the board are received for any farm allotment or farm laborer's allotment following such advertising, the board at any time prior to readvertising, may sell any such farm allotment or farm laborer's allotment at the prices at which they were so offered for sale, without the necessity of readvertising.

The board shall also have the power in dealing with any such farm allotments or farm laborer's allotments for which there has been no such application satisfactory to the board, to subdivide or amalgamate any one or more of such allotments as it may see fit, and fix the prices thereon, provided that the limitations of \$15,000 for a farm allotment and \$1,000 for the farm laborer's allotment, as in this section set forth, are not violated. Such subdivision or amalgamation may be had without the necessity of readvertising.

The board may also sell at public auction, under such conditions of sale and notice thereof as the board may prescribe, any areas which the board may determine are not suitable for farm allotments or farm laborer's allotments, whether or not included in any subdivision into farm allotments or farm laborer's allotments: *Provided*, That if such area has been included in such a farm allotment or farm laborer's allotment, then such sale at public auction can be made only after a failure to receive any application satisfactory to the board after the advertising thereof, as required by the terms of this section. (As amended. Stats. 1919, p. 841.)

Sec. 15. Any citizen of the United States, or any person who has declared his intention of becoming a citizen of the United States, and who is not the holder of agricultural land or of possessory rights thereto to the value of \$15,000, and who by this purchase would not become the holder of agricultural land

or of possessory rights thereto exceeding such value, and who is prepared to enter within six months upon actual occupation of the land acquired, may apply for and become the purchaser of either a farm allotment or a farm laborer's allotment: *Provided*, That no more than one farm allotment or more than one farm laborer's allotment shall be sold to any one person: *Provided further*, That no applicant shall be approved who shall not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for.

The board may, in offering for sale farm allotments or farm laborer's allotments, cooperate or contract with the duly authorized representatives of the United States Government and other public corporations or agencies generally. The board is hereby authorized to perform all acts necessary to cooperate fully with the agencies of the United States engaged in work of similar character, and with similar boards and agencies of other States. In any such sales made in cooperation with such representatives or agencies of the United States Government, preference must be given to soldiers, sailors, marines, and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the central powers, and have been repatriated, and who have been honorably discharged. The board may likewise, whether or not acting in cooperation with the duly authorized representatives of the United States Government, give such preference to any of such citizens of California, who as soldiers, sailors, marines, and others have served with the armed forces of the United States, as in this section described. (As amended, Stats. 1919, p. 842.)

SEC. 16. Within 10 days after the final date set for receiving applications for either farm allotments or farm laborer's allotments the board shall meet to consider the applications, and may request applicants to appear in person: *Provided*, That the board shall have the power and the uncontrolled discretion to reject any or all applications.

SEC. 17. The selling prices of the several allotments into which lands purchased under this act are subdivided, other than those set aside for townsite and public purposes, shall be fixed by the board, so as to render such allotments as nearly as possible equally attractive, and calculated to return to the State the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving, subdividing, and selling such lands, including the payment of interests, and all costs of engineering, superintendence, and administration, including the cost of operating any works built, directly chargeable to such land, and also the price of so much land as shall on subdivision be used for roads and other public purposes, and also such sum as shall be deemed necessary to meet unforeseen contingencies.

SEC. 18. Every approved applicant shall enter into a contract of purchase with the board, which contract shall among other things provide that the purchaser shall pay as a cash deposit a sum equal to 5 per cent of the sale price of the allotment, and in addition not less than 10 per cent of the cost of any improvements made thereon, and such applicant shall, if required by the board, enter into an agreement to apply for a loan from the Federal land bank under provisions of the Federal farm loan act for an amount to be fixed by the board, and shall pay to the board the amount of any loan so made as a partial payment on such land and improvements. The balance due on the land shall be paid in amortizing payments extending over a period to be fixed by the board, not exceeding 40 years, together with interest thereon at the rate of 5 per cent per annum. The amount due on improvements shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding 20 years, together with interest thereon at the rate of 5 per cent per annum. The repayment of loans made on live stock or implements shall extend over a period to be fixed by the board not exceeding five years: *Provided, however*, in each case, that the settler shall have the right, on any installment date, to pay any or all installments still remaining unpaid. (As amended, Stats. 1919, p. 843.)

SEC. 19. The number and amount of yearly or half yearly installments of principal and interest to be paid to the board under contracts of purchase shall be calculated according to any table adopted or approved by the Federal farm loan board.

SEC. 20. Every contract entered into between the board and an approved purchaser shall contain among other things provisions that the purchaser shall cultivate the land in a manner to be approved by the board and shall

keep in good order and repair all buildings, fences, and other permanent improvements situated on his allotment, reasonable wear and tear and damage by fire excepted. Each settler shall, if required, insure and keep insured against fire all buildings on his allotment, the policies therefor to be made out in favor of the board and to be in such amount or amounts and in such insurance companies as may be prescribed by the board.

The board shall have power in its own name to insure and keep insured against fire all buildings or other improvements on any of the lands under the control of the board, and any contract of insurance heretofore made by the board is hereby ratified and confirmed. The board shall likewise have the power in any contract of purchase under which the board purchases lands as authorized in this act, to provide for the return by the board to the owner so selling to the State of any insurance premiums or taxes which may have been paid on said property by such owner, or for which such owner may have become obligated to pay, and any such agreement or contract of purchase heretofore made by the board is hereby ratified and confirmed. (As amended, Stats. 1919, p. 843.)

SEC. 21. No allotment sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet in whole or in part, without the consent of the board given in writing, until the settler has paid for his farm allotment or farm laborer's allotment in full and complied with all of the terms and conditions of his contract of purchase. (As amended, Stats. 1919, p. 844.)

SEC. 22. In the event of a failure of a settler to comply with any of the terms of his contract of purchase and agreement with the board, the State and the board shall have the right at its option to cancel the said contract of purchase and agreement and thereupon shall be released from all obligation in law or equity to convey the property and the settler shall forfeit all right thereto, and all payments heretofore made shall be deemed to be rental paid for occupancy. The board may require of the settler such mortgage or deed of trust or other instrument as may be necessary under the terms and conditions of the contract of purchase in order to adequately protect and secure the board. There may be included in such contract of purchase, mortgage, deed of trust or other instrument any conditions with reference to sale of the property or reconveyance back to the board or notice of such sale or reconveyance as may in the discretion of the board be required to be so included in such contract of purchase, mortgage, deed of trust or other instrument, in order to so adequately protect the said board in the premises; and any such contracts of purchase, mortgages, deeds of trust or other instruments heretofore executed are hereby confirmed. The failure of the board or of the State to exercise any option to cancel, or other privilege under the contract for purchase for any default shall not be deemed as a waiver of the right to exercise the option to cancel or other privilege under the contract of purchase for any default thereafter on the settler's part. But no forfeiture so occasioned by default on the part of the settler shall be deemed in any way, or to any extent, to impair the lien and security of the mortgage or trust instrument securing any loan that it may have made as in this act provided. The board shall have the right and power to enter into a contract of purchase for the sale and disposition of any land forfeited as above provided, because of default on the part of a settler, and this right may be exercised indefinitely without the necessity of advertising. (Added Stats. 1919, p. 845.)

SEC. 23. Actual residence on any allotment sold under the provisions of this act shall commence within 6 months from the date of the approval of the application and shall continue for at least 8 months in each calendar year for at least 10 years from the date of the approval of the said application, unless prevented by illness or some other cause satisfactory to the board: *Provided*, That in case any farm allotment disposed of under this act is returned to and resold by the State, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

SEC. 24. The power of eminent domain shall be exercised by the State at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams, and reservoirs necessary or desirable for carrying out the provisions of this act, and on request of the board the attorney general shall bring the necessary and appropriate proceedings authorized by law for such condemnation of said water rights or rights of way, and the cost of all water right or rights of way so condemned shall be paid out of the land settlement fund hereinafter provided for. The board shall have full authority to appropriate water under the laws of the State when such appropriation is necessary or desirable for carrying out the purposes of this act.

SEC. 25. For the purpose of carrying out the provisions of this act the sum of \$260,000 is hereby appropriated out of any moneys in the State treasury not otherwise appropriated. Of this amount, the sum of \$250,000 shall constitute a revolving fund to be known as the land-settlement fund, which is calculated to be returned to the State with interest at the rate of 4 per cent per annum within a period of 50 years from the date of the passage of this act, on the daily balances representing the amounts drawn out of such fund and thus depleting the fund to an amount less than said sum of \$250,000, which said daily balances shall be so calculated only on the amounts so drawn out of such fund, from the date of the passage of this act. The remaining \$10,000 shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purpose from the sales of land as provided for in this act. (As amended, Stats. 1919, p. 844.)

SEC. 26. The State board of control is hereby authorized to provide for advances of money to the board needed to meet contingent expenses to such an amount not exceeding \$5,000 as the said board of control shall deem necessary.

SEC. 27. The money paid by settlers on lands, improvements, or in the repayment of advances, shall be deposited in the land-settlement fund and be available under the same conditions as the original appropriation. (As amended, Stats. 1919, p. 844.)

SEC. 28. The board shall have authority to make all needed rules and regulations for carrying out the provisions of this act. (As amended, Stats. 1919, p. 844.)

SEC. 29. The board is hereby authorized to investigate land-settlement conditions in California and elsewhere and to submit recommendations for such legislation as may be deemed by it necessary or desirable.

The board shall render an annual report to the governor and a copy thereof to the Secretary of the Interior, which report shall be filed and printed as required by sections 332, 333, 334, 336, and 337 of the Political Code, with the exception that they shall be so filed and printed annually instead of biennially, as provided in said sections. (As amended, Stats. 1919, p. 844.)

SEC. 30. The act of the legislature entitled "An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits and making an appropriation therefor," approved May 17, 1915, is hereby repealed.

SEC. 31. This act may be known and cited as the land-settlement act.

Section 17 of the amending act of 1919 reads as follows (Stats. 1919, p. 845):

"For the purpose of carrying out the provisions of this act and of the act amended by this act, the sum of \$1,000,000 is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, which sum of \$1,000,000 is calculated to be returned to the State within a period of 50 years from the date of this appropriation of \$1,000,000 going into effect, with interest at the rate of 4 per cent per annum on the daily balances representing the amounts drawn out of such appropriation, and thus depleting the appropriation to an amount less than said sum of \$1,000,000. The State controller is hereby authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the State board of control, and the State treasurer is hereby authorized and directed to pay such warrants."

The CHAIRMAN. The committee will stand adjourned until some time next week.

(Whereupon, at 12.15 o'clock p. m., the committee adjourned.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Tuesday, February 3, 1920.

The committee met at 10.15 o'clock a. m., Hon. M. P. Kincaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. We were hearing Mr. Kibbey, I believe, when we stopped. You may proceed, Mr. Kibbey.

STATEMENT OF MR. WALTER B. KIBBEY—Resumed.

Mr. KIBBEY. I believe the next section is section 4, and Mr. Hayden was reading the sections first.

Mr. HAYDEN. Section 4 reads:

Sec. 4. That the Secretary of the Interior is hereby authorized to sell such bonds, or any number thereof, whenever they can be sold at or above their par value, and to use the proceeds thereof, first, to reimburse the United States for expenditures theretofore made under authority of this act, and, second, for the construction of the works herein authorized. In the event any of such bonds so deposited with the Secretary of the Interior shall not be sold prior to the expiration of a period of five years from and after the announcement by the Secretary of the Interior of the completion of the work herein provided for, then the Secretary of the Interior may immediately sell the bonds so remaining in his possession at the highest price obtainable therefor in the open market; and in the event the price so obtained is less than the par value of such bonds, any and all districts or other organizations having issued any of the bonds which have been so sold for less than the par value shall bear the loss, and each district or other organization shall pay to the United States a sum or sums equal to the difference between the par value of the bonds issued by it and the amount received from such sale; and the Secretary of the Interior, prior to the time when any such district or other organization shall receive any benefit from the provisions of this act, shall require each such district or organization to enter into a contract or contracts with the said Secretary for the enforcement of this provision.

Mr. KIBBEY. This section is plain and heretofore explained.

Mr. HAYDEN. The next section reads:

Sec. 5. That upon default of any installment of the principal or interest of any bond held by the Secretary of the Interior in accordance with the terms of this act the said Secretary may declare the entire amount of such bond issue in default, and thereupon he shall call upon the State or county under the authority of which such bonds were issued, through any of its authorized agencies or officers, to levy and enforce the payment of any taxes, forced contributions, or special assessments necessary to pay the sums due to the United States, and upon the failure of the State or county authorities so to do the Secretary of the Interior shall cause suit to be instituted in the name of the United States, and take such legal action as may be necessary to enforce the assessment and collection of such taxes for the payment of the amount of principal and interest in default or the entire amount of such bond issue, principal and interest. It shall be the duty of the Attorney General to prosecute such suit, and any United States district court for the district in which the lands affected by the act, or any part thereof, are situated, is hereby vested with jurisdiction to enforce the provisions of this act.

Mr. KIBBEY. Under the California irrigation district law the assessment for the collection of bonds is first made by the district board; if they refuse to make the assessment, then the board of supervisors of the county are compelled to make that assessment for the district. That is found in sections 39 B, C, and E, and the amended irrigation act of 1917, and mandamus will lie to compel that assessment being made by the board of supervisors, or by the irrigation district as well.

There is only one additional feature in this section. We seek to give the Federal courts jurisdiction in those mandamus proceedings, as well as the local State courts.

The CHAIRMAN. Concurrent jurisdiction, isn't it?

Mr. KIBBEY. Concurrent jurisdiction; yes.

Mr. WELLING. Is there any special significance under the California law to be attached to the phrase "forced contributions"? What does that mean?

Mr. KIBBEY. Where is that?

Mr. WELLING. This section provides: "To levy and enforce the payment of any taxes, forced contributions, or special assessments." What is a "forced contribution" under the law?

Mr. KIBBEY. Well, a forced contribution, I would take it, is an assessment levied and payment forced, by sale of the property.

Mr. WELLING. Is that covered by the other terms, then?

Mr. KIBBEY. I think it is; yes.

The CHAIRMAN. It simply means not voluntary?

Mr. KIBBEY. Not voluntary, that is it.

Mr. HAYDEN. That language was taken from the bill introduced by Mr. Smith of Idaho, known as the Smith-Chamberlain bill, which provided for bond issues. The terms were copied from that bill.

Mr. SMITH of Idaho. I think it was also used in the act of August 11, 1916, providing for the formation of irrigation districts on the public domains.

Mr. HAYDEN. It may be mere repetition and surplusage, but we wanted to make it perfectly clear that by whatever means necessary the money would be repaid.

Section 6 provides:

SEC. 6. That the proportion or amount of the cost of the canals and works, the construction of which are authorized by this act to be borne by any irrigation district, State land settlement board, soldier settlement board, water users' association, or other organization, as fixed and determined by the Secretary of the Interior, may be paid in cash, and when so paid shall be deposited in the Treasury to the credit of the Laguna project fund hereinafter provided for, and may be expended by the Secretary of the Interior in the same manner as money appropriated by Congress pursuant to this act.

The CHAIRMAN. That seems to be self-explanatory.

Mr. KIBBEY. There is just one thing I desire to say in connection with that, that the Secretary of the Interior under the bill can not sell the bonds until he gets par for them. Under this provision, if the districts wish—and I think they will, if they can't obtain par—if they get close to it, they may sell their bonds and pay cash instead of depositing the bonds; therefore putting the cash into the hands of the Secretary of the Interior.

The CHAIRMAN. Which ought to be acceptable.

Mr. HAYDEN. You will also remember that Dr. Mead stated that the State of California would in all probability pay cash for their share of the irrigation works, if they were given a certain tract of land to develop. This section covers all such contingencies:

SEC. 7. That the public lands of the United States declared by the Secretary of the Interior to be susceptible of reclamation under the provision of this act, and included within any irrigation district or any other similar organization the boundaries and bonds of which are accepted by the said Secretary under the terms of this act, shall be subject to the provisions of the act entitled "An act to promote the reclamation of arid lands," approved August 11, 1916 (39 Stat. L., p. 506), notwithstanding the district may contain more than a majority acreage of such public lands.

Mr. KIBBEY. This is the section which provides for the organization of the districts, the scheme of payment, of course, being by the issuance and sale of district bonds; therefore we must have all of the lands incorporated into a district. We now have two districts already formed—it is contemplated to include the new lands in other districts. There may be several districts, but the power is

given to the Secretary of the Interior to designate what lands shall be taken into the particular districts as formed.

Mr. HAYDEN. The act of August 11, 1916, which this section seeks to amend, provides that where public lands are included within an irrigation district, the majority acreage of which is private land, that the minority acreage of public lands may be included. This section extends that law so that the majority of the acreage within an irrigation district may be Government land.

Section 8 provides:

SEC. 8. That, except as hereinafter provided, any unentered lands of the United States found by the Secretary of the Interior to be susceptible of irrigation from the irrigation works the construction of which is provided for by this act, may be sold when water is available therefor, to citizens of the United States, not more than 160 acres to any one purchaser, under such rules and regulations as the said Secretary may prescribe, at the fair appraised value thereof, which shall be fixed at not less than \$10 per acre. The land so sold shall be paid for in cash, or on deferred payments, at the option of the purchaser, in installments of one-fifth cash and one-fifth annually until fully paid, with interest on the deferred payments at the rate of 6 per cent per annum from date of sale, patent to issue upon full payment of the purchase price and compliance with all of the requirements of this act.

Mr. KIBBEY. Dr. Mead suggested in his statement an amendment to this section providing that all the lands be opened to homestead entry. I heartily agree with that. The object of the section as written was to hold the lands in Government ownership until water was available. Under sections 1 and 2 of the California irrigation act it is impossible to form districts, irrigation districts, until at least 500 persons reside within the boundaries of the proposed districts. I don't think that it is possible to sell this land prior to the time when water is available and form a district before water has become available. I think that is utterly impossible.

Mr. SMITH of Idaho. You would not expect, Mr. Kibbey, that these homesteaders would go on this dry land and live there during the time before water is available?

Mr. KIBBEY. No.

Mr. SMITH of Idaho. You would have to have a special law, then, to excuse them from residence?

Mr. KIBBEY. No; because I don't propose to have the land open until the water is available.

Mr. SMITH of Idaho. I thought you suggested that these homesteaders would go on there in order to be able to form a district in compliance with the California statute?

Mr. KIBBEY. I was just trying to show that they would not do that until the water was available; and under our scheme it is not intended that they shall do it until water is available.

The CHAIRMAN. And the idea is that the water shall be available before the lands are sold?

Mr. KIBBEY. Exactly.

The CHAIRMAN. And then after they have been sold, then they will proceed to form a district?

Mr. SMITH of Idaho. Have you 500 people residing within these proposed districts?

Mr. KIBBEY. In the new districts, no.

Mr. SMITH of Idaho. Then, how are you going to comply with the statute?

Mr. KIBBEY. When the water becomes available—we don't intend to form those new districts until such time as the Secretary of the Interior has said that water is available for those districts. Up until that time we can carry on the work by the sale of bonds of the districts which are already organized.

Mr. HAYDEN. Section 9 provides:

SEC. 9. That all unentered public lands in California susceptible of irrigation hereunder lying south of the third standard parallel and east of the Imperial irrigation district shall be set apart and reserved until water is available for said lands, and all persons who served in the military or naval forces of the United States during any period in which the United States was engaged in war and who have been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve, shall have the exclusive right of purchase thereof in tracts not to exceed 160 acres to any purchaser at the rate of \$1.25 per acre, for a period of six months after said lands shall be opened to purchase: *Provided*, That any of said lands may be set aside for use under any soldier-settlement plan which may hereafter be authorized by act of Congress: *And provided further*, That the State of California shall have the option for a period of 12 months after the passage of this act to acquire not to exceed 50,000 acres thereof by exchange of State lands of equal area and value, or by purchase at \$1.25 per acre for settlement under provisions of the California State land settlement act. All of said lands purchased by persons having served in the military or naval forces, as aforesaid, shall be included in one or more of the irrigation districts to be organized under the direction of the Secretary of the Interior and subject to assessment for payment of the bonds to be issued by said districts in payment for their proportionate part of the costs and charges hereunder: *Provided, however*, That in the event the State of California shall exercise the option herein granted, then the Secretary of the Interior and the proper authorities of the State of California shall enter into an agreement whereby not more than 160 acres of such lands shall be sold to any one purchaser, and whereby persons having served in the military or naval forces, as aforesaid, shall have a preferential right of purchase, and whereby such lands shall be pledged for the payment of the proportion of the costs and charges to which such lands may be subject, and payment thereof shall be made in the manner determined by the Secretary of the Interior.

An amendment suggested by the department is to strike out the words "purchase thereof" in line 4, page 8, and insert the words "entry under the homestead laws"; and then strike out the words "purchaser at the rate" in line 5, and insert the words "person upon payment," so that it will read that any soldier or sailor "shall have the exclusive right of entry under the homestead laws in tracts not to exceed 160 acres to any person upon payment of \$1.25 per acre for a period of six months after said land shall be opened to purchase."

Mr. HUDSPETH. The provision providing for the exchange of State lands is also cut out in my bill.

Mr. HAYDEN. The recommendation was made that it be cut out, but subsequently the Secretary of the Interior said that he thought if he had authority to exchange for forest lands, as suggested by Dr. Mead, it might be well to leave it in. The Secretary was under the impression that it was proposed to exchange certain desert lands belonging to the State of California for the east mesa lands, but if forest lands could be exchanged, it would be best not to amend the bill by striking out the words "by exchange of State lands of equal area and value, or," in line 13:

The Secretary also suggests a proviso at the end of section 9:

Provided, That the State shall forfeit the right to any lands not improved and made ready for settlement within such time after water is ready for delivery, as may be agreed upon in contract between the State and the Secretary, at the time the State exercises the option provided for in this section.

Mr. BARBOUR. What do you think of the acreage, Mr. Kibbey—160 acres for each soldier?

Mr. KIBBEY. It says "not to exceed."

The CHAIRMAN. Mr. Kibbey, I wish you would just point out those lands on the map.

Mr. KIBBEY. They are the lands colored in blue, south of the third standard parallel [indicating]. I think that is the third standard parallel there—green, I should say. It is the land between there and the red line at the boundary.

The CHAIRMAN. All that mesa?

Mr. KIBBEY. Yes.

The CHAIRMAN. Now, that is the east mesa?

Mr. KIBBEY. That is what we call the east mesa. Possibly the mesa goes up a little bit farther, but it is the east mesa south of the third standard parallel.

Mr. HERNANDEZ. This is applicable to any soldier of any war; not exclusively to the soldiers of the late war.

Mr. BARBOUR. Dr. Mead said the other day that 40 acres is ample, and he suggested indirectly, if not directly, that a limit of 40 acres be placed upon these allotments. If that is true, and that amount is ample, there would be a lot more land there for soldiers.

Mr. KIBBEY. Exactly.

Mr. BARBOUR. And I think it would have a tendency to prevent speculation.

Mr. KIBBEY. I have no objection; in fact, I have always been a believer in the public lands being disposed of to men who want to make homes upon them.

Mr. TAYLOR. Mr. Kibbey, ought we not to reduce that maximum to at least 80 acres? If this is to be \$400 or \$500 land, it has got to be leveled and a lot of work has got to be done on it, and 40 acres is as much as any man can possibly tend, and hadn't we better pass this around a little more?

Mr. KIBBEY. I am perfectly agreeable to it, and am assured that the Secretary of the Interior would do that anyway.

Mr. TAYLOR. I think we ought to reduce it at least from 160 to 80 if not to 40 acres.

Mr. BARBOUR. If we are going to legislate for the soldiers, the more we can benefit, the more good will be accomplished by this legislation.

Mr. TAYLOR. And if the land is any good 40 acres is enough; and if it isn't any good, they are not going to take it.

The CHAIRMAN. There will not be any more land this way, but there will be land for more soldiers, and if there is any place where 40 acres is adequate on a reclamation project, it seems to me the Imperial Valley is the place. I don't know of any place where they could expect to make a living for a family on as small an area as that, except possibly on some fruit lands.

Mr. HAYDEN. Perhaps it would be well for you to give the committee the history of this section; how it became part of the bill.

Mr. KIBBEY. I started in on that the other day. As I say, the former committee, when they came back from Washington, told us that an amendment of this kind would kill the bill. We did not believe that—that is, some of us did not; the Legion did not believe it at any rate.

Evidently the majority of the people of our district did believe it. We started the fight through our local Legion. We did not get very far with it and we called upon Dr. Mead. We asked for his assistance, knowing that he and the State Land Settlement Board were taking up the soldiers settlement proposition. In response to our petition to him he suggested a meeting of all interested parties at Berkeley for October 1, I think was the day set. That invitation was made general to all interested organizations, corporations, and associations in the Imperial Valley, to attend and send representatives. We had quite a time getting the irrigation district board and the board of supervisors to agree to attend, because of the vital need for aid in the valley and the impression they had that the soldier amendment would kill the bill, but as the result of our efforts we did get the irrigation district directors to attend in a body. We got the board of supervisors to attend in a body; we got the farm bureau to attend in a body. The other day I said that the Laguna Water Co. was represented there; I had been informed that there were stockholders in the Laguna Water Co. present.

I am not familiar with the names of them, but Mr. Rose tells me they were not present, so I wish to withdraw that statement that the Laguna Water Co. was represented. I have a list of all who attended that conference, which I think with the exception of the Laguna Water Co. included every organization in the Imperial Valley, the associated chambers of commerce, the chambers of commerce of every city in Imperial; the mutual water companies, the board of directors of the irrigation district, the board of supervisors, and all organizations of which I have any knowledge.

Mr. WELLING. Was Judge Swing at that meeting?

Mr. KIBBEY. Judge Swing was at that meeting; and I will say that Judge Swing was opposed to the amendments there upon the grounds that Congress would defeat the bill if the soldier amendments were included. I served upon the committee that was appointed there with him, and he gave those reasons to me as well as to the public.

The result of that meeting was the adoption of resolutions requesting the amendment as incorporated in this section, which are on file with your committee and are already printed in the report of the hearings on H. R. 6044. They were finally agreed to unanimously—I will say that Judge Swing announced he was going to attend a meeting which Senator Johnson was to address and would not be present at the evening session.

Mr. WELLING. When you say "these amendments" do you mean the matter contained in section 9?

Mr. KIBBEY. Yes; I will read just exactly that resolution.

Mr. WELLING. I don't care to have it. Just what you say is sufficient.

Mr. KIBBEY. They recommended that the lands on the east side Mesa be reserved in the first place for soldier settlement—at that time they were considering the Lane bill in Congress—that if the Lane bill passed or any legislation by Congress should pass, that these lands, being the most valuable in California in public ownership, should be reserved so that they would come under the operation of that bill; if that bill did not go through, that they be opened to

soldier settlement; that the \$10 per acre be not charged as against these lands. I think that is the substance of the resolution.

As the result of that meeting, which I say was unanimous, Judge Swing had left to attend the Johnson meeting—so that at the evening session the vote was absolutely unanimous by all the representatives; and in that connection I will state that the State officials who were present did not vote. They announced that they would take no vote, so it was left entirely to the people of Imperial Valley.

Mr. BARBOUR. Who were those State officials?

Mr. KIBBEY. Mr. Kingsbury.

Mr. BARBOUR. The State engineer?

Mr. KIBBEY. The State engineer; yes. I have the full list right here, and before I leave I will file that list, which included practically every State department.

The list referred to follows:

REGISTER—CONFERENCE, UNIVERSITY OF CALIFORNIA, BERKELEY, CALIF., OCT. 1, 1919.

Phil D. Swing, El Centro, Imperial irrigation district.

C. E. Grunsky, San Francisco, consulting engineer, Imperial irrigation district.

Charles H. Lee, Berkeley, California State water commission.

J. Stanley Brown, El Centro, Imperial Irrigation district.

W. H. Brooks, El Centro, chairman board of supervisors.

W. O. Johnson, El Centro, Imperial County farm adviser.

Jacob Lorang, Imperial, United Spanish War Veterans, Imperial County farm bureau.

P. L. Hedrick, Brawley, American Legion, Camp 60, Brawley, Calif.

Thomas O'Brien, Brawley, Imperial Land Owners' Association.

J. Roy Adams, Imperial, supervisor third district.

F. L. Lathrop, Sacramento, farm expert.

Arthur M. Nelson, El Centro, El Centro Post, American Legion.

J. F. Hallawell, Imperial, Imperial Post, American Legion.

W. A. Beard, Sacramento, Sacramento Valley Development Association.

A. T. Vaughn Seeley, director, Water Co. No. 12.

J. D. Mughnier, Seeley, Imperial Water Co. No. 12.

W. A. Edgar, Imperial, Imperial Water Co. No. 12.

M. W. Conkling, El Centro, Imperial Water Co. No. 6.

Mike Liebert, Seeley, Imperial County farm bureau.

C. F. Boarts, Brawley, farm bureau and Westmoreland Chamber of Commerce.

H. C. Brandt, Los Angeles, Westside Imperial Irrigation All-American Canal Association of Los Angeles.

Chester A. Sparrey, Indio, Coschella Valley County water district.

S. E. Robinson, Imperial, All-American Canal Association.

B. H. Crocheron, Berkeley, University of California.

J. F. Seymour, El Centro, El Centro Chamber of Commerce, All-American Canal Association.

John W. Gilmore, Berkeley, professor of agronomy.

R. H. Long.

Walter W. Weir, Berkeley, drainage engineer, University of California.

W. W. Mackie, Berkeley, agronomy, University of California.

R. H. Norboe, Sacramento, State department of engineering.

G. W. Shaw, Berkeley, chief appraiser Federal land bank.

C. S. Drake, Oakland.

R. G. Green, Oakland.

Maj. Plunder, State of California, American Legion.

Charles H. Keadrick, State of California, American Legion.

E. E. Kirk, Los Angeles, American Legion.

W. W. Schlect, Yuma, Ariz., Department of Interior, United States Reclamation Service.

J. S. Nickerson, Brawley, director, Imperial irrigation district.

C. D. Manning, Holtville, director, Imperial irrigation district.

Frank D. Hevener, Calexico, chamber of commerce.
 T. A. Johnson, Calipatria, Business Men's Association, Imperial No. 3, Imperial Water Co., No. 9.
 Frank Wilkins, Imperial, chamber of commerce.
 W. H. Best, Brawley, Water Co. No. 4, Water Co. No. 3.
 W. R. Farmer, Holtville, farm bureau director.
 R. W. Sears, El Centro, farm bureau director.
 B. M. Gruwell, farm bureau director.
 D. F. Harbison, Seeley, farm bureau director.
 F. W. Fisher, Calexico, farm bureau director.
 Q. C. Webster, Brawley, farm bureau director.
 Frank Adams, Berkeley, University of California.
 C. E. Tait, Los Angeles, United States irrigation investigation.
 F. J. Verhmeyer, Berkeley, University of California irrigation investigation.
 Carlos Kupfer, Berkeley, Forest Service.
 S. E. Andrews, Colton, Southern Pacific Co.
 H. W. Smith, San Francisco, Southern Pacific general passenger department.
 Douglas White, Los Angeles, agricultural secretary, United States Railroad Administration.
 Henry K. Norton, San Francisco, State commission immigration and housing.
 R. D. McPherrin, Imperial, director irrigation district.
 J. H. Edmunds, Calexico, director irrigation district.
 H. D. Weber, Oakland, Oakland Post, No. 5, American Legion.
 Donald A. Chamock, San Diego, San Diego Post, American Legion.
 W. W. McLaughlin, Berkeley, Irrigation Division, United States Department of Agriculture.
 Samuel Forlier, Berkeley.
 T. E. Scaife, Mining Institute C. E., Cape Town, Irrigation Union of South Africa.
 W. R. Parkhill, Berkeley, Federal land bank.
 F. S. Lack, Brawley, No. 8 Water Co., chamber of commerce.
 Walter B. Kibbey, El Centro, American Legion, Post No. 25.

The following are the suggested amendments to the Kettner bill as incorporated in the resolutions unanimously adopted at the Berkeley conference:

That the State of California shall have the right at its option for a period of 12 months after the passage of the bill to acquire from the Government by purchase, exchange, or otherwise the title to 50,000 acres, or any part thereof, of the public lands susceptible of irrigation by the canals or works mentioned in the bill for settlement under the provisions of the State settlement act.

Provided, however, that the State of California or the settlers therein shall pay the full cost and charges per acre provided therein to be paid for the construction and storage purposes of the act, which shall be assessed by the Secretary of the Interior.

Provided that the charge of \$10 per acre shall not be paid on lands reserved for settlement under the State land settlement act or for soldier settlement.

That the lands described in said bill remaining in Government ownership and lying south of the third standard parallel and east of the Imperial irrigation district, not selected by the State of California, shall be set aside and reserved for one year or until water is brought to said lands for soldiers, sailors, and marines, preferential entry or settlement.

And also that said bill shall be amended to provide for direct appropriation by Congress or the issuance of Government bonds in an amount to cover the proportional cost of construction of the works specified in said bill of all lands lying outside of the Imperial irrigation district.

Many letters of indorsement of the Kettner bill and amendments now incorporated in H. R. 11553 have been made by public bodies, and many business firms of various portions of the United States within the past few weeks have written personal letters to Members of Congress indorsing this measure. I have made a list of a portion of the letters so written and of which I have received copies from the All-American Canal Association and the Imperial irrigation district—all were written within the past two months. I have the originals and copies in my possession, but desire to withdraw them for further use. The names of those I have selected are as follows:

- Driggs Ordnance Co., guns, ammunition, New York.
- Yarman & Erbe Manufacturing Co., filing systems, Rochester, N. Y.
- American Locomotive Co., New York.
- Edison Electric Appliance Co., electric appliances, Chicago, Ill.
- Clifton Manufacturing Co., manufacturing cotton goods, Waco, Tex.
- Fairmont Gas Engine & Railway Motor Car Co., Fairmont, Minn.
- W. F. Myer (Warner Jenkinson Co.), St. Louis, Mo.
- Warner Jenkinson Co., manufacturing extracts, St. Louis, Mo.
- E. W. Ayres Co., dredges, South Milwaukee, Wis.
- D. & W. Fuse Co., Providence, R. I.
- Conduit Electrical Manufacturing Co., electric protective equipment, South Boston, Mass.
- B. F. Avery & Sons, harvesting machinery, Louisville, Ky.
- Marion Steam Shovel Co., Marion, Ohio.
- Parke, Davis & Co., drugs, Detroit, Mich.
- Leopold Vaelpel & Co., duplex recorders, Portland, Oreg.
- The R. Hardesty Manufacturing Co., manufacturing steel products, Denver Colo.
- Hoedenauer Alfalfa, etc., Co., product grinders, Pueblo, Colo.
- H. & M. C. Co., paper, San Francisco, Calif.
- Wm. H. Hoegee Co., manufacturing, Los Angeles, Calif.
- Scovell Iron Store Co., Los Angeles, Calif.
- W. P. Jeffries Co., engravers, Los Angeles, Calif.
- A. Carlisle & Co., engravers, San Francisco, Calif.
- The Brininstool Co., paints, Los Angeles, Calif.
- Oliver Chilled Plow Works, San Francisco, Calif.
- Goodyear Tire & Rubber Co., Los Angeles, Calif.
- W. C. Hendrie & Co., rubber goods, Los Angeles, Calif.
- Ingersoll, Rand Co., Los Angeles, Calif.
- Pacific Mill & Mine Supply Co., Los Angeles, Calif.
- Fletcher & Framdles, wholesale lumber, Los Angeles, Calif.
- Rosenberg Co., Los Angeles, Calif.
- California Corrugated Culverts Co., Berkeley, Calif.
- Haas, Baruch & Co., Los Angeles, Calif.
- Neumark Bros., Los Angeles, Calif.
- Curtis Williams, Los Angeles, Calif.
- The Worthington Co., Los Angeles, Calif.
- Western Equipment Co., Los Angeles, Calif.
- J. P. Sherberman, San Francisco, Calif.
- Louis V. Vetter, Los Angeles, Calif.
- Southern Sierras Co., Riverside, Calif.
- The A. Lutz Co., San Francisco, Calif.
- Rapid Blue Point Co., Los Angeles, Calif.
- Western Pipe & Steel Co., Los Angeles, Calif.
- National Smelting Corporation, San Francisco, Calif.
- Layne & Bowler Corporation, Los Angeles, Calif.
- Hercules Powder Co., San Francisco, Calif.
- Western Rubber & Supply Co., Los Angeles, Calif.
- Atlas Imperial Engine Co., Oakland, Calif.
- The A. Lutz & Co., San Francisco, Calif.
- Channel Commercial Co., Los Angeles, Calif.
- L. W. Blinn Lumber Co., Los Angeles, Calif.
- Sun Tent & Awning Co., San Francisco, Calif.
- Eccles & Smith Co., Los Angeles, Calif.

A committee of 15 was appointed by the conference.

Mr. Nickerson, the chairman of the irrigation district, and I were selected as a committee of two, together with Dr. Mead, to select that committee of 15. Dr. Mead's duty was to select the State committee, ours the valley committee, which were instructed to work for the amendments proposed there.

Mr. WELLING. What proportion of the committee were members of the Imperial Valley?

Mr. KIBBEY. Of the committee of 15? Every man on the committee of 15 was a resident of Imperial Valley.

Mr. WELLING. Why did Dr. Mead and the Berkeley contingent have anything to do with the selection of the committee, then?

Mr. KIBBEY. He did not, excepting—probably I did not make myself understood—we had two committees, a committee of 15, of residents of the valley; a committee of 8, I think, of State officials, to represent the State in assisting the committee of 15 of the valley. In other words, the committee of the State was merely advisory to the committee of 15 in the valley. The names of the committees, including the committee appointed by the California American Legion, are as follows:

Marshall De Motte, chairman State board of control; U. S. Kingsbury, surveyor general of California; W. F. McClure, State engineer; Elwood Mead, chairman State land settlement board; B. H. Crocheron, State college of agriculture; C. H. Lee, State water commission.

Imperial Valley committee of 15, W. H. Best, president Water Co. No. 5; R. D. McPherrin, director Imperial Irrigation district; F. C. Hevener, president associated chamber of commerce; Will Edgar, president Water Co. No. 12; G. L. Marsh, director Water Co. No. 8; D. F. Harbison, director Imperial County Farm Bureau, all-American association; Burt Sears, director Imperial County Farm Bureau, all-American association; W. F. Beal, member county board of supervisors; O. N. Shaw, president Imperial Valley Wool Growers' Association, all Americans; Leroy Holt, president all-American Canal Association, all Americans; Mike Liebert, director Imperial County Farm Bureau, all Americans; Arthur Nelson, development agent, county of Imperial; Walter E. Packard, University of California; T. A. Johnson, director California Chamber of Commerce; R. A. Holt, member county board of supervisors, all Americans.

State legion committee.—W. B. Kibbey, chairman, El Centro, Calif.; P. I. Dougherty, Davis, Calif.; H. H. Sortor, Tulare, Calif.; H. W. Niehmeyer, Marysville, Calif.; H. F. Waterman, Fresno, Calif.

Mr. WELLING. What proportion of the people of the Imperial Valley do you assume got behind this proposition at the time of this meeting?

Mr. KIBBEY. I don't think that there are 50 people in the Imperial Valley who do not agree to this plan.

Mr. WELLING. Did you recognize that, or was it recognized by the community as a pretty general reversal of the attitude theretofore taken by the Imperial Valley with reference to this legislation?

Mr. KIBBEY. It was recognized as being a reversal of the former committee's acts in suggesting the sale of the lands. Now, in that connection I will state that the people of the Imperial Valley do not believe they can deal with the public lands, but before the soldiers left they said to the boys in a mass meeting: "Boys, when you come back, this land on the East Side Mesa shall be set aside for you, for soldier settlement." Now, as I say, the people of the Imperial Valley had no right to say any such thing as that, but that was in their

mind, that the soldier settlement would be made. When the Lane bill was first talked of they figured that soldier settlement would come under that.

The CHAIRMAN. Who was it said that? Was it those having to do with conscription or enlistments?

Mr. KIBBEY. Some of them, yes.

Mr. WELLING. Well, isn't it a fact, Mr. Kibbey, that these boys were in France or in the training camps long before the Lane bill was ever thought of?

Mr. KIBBEY. Before the Lane bill, yes; but before the Lane bill was ever thought of the people of the Imperial Valley had said to the boys: "When you come back we are going to give that land to you to settle there." When we first got into war that was the idea of practically everybody in the Imperial Valley.

Mr. SUMMERS. That antedated the Lane bill?

Mr. KIBBEY. That antedated the Lane bill and followed our entrance into the war.

Mr. BARBOUR. But the Imperial Valley project was already under way at that time, was it not?

Mr. KIBBEY. No; there wasn't any bill—

Mr. BARBOUR (interposing). But it had been contemplated?

Mr. KIBBEY. Yes; for many years.

Mr. HAYDEN. As I understand your statement, the people of the Imperial Valley, all the interested parties, consulted together with respect to this legislation and it clearly represents the desire of the great majority of the people there that this land on the East Mesa be set aside for soldier settlement, if it is possible to do so?

Mr. KIBBEY. Yes, sir.

Mr. HAYDEN. And that in carrying out that idea you have prepared this section of the bill which does the things that the great majority of the people of Imperial Valley want to have done?

Mr. KIBBEY. Yes, sir; exactly. There is another thing that I want to call your attention to in connection with this. The House of Representatives recently passed a resolution which I have called the Jones bill, which provided that in opening any lands to entry soldiers should be given a six months right of homestead entry. I understand that resolution is in the Senate now, and I am told this morning that there isn't any question but it will pass the Senate. Now, if those lands were opened to entry and this bill does pass it would give just one of the things that we ask here, but if you sell the lands you are taking it out of the operation of the bill. In other words, in one bill you say to the soldiers: "We are going to give you that land or give you public lands when they are opened for entry," and in another bill it is proposed to take them away from entry, so you are taking the cream right off of the milk.

Mr. WELLING. In view of the fact that you say there is practically a unanimous feeling in support of the proposed provisions of this bill to-day, why was it that you expressed in your opening statement here just a few minutes ago the disinclination of the board of directors of this water organization and the official bodies—you mentioned two or three which I do not now recall—to join you in the meeting?

Mr. KIBBEY. I thought I had explained that the other day. Probably you were not here.

When the original valley committee came back to the Imperial Valley they said: "Take this bill. If you amend it and put these soldier amendments in, Congress will kill that bill." They convinced the people of the Imperial Valley that that would be so. That was the reason that we had a hard time in convincing them that Congress—that we did not believe Congress was so constituted. Every member on that committee came back and said that, as I said the other day, and in talking with them when we tried to pin them down—we held meetings for that purpose—when we tried to pin them down to some definite statement that some Member of Congress had made, we could not. We tried to pin them down to some statement that some departmental official had made and we could not. They said it was a sixth sense formed from associating with Members of Congress.

Mr. SUMMERS. Just at that point, Mr. Chairman and Mr. Kibbey, I would like to say that I should be more favorable to this or any other legislation that made it possible to permit the soldier to go onto the land under favorable conditions to the soldiers. I want that in the record right at this point.

Mr. SMITH of Idaho. I don't think that your position is different from that of any other member of this committee, Mr. Summers, and we might all make that statement.

Mr. WELLING. I say amen to that.

Mr. BARBOUR. I will go further and say that I think it is also the opinion of the Members of the House.

Mr. HAYDEN. When you say "we," you mean representatives of the American Legion in the Imperial Valley who are responsible for the idea of having incorporated in this bill a provision that preference shall be given to soldiers in entering lands on the East Mesa?

Mr. KIBBEY. Exactly: and I would state in that connection that following the Berkeley conference we went before our State committee—

Mr. WELLING (interposing). What do you mean by the "Berkeley conference"?

Mr. KIBBEY. The conference called by Dr. Mead, after he had been appealed to by members of the legion and Spanish War Veterans to consider this bill, which was held upon October 1 at Berkeley, at which all of these representatives that I have been talking about were present. That is what I designate as the Berkeley conference, where these amendments, or amendments along this line, were first suggested by a resolution. The resolutions are in the hearings here now. So whenever I speak of the "Berkeley conference," I mean what has probably been mentioned to some of you gentlemen at least as Dr. Mead's scheme.

Mr. SMITH of Idaho. Let me ask you a question. This 50,000 acres that it is proposed to turn over to the State of California is to be given over to the soldiers under the California law?

Mr. KIBBEY. Under the California land settlement act as amended the soldiers have the preference right to the land.

Mr. SMITH of Idaho. On that 50,000 acres of land?

Mr. KIBBEY. For soldier settlement; yes, sir.

Mr. HAYDEN. And you will note, Mr. Smith, in the last proviso, to clinch the matter, the bill provides that in the event the State

exercises its option to take over this 50,000 acres, the State shall agree in a contract with the Secretary of the Interior that persons serving in the military or naval forces as aforesaid shall have the preferential right of purchase, so that there is no question but that the ex-service men will be protected.

Now, you mentioned, Mr. Kibbey, that after the action taken at the Berkeley conference this question was submitted to the State organization of the American Legion.

Mr. KIBBEY. To the State convention. I was made chairman there of the land committee of the committee upon resolutions of the State convention of the legion.

Mr. WELLING. I am intensely interested to find out, if I can, Mr. Kibbey, just where the sentiment grew up for the changes that have been demanded in the original Kettner bill. Did it come from the influences of the State government, represented by the university group at Berkeley, or did it arise within the Imperial Valley itself?

Mr. KIBBEY. Well, now, I will tell you just exactly the facts. I was sitting at a lunch counter one evening with Mr. Nelson. Mr. Nelson had returned from France. He was on our committee, and he was compelled to leave the other day. He has been with us up to the time that the physicians ordered him to leave. Mr. Nelson, sitting at that lunch counter with me, said, "Kibbey, do you know any Members of Congress?" I said, "Yes; I know one or two, and I know one or two Senators." He said, "The Spanish-American War veterans have asked our committee to amend the bill so as to give the soldiers a preferential right, and they failed to get any action. What do you think about it? Do you think it would kill the bill?" I said, "No; I do not." He said, "Would you mind telegraphing to some of the Members of Congress whom you know, and Senators?" I said, "Yes; I will telegraph to them." I did telegraph them.

Mr. TAYLOR. Whom did you telegraph to?

Mr. KIBBEY. I telegraphed to Mr. Hayden and to Senator Ashurst and Senator Smith, of Arizona. Mr. Hayden, subsequently replied. Mr. Smith was absent. Senator Ashurst telegraphed back that he thought such amendment would be of great aid to the bill. As I say, Mr. Hayden was not there; but I subsequently heard from him and was satisfied that he thought the same thing. Then when I got that telegram, a delegation went to see Mr. Kettner.

Mr. KETTNER. You were one of the delegation, were you not?

Mr. KIBBEY. No; I did not go. Mr. Nelson was one.

Mr. KETTNER. And what did Mr. Kettner do?

Mr. KIBBEY. Mr. Kettner expressed the same idea, that he thought it would help the bill. Then following that we took the matter up with the legion in Los Angeles and asked them --because they knew Secretary Lane personally--the members there--asked them to telegraph Secretary Lane and find out what he thought about it, and I am informed he telegraphed back that he thought it would help the bill. Now that started with Mr. Nelson and myself sitting at a lunch counter in El Centro, both of us residents there. Mr. Nelson is county development agent, and I have been a resident there since January, 1914. Then, Mr. Nelson and Mr. Wylie Weaver, who were members of the committee which went to see about it, came back

to the valley and we went to see the board of directors of the irrigation district, and they found the sentiment still prevalent that Congress would deny the relief if the soldier amendments were proposed. Mr. McPherrin was the only member upon the board who at that time seemed to agree with us. Mr. Nickerson was the next man, and next we had all of them. We had the board of supervisors.

Mr. MCPIHERRIN. Mr. Kibbey, may I interrupt a moment? It is only fair to say that the reluctance on the part of the board of directors of the valley at that time to adopting the soldier amendments proposed was the feeling that we had that above everything else we must have a bill passed, because the interests of the valley generally were such that we could not take any chances; that we must have relief, and even the membership of the legion in the valley agreed with us that if their request endangered the action which the valley so much needed they would withdraw their request.

Mr. TAYLOR. It was perfectly natural, was it not, to feel that any new features might create delay and new complications, and all of you were exceedingly anxious to accomplish something?

Mr. MCPIHERRIN. That is it exactly.

Mr. TAYLOR. And you were afraid that every monkey wrench thrown into the works here by some fellow might kill or seriously jeopardize the bill.

Mr. MCPIHERRIN. Yes, sir.

The CHAIRMAN. It was a mere matter of expediency?

Mr. MCPIHERRIN. Yes, sir.

Mr. KIBBEY. We didn't want to give any other impression, gentlemen. I did not want to give the impression that the people of the Imperial Valley were willfully opposing a soldier amendment.

Mr. TAYLOR. In their eagerness to get some legislation they really did not want anything to complicate the matter if they could get by with the bill?

Mr. MCPIHERRIN. Exactly.

Mr. KIBBEY. It was just a difference of opinion as to expediency.

The CHAIRMAN. On the contrary, there was a moral predilection at the start to do something for the soldier, provided it would not prevent securing relief.

Mr. KIBBEY. Exactly.

The CHAIRMAN. If it would not hinder relief in any way, if it would not hamper the securing of relief, of course, they all wanted it? Is that it?

Mr. KIBBEY. Yes, sir; that is exactly the situation.

Mr. WELLING. That was securing the indorsement of the Los Angeles Legion. Then what did you do? How did the sentiment grow from there?

Mr. KIBBEY. We went back to the valley and, as I said before, we communicated with Dr. Mead; Mr. Jacob Lorang, of the Spanish War Veterans; Mr. Nelson and I. We communicated with him because he was chairman of the State land settlement board, which was undertaking soldier settlements at that time. Then he suggested the calling of the Berkeley conference.

Mr. WELLING. At Berkeley or in the valley?

Mr. KIBBEY. At Berkeley. Then we went to the board of directors and we got them to agree to attend that conference in a body. We

went to the board of supervisors and we got them to agree to attend that conference in a body; we went to the farm bureaus and we got their directors to agree to attend that conference in a body; we went to the chambers of commerce and got them to agree to send representatives. We then thought we had a representative body of men, but the invitation was made general, inviting all to come, and many who were not invited did come—that is, specifically invited—they did send representatives. Now, following the adoption of that resolution, the Berkeley conference selected the committee of 15. Mr. Nelson and I then were delegates from our local post of the legion to the State convention of California. We took the matter up there and that convention unanimously passed a resolution indorsing the proposition.

Mr. HAYDEN. So that the American Legion of California as a whole is behind this proposal to reserve the east mesa for soldier settlement and supports the action taken by your local posts of the American Legion in Imperial Valley?

Mr. KIBBEY. Yes; and the local posts are now represented by a county council. All of the posts are in the county council, and they have taken similar action.

Mr. HAYDEN. You then came back to Washington representing whom?

Mr. KIBBEY. The committee of 15, which was appointed at the Berkeley conference, suggested to the board of directors of the irrigation district the names of persons representing different sections, it might be said, or different associations. They unanimously selected upon that committee Mr. McPherrin, who represents the irrigation district board; Mr. Nickerson, the chairman of the irrigation district board; Mr. Shaw, as representative of the All-American Canal Association; Mr. Nelson, and myself, as representatives of the American Legion, but all representing the Imperial irrigation district. That committee has never had a disagreement.

The CHAIRMAN. Now, who does Mr. Ragge represent? He is here representing the legion?

Mr. KIBBEY. I will explain that. Following the California State convention Mr. Nelson and I were made alternates to the national convention at Minneapolis. We came east with Dr. Barrows, president of the university and president of our California legion. We missed train connection at Omaha and we got in after the resolution of the national convention had been framed and agreed to by the resolutions committee. It embodied ideas which we were attempting to carry out in this bill to an extent. Notwithstanding the fact that that resolution had been framed and ready for a report, we asked for permission to appear before that committee. We appeared before the committee and they said the thing to do was to take the matter up with the national legislative committee at Washington; that that committee would submit a favorable report to them, but that it was too late to get into their resolution that they were to report to the convention; that there were thousands of resolutions introduced there and we could not break in at that time. When we came to Washington we then went to the national headquarters here in the city, and Mr. Ragge told us that while he had not yet received that resolution—I don't believe he has yet, because the Secretary

went away—but he told us that it was the policy of the national legislative committee to aid any State in passing any legislation which was in line with the policy of the national legion itself. Isn't that a fact, Mr. Ragge? Now, I would like to give way to Mr. Ragge for a moment.

Mr. MARK ROSE. Mr. Kibbey, before you give way I would like to ask you one question. I want to ask you as a matter of fact if Mr. Swing and Mr. Seymour, representing the El Centro Chamber of Commerce and the All-American Canal Association, and the gentlemen representing the Coachella Valley did not withdraw from the Berkeley conference before that resolution was passed?

Mr. KIBBEY. No, sir. I will tell you what happened. Mr. Seymour—I had forgotten about him—withdrawn from the Berkeley conference after stating that he had voted for everything that had been suggested there, everything that had been proposed—he withdrew because he said it would delay the passage of the bill itself, would delay relief.

The CHAIRMAN. That is, the amendments?

Mr. KIBBEY. Yes, sir.

The CHAIRMAN. The proposed amendments?

Mr. KIBBEY. Yes, sir. Mr. Swing did not withdraw. Mr. Swing left to attend the Johnson meeting before the conference was completed. The member from Coachella Valley—I don't know him: I know there was a member there and I know that he did not publicly say that he withdrew, and I supposed that he continued in the meeting.

Mr. ROSE. Well, I have Mr. Seymour's report to the chamber of commerce, and I expect to read it later on to the committee, and I wanted to ask you that question.

Mr. KIBBEY. I will say that Mr. Seymour favors the resolution and amendments.

Mr. TAYLOR. Mr. Chairman, before we pass this section, if it is open for amendment at this time, I suggest that we change that 160 acres to 80 acres.

The CHAIRMAN. I think that is perfectly proper. Eighty acres is about the maximum under most of the projects.

Mr. HAYDEN. Mr. Chairman, at Mr. Kibbey's suggestion, since this is the soldier-settlement section, it might be well to hear Mr. Ragge, the gentleman who represents the legislative committee of the American Legion.

Mr. BARBOUR. I would like to ask Mr. Kibbey a question. It won't take but a moment. It is in regard to the provision that the ex-soldiers shall have the exclusive right to purchase. Do you think the right of homestead entry would be preferable to the right to purchase?

Mr. KIBBEY. The preerential right of homestead entry or purchase, I don't care which.

Mr. BARBOUR. Assuming, now, that they should be given, or would be given, the exclusive right of homestead entry, or the preferential right of homestead entry, that would be better than the exclusive right of purchase?

Mr. KIBBEY. To my notion: yes, sir.

Mr. BARBOUR. That is what I wanted to get at. There has been some discussion of that feature, as to whether or not the land

should be sold to the soldiers, or whether they should be given the preferential right of homestead entry. There is quite a distinction and I want to get your idea of just what is to be preferred.

Mr. KIBBEY. I think in the first place that such an amendment will prevent speculation. When the bill was first drawn I will say that we had a provision in the bill which I had drawn, providing for entry for ex-service men under the public-land laws. After discussion with one of the attorneys of the Department of the Interior, he said, "Well, your bill won't go through that way—I don't believe it will; I think you had better amend it and make it a purchase proposition at \$1.25 an acre." I said, "All right, that suits me." Then the Secretary of the Interior comes here and says in his report he wants what we had in there first.

Mr. TAYLOR. We have never legislated to give anybody the exclusive right to anything. Why shouldn't we make this a "preference" right? That is what it will amount to anyhow, but for the sake of consistency I think we ought to put it that way.

Mr. KIBBEY. I think so.

Mr. EVANS. Mr. Kibbey, please clear up the identity of the gentlemen who claimed that recognizing the soldiers on this bill will prejudice the bill in the minds of Congress! Who are the persons making such representations? That was not made clear to me at the start.

Mr. KIBBEY. One was Judge Swing, one was Mr. Brooks, a member of the board of supervisors, and one was Mr. Mike Liebert.

Mr. EVANS. What did they represent?

Mr. KIBBEY. They represented that to amend the bill at that time would defeat it, would prevent the people of Imperial Valley from getting relief. Now their theory was that it would start another fight.

Mr. HUDDSPETH. Not that Congress was against any soldier's preferential rights? They did not base it on that ground, did they?

Mr. KIBBEY. No, sir.

Mr. SUMMERS. I would like to say one word, to keep the record straight and in justice to everybody concerned. The committee that was here might have gotten that impression from hearing the discussion of the plan suggested in the so-called Lane bill and the Mondell bill. It may as well be known to these gentlemen that there is very determined opposition to that bill from some Members from the Central and Eastern States, and that is the land-settlement bill, and they might have deduced from that opposition that it would extend to all features of any bill giving a preferential right to soldiers. Now, that deduction is not justified, but undoubtedly that committee, in my opinion, was honest in believing that it would prejudice Congress against this bill, but it grows out of something that is provided in other bills that goes far beyond a preferential right, and there is opposition, and very determined opposition, on the part of some Eastern and Central States Members.

The CHAIRMAN. I deem it due to those gentlemen who have been referred to, Judge Swing and Mr. Liebert and the others, to say that it was my impression that they were ready to do most anything that would promote the relief that they were seeking—that is, to get things safe there, the water rights safe, and the Imperial Valley made safe—and whatever would best promote that relief, contribute most

to it, I think they were desirous to secure. How they got that impression, of course, we do not know anything about, but I think they were all the time aiming to expedite the legislation and not to encumber it with anything that might retard it.

Mr. TAYLOR. I don't believe, Mr. Chairman, we ought to fill the record with a lot of this matter.

Mr. SUMMERS. The reputation of perhaps honorable gentlemen is concerned, Mr. Taylor, and I thought this statement ought to go in.

Mr. TAYLOR. But we talk over these things all the time, and personally I have very high regard for those gentlemen, and I feel just as they did, that they felt that anything coming in here now might defeat the bill, and so many were criticizing the Lane soldiers' settlement bill at that time, so I think they were probably justified in fearing that any amendments might muddy the water.

Mr. SUMMERS. I want to ask one question, and then I am through. Is the land for which the Laguna Irrigation Co. is asking a preferential right of purchase better or worse than the land adjacent and the greater part of the East Mesa?

Mr. KIBBEY. Well, I can't answer that question.

Mr. SUMMERS. All right.

Mr. THOMPSON. Is there any alkali land in that east mesa?

Mr. KIBBEY. Now you are asking me questions that are hard to answer. I have been over a portion of the mesa; I have not been over all of it, and I don't know personally.

Mr. ROSE. There is not any.

Mr. THOMPSON. Is it better land or good land or the same soil as that in the Imperial irrigation district?

Mr. ROSE. It is a sandy loam instead of a silt. I believe it is better soil and more productive and requires less water. The Imperial Valley has a very compact soil and will not absorb moisture and you have to irrigate very often, while out there the land is of a sandy loam nature and no doubt is better land than Imperial Valley land.

Mr. EVANS. Generally termed "bench" land?

Mr. ROSE. Yes, sir.

Mr. KIBBEY. Mr. Chairman, in justice to these men whom I have been talking about, I want to disclaim any idea of injuring their reputations in any way. I know the men personally, and there isn't anybody who has a higher regard for those men than I have. I did not have much regard for their opinion as they brought it back, but I knew they were honest and sincere in their opinion. I knew that they honestly wanted to do nothing which might interfere with the Imperial Valley getting relief.

The CHAIRMAN. I deem it due to simply reiterate in substance what I meant to say here a while ago, that they seemed to be impelled by the highest motives and with the purpose of securing relief for Imperial Valley, and I think they would have been particularly in favor of doing anything for the soldiers, especially the soldiers of the recent war, that would have contributed to securing the relief, and if they opposed that in any way it was because they had somehow gained the impression that it would delay securing the relief, and that would be the only reason for their opposition.

Mr. WELLING. Mr. Chairman, inasmuch as the jury has acquitted the committee, let us hear from the soldier.

Mr. ROSE. I want to ask one question, and that is this: Both Mr. Swing and Mr. Liebert are members of the American Legion and of the organization of the Spanish War Veterans?

Mr. KIBBEY. Exactly. There is no question about that. However, Judge Swing was not at the time, but that doesn't make any difference; I am not criticizing Judge Swing except as to his opinion.

The CHAIRMAN. Now, let us hear from Mr. Ragge. Just state who you are and whom you represent.

STATEMENT OF MR. H. H. RAGGE, REPRESENTING THE AMERICAN LEGION.

Mr. RAGGE. I am a member of the national legislative committee of the American Legion. I served in the Second Division and lost my own leg, and so I think I know these boys pretty well. I have been with the legion ever since my discharge from General Hospital No. 3, at Colonia, N. J.

Mr. TAYLOR. Where is your home?

Mr. RAGGE. In Texas. I was born in Texas and raised in the South, in Georgia and Florida.

The CHAIRMAN. How do you happen to come here representing the Imperial Valley people?

Mr. RAGGE. I am not representing the Imperial Valley; I am merely representing those members of the legion of California who passed resolutions at their State convention requesting the relief of Imperial Valley; and the resolution of our convention was rather a broad-policy outline of what the soldiers would want in the way of land and home aid, and pending the time that this special committee frames this policy the national legislative committee, with Thomas W. Miller as chairman, has taken an interest in these bills which various States have been attempting to have passed, and which gave to those members of the legion in these various States the preference right for entry on these lands for homesteads.

The CHAIRMAN. What is your calling? What was your calling before you went into the war?

Mr. RAGGE. I was a salesman and also sort of a construction employee on different projects of railroad construction generally.

The CHAIRMAN. Are you an engineer?

Mr. RAGGE. I studied civil engineering in school. However, I am not a civil engineer.

Now, I will read you first the resolution of our convention which was agreed to by the committee prior to the time when Mr. Kibbey and the gentleman arrived, and of course we did not mention specifically any bill; and, in fact, the convention attempted, if possible, not to mention specific bills, because there were so many pending that affected these ex-service men that it would have been impossible to go through them all.

Mr. SMITH of Idaho. Which convention was that?

Mr. RAGGE. That was the national convention of the American Legion, the first constitutional convention of the American Legion,

held in Minneapolis, November 10, 11, and 12; and the resolution that I will now read was adopted unanimously there:

LAND DEVELOPMENT HOME AID LEGISLATION.

Fifteenth: Whereas, the American Legion in national convention assembled, has before it a number of bills purporting to be of benefit to those persons who served honorably in the military and naval forces of the United States; and

Whereas none of the proposed bills make adequate provision for the needs of the proposed beneficiaries; and

Whereas delay would be most disastrous: Therefore be it

Resolved, That we request the immediate enactment of a law to be known as the American Legion home founding act embodying the following features:

1. Reclamation of unproductive lands by direct Government operation for settlement by service men and women.

2. Reclamation and development of rural communities by loans of Government credit for settlement of such communities by service men and women.

3. Direct loans to service men and women for the purchase and development of farms.

4. Direct loans to service men and women for the purchase of city homes; and be it further

Resolved, 1. That the administration of the same be decentralized.
2. That no heavy financial restrictions be imposed.
3. That the right of eminent domain be incorporated to prevent speculation.
4. That the provision of such act shall be administered by former service men and women; and be it further

Resolved, That a committee of five be appointed by the national executive committee to be known as the committee on land and home aid to secure this needed legislation.

The national legislative committee, pending the time when our national commander announces this special committee, have merely interested ourselves in these various projects, that the soldiers were interested in different localities.

Now, evidently the members of the legion in California have gone into this thing, and the various officials of the California department have sent to us resolutions that were passed from local posts and State conventions. I think Mr. Kibbey has virtually brought out all that, and there is no need for me to go into it.

Now, on this particular part of the bill here which applies to the entry under the homestead laws, Mr. Lane, Secretary of the Interior, has addressed a letter to Judge Kinkaid, and the provisions that he has asked be placed in the bill by his letter are just exactly what I think the soldier wants. I don't think that any of these soldiers want any opportunity that they are not entitled to; I think all they want is a chance. They just want an opportunity to get on this land, and I know it to be a fact that 150,000 of them have enough interest in the land alone to address letters to the Department of the Interior about it.

Mr. BARBOUR. Do you prefer the homestead right to the right to purchase?

Mr. RAGGE. Yes.

Mr. TAYLOR. It is a home they want; not speculation anyhow.

Mr. RAGGE. All these men—all that any of them want is a chance.

Mr. TAYLOR. Certainly, but they want a chance to get a home, not a chance to get and sell something to make some money.

Mr. RAGGE. Yes, sir.

Mr. SMITH of Idaho. Now, if these soldiers have not any money at all, what good would a piece of irrigable land do them, when it costs from \$25 to \$50 an acre to get the land into shape for cultivation?

Mr. RAGGE. Now, they may have relatives, or they may have kind-folks to help them along; but so far as cash outlay is concerned, I doubt very seriously if the majority have enough money to go out and buy a piece of land.

Mr. SMITH of Idaho. Even at \$1.25 an acre?

Mr. RAGGE. If they have got \$1.25 an acre to spend for the land, they probably can do a whole lot more than that, and they can get land from somebody else. But I am convinced after two years in the Army that the majority of those men haven't got enough money to get very far.

Mr. SMITH of Idaho. Do you think it would be a kindness to a soldier who has no money at all to put him on a piece of land and be expected to develop it?

Mr. RAGGE. If he has any chance or any help from anywhere else, it is up to him.

If he doesn't fight for this piece of land and work for it, he will never amount to very much anyway.

Mr. SMITH of Idaho. I proved up on a piece of irrigated land about 15 years ago, and I know that it costs, in addition to the purchase of the land, about \$50 an acre to get it into shape to raise the first crop. And that is not counting any expense in buying machinery or anything: as I rented machinery and hired much of the work done.

Mr. RAGGE. If a man has a homestead or is allowed to homestead on this land and has the assistance of friends or relatives or this community settlement plan and is extended a small line of credit from the Government or from the State, it is our thought that the man will really be benefited. If you are merely to give him 160 acres of land outright, personally, I don't think it would do the soldier very much good.

Mr. SMITH of Idaho. Then unless the Lane bill goes through, or something like it, these boys that go on to land would not have any opportunity at all to get a foothold.

Mr. BARBOUR. Dr. Mead stated the other day, Mr. Smith, that that was the very type of men that they were appealing to in the Durham settlement and other settlements in California, the fellow that didn't have anything and didn't have any land; he was the man they were after.

Mr. SMITH of Idaho. Probably under the California plan that is true, but the California plan will not extend to all of this project.

Mr. SUMMERS. But if he has the grit he will probably clear up a few acres of that with his own muscle the first year, and the next year a few more and the next a few more, and he will work it in that way.

Mr. SMITH of Idaho. If a boy has grit, as you have suggested, do not you think he will be able to save a few hundred dollars and be able to pay down \$1.25 an acre on the land?

Mr. SUMMERS. If he has a few hundred dollars, he will have that in addition to the grit.

Mr. RAGGE. May I answer your question in this way: That I see 20 or 30 men every day that have not an overcoat; who are still wearing an Army overcoat. So if this bill is likely to become a law, unless the thing is fixed now for the ex-soldier, the chances are he won't have a chance at all, you see.

The CHAIRMAN. Let me understand you, Mr. Ragge. How would you have it arranged for the soldier in this bill?

Mr. RAGGE. I think that the soldiers of California and the soldiers all over the United States would rather have it an entry under the homestead laws.

The CHAIRMAN. And to pay the price they have been fixing, the minimum price for this land here all the time at \$10 an acre?

Mr. RAGGE. But not to soldiers.

The CHAIRMAN. No, but you would have it just an out and out homestead right?

Mr. RAGGE. I would have the bill just exactly as it is worded at the request of Secretary Lane. I am sure that will meet the demands of the soldiers themselves.

Mr. WELLING. Did you ever have any experience on a reclamation project, Mr. Ragge?

Mr. RAGGE. No, sir.

Mr. WELLING. Do you have any idea what the total value to these soldiers is going to be of an acre of this land to buy the water for it, to acquire the title from the Government, and then to level it and get the land in shape so that he can raise a crop?

Mr. RAGGE. No; I don't know.

Mr. TAYLOR. I would like to say, Mr. Chairman, that all these matters are some of the hardships that the boys are necessarily up against, as we of the West all know, but nevertheless let us give them this chance, if they want to take it, and let us not quibble about giving them the opportunity. I am in favor of that.

Mr. KIBBEY. With reference to the soldiers, I want to say that the majority of them are just getting back and have not had the opportunity yet to save the few hundred dollars that has been suggested. In addition to that fact, I will say that I have had experience under reclamation acts; that I have had experience in the Salt River Valley; and that I know that the good, honest, sincere worker who is broke can get money to reclaim his land with. That is the kind of fellows that we want upon this land. I have seen it done there, and I expect to see it done here. In addition to that, I will say gentlemen, that our local legion, our legion in Los Angeles, is right now helping the returned soldier financially, and we expect Congress will help the soldiers before they get through with it.

You will notice one provision of this section provides that the land shall be reserved for any future settlement act which the Government itself may pass. If you deprive them of that privilege now, you are taking away the very cream of California's remaining public land.

Mr. SMITH of Idaho. We are all in favor of the soldiers, but it is a matter of getting the money to do this reclamation work.

Mr. KIBBEY. Now, then, as to the water, under our plan the soldier will have 40 years to repay the cost of the water, under the bond

proposition. He pays by assessments the same as the other citizen pays. That is our idea. Put him on there, give him 40 acres if he is a man who is poor and hasn't got the money to reclaim 160 acres—and I don't believe there are very many citizens who need to reclaim 160, but cut it down, say, 80, but don't deprive him now of the opportunity when we propose a financing scheme that will take care of him.

Mr. SMITH of Idaho. How many years under the proposed plan will it be before the soldiers will have the privilege of locating a homestead on the East Mesa, if we pass this bill, and start to work on it? It will be two or three years, will it not?

Mr. KIBBEY. Yes.

Mr. SMITH of Idaho. Before they would have an opportunity to even make a homestead entry?

Mr. KIBBEY. Yes, sir; but they would have an opportunity then. And another feature that hadn't been spoken of, and I think Mr. Ragge will agree with me, is that this bill goes further than the ordinary bill, because it takes in the Spanish War veterans and also the Civil War veterans. The Civil War veterans were given scrip, and this isn't a new policy at all.

Mr. SMITH of Idaho. They were not given any scrip. The Civil War veteran was not given any scrip unless he entered part of 160 acres, and then he could dispose of the remainder under transfer. He was not given any scrip otherwise.

Mr. KIBBEY. I don't mean that he was just handed out the scrip, but he was given a preference, was he not?

Mr. SMITH of Idaho. Yes; he has the preference now, and we all want to give these boys the preference.

Mr. KIBBEY. All right, then, that is what we want.

Mr. RAGGE. Well, I thank the committee for this opportunity.

The CHAIRMAN. I was not as attentive as I ought to have been, Mr. Ragge, at the time you were closing your statement. I was going to inquire whether you had said all that you wished to say?

Mr. RAGGE. Yes; thank you. The special committee on land homes and aid will frame this policy as its national scheme, I suppose; that the soldiers will father or that they won't, and pending that time the legislative committee of the Legion feel that we can just take these cases as they arise before these committees, and try to express the sentiment of the men that they be given preference.

Mr. HUDSPETH. I don't know whether I got you clear on that or not, Mr. Ragge, but does the soldier want land given to him, or does he prefer paying \$1.25 an acre?

Mr. RAGGE. If the soldier is given a preferential right of entry under the homestead law, that is what he wants.

Mr. HUDSPETH. That is provided in this bill at \$1.25 an acre.

Mr. RAGGE. Well, he can take the purchase money of \$1.25 an acre, and he can get homestead entry.

Mr. HAYDEN. Let me ask you about the land committee of the American Legion. When do you expect them to be in Washington?

Mr. RAGGE. They will meet here on February 16, I think it is.

Mr. HAYDEN. The committee has not yet been appointed?

Mr. RAGGE. The committee has been appointed, but it has not been publicly announced by the national commander. It is composed of five men who are chosen from different departments and geographically, too.

Mr. HAYDEN. They will be here, then, in the course of the next two or three weeks?

Mr. RAGGE. Yes. However, they will not take an interest in individual projects; they will attempt to formulate some policy or scheme which will be acceptable to all the men, and in which we embody the designs of all these soldiers, to present it to Congress.

Mr. HAYDEN. Do you know the personnel of the land committee at the present time?

Mr. RAGGE. Yes; I know them, but as it has not been publicly announced by the national commander, I don't feel that it will be up to me to state who they are. However, I will say that I think they are really representative citizens, and as big men as our national commander could secure for the committee. Of course, we have been studying up on it and preparing this special committee, but it is impossible to tell you just exactly what it will result in, because we don't know ourselves.

Mr. EVANS. My belief is that every Member of Congress would like to know their plans.

Mr. RAGGE. And I assure you that as soon as this special committee can draft this legislation or come to some conclusions we will have a bill introduced, or find some way to present it to Congress. I thank you.

The CHAIRMAN. We are very glad to have heard you, Mr. Ragge, as the representative of the legion.

STATEMENT OF MR. WALTER B. KIBBEY—(Resumed).

Mr. SMITH of Idaho. I will read section 10.

Sec. 10. That all lands susceptible of reclamation hereunder and not now included within a legally organized irrigation or county water district, or other legal organization, shall be organized in irrigation districts in accordance with State law, according to such boundaries as may be acceptable to the Secretary of the Interior: *Provided*, That no lands in excess of 160 acres held in private ownership by any one person, firm, or corporation shall be included in any such district, nor shall any water be delivered to more than 160 acres of land in any one ownership therein.

Mr. KIBBEY. I think, Mr. Smith, the Secretary suggested an amendment to that.

Mr. SMITH of Idaho. Yes; there is stricken out here in lines 14 to 17, the proviso "that no lands in excess of 160 acres held in private ownership by any one person, firm, or corporation shall be included in any such district."

Mr. KIBBEY. And the Secretary's suggestion, I think, is there in lieu of that provision.

Mr. SMITH of Idaho. Yes; he suggests the striking out of that proviso and inserting:

That before any contract is let or work begun for the construction of irrigation works in any district under this act, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of 160 acres held by any one person, firm, or corporation, upon such terms and at not to exceed such price as the Secretary may designate; and if any land owner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his lands shall not be included within the district or districts, if adapted for construction.

Mr. KIBBEY. I think the amendment is a good one. I think it should be adopted. We worked with that section, I will say, more

than any other section. We knew that the policy of the Government was not to furnish water for more than 160 acres of land. Under the irrigation district act if you furnish water to the district, the district is bound to distribute that water equally, and without power to refuse a man water because he owns more than 160 acres. The principal object of the section is to give the Secretary authority to contract with any corporation which he may deal with and provide for the payment of the money. The sections of the California irrigation act which I refer to are sections 62 and 63. Under those sections it is impossible to limit the distribution of water to the acreage owned by any taxpayer in the district. However, the Secretary's amendment is taken from the last amendment to the reclamation act, and under that the railroad companies—and, of course, this affects the railroad companies more than anyone else—enter into a contract with the Secretary whereby they put the title in escrow to the lands and agree to sell at a price which he fixes, and cut it down to the required acreage.

Mr. WELLING. Is there a lot of railroad land in this section?

Mr. KIBBEY. There is not railroad land in here [indicating the east mesa].

Mr. HAYDEN. The railroad lands are all north of the third standard parallel?

Mr. KIBBEY. I think with the exception—

Mr. WELLING (interposing). I suppose all of the railroad lands are north of the third parallel.

Mr. HAYDEN. I understood that the reason you selected lands south of the third parallel for soldier settlement was because it was a compact body of land belonging to the United States, while north of the third standard parallel the alternate sections have been granted to the railroad company.

Mr. KIBBEY. That is practically the reason. I will say that I think I was personally the first man who suggested the land south of the third standard parallel. I did that because my general understanding of those lands was better than that of the rest of the land, for one reason; and the other reason, that the balance of them were interspersed with railroad lands.

Mr. HAYDEN. This map shows the lands in the northern part of the proposed project to be alternate sections originally granted to the railroad. You will notice that south of the third standard parallel practically all the lands on the east mesa belong to the United States [indicating on map].

Mr. SMITH of Idaho. Will the railroad company come in on this proposition?

Mr. WELLING. They would have to come in.

Mr. SMITH of Idaho. You can not make them come in.

Mr. HAYDEN. It seems to me that the Southern Pacific Railroad Co. will certainly be as patriotic as the Northern Pacific Railroad Co. has been with respect to its alternate sections where they are included in reclamation projects. I can hardly conceive of a great corporation, interested in the development of traffic along its lines, standing in the way of a great irrigation enterprise.

Mr. SMITH of Idaho. Has the matter been taken up with the railroad company, Mr. Kibbey, as to whether or not they will come in?

Mr. KIBBEY. On the original bill, no. Now, the railroad company transferred this land in California to what is known as the Southern Pacific Land Co. One of the sales agents of the Southern Pacific Land Co. was consulted, and he was very greatly opposed to the bill in its original terms, as we had it, absolutely limiting the ownership to 160 acres. The Secretary's amendment, so far as I know, has never been taken up. However, that amendment was satisfactory to other railroad companies, and we assumed that it would be satisfactory to the Southern Pacific.

Mr. SMITH of Idaho. Do you not think that ought to be presented to the officers of the company, to ascertain what their attitude might be?

Mr. KIBBEY. Mr. Smith, we could do that if we had the time, and I would say yes; but right now I think that we are in a condition where we have to move somewhat upon precedents that have been established.

Mr. HAYDEN. It seems to me that, regardless of the attitude of the owners of these railroad lands, Congress should not change its policy and permit vast tracts of land to acquire a water right and then be disposed of to settlers at an enhanced price for the benefit of people who have been holding the land for speculation. I do not believe Congress will ever change the policy of limiting the area of land that can obtain water under any Government irrigation works to not more than 160 acres.

The CHAIRMAN. Certainly we can not pass any bill making any discrimination there.

Mr. WELLING. I suppose it would be the policy not to begin a project until the department knows pretty definitely what the railroad company owning a third of the land under the project would do with its lands.

Mr. HAYDEN. The project could stop when we reached the edge of the railroad land. The Secretary of the Interior can arrange for the creation of an irrigation district covering the lands on the East Mesa south of the third standard parallel. At any later time, when an arrangement can be made with the railroad company that they will place their lands in the hands of the Secretary of the Interior for disposal so that water can be furnished and the land actually settled and the settler get the benefit of the unearned increment of value which comes from irrigation, then the project can go on. There can be no good reason for delaying the whole project awaiting the action of certain land owners.

Mr. SMITH of Idaho. But would it be possible to finance this proposition unless this new land comes in and agrees to pay its proportion?

Mr. HAYDEN. I believe so.

Mr. ROSE. It would take 300,000 acres of it out anyway.

Mr. KIBBEY. In railroad lands?

Mr. ROSE. No; but lands that you would prevent coming in if you stopped when you reached the railroad lands.

Mr. KIBBEY. We would prevent 300,000 acres from coming in?

Mr. ROSE. If you stopped when you reached the railroad lands.

Mr. HAYDEN. There are 500,000 acres within the limits of the Imperial irrigation district, and 200,000 acres on the East Mesa:

that is 700,000 acres. Where do you get 300,000 acres more? There are not 1,000,000 acres to be irrigated.

Mr. ROSE. You say there are not, and I say there are over 1,100,000 acres possible of irrigation under this, Mr. Hayden, and I have the engineer's figures to show it.

Mr. HAYDEN. At any rate, an irrigation enterprise which comprises 500,000 acres under the Imperial irrigation district, and 200,000 acres on the East Mesa, that is 700,000 acres of land, has very good assets to start with. We must presume that Congress will not pass any law which will allow the owners of the railroad lands to obtain water for them in large tracts and then dispose of the land afterwards to settlers. We are not going to do that and we are not going to permit the owners of the railroad lands to tie up this legislation by demanding any such rights.

Mr. KIBBEY. I will say in connection with that, the figures may by the Board of Engineers, finally were 895,000 acres of lands which are capable of irrigation. Now, whether those figures are right, I don't know. Those are the figures.

The CHAIRMAN. At any rate, we could only assume that the railway company will do what is right, and it seems to me it is the only course for the railway company to pursue, to fall right in line with the public welfare plan. They are mutually interested in this development.

Mr. KIBBEY. I am convinced that the railroad company will be very glad to get into the project.

Mr. HAYDEN. Section 11 reads:

SEC. 11. That any citizen of the United States who, prior to January 1, 1919, had settled upon any public lands heretofore withdrawn from entry and outside the boundaries of the Imperial irrigation district and has successfully reclaimed and irrigated said lands with water carried through the canals of Imperial irrigation district, shall have the preference right for the period of 90 days after approval of this act to purchase such lands at the price of \$10 per acre in tracts not exceeding 160 acres to any one person, and such unpatented lands shall be subject to the usual charges of the Irrigation district within which they may lie or of any other agency serving such lands with water.

Mr. KIBBEY. Now, with reference to that section right along on the boundary here [indicating], I understand that there are probably men who claim the right to about 1,000 acres—less than a thousand acres—who legitimately went on there and located the lands, but because of the conflict of survey they got into the reserved lands.

The CHAIRMAN. That is, reserved lands on the mesa or where?

Mr. KIBBEY. Included in part of the mesa, but they were reclaiming them from the canals of the irrigation district. They were on part of the reservation, but they didn't know it. The first survey we had in Imperial Valley was made practically with a wagon wheel in 1850, and I will add for the benefit of the committee that I am pretty thoroughly familiar with those surveys, because I have been the attorney and director of one of the leading title companies in the valley for years. Subsequently the two water companies made surveys, and then finally we had what we call an official Government resurvey. Well, that left such a conflict there that it really takes a Philadelphia lawyer to figure out where a man is who located his land prior to the final surveys. Now, this statement that I am making is a statement that was made to me at the time when I was with

the soldiers' committee going out over the land, by an old friend of mine from Arizona, a Mr. Collins, who stated that these men in here [indicating]—and showed me some of the lands—had honestly and in good faith entered, attempted to enter, upon those lands which were withdrawn, believing that they were outside of the withdrawn area.

Mr. SMITH of Idaho. When you speak of "entering," do you mean made application to the local office or just settled on the land?

Mr. KIBBEY. I mean settled and made application, after having settled and after long adjustments of surveys then found they were within the withdrawn area and didn't know it. But the lands are improved lands and the bill provides that they must be improved lands, improved from the present canal system in the Imperial Valley.

Mr. HAYDEN. Then section 11 is merely a relief section to take care of a few settlers who, in the opinion of the people of the Imperial Valley, have acted in good faith and therefore should obtain title to the lands they have sought to enter.

Mr. KIBBEY. Exactly.

Mr. HAYDEN. You think that not more than 1,000 acres is involved in this section?

Mr. KIBBEY. Mr. Collins stated to me that there were about 800 acres.

The CHAIRMAN. Who is Mr. Collins?

Mr. KIBBEY. He is a resident, a farmer in the valley. I have known him for years before in Arizona. Mr. Hayden is personally acquainted with him.

Mr. HAYDEN. I have received a communication from Hon. Mulford Winsor, of Yuma, who appeared before this committee, to this effect: "The lands referred to in section 11 should undoubtedly be sold on same terms as provided for sale of lands in section 8. Present section rank discrimination. Would probably validate someone's illegal act." Evidently Mr. Winsor did not know anything about the details of what the committee from the Imperial Valley is trying to do, that in reality this legislation will benefit only a few settlers who, in their opinion, have acted in good faith. We can not blame him because the section does not show on its face that it really amounts to a comparatively small matter.

Mr. TAYLOR. There isn't any possibility of anybody taking advantage of it.

Mr. HAYDEN. Mr. Kibbey says that certain settlers made application to enter lands that were found to be in the reserved area, not knowing exactly where the reserved lands were located.

Mr. TAYLOR. Well, is there anybody that could take advantage of it?

Mr. HAYDEN. It seems to me section 11 is very carefully drawn.

Mr. ROSE. Prior to a certain date, too, Mr. Hayden.

Mr. TAYLOR. I don't see how anybody can object to that.

Mr. SINNOTT. How many acres are there, as a matter of fact?

Mr. HAYDEN. Mr. Kibbey says less than 1,000 acres.

Mr. ROSE. I built the system which covers every one of those, and it isn't 1,000 acres. In my judgment it won't reach over 480 acres. Those people have silos built on their farms, several of them, nice improved farms.

Mr. SINNOTT. How many people are there?

Mr. ROSE. I think the largest holding is 80 acres.

The CHAIRMAN. How many entrymen or families are there?

Mr. ROSE. I think there are probably five or six entrymen in that condition, gentlemen, and that is all.

Mr. HAYDEN. The next is section 12:

Sec. 12. That the Secretary of the Interior may cooperate with the Arizona soldier-settlement board in the reclamation and settlement of any lands lying within the State of Arizona which may be irrigated from Laguna Dam or as the result of the works herein authorized to be constructed.

I can explain that section myself. The State of Arizona has passed a soldier settlement act, which authorizes the State land commission to assist soldiers in obtaining homes. It is possible that from the Arizona end of the Laguna Dam a tract of land may be furnished with water and utilized in that way. If it can be done, we ask authority that the Secretary of the Interior cooperate with the authorities of the State of Arizona in placing soldiers on such lands.

Mr. SMITH of Idaho. Public lands?

Mr. HAYDEN. Yes. Section 13 provides:

Sec. 13. That all moneys received from the sale of the entered or unentered public lands under the terms of this act shall be deposited in the Treasury and shall be available for the construction of reservoirs under the provisions of this act: *Provided*, That when the reservoirs and other irrigation works herein provided for have been announced to have been completed by the Secretary of the Interior, then the sums received from the sales of lands provided for herein and in excess of \$1.25 per acre shall be credited to the contracting districts or other organizations wherein such lands may be located.

Mr. KIBBEY. I think that is self-explanatory. It doesn't need any explanation.

Mr. HAYDEN. Mr. Winsor suggests that in line 24 the words "wherein such land may be located" be stricken out and insert "in such proportion as the Secretary of the Interior may deem equitable."

Mr. KIBBEY. I think that where the lands within a district contribute, if there is any credit given it should go back to the lands that have contributed.

Mr. SMITH of Idaho. To the general fund?

Mr. KIBBEY. Yes.

Mr. HAYDEN. I wanted to bring the suggestion made by Mr. Winsor to the attention of the committee. We can discuss it when the committee takes up the consideration of the bill for amendments.

Section 14 reads:

Sec. 14. That the title to the irrigation works constructed under authority of this act shall remain in the United States: *Provided*, That the Secretary of the Interior is hereby authorized, in his discretion, to transfer to any irrigation district or other legal organization the care, operation, and maintenance of any part of such works, subject to such rules and regulations as he may prescribe, and such irrigation district or other legal organization shall thereupon be bound to assume the responsibility therefor.

Mr. SINNOTT. Is that language "the title to the irrigation works," etc., is that the same as is in the reclamation law?

Mr. HAYDEN. It is copied directly from the reclamation law, and the proviso is copied from the reclamation extension act.

Mr. SINNOTT. I thought they had head works or something there.

Mr. HAYDEN. No; that is an exact copy, except at the end of the proviso, at the suggestion of the Reclamation Service the words

were added: "And such irrigation district or other legal organization shall thereupon be bound to assume the responsibility therefor." They seemed to think that language should be added to the proviso taken from the extension act, and I can see no particular harm in it.

Mr. ROSE. Doesn't the reclamation law, Mr. Hayden, provide that when the districts interested have paid 60 per cent of the total cost, that the works are to be transferred to them?

Mr. HAYDEN. No. The original reclamation act provides that when the major portion of the construction charges are paid the Secretary of the Interior may transfer control, but the title to the works shall always remain in the United States.

Mr. TAYLOR. They can take it over and run it themselves if they think they can run it cheaper.

Mr. HAYDEN. That is particularly desirable where there are four or five districts obtaining water from the same source.

Mr. ROSE. There is only one objection and that is this: There are two large power plants on this canal, and I naturally assume the people that pay for them will want to handle them for their own benefit.

Mr. HAYDEN. The Secretary can transfer the operation of any part of the works to any district, but the title must remain in the United States.

Mr. KIBBEY. Isn't that covered in the irrigation district contract, Mr. Rose, the question of power?

Mr. ROSE. That is covered, but this is an act passed by Congress.

Mr. KIBBEY. It recognizes that contract, however.

Mr. HAYDEN. Section 15 reads:

SEC. 15. That as to the natural flow of the Colorado River diverted under the provisions of this act all lands in the State of California outside the present boundaries of the Imperial irrigation district reclaimed by means of the works constructed hereunder shall have a water right secondary to that of the lands within the present boundaries of said Imperial irrigation district.

Mr. KIBBEY. Now that section, gentlemen, under the California law, assuming for the sake of argument just a moment that the question of priority right might be determined by the California law, one can acquire the right to water by adverse possession for a period of five years. That has been held by the courts.

The CHAIRMAN. Peaceable possession all the time.

Mr. KIBBEY. Peaceable possession all the time. That has been held in *Crall v. Poro* (87 Calif., 140); *Directors v. Treger* (88 Calif., 349); *Palmdale v. Rathke* (91 Calif., 538); *Cox v. Clough* (70 Calif., 345); *Smith v. Greene* (109 Calif., 228); *Alta, etc., v. Hancock* (85 Calif., 226); also 110 California, 122. I don't seem to have the title of that last case.

Now, title can be absolutely acquired for that water without any appropriation whatever, in so far as California is concerned, so that gets us away from the proposition as to whether the Imperial Valley in the first place has any right to go upon the Colorado River and appropriate water and carry it through Mexico and bring it back. They have done it for a period of more than five years.

Mr. TAYLOR. Let me ask you, it seems to me you are assuming here that the Colorado River is a California stream.

Mr. KIBBEY. For the purpose of argument only.

Mr. TAYLOR. It comes from my State and from my home county, and I live on the banks of it, and we have got a high-line project and a large number of irrigation works up there in our State on this river, and I don't want Congress to legislate that you can have the sacred right in California to the waters of the Colorado River.

Mr. WELLING. I wish to state that the water in the Colorado River comes from Utah.

Mr. HERNANDEZ. And also from San Juan County, N. Mex.

Mr. HAYDEN. The secondary right is limited to the lands in the State of California.

Mr. TAYLOR (interposing). Why should the lands in the State of California have the secondary right?

Mr. HAYDEN. As to the natural flow of the Colorado River, diverted under the provisions of this act, the lands in California outside of the Imperial irrigation district shall have a secondary right to the lands within the district.

The CHAIRMAN. That has been a plain proposition all the time to me.

Mr. SINNOTT. We have got no right to divide up the Colorado River ourselves. Congress has got no right to do that.

Mr. HAYDEN. Not at all.

Mr. TAYLOR. And we haven't any right to legislate here in any matter that will in any way affect the water laws of California, either.

Mr. SINNOTT. This diversion is only through the canals that are going to be constructed here.

Mr. HAYDEN. Yes; nothing but water diverted under the provisions of this act.

Mr. TAYLOR. I was just thinking about the precedents, that is all. In the Hetch Hetchy case, and in the general reclamation law, and in many other laws that we have passed we were very solicitous about putting that reservation in, but Congress is not at all assuming to legislate on water rights to interfere with the control of the waters under State laws, by the States.

Mr. HUDSPETH. It would be a very dangerous proposition to do, Mr. Taylor.

The CHAIRMAN. I have understood this section to mean from the time of the Kettner bill that it is part of the preservation merely of those districts heretofore formed, of their water rights, of their existing rights, and nothing else.

Mr. TAYLOR. I understand that, but wouldn't those rights be preserved under your own State law? I don't want to encourage Congress in trying to usurp State authority any more than is necessary.

Mr. KIBBEY. Now, there is the danger and I wanted to point out to you. Mr. Taylor, that here we are forced to change our point of diversion, having a right by adverse possession only, and it may be held, as in an ordinary easement, as you doubtless know, that if you change your usage you loose your right.

Mr. ROSE. Why not say that in the bill? That appears to be to be the proper language for this bill.

Mr. KIBBEY. What is that?

Mr. ROSE. That the changing of the diversion shall not interfere in any way with the water rights.

Mr. TAYLOR. That changing the point of diversion shall not affect your priority rights. It doesn't do it in Colorado at all. That is provided expressly under our statute.

Mr. ROSE. It has been held in our State time and again that it does not do it.

The CHAIRMAN. That would make the language unattackable. It would make it self-explanatory, of course, when you use that language. I have understood this all the time to mean that same thing.

Mr. TAYLOR. I always like to see that section that we have got in the water-power bill, section 27 in the Hetch Hetchy bill, and I have put it in several bills.

The CHAIRMAN. What is that language?

Mr. TAYLOR. It is section 8 of the reclamation law, the original law, which provides—well, you know what it is.

Mr. KIBBEY. Now, I don't think that was broad enough. That says that nothing in this act shall affect any priority. Now, then, if you will say in addition to that, that any work performed under this act or any change of diversion made under this act, shall not affect any existing priorities.

Mr. TAYLOR. Make it read that nothing in this act shall be construed as affecting or intending to affect, or in any way to interfere with the laws of any State or Territory relating to the control, appropriation, or use or distribution of water used in irrigation or any other beneficial use, or any vested right acquired thereunder, etc., and the Secretary of the Interior carrying out the provisions of this act shall proceed in conformity with such State laws and nothing herein contained shall any way affect any right of any State, etc.

The CHAIRMAN. That would be not affecting the laws of any State. Your aim now is not to affect the State right, the actual right.

Mr. SINNOTT. You get your prior rights by virtue of the State laws.

Mr. KIBBEY. Yes, sir. I think we would not have any right whatever—in fact, in the first place, I don't think either the Imperial Valley or anybody else has a right to touch a drop of that river until they get the consent of Congress. Now that is my opinion.

Mr. SINNOTT. Well, as to the water itself, they get that prior right by virtue of the State laws?

Mr. KIBBEY. Yes, sir.

Mr. SINNOTT. And Congress has got a right to protect the navigability of the stream?

Mr. KIBBEY. Yes, sir.

Mr. SINNOTT. And that is the sole right of Congress?

Mr. KIBBEY. Well, I don't quite agree with you there. But, however, I am not going to express an opinion contrary to that.

Mr. HAYDEN. You will remember, gentlemen, that there is in existence a contract between the Imperial irrigation district and the Secretary of the Interior, authorizing a connection with the Laguna Dam, and that at the time of making that contract this question of priority was discussed and it was agreed that the United States would not permit the Imperial irrigation district to connect with the Laguna Dam unless the district would recognize the prior right of

the United States for water for 120,000 acres on the Yuma project. That provision in the contract reads as follows:

It is understood and agreed that the Secretary of the Interior shall control the division of water and shall divert for use of the Yuma project or any auxiliary thereof as heretofore or hereafter undertaken by the United States within the present boundaries of the United States and not exceeding 120,000 acres sufficient water to secure the permanent and economical reclamation thereof, not exceeding, however, one-quarter of the water in the river above Laguna Dam. The foregoing applies only to the natural flow of the Colorado River, and not to storage water, which shall be delivered to the party entitled thereto.

The United States makes no guaranty or representation as to the quantity of water that may be available without storage for delivery to the district under this contract, and shall not be responsible for failure to deliver water under this contract caused by insufficient supply of water in the Colorado River, hostile diversion, or drought interruption made necessary by repairs, nor on account of any valid order or decree of a competent court; nor for any damages by floods, acts of hostility, or unavoidable circumstances, nor for loss of crops or other damage caused by nondelivery of water.

As the situation now stands, in view of that contract and in view of the provisions of this bill, the United States claims a prior right for water for its own project constructed at Yuma for 120,000 acres of land up to one-quarter of the flow of the Colorado River.

Mr. SINKOTT. They get that by the right of diversion?

Mr. HAYDEN. Yes.

Mr. TAYLOR. They can't get that ahead of prior rights to water diverted and used long before that?

Mr. HAYDEN. The reason for this recognition of a prior water right for the Yuma project is that the Imperial Valley now diverts its water from the Colorado River at a point below the Laguna Dam, which diversion was undertaken, it is true, prior to the construction of the Laguna Dam. The Imperial irrigation district claims its water right simply by beneficial use and never had authority from Congress to divert water from this navigable stream. Now, Congress authorized the construction of the Yuma reclamation project, and upon that ground the Reclamation Service claims that the Yuma project has a better right to water from the Colorado River than the Imperial irrigation district, particularly in view of the fact that it is necessary for the district to change its point of diversion in order to take advantage of the works constructed by the Government at Laguna. Therefore, in order to obtain the benefit of the Laguna Dam, the Imperial irrigation district has recognized in this contract that the Government reclamation project at Yuma has a right prior to their own up to 120,000 acres, or one-quarter of the flow of the Colorado River. Then this bill takes a second step and says that as to the natural flow of the river, diverted under the provisions of this act, the land in the Imperial Valley shall have a right prior to any other land which may be hereafter cultivated in the State of California.

The CHAIRMAN. Well, the 120,000 acres was Yuma?

Mr. HAYDEN. Yes. So that as the case would stand, if this provision is adopted and the contract to which I have referred is carried out, the first right to water diverted at Laguna Dam goes to the Yuma reclamation project up to 120,000 acres, or one-quarter of the flow of the river; the next right applies to the lands now included within the Imperial irrigation district; the third right would apply

to all the new lands irrigated in California by the all-American canal. That seems to me to be a common-sense arrangement and no harm can come from enacting it into law. If Congress makes no such provision, it may be necessary, in case of shortage of water, for the people in the Imperial Valley to go into the State courts and obtain a decree that their lands were irrigated before other lands taken under the project and therefore they have a prior right to water. That means a long and expensive lawsuit with thousands of plaintiffs and defendants.

Mr. KIBBEY. We had 5,000 defendants in the Salt River Valley, Mr. Hayden, just because we had no such provision of law as that.

Mr. THOMAS C. YAGER. Mr. Chairman, I would like to discuss with the committee, but I would like to make some preliminary remarks which will take a little while, so I would like to reserve my discussion until after Mr. Kibbey gets through, if I may be permitted to discuss that later, representing outside lands.

The CHAIRMAN. It is 12 o'clock now, so we have not time for much more this morning.

Mr. HAYDEN. Section 16 provides:

SEC. 16. That for irrigation of lands in the Republic of Mexico the Secretary of the Interior is hereby authorized and empowered to dispose of any waters which are or may become available under the terms of this act and not now or in the future necessary for irrigation of lands lying within the United States, on such terms as said Secretary may prescribe, without incurring any obligation for delivery of any specific quantity of water at any future time, conditioned upon the right being given to the United States, or its citizens, to maintain protective levees in Mexico, jointly with the Government of Mexico or property owners therein; and in the event any stored water shall be so disposed of there shall be paid to the Government of the United States, upon such terms and in such installments as the said Secretary may prescribe, such proportion of the cost of the works provided for by this act and such other sums as the Secretary of the Interior, after a public hearing at which all interested parties may appear and be heard, may determine to be fair and reasonable, and the moneys so received shall be credited, respectively, to the districts and other legal organizations contributing to the cost of the works herein provided for in the proportion to be determined by said Secretary.

Now the Secretary of State suggests in his report on this section that in line 3 the words "therein; and in the event any stored water" be stricken out and the words "in Mexico; but before any such water" be inserted. It seems to me the Secretary's amendment is proper. Mr. Kibbey can now discuss the section.

Mr. KIBBEY. There has been a great deal of discussion of the Mexican rights and I don't think that I need to go into the fact that the Secretary of State's report itself shows that they have no legal or equitable rights, but there might be something with reference to the comity of nations which gave them a right. I might add that I think most of the people of the valley would prefer to have a treaty with Mexico settling our right to go in and protect from flood the waters in Mexico. We know that it is absolutely impossible to deal with the Carranza government. We know that the Department of State has attempted to deal with various governments of Mexico at different times and never got any place at all. By the passage of this bill you put us in the situation where we can absolutely deprive the Mexican lands of any water at certain seasons of the year. We can take it all.

Mr. SMITH of Idaho. You mean the Secretary of the Interior could take it?

Mr. KIBBEY. Yes, sir.

Mr. HAYDEN. Let me suggest, Mr. Chairman, that the letter of the Secretary of State approving this bill be incorporated at this point in the record, because the interest of the State Department in this legislation is confined solely to this section of the bill.

The CHAIRMAN. Well, does this have any reference to Senator Smith's bill?

Mr. HAYDEN. No; that is another matter entirely.

The CHAIRMAN. It may go in.

DEPARTMENT OF STATE,
Washington, January 17, 1920.

The Hon. MOSES P. KINKAID,

House of Representatives.

MY DEAR MR. KINKAID: I beg to acknowledge the receipt of your letter of January 9, 1920, with which you inclosed a copy of H. R. 11553, introduced by Mr. Kettner of California, "for the relief of the Imperial Valley, Calif., and for other purposes." On behalf of the Committee on Irrigation of Arid Lands, of which you are chairman, you request my recommendation concerning the advisability of the enactment of this measure.

In reply you are informed that I have not receded from the opinion expressed in my letter of August 20, 1919, regarding the desirability of the conclusion of a convention with Mexico respecting the equitable distribution of the waters of the Colorado River, but I recognize that the authority given to the Government of the United States by the pending bill will, perhaps, be useful in bringing about the future negotiation of such a treaty, and in any event apparently would not stand in the way of the treaty.

Under existing circumstances, therefore, and with the reservations below set forth, I am prepared to state that the pending bill appears to be unobjectionable from the standpoint of international relations.

With respect to the provisions of section 16 of the bill, relating to the authority given to the Secretary of the Interior to dispose of waters for the irrigation of lands in the Republic of Mexico, I would suggest that for the purpose of clarifying the meaning and avoiding the expressed implication that the waters to be disposed of shall be limited to those "stored," that there be substituted for the words contained in the third line on page 12 of the bill, beginning with the word "therein" and ending with the word "water," the following words "in Mexico; but before any such waters."

I am also of the opinion that there should be inserted in the sixth line of said page 12 of the bill, before the word "such," the word "both," thus perhaps, indicating more clearly that it is within the discretion of the Secretary of the Interior to fix separately the sums to be paid on account of a proportion of the cost of the works provided for, and such other sums as he may determine to be fair and reasonable. It may be added in this connection that I understand that the discretion thus entrusted to the Secretary of the Interior would extend to the fixing of a merely nominal sum, to apply upon the cost of the works, should he determine this to be fair and reasonable in view of the provision in section 16 of the bill that he is not to incur "any obligation for delivery of any specific quantity of water at any future time," or for any other reason.

I am, my dear Mr. Kinkaid,
Sincerely, yours,

ROBERT LANSING.

Mr. HAYDEN. Section 17 provides:

SEC. 17. That whenever practicable preference shall be given to honorably discharged soldiers, sailors, and marines when labor is employed on any work done under authority of this act: *Provided*, That the rights and benefits conferred by this act shall not extend to any person who, having been drafted for military service under the provisions of the selective-service act, shall have refused to render such service or to wear the uniform of the United States.

Mr. TAYLOR. We put that clause into quite a number of different bills, and we put them in every place in the Public Lands Committee,

and I am perfectly willing, but desirous of having it go in here some place, or more than one place if necessary.

Mr. KIBBEY. In connection with that, if I may suggest, Mr. Hayden, there was another idea of putting that in, and that was to give the soldier who works upon the land, upon the works, an opportunity to get a homestead, and this work would help to provide him with means to develop the land.

Mr. SINNOTT. Shouldn't we also put in that language giving them the preference right, those who have been placed in the reserve? We haven't got that language in there.

Mr. SMITH of Idaho. They would not be in the reserve unless they had been in the service.

Mr. SINNOTT. Those that are in the reserve—there is some technicality as to whether they are discharged or not.

Mr. KIBBEY. I would rather have the language suggested by Mr. Sinnott in there, because there are in the Navy a large number of men who are not discharged, but are upon the reserve list.

Mr. HAYDEN. The next is section 18:

SEC. 18. That there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this act, and such sums, when appropriated by Congress, shall be deposited in the Treasury and set aside in a special fund to be known as the Laguna project fund.

Mr. KIBBEY. I think I covered that in the previous sections, and in connection with that I want to file with the committee the figures which will show that if the bonds sell at par no appropriation will be necessary. I have those figures partially prepared:

As before stated, it may be that no appropriation of moneys whatever will be necessary. Under the estimate made in the preliminary report of the Board of Engineers (see Exhibit K, p. 238 of the printed record of the first hearings on the all-American canal) the portion of cost chargeable to Imperial irrigation district is estimated to be \$17,745,649 and \$11,830,433 to the outside lands. The lands outside Imperial Valley which can be irrigated are estimated on page 237:

	Acres.
West side	40,000
East Mesa	140,000
Remainder	200,000
Total	<u>380,000</u>

The acreage estimated in Imperial district is 515,000 acres, making a total of 895,000 acres; the board finally taking 900,000 acres as a total. Director Davis estimates the total acreage which could be sold under the original Kettner bill as 170,000 acres (see part 2 of printed report at p. 276). Mr. Yager has said 155,000 acres in the Coachella Valley are irrigable (see previous printed report).

The estimate of cost to be paid by the Coachella Valley is not segregated in the report, but upon a basis of acreage it is fair to assume that at least 15 per cent of the total would be assessed against them. Thus the Coachella Valley and the Imperial irrigation district can issue and sell their bonds realizing—

Imperial irrigation district	\$17,745,649
Coachella water district	3,844,890
Total	<u>21,590,539</u>

On page 241 of the report of the hearings we find the estimated cost of the canal completed to Mesa Canal Station No. 2 to be \$23,259,223, but these figures include the cost of two permanent power plants—do not include, however, the cost of the temporary power plant estimated at \$1,886,690 of which \$1,132,014 is the portion to be paid under the bill, the remainder being chargeable to the Yuma project. By figuring the difference and deducting the portions to be charged to the Yuma project under contract with the Imperial

irrigation district, we find that the total cost of constructing the canal to the point where the water will be made available for the east side mesa lands (that is, mesa canal No. 2), \$21,580,703. Thus, Imperial and Coachella districts would sell bonds to cover their portion of the cost of the canal which would realize \$8,836 more than enough to bring the water to the point where it would be available for the east mesa. The east mesa could then be formed into district and sell bonds to net 15 per cent, or \$3,844,890, making a total of \$4,738,490 on hand to complete the construction of the canal, which, eliminating storage plants, would be \$3,473,379, leaving a balance of \$371,511. The remaining lands would then sell their bonds for sufficient to complete the cost of storage plants, etc. If the board's figures are too low the same proportion could be carried out. Storage would not necessarily be required until all districts had been formed, and if Coachella and Imperial districts had been assessed for storage this money could be used until the east mesa lands had been opened for settlement. Thus it will be seen that if the bonds sell, and we have every reason to believe they would, no appropriation whatever would be necessary by Congress. No one has been injured by this process, as each district would only pay the portion of costs assessed against it. At the time of issuing bonds for the construction the new districts would at the same time issue bonds for construction of laterals or make such arrangements as were agreeable for such construction. If the organized districts should not pay their portion of storage cost at once there might be a short period of time necessary for the east side mesa to have in which to organize and sell its bonds, which would either postpone the work for a time or make a small appropriation necessary.

Mr. SINNOTT. What will be the maximum appropriation necessary under any contingency?

Mr. KIBBEY. Why, it would be very small. I can't say—the maximum appropriation would come some two or three years from now. After the practical completion of the canals to the mesa lands they could be included in an irrigation district, and there might be a possibility that more money was needed to carry it until their bonds could be issued and sold.

Mr. SINNOTT. What would that maximum be—the maximum that possibly could be demanded of the Government?

Mr. KIBBEY. I could not say.

Mr. SINNOTT. Would it be \$100,000?

Mr. KIBBEY. I would assume approximately that.

Mr. SINNOTT. Not more?

Mr. KIBBEY. I don't think it would be.

Mr. HAYDEN. Section 19 reads:

SEC. 19. That nothing in this act contained shall be construed as in any way amending or affecting the act to provide for an auxiliary reclamation project in connection with the Yuma project, Arizona, approved January 25, 1917, or as modifying the terms of the contract of October 23, 1918, between the United States and the Imperial Irrigation district, and the construction charge per acre as heretofore fixed by the Secretary of the Interior for the lands of the Yuma reclamation project shall be proportionately reduced by the sums to be paid by the Imperial Irrigation district for the right to use the Laguna Dam, as provided in section 9 of said contract.

The first reference is to the Yuma auxiliary project. While I have some doubt as to the necessity of specifically mentioning the act of January 25, 1917, but inasmuch as it is a special act of Congress and the water supply is obtained from the same source, there can be no harm in making it perfectly clear that act is not repealed.

The CHAIRMAN. What was that act, just briefly?

Mr. HAYDEN. It authorized the Secretary of the Interior to set aside certain lands on the Yuma-Mesa and appraise the value thereof, estimate the cost of the construction of the necessary irrigation works

to reclaim them, and to sell the lands for cash, to raise the money whereby to construct the necessary irrigation works.

The CHAIRMAN. Those are the lands you have just been selling?

Mr. HAYDEN. One unit of the project, about 6,000 acres, has been offered for sale at a minimum price of \$225 per acre, and practically all of it has been sold. The sales will be continued from week to week until this unit is all sold.

Mr. SMITH of Idaho. What sort of prices did they get for them?

Mr. HAYDEN. Everybody must pay the minimum of \$225 per acre, and some parties bid above that, as high as \$300 an acre for choice tracts. They must pay 10 per cent down at the time of making the bid, 15 per cent when they are notified that their bid has been accepted, and then payments of 25 per cent each for the succeeding three years. I understand it is the intention of the people who have purchased lands in this unit to organize an irrigation district, issue their bonds and turn the cash into the project fund so as to hasten the construction as planned.

The last part of section 19 directs that the

construction charge per acre as heretofore fixed by the Secretary of the Interior for the lands of the Yuma reclamation project shall be proportionately reduced by the sums to be paid by the Imperial Irrigation district for the right to use the Laguna Dam, as provided in section 9 of said contract.

In the contract between the Secretary of the Interior and the Imperial irrigation district there is a provision to this effect:

SEC. 9. For the right to use the Laguna Dam, the main canal and appurtenant structures, and divert water, as herein provided, the district agrees to pay to the United States the sum of \$1,600,000 in 20 installments, the first of which shall become due and payable December 31, 1919, and subsequent installments annually thereafter.

It was understood at the time that this contract was made that the Secretary of the Interior had authority to credit the people of the Yuma project with the sum of \$1,600,000, they being now charged with the full cost of the Laguna Dam. But the Secretary of the Interior submitted the matter to the Attorney General, who held that under existing law such credit could not be given to the water users under the Yuma project. Secretary Lane has written me a letter to that effect under date of October 2, 1919:

MY DEAR MR. HAYDEN: Such a controversy arose in the department as to our right to credit to the Yuma reclamation project any moneys received from the Imperial irrigation district for the privilege of connecting with and using the Laguna Dam that I referred the matter to the Attorney General for the United States for opinion. I am now in receipt of his opinion dated September 16, 1919, copy inclosed, whereto he holds that under the law this credit can not be allowed.

I am of the opinion that Congress should authorize the receipts from the Imperial irrigation district or other districts for use of the dam to be applied as a reduction of the charges assessed against the Yuma project. I recommend that such legislation be enacted.

So this provision in section 19 is in conformity with the Secretary's recommendation.

The CHAIRMAN. Who advises that?

Mr. HAYDEN. Franklin K. Lane, Secretary of the Interior.

Mr. WELLING. When he refers to this contract of October 23, 1918, between the United States and the Imperial irrigation district, that is not a valid contract. That is not in force and effect.

Mr. HAYDEN. It is in force and effect to-day.

Mr. WELLING. It says in the contract itself that certain moneys shall be paid in December, 1919; no money has been paid under that contract.

Mr. HAYDEN. The Secretary of the Interior has authority to extend the time of payment, or to extend the life of the contract, which undoubtedly he has done or will do.

Mr. SMITH of Idaho. Mr. Hayden, will the construction of this proposed all-American canal in any way interfere with or impair the Yuma reclamation project?

Mr. HAYDEN. It would if no mention was made in this bill of the existence of the Yuma project. Let us suppose that the Imperial irrigation district had connected its canal with the Laguna Dam and then afterwards asserted an equal or prior right to the waters of the Colorado River. There might also be a controversy as to the disposition of the sums of money that the Imperial irrigation district must pay for that privilege. I am trying to clear away all such disputes by this bill, so that there will be no doubt about what is to be done. I desire to insert in the record the letter of the Secretary of the Interior and the opinion of the Attorney General, to which I have referred.

(The papers referred to follow:)

DEPARTMENT OF THE INTERIOR,
Washington, October 2, 1919.

Hon. CARL HAYDEN,
House of Representatives.

MY DEAR MR. HAYDEN: Such a controversy arose in the department as to our right to credit to the Yuma reclamation project any moneys received from the Imperial irrigation district for the privilege of connecting with and using the Laguna Dam that I referred the matter to the Attorney General for the United State for opinion. I am now in receipt of his opinion dated September 16, 1919, copy inclosed, wherein he holds that under the law this credit can not be allowed.

I am of the opinion that Congress should authorize the receipts from the Imperial irrigation district or other districts for use of the dam to be applied as a reduction of the charges assessed against the Yuma project. I recommend that such legislation be enacted.

Cordially yours,

F. K. LANE, *Secretary.*

DEPARTMENT OF JUSTICE,
Washington, September 16, 1919.

Hon. FRANKLIN K. LANE,
Secretary of the Interior.

Washington, D. C.

DEAR MR. SECRETARY: I am in receipt of your letter of August 13, 1919, requesting an opinion as to whether you are authorized to credit to the Yuma reclamation project, to be applied in reduction of the construction charges heretofore assessed against the water users thereof, certain money proposed to be paid by the Imperial irrigation district for the privilege of connecting with and using the Laguna Dam and the main canal of the Yuma project for the irrigation of lands in the Imperial Valley. On my request for further information the Reclamation Service has furnished me a copy of the hearings before the Committee on Arid Lands of the House of Representatives, Sixty-sixth Congress, entitled "All-American Canal in Imperial County, Calif." It appears therefrom that the money in question is to be paid under a contract, dated October 23, 1918, between the United States and the Imperial irrigation district, which is reprinted on page 245 of that pamphlet.

From the papers submitted, the contract itself, and some statements made before that committee I gather that the situation at the date of the contract was substantially as follows:

The Yuma project was then practically complete as to its main structures, comprising the Laguna Dam, which diverts water from the Colorado River; a main canal; and a levee costing some \$2,600,000, which protects the project lands against overflow from the river. The dam and main canal were and are of sufficient capacity to serve adequately the lands now under irrigation and some additional lands yet to be added to complete the project as designed. A public notice had issued, as contemplated by section 4 of the reclamation act, assessing the lands of the project for the "estimated cost" of construction at the rate of \$75 per acre. In the meantime investigations and surveys had disclosed that large bodies of land in the Imperial Valley and within the Imperial irrigation district can be served to great advantage by water diverted by the Laguna Dam and carried through the main canal of the Yuma project and thence through an "All-American" canal which the Imperial irrigation district proposed to construct and connect therewith.

The contract of October 23, 1918, above mentioned, provides for this common use of the dam and canal of the Yuma project. In addition to the \$1,600,000 to be paid in money, the irrigation district undertakes to make some changes in the dam and to enlarge the main canal entirely at its own expense and with proper safeguards against any injury to the Yuma project or the lands within it.

The water users of the Yuma project claim that the \$1,600,000 thus to be received should be applied to the reduction of the charges assessed against their lands, their position apparently being that the cost of the levee was not a proper charge against them and was not included in the assessment, but as the cost of the dam and main canal were included, they are entitled to the compensation to be paid for the use thereof by others. The director of the Reclamation Service, while agreeing that the cost of the levee was not included in the charges as fixed, contends that the money to be received should be paid into the reclamation fund to make up in part the loss resulting from the insufficiency of the assessment to cover the cost of all the works.

In the view I feel constrained to take it is not material to the decision of the question of law involved what was or what was not included as the basis of the charges fixed by the public notice. It is apparent, in any event, that those charges will not repay the total construction costs of the Yuma project by some \$2,600,000, a result not contemplated by the reclamation legislation. (*Swigart v. Baker*, 229 U. S., 187.)

The original act of June 17, 1902, seems to contemplate reclamation projects, each of which shall be complete in itself and served by dams, canals, and other works constructed for it alone, all the estimated costs thereof to be assessed against the irrigable lands included in the project. No provision is made and no authority is given to connect with private or other nongovernmental irrigation projects, or to furnish them with water or enter into cooperative arrangements with them. Some years of experience, however, developed the possibilities of enlarged usefulness in this direction, and Congress later made provision therefor. This was done by the act of February 21, 1911 (36 Stat., 925), entitled "An act to authorize the Government to contract for impounding, storing, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects, and for other purposes." This act comprises three sections, the first of which provides:

"That whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is hereby authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage, and carriage of water to an extent not exceeding such excess capacity with irrigation systems operating under the act of August 18, 1894, known as the Carey Act, and individuals, corporations, associations, and irrigation districts," etc.

This section relates to excess water, storage, and carrying capacity, and does not seem to be strictly applicable to the arrangement now in question.

Section 2, however, provides:

"That in carrying out the provisions of said reclamation act and acts amendatory thereof or supplementary thereto the Secretary of the Interior is authorized, upon such terms as may be agreed upon, to cooperate with irrigation districts, water users' associations, corporations, entrymen, or water users

for the construction or use of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water users' associations, corporations, entrymen, or water users for impounding, delivering, and carrying water for irrigation purposes." * * *

This section authorized cooperation not only for a common use of existing works, but also for the enlargement thereof to facilitate and make possible a common use. The act was in force when the present contract was entered into and clearly and specifically covers such an arrangement. I am of opinion, therefore, that the legal foundation and authority for the contract in question must be sought in this legislation.

This being true, the question of the disposition of the moneys to be received under the contract is specifically answered by the third section, which provides:

"That the moneys received in pursuance of such contracts shall be covered into the reclamation fund and be available for use under the terms of the reclamation act and the acts amendatory thereof or supplementary thereto."

You are accordingly advised that the money in question can not be applied in reduction of the assessments against the lands of the Yuma project, but must be disposed of as directed by this statute.

Very respectfully,

C. B. AMES,
Acting Attorney General.

The CHAIRMAN. You just leave that to the Secretary of the Interior to figure out how far he shall go and what credit the Yuma project shall have?

Mr. HAYDEN. That has already been determined by the contract of October 23, 1918, and the sum fixed for the right to connect with the Laguna Dam is \$1,600,000.

The CHAIRMAN. Well, that is what they paid. Now, the get a reduction from that.

Mr. HAYDEN. The people under the Yuma project are now under contract to pay for the full cost of the Laguna Dam.

The CHAIRMAN. On the Yuma project?

Mr. HAYDEN. Yes; the Secretary of the Interior proposes to let the Imperial irrigation district obtain the benefit of the Laguna Dam and charge them \$1,600,000 for the privilege of using it. If nothing is said about it, the United States will be paid twice for that work. The full amount of its cost, which is \$1,750,000, will be paid by the water users of the Yuma project, then \$1,600,000 in addition will be paid by the Imperial irrigation district. If the Yuma people must pay its total cost, they should get credit for any sums the Secretary of the Interior receives from the Imperial irrigation district for the use of the Laguna Dam.

The CHAIRMAN. Well, I mean the price that the Imperial irrigation district is to pay is not fixed.

Mr. HAYDEN. Yes; it is fixed by section 9 of the contract at \$1,600,000.

The CHAIRMAN. But in the bill here, I mean.

Mr. HAYDEN. Section 19 of this bill refers specifically to section 9 of the contract which requires the payment of \$1,600,000.

Mr. WELLING. Now, Mr. Hayden, suppose in place of putting the contract of the Secretary of the Interior with the Imperial irrigation district, you had written into the law the contract that the Secretary of the Interior made with Mr. Mark Rose for connecting up with the Laguna Dam; that contract would be in force just as much as the contract with the Imperial irrigation district, wouldn't it?

Mr. HAYDEN. I do not understand that Mr. Mark Rose ever agreed to pay any money for such a privilege.

Mr. ROSE. We agreed to pay \$950,000. We wrote that into the contract; that we were to pay \$200,000 up to a certain time and the rest under certain conditions.

Mr. HAYDEN. The fact that the Secretary of the Interior has made a subsequent contract with the Imperial irrigation district, and the fact that your contract is voidable at any time the Secretary sees fit to revoke it, seems to me to make this contract with the Imperial irrigation district superior to your own.

Mr. ROSE. Well, the situation is simply this, Mr. Hayden: They made a contract at that time with the Imperial irrigation district; they submitted a contract which had a reservation in it, and the last contract they put in section 11, and that \$1,600,000 is the charge for the lands and the present boundaries of Imperial irrigation district, and there is to be an additional charge to any other lands that are irrigated under this system, according to that. But the division that the engineers make is considerably less than that. They put it, I think, at about \$700,000 or \$800,000, at the outside \$1,200,000; but the contract provides that shall be the amount that the Imperial irrigation district shall pay, \$1,600,000.

Mr. HAYDEN. Then, perhaps this bill should be amended, and instead of referring to any specific contract it should refer to "all sums."

Mr. WELLING. Now, you are getting at—

Mr. HAYDEN (interposing). That Congress should authorize the receipts from the Imperial irrigation district or other districts for the use of the Laguna Dam to be applied as a reduction of the charges assessed against the water users of the Yuma project. If Mr. Rose is right in his contention, we might well amend the section to make it clear that all sums of money received from any source whatsoever for the privilege of connecting with the Laguna Dam shall be credited to the water users of the Yuma project.

Mr. ROSE. The contract with the district provides that if any other lands go in it shall be applied to storage instead of to the Yuma project, which this bill says shall not be interfered with.

Mr. HAYDEN. I want to make it perfectly clear that the water users of the Yuma project shall not be required to pay the full cost of the Laguna Dam and then have the Government sell out from under them the right to use that structure and obtain additional money. If they are to pay for it they should have credit for any money that comes in.

Mr. KIBBEY. Mr. Hayden, after the other districts pay their proportion, shouldn't they have credit for anything subsequent to that time? Suppose that Yuma and the Imperial district have come in and paid up; they jointly own that dam then; they have practically paid for it. Now, then, if Coachella should come in, just for the sake of argument, long after that time, should not that reduce the Imperial as well as the Yuma amount?

The CHAIRMAN. It ought to be in the hands, it seems to me, of the Secretary of the Interior all the time to equitably adjust all of these expenditures and make the adjustment between all the parties getting water—adjust all the benefits as well as the liabilities and to make them even clear through.

Mr. HAYDEN. I shall look into this matter very carefully. It ought to be made certain that equity can be done to all concerned and that a double payment shall not be required of anybody.

The CHAIRMAN. Yes. We expect to have Director Davis and Mr. Finney, anyhow, before we get through, and we had better direct their attention to that.

Mr. HAYDEN. I shall look into that carefully.

Section 20 provides:

Sec. 20. That the Secretary of the Interior is hereby authorized to perform any and all acts, to make rules and regulations for the disposal of the lands herein mentioned so as to assure the organization of the districts and the issuance of bonds herein provided for, to determine when water is available for the lands provided herein to be sold or disposed of, and to make such rules and regulations as in his opinion may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.

That is a general clause which is usual in bills of this character. I think, Mr. Chairman, that concludes any discussion of the items of the bill, unless Mr. Kibbey desires to make a further statement.

The CHAIRMAN. Before we adjourn, I want to make inquiry—there was some talk some time ago—and I want to hear from Mr. Rose about this—how is this matter about having separate bills? I want to know if you are all together.

Mr. ROSE. The outside lands don't believe that this is a workable bill for a good many reasons. We don't believe that the Secretary or the Government can eat an apple and keep it too. One of two things should be done with the public lands out there. We know that the Government is not going to appropriate money to irrigate those lands. We have been told that generally by Congressmen and Senators. Now, there is only one other way, and that is to sell those lands and let them finance themselves. If the Government has got a large body of public lands, and it will not appropriate the money to improve it and won't sell it, the result is that that land is going to lay a desert, as it has lain for 18 years withdrawn from entry of all forms. Now, we believe that land should be sold and allowed to finance itself. That is our contention, absolutely.

Mr. THOMPSON. You mean sold as dry land?

Mr. ROSE. Yes, sir; it is just the same as Imperial Valley, if the water was available, and the Imperial Valley which is now producing \$65,000,000 a year would have been a desert if it had remained in Government ownership.

There are only two plans that I can see to reclaim the public lands of this country. One is for the Government of the United States to appropriate the money and reclaim the land and then to sell them, or else the lands go into the hands of private owners who will do it.

Now, our contention is this: The Government is not selling their lands: they are simply saying to a man, "If you will advance in five annual payments"—or four—whatever the Secretary may fix—"the money that it will take to irrigate that land, we will give it to you," because the money that you pay for it goes back to the system, and you get the system. Now, that is my contention, and I don't believe—Mr. Kibbey talked about \$100,000 appropriation, but their proportionate share of the public lands is probably \$10,000,000, and

I don't believe for one minute that the lands in the Imperial irrigation district and Coachella Valley will finance that much. I don't see why they should be called upon to do it.

Mr. HUDSPETH. The Government has \$10,000,000 of lands adjacent here?

Mr. ROSE. They have lands that will sell, in my judgment, for a great deal more than \$10,000,000, but the lands that will bear their proportion of the all-American canal are about \$10,000,000.

The CHAIRMAN. Which lands are \$10,000,000?

Mr. ROSE. The outside public lands, outside of the Government lands.

The CHAIRMAN. Its proportion of what?

Mr. ROSE. Of the all-American canal, and the storage I proposed here.

The CHAIRMAN. Would be \$10,000,000?

Mr. ROSE. Yes, sir. That is outside land. They have got to bear storage in addition to this all-American canal, and they have got help build the lateral system up around the valley, of which there is no mention made in this \$29,000,000. So their proportion of this whole thing will run, I venture to say, more than \$10,000,000, but the very least, gentlemen, will be \$10,000,000. Now, if this committee owned that land and owned the other land, would you build a system, mortgaging your own land, and then give that away, or would you take the business way of doing it and sell the land and let it finance itself? It will sell for money sufficient to finance itself.

Mr. HAYDEN. There is just one observation I want to make. Mr. Rose says there are but two ways to reclaim this land. One is to sell the land outright in its desert state and let the proceeds of the sales do the work; the other method is for the Government to do the construction itself. Now, this bill attempts to take a middle ground between the two plans and says that the Government of the United States will retain title to these desert lands; will not sell them until the water is available; that the Imperial irrigation district shall vote its bonds and deposit them with the Secretary of the Interior, who can sell them at par and thereby raise the money to commence this work. Half of the money needed to build the all-American canal will be provided by the bonds of a going irrigation district where they have a population of 50,000 to 60,000, where they have real estate values approximating a hundred million dollars; where they have a crop production each year of \$40,000,000. The advocates of this bill believe that sufficient credit can be obtained to start the project without coming to Congress for large appropriations. There is an existing irrigation district producing wealth enough each year to finance half of the cost of constructing the all-American canal at least. When the work is half done, the all-American canal will be built from the Laguna Dam through the sand hills to the edge of the east mesa. At that time, with the water practically on the land, it will be entirely feasible to organize an irrigation district on the east mesa and sell their bonds to obtain funds to complete the work.

By withholding the east mesa land from sale at the present Congress will make it available to ex-service men who can go upon it when the water is ready for use.

If 200,000 acres of land is now placed on the market who is going to buy it? Nobody except a speculator, who has loose cash which he can afford to let lie idle for three or four or five years, however long it may take to construct the all-American canal, will want to buy these desert lands. When the time comes that water is available for the land, with the consequent increases in value, the speculator will sell it out to somebody else who will actually go on it and do the work of reclamation. Such a policy means that the settler must bear the extra burden of paying the land speculator's profit. Wherever that system has been permitted, under any reclamation project in the United States, it has been a distinct detriment, because the settler is required to pay too high a price for his land. He gives a mortgage to the private landowner who was in on the ground floor, and the settler must not only make the interest and payments on the mortgage, but he has also to make all the payments required on the construction charge. The accumulated debt may break his back and make of him a peon who can not prosper. I do not propose, for one, to be a party to any such scheme, which I know from my own experience in the West means untold hardship to the new settlers. Such a plan means nothing so far as the east mesa land is concerned, except that it will fall into the hands of a group of speculators who can afford to put up money now and wait until the all-American canal is completed to reap their harvest.

Mr. HUDDSPETH. In your judgment, Mr. Hayden, what could the dry land be sold for?

Mr. HAYDEN. I can judge by the 40,000 acres ultimately to be reclaimed under the Yuma auxiliary project, which I mentioned some time ago. The law provided that the Yuma mesa project should be financed by a cash payment of 10 per cent at the time the bid was made, 15 per cent more when the bid was accepted, and 25 per cent for three years, the total cash payments to be completed in four years. That was the only way we could get the money to do the work. The Reclamation Service very wisely decided it was not safe to attempt to put the whole 40,000 acres on the market at once, so they offered tracts of land in a small unit of 6,000 acres. All of the first unit except about 1,000 acres, according to a letter I received yesterday, has been sold. With but a small tract of 6,000 acres on the market which everybody recognizes is the finest citrus land in the United States; only eight hours' ride from the orange and lemon groves of California, where people know all about the citrus-fruit industry; advertised all over the United States, yet barely enough people have been found who were willing to pay cash for 5,000 acres. Now, suppose the 200,000 acres of land on the east mesa is placed on the market, and say it is to be sold for just enough to obtain the money necessary to build the all-American canal, I tell you it is a financial impossibility to raise the required funds in that way.

Mr. HUDDSPETH. What are they getting per acre on the Yuma mesa?

Mr. HAYDEN. \$225 is the minimum price.

Mr. ROSE. Under an 80-foot pump lift, and this is under gravity and less than eight hours ride from the orange and lemon groves of the Imperial Valley.

Mr. HAYDEN. Well, lets cut the price in half. Suppose the east mesa were offered for sale at \$100 an acre?

Mr. SMITH of Idaho. That would be \$20,000,000.

Mr. HAYDEN. Reduce the price to \$100 an acre, or whatever pro rata sum it will take, and I think that it will come very near to \$100 an acre before water can be made actually available, counting all the construction that will have to be done, where are you going to find enough people in the United States that have the ready cash to put up \$100 an acre on 200,000 acres of land? Where are the people who will place their money in the hands of the Secretary of the Interior and permit him, in due course of time, not less than three or four years, as fast as he can do the work, bring water to their lands? And when that is done is the man who has that much surplus money going to go on to his land and actually farm it? You know he is not going to do it. He is going to sell it to somebody else. If he has that much money he is not the kind of a man who will grub out the sagebrush and make himself a home. He has no incentive to do the hard work under the hot sun of the desert that is required to make a farm. To adopt such a plan would be putting the approval of the Congress of the United States on an erroneous land speculation; nothing else.

Mr. ROSE. It is limited to 160 acres.

Mr. WELLING. You are arguing against the very proposition that is settling these lands in Yuma.

Mr. HAYDEN. I am arguing against it because the very fact that the experience on the Yuma mesa shows how little land we have been able to sell with but a small tract of 6,000 acres on the market. When the first unit on the Yuma mesa is settled up, the Secretary of the Interior may, possibly next year, offer another tract of 5,000 or 6,000 acres for sale. According to that it will take seven or eight years to put the whole 40,000 acres into cultivation. But it is proposed to sell the whole 200,000 acres on the east mesa and that can not be done. If it is done it will be an act of bad public policy, because Congress will be simply playing into the hands of speculators, by placing a bar of high-priced land against the actual settlers.

Mr. SMITH of Idaho. Are the purchasers on your project speculators?

Mr. HAYDEN. I think some of them are.

Mr. SMITH of Idaho. It is a great necessity for the development of the country and a great benefit to have them go in there and put up their money even if they sell the land later.

The CHAIRMAN. Now, just a moment before we adjourn this session. I would like to hear what Mr. Rose proposes now.

Mr. ROSE. Well, if the Imperial Valley and this committee desires to proceed under this Imperial Valley bill, the outside interests—and I represent east of the valley and west—

The CHAIRMAN. Specify how much it is you represent.

Mr. ROSE. I represent the private lands through the east side, and there are some 20,000 acres in there; and I represent the west side, who have practically every foot of it filed on under their organization, and Mr. Yager represents the Coachella Valley, which is a going proposition, and we will certainly ask it to be struck out of this bill and all reference to the outside lands.

I hold a contract with the United States Government, and I assume that they made it in good faith—I have no reason to believe they did not make it in good faith—and I don't propose to be put under any such handicap as this. Mr. Hayden tells you it will take \$100 an acre before that is in shape; Mr. Kibbey tells you it will take \$100,000 appropriation. Now, how are you going to get \$100 an acre on 50,000 acres of land? That means something. It means that the Congress of the United States has got to appropriate some money to do it, and you can't bond that land until it is in private ownership. Then it takes a year or so to organize a district and get settlers out there and bond it. You have to get your settler there; you have got to go through the process of bonding it; you have got to carry the bond election; you have got to get the State courts to approve the bonds, and attempting to do the thing piecemeal would cost \$30,000,000, and my judgment is that the Imperial and Coachella Valley will never consent to a piecemeal proposition. They don't know when they vote the bonds to build the canal, a certain district, they don't know whether outside lands are coming in, and if this thing is going to be done it ought to be done as one thing, and if the outside lands would build that, which will constitute then the largest irrigation project in the world under one unit, if they were forced to operate independently without the Imperial Valley, they are not going to build this thing piecemeal. That is ridiculous.

The CHAIRMAN. Now, let me ask a question. I understood Mr. Kibbey here to offer a compromise, reimbursing those whom you represent for the moneys you expended there, \$50,000 or \$70,000, whatever it was that is involved in this contract—that is, your rights that are involved in this contract—to satisfy that. I was in hopes that you gentlemen would get together and settle that yourselves somehow or other, and I would like to know what progress you are making about that.

Mr. ROSE. We are not making any. Mr. Chairman. You really misunderstood Mr. Kibbey if you understood him to say that. He made me a proposition to reimburse a part of the money that the company had spent, contingent upon the passage of this bill, that I haven't any reason in the world to believe Congress will ever pass.

The CHAIRMAN. That was not this bill, then?

Mr. ROSE. That was this bill.

The CHAIRMAN. That is what I understood.

Mr. ROSE. Upon the passage of this bill, to reimburse us a certain portion, but the bill is not a law, and why should I, a man who has carried this thing up to the point—

The CHAIRMAN (interposing). Suppose Congress passed this bill; as I understood you, then the proposal of Mr. Kibbey would be acceptable if Congress certainly would pass this bill?

Mr. ROSE. No; my proposition to them was if they wanted me to step out and would reimburse me for the money that I had put into this proposition and would pay me a reasonable amount for the time that I had put on it; if they wanted to do that, I was willing to step out.

Mr. HAYDEN. If the gentleman feels that he is in a position to block this bill, there is one way that his case can be very quickly disposed of, and that is for the Secretary of the Interior to revoke his contract.

Mr. ROSE. That is true: if the Government of the United States wants to revoke my contract that they have made with me in good faith, and I have proceeded under, in good faith, that would be a way. Mr. Hayden, and if you people can give pressure enough—and there has been a lot of it brought to bear to do it—if you can do that, well and good; if the Government thinks that is the proper way to deal with its citizens, I can go home and quit. But that is not the honorable way of doing it.

The CHAIRMAN. The official representatives of the Reclamation Service here expressed their opinions that those whom Mr. Rose represents had an equitable claim there, and Mr. Kibbey has admitted that also, I believe, and that they are ready to satisfy that, and I had thought all the time that the proper solution would be for that to be satisfied. Such being the case, I understood Mr. Kibbey to say that he was authorized to make this offer, and could fulfill it. Now, I would like to hear from Mr. Kibbey briefly about that.

Mr. KIBBEY. I don't want to be put in the position, Mr. Chairman, of saying that Mr. Rose has an equitable claim to any part of the public lands. I don't believe—

The CHAIRMAN (interposing). Now, without discussing that, just get right to what you are willing to do with the contract.

Mr. KIBBEY. My offer is in the record, that we would submit the question to anyone—we would submit it to this committee right now. I think personally that Mr. Rose did make some expenditures there that were possibly of value. For that reason the board of directors of the Imperial irrigation district are willing, rather than to see this bill defeated, to pay him for that and to pay him for his time. But, of course, it must be conditioned upon their getting relief. They don't want to pay for something and get nothing.

The CHAIRMAN. That is what I understood all the time, it is conditioned upon this bill being enacted, and I understand, Mr. Rose, that it is all right with you if the bill be enacted; so I thought for that reason that you were close together. If this bill is to be enacted, then you could agree between yourselves as to this. You were speaking about compensation, Mr. Kibbey, but Mr. Rose says he would not call it compensation, because he didn't expect to receive as much as could be called compensation, but to be reimbursed for expenditures and some incidentals. He would call it reimbursement. He would not permit you to call it compensation, because he didn't think it was adequate for that purpose, as I anticipate his language; but now you are both conditionally ready, and the only condition is that this bill be enacted. Now, why can't you get together here? It is very important that relief be had for these people. It seems to me you ought to do something on both sides.

Mr. ROSE. I am perfectly willing when a man offers to surrender for just the money that he has put into a proposition, gentlemen, that he has put eight years of the best of his life into, and offers to turn it over to somebody else—he is certainly surrendering something, particularly when he holds a contract with the United States Government to proceed, and when the Commissioner of the General Land Office, who made the contract, comes up here and tells you that in his judgment we can proceed if we are not hampered, and I believe we can. I believe we can proceed under the contract—in

fact, I know it. I know we could proceed under the Smith bill if the Imperial irrigation district never put up a red cent. Now, I am offering to surrender something when I am saying to those people: "Pay me back my money now, and let me get out," but don't tie it on to something that they themselves can go home and kill. I may read some correspondence that I have from Imperial Valley. I am not so certain that all of the men behind my bill want it at all; that they are not taking it as a method of killing the all-American canal themselves. Most of the people that attended the Berkeley conference at Imperial Valley were absolutely enemies of the all-American canal, known to be enemies of it all the time, ever since it has been proposed, and I can show you letters to me from people who attended that conference saying identically that thing.

The CHAIRMAN. Well, there is this about it: The question with me is: We want to know how we are proceeding here with the cooperation, consent, and support, positive support, of both sides here. If we haven't that, we want to know it. That is why I called this up at this time. We do not want to have a lot more meetings and not know what we are dealing with. We want to know that we are going to have cooperation; that they are all united when we get through here, because we can't pass this bill unless you are all united and we have things all ironed out so that we can say that every element is satisfied and is joined together in favor of this thing.

Mr. WELLING. It wouldn't be safe to say, Mr. Chairman, to these factions, all of them, that unless they can get together and bring all of the lands in the Imperial Valley under the provisions of the bill that it is pretty safe to say that Congress will take no action.

The CHAIRMAN. That is my view of it.

Mr. HAYDEN. I do not want Mr. Rose to be in the position of the dog in the manger and say, "I will not do anything," and that Congress shall not do anything unless he gets what he thinks is coming to him under his contract.

Mr. WELLING. No; but it seems to me that if the Congress of the United States is to back a \$30,000,000 expenditure or \$50,000,000 expenditure, it ought to be under conditions that the conflicting interests in the Imperial Valley are able themselves to agree upon the proposition.

The CHAIRMAN. Upon anything reasonable, I would say, anyhow.

Mr. KIBBEY. Mr. Chairman, may I ask a question of this committee? I would like to know, gentlemen, whether or not you yourselves would pass a bill, would vote for a bill giving a preference right on public lands to private interests? Now, if you will, it is satisfactory to me personally. If you will accept Mr. Rose's amendment and pass it, personally, I will say that I am willing.

The CHAIRMAN. We are not discussing that amendment. We want that eliminated.

Mr. KIBBEY. Now, then, our proposition to Mr. Rose—I can't see why it isn't fair. If the bill doesn't go through, if it isn't passed, he is in the same position that he is now, exactly.

The CHAIRMAN. Then, you stand by that proposition now, as I understand it, just as you stated?

Mr. KIBBEY. If the gentlemen want me to submit to the Imperial irrigation district board the proposition that Mr. Rose suggests—that

we now pay him \$75,000 to get out and let this committee do something with the public lands—I will submit the question to the Imperial irrigation district.

Mr. TAYLOR. We don't want anything of that kind. We don't want to be put into the attitude of saying that a committee of Congress can not legislate unless somebody is paid \$75,000 to permit us to go ahead.

The CHAIRMAN. We want you gentlemen to get together.

Mr. KIBBEY. I have made the only offer that I am authorized to make, that we pay him whatever amount he has expended, plus \$10,000 to himself—which he says is \$75,000—when the bill passes, to be included as a part of the cost of the project.

The CHAIRMAN. You are quite willing to make that offer?

Mr. KIBBEY. I have made it and I stand by it.

Mr. ROSE. If they will give me anybody that will give me 80 cents on the dollar for that contract after I have got it, I will take it; but they can't do it. There isn't a man in the world that would do it under the conditions of such a bill as that. It absolutely establishes a new precedent all the way through, and I don't believe that Congress will pass it.

The CHAIRMAN. But suppose Congress does pass it?

Mr. ROSE. If they don't pass it?

The CHAIRMAN. If they don't pass it, you are left.

Mr. ROSE. Yes; and I have been ready and waiting for a year and a half to proceed on the contract after I made my report. It is here, and I wish you gentlemen would have that report brought in and inspected. Now, I am to be tied up again for the next two or three years, because Mr. Kibbey tells you if this bill passes he won't come back and ask for an appropriation under this Congress; he is going to wait until next Congress.

Mr. KIBBEY. I am not talking about an appropriation bill; I am talking about this particular bill.

Mr. HAYDEN. I want to make a suggestion, that if, as it appears, no legislation can be enacted unless it is satisfactory to Mr. Rose, and the reason for that is that he has a contract with the Secretary of the Interior made some time ago, which has not been carried out, for whatever reason it may be, that perhaps the simplest way out of the difficulty would be for this committee to request the Secretary of the Interior to revoke the contract; then we will know that it is out of the way and there will be nothing to interfere with the necessary legislation.

Mr. WELLING. Isn't the Ross contract just as valid a contract as the contract with the Imperial irrigation district?

Mr. HAYDEN. No; there is a very distinct difference in the validity of the two contracts. If it was a valid contract, and as valid a contract as the Imperial irrigation district contract, the conflicting provisions in the Imperial irrigation district contract would be void. Now, the Secretary of the Interior had this proposal before him from Mr. Rose. Mr. Rose said, "Here are certain areas of public lands that ought to be cultivated; if you will give me a contract I think I can raise money with which to build a canal and other irrigation works." Now, to do that he had to raise twenty or thirty million dollars. He did not have that much money, so he would have to

get it somewhere. Somebody would have to finance him. As time passed he couldn't get the money, because if he could have obtained funds he would have carried out his contract.

Mr. WELLING. He hasn't abandoned it.

Mr. HAYDEN. No; but he has not done anything. That is the way the case appears to me. Mr. Rose obtained this contract from the Secretary of the Interior to irrigate lands on the East Mesa, which would require a large sum of money, and he had nothing but a shoe-string as an asset.

Meantime the people of the Imperial irrigation district were in a desperate situation; they had to have relief from the Mexican situation. They made representations to the Secretary of the Interior that they could raise the money to build an all-American canal. Certainly they have got much better assets on which to raise money than Mr. Rose, because they have property values of \$100,000,000; they have fifty or sixty thousand people living in Imperial Valley, and they have a crop production of \$40,000,000 a year; whereas Mr. Rose has nothing but the prospect of bringing some water onto desert land. The Secretary of the Interior made a contract with the Imperial irrigation district authorizing them to connect with the Laguna dam and build an all-American canal. The district attempts to sell its bonds and finds they can not be sold except at a great discount, because of the condition of the bond market, and by reason of adverse reports made by the Federal Farm Loan Board. So that the district is unable to carry out its contract. Now, the only reason why the people of Imperial Valley are asking Congress for assistance is because they can not sell their bonds under present conditions. The bond buyers say that if the Congress of the United States will approve this project; if it is known that the Secretary of the Interior will direct the expenditure of the money; if it is known that the title to the work is to remain in the United States; if it has the engineering approval of the United States Reclamation Service, then they will buy the bonds of the Imperial irrigation district and furnish the money to do the work.

Mr. Rose has no such meritorious proposition as that. Wherever he, as a promotor who is trying to secure some public land for himself and his associates, which they can sell at a profit, stands in the way of 50,000 or 60,000 people who are struggling to maintain their farms in Imperial Valley, I say that he ought to get out of the way. This committee should not let him block legislation, which, in my judgment, is feasible. Why should one man and a few associates who have entered on a land speculation which they hoped would make them some money, stand in the way of necessary relief legislation for the benefit of 60,000 people in Imperial Valley?

Mr. HUDSPETH. What are you going to pay him this \$75,000 for?

Mr. HAYDEN. The representatives of the Imperial Irrigation District say that if Mr. Rose has done anything, and possibly he has done some work in promoting the idea of an all-American canal—they are willing to pay him for his losses and expenses, and that is as much as he can ask. I am unable to understand how he can stand before this committee and say, "You shall not pass this bill unless it suits me; unless I am provided for." All he has is a tentative contract with the Secretary of the Interior, which he has not carried

out, because if he had carried it out, there would be nothing for this committee or Congress to do.

Mr. YAGER. Gentlemen, I would like to say a few words in regard to the interest the Coachella Valley has in this bill. Coachella Valley has been referred to a good many times by Mr. Kibbey as bearing a portion of this cost, that they will put up their bonds, and I would like to explain just what proportion, what interest they have in this bill.

You gentlemen will notice that red line there [indicating on map]; that is the all-American canal that has been referred to, which provides for an expenditure of \$29,500,000. Of that \$29,500,000, the engineers surveying this have apportioned the charges, \$17,500,000 to the Imperial irrigation district and \$11,500,000 to the outside lands. Now, that \$11,500,000 does not provide one bit of irrigation to the outside lands of the Coachella Valley, other than it provides a canal large enough, of sufficient capacity to furnish them water. Now, on top of that \$11,500,000 charged to outside lands of which Coachella Valley has 155,000 acres, they propose that we shall build a canal from the point of diversion running up along the edge of the green land there [indicating] and encircling the Coachella Valley, as shown on the blue land there. In addition to that, from the wording of their present bill, they have got the entire amount of storage charged to the outside lands. Considering this as one projects, by far a greater charge is made against the outside lands than is charged to the Imperial irrigation district on this project.

So surely Coachella Valley has something to say on this matter when they bear a good large proportion of the charge of it, and they have not been considered in this bill, and I consider this bill unfair and inequitable because, it proposes to give the lands of the mesa away—they are practically given away for \$1.25 an acre—and they say the Imperial irrigation district and the Coachella Valley county water district shall come in and put up their bonds and finance the project. Now, there is a value there—I am not saying anything against the soldiers, gentlemen; I am just as much in sympathy with the soldiers as any member of this committee, but we are looking at a business proposition here—but if we give that land away, we have got to expect an appropriation from Congress, and most of you, gentlemen, nearly every member of this committee, has assured us that we are out of luck if we expect to get an appropriation from Congress now. If we don't get an appropriation from Congress, which you have assured us we can not get, we have got to look to that project itself to finance it, for the lands to build it themselves—and they will do it: that land is just as valuable as the Yuma-Mesa land that sold for \$230 an acre on the average. If these lands sell for half of that—if they sell for a quarter of it, it will finance itself, and if it won't finance itself, it isn't worth building the canal, it wouldn't be good business to appropriate money for.

If, under Mr. Smith's bill, as introduced here, the Secretary of the Interior will estimate the amount of acreage to be irrigated, will estimate the cost it will take per acre to do it; charge that portion to the land, and sell the land for not less than that amount, which will be approximately \$30 an acre, that is a system of financing that each acre stands its proportionate share, and Coachella Valley is

willing to come in on it, but if they are going to throw the whole burden on Coachella Valley and the Imperial irrigation district, Coachella Valley is not willing to come in on it. It is not a fair proposition, and that is what bill 11553 provides.

The CHAIRMAN. You are representing Coachella Valley?

Mr. YAGER. I am representing the Coachella Valley county water district, an organization containing approximately 400,000 acres, of which there are about 155,000 acres susceptible of irrigation under this project. Now, there is approximately 500,000 acres outside of the Imperial irrigation district susceptible of irrigation under this project, but there is 584,000 acres within the Imperial irrigation district.

Mr. THOMPSON. Isn't that Coachella Valley below the sea level?

Mr. YAGER. A great portion of it is. The town of Indio—you will see the farthest town north on the map—on the blue—is 22 feet below sea level. Coachella is 76 feet below sea level, and it runs on down to the Salton Sea.

Mr. HAYDEN. You made two statements with which I do not agree. One was that the Imperial irrigation district would not pay anything for storage under this bill. The bill provides that the Imperial irrigation district shall pay whatever sum the Secretary of the Interior assesses against them for storage.

The second statement which you made that I do not agree with is that an unfair proportion of the cost would be assessed against the Imperial irrigation district and the Coachella Valley. The Secretary of the Interior is authorized to apportion the costs according to the benefits. The lands in the Coachella district, for instance, having now no water from the river, the lands on the east mesa reserved for soldier settlement having now no water from the river, would undoubtedly be assessed, acre for acre, exactly alike.

Mr. YAGER. If you will read section 15 of that bill, it provides—

The CHAIRMAN (interposing). Which bill?

Mr. YAGER. 11553. It provides that as to the natural flow of the water of the Colorado River the Imperial irrigation district shall have a right prior to the outside lands under this project. Section 16 provides that the land this side of the line shall have a prior right over the land on the other side of the line, in Mexico, to the water; consequently that gives the Imperial irrigation district an adequate supply of water from the Colorado River for irrigation.

Mr. WELLING. The same supply that they are now using.

Mr. YAGER. The same supply that they are now using, and they would have the advantage of a right over approximately 120,000 acres now being irrigated in Mexico.

Then section 2 of that bill provides that the Secretary is obligated to assess the charges for storage and other charges according to the comparative benefits derived. That would necessitate the Secretary of the Interior morally to find all the storage chargeable to the outside lands, because the Imperial Valley could come in under 11553 and say that they have not received one bit of benefit from storage, because they had an adequate supply before.

Mr. HAYDEN. The truth is that the Imperial irrigation district has not had an entirely adequate supply of water. A table submitted by Judge Swing showed that during certain months in the year when

the flow of the Colorado River has been low they have been short of water, and in order to guarantee that they will have abundant water every month in the year it will be necessary for the Imperial Valley lands to contribute something toward storage, and it is entirely proper that they should.

Mr. WELLING. You would contend that all they should contribute toward storage would be the proven shortage that they had had in years past?

Mr. HAYDEN. Certainly that much.

Mr. WELLING. And that is all?

Mr. HAYDEN. No; I think they could well afford to do more than that, just as was done under the Salt River project. There were lands in the Salt River Valley which had water rights that dated back to the early settlement of the valley, and yet the owners of those old lands said, "We will pay our share of the cost of storage just the same, because we do not know what year is going to be a dry year; we do not know what the conditions will be in the future; and it is the same as paying for an insurance policy to guarantee us an assured supply of water stored in the Roosevelt Reservoir whenever we may need it." And it has been to their entire advantage in every respect to pay for storage the same as everybody else. They gladly did it, and their land has a higher market value on that account. If a stranger desires to buy land, he does not have to inquire about what some court has decided with respect to prior water rights. He knows that that land has an assurance of water, because there is a reservoir up in the mountains which contains a two years' supply when it is full. The same situation exists in the Imperial Valley, and the landowners there can well afford to pay for storage to cover the known shortage of water; they can afford to pay more than that and have an assurance that whatever happens there will always be water for their crops. That they should pay as much as land that is absolutely desert and now has no valid water right is a question. I doubt if the Secretary of the Interior would place the same burden for storage on them as on the dry lands, because the bill provides that the lands in each district shall contribute according to the benefits to be received.

Mr. TAYLOR. I suppose these gentlemen would like to know what construction the Secretary of the Interior is going to put on that.

Mr. HAYDEN. This is the situation in the Coachella Valley: All the water they now have is obtained from wells, nothing else; and the well water only irrigates a very small area. How many acres are now irrigated?

Mr. YAGER. At the present time about 8,000 acres.

Mr. HAYDEN. Eight thousand acres out of how many acres in the district?

Mr. YAGER. About 400,000 acres.

Mr. HAYDEN. That is not a drop in the bucket.

Mr. SMITH of Idaho. Is that 400,000 acres in private ownership?

Mr. YAGER. A great deal of it. Quite a large part at the northern end of it is in Government ownership and railroad lands. But most of it is not susceptible of irrigation under this project—only about 155,000 acres—and probably not over 25,000 acres of this is in Government ownership.

Mr. TAYLOR. Who owns that property?

Mr. YAGER. Settlers.

Mr. TAYLOR. Is it divided up into 80-acre tracts, or do some millionaires in Los Angeles own it all?

Mr. YAGER. No; it is in small holdings. There are very few holdings over 160 acres in the valley.

The CHAIRMAN. How were those holdings acquired?

Mr. YAGER. Under the desert-land laws and the homestead laws.

Mr. HAYDEN. And by the purchase of railroad lands?

Mr. YAGER. Yes.

Mr. HAYDEN. In the Coachella Valley to-day you have about 8,000 acres under irrigation and you want to obtain water from the Colorado River to irrigate how many thousand acres?

Mr. YAGER. About 155,000 acres.

Mr. HAYDEN. There are 155,000 acres which have no water at all; you have got no way of getting any water for that land except from the Colorado River? Certainly the lands in Imperial Valley that have been irrigated for years from the Colorado River and have obtained a prior right by actual beneficial use should have that right recognized. What possible objection can there be to that?

Mr. YAGER. But, Mr. Hayden, I object to this committee legislating any water right to the Imperial Valley. If they have it, they have it, and Congress can not touch it; if they haven't it, we don't want Congress legislating it to them.

Mr. HAYDEN. Do you dispute that the Imperial Valley lands have acquired a water right?

Mr. YAGER. I will dispute that they have a water right. If they had a decision of the court to-day giving them a water right they could not enforce it, because they lose physical control of the water when it goes through Mexico. Further than that, there is an injunction enjoining them from diverting their water at Yuma to-day and they haven't any water right that you can call a water right.

Mr. SMITH of Idaho. Your contention is that the title of water is determined not by Congress, but by the laws of California?

Mr. YAGER. Yes, sir; and this Congress should not interfere with the laws or alter the laws of the State of California regarding the water right.

Mr. TAYLOR. They ought not to alter the laws of the State of California or any other State.

Mr. YAGER. I think that is very true, and that is just my contention, that section 15 is not proper in this bill. You are discriminating in section 15 against outside lands in that we are expected to pay a greater proportion of the cost of this project, which we don't want to pay unless we have an adequate supply to irrigate those lands, and I do not believe Congress has power to enact such legislation.

Mr. TAYLOR. I don't think you have got any right to come here on an equal par with the first right of the Imperial Valley there.

Mr. SMITH of Idaho. They must take their chances under the State laws.

Mr. TAYLOR. But, then, you can't deny when they have been using this water for years that they have got a right prior to somebody that hasn't used it at all.

Mr. WELLING. The people of the Imperial Valley have been coming to us for years and saying they have no water right.

Mr. TAYLOR. They say they have nothing permanent, because of Mexican interference.

Mr. YAGER. If they claim that they had a water right from the use of that water, there is approximately 184,000 acres in the Imperial irrigation district that is not using it; however, we don't want to question that. That is a question for the judicial branch of this Government and not the legislative.

Mr. TAYLOR. I should think, from all that we know, they would be put on an equality with yourselves.

The CHAIRMAN. I think we had better adjourn now, gentlemen. You will be heard further to-morrow, and if agreeable to the committee we will meet to-morrow morning at 10 o'clock.

(Whereupon, at 1.05 o'clock p. m., the committee adjourned until 10 o'clock a. m. Wednesday, February 4, 1920.)

**COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Wednesday, February 4, 1920.**

The committee met at 10.15 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. As this is an adjourned meeting, gentlemen, the committee will come to order and we will proceed. We will first hear Mr. Yager.

**STATEMENT OF MR. THOMAS C. YAGER, REPRESENTING THE
COACHELLA VALLEY COUNTY (CALIF.) WATER USERS' ASSO-
CIATION.**

Mr. YAGER. Mr. Chairman, I would like to take up a few moments of your time in discussing Mr. Smith's bill.

Mr. Smith has introduced a bill that I believe is the logical solution of this situation. We have been assured by most of the Members of Congress whom we have talked to that it will be impossible to get an appropriation. Without an appropriation I do not believe it is possible to finance this project under a bill that gives away to the soldiers the east side mesa lands. We have represented repeatedly to this committee that the lands of that district will finance themselves, will pay for their own irrigation, and I believe that is unquestionably true. If the lands of the east side mesa were permitted to be sold, they will at least bring enough to pay for the cost of their irrigation, and it will leave a reasonable cost for the Imperial irrigation district and the Coachella Valley County water district to pay.

Under bill 11553 it is proposed that the Coachella County water district bond themselves, and their proportionate bonded indebtedness would be in the neighborhood of \$5,000,000 or \$6,000,000 in order to finance this project of the all-American canal, this expenditure will not assure the Coachella Valley one drop of water until they build in addition to that their own ditch on around the valley and the east side mesa lands. I don't believe the farmers and people of Coachella Valley will bond themselves under such a

bill with no assurance of water. I don't believe it is a business, practical scheme.

Mr. Smith's bill, as I understand it, is very similar to the bill introduced by Mr. Hayden, under which the mesa lands of Yuma are being sold, and I am informed it is a very practical plan in irrigating those lands. Mr. Smith's bill provides that the Secretary of the Interior estimate the acreage susceptible of irrigation under this project, the amount of cost per acre that it will require for the irrigation of the lands under the project; that the east side mesa lands, the Government lands, be sold for not less than the cost per acre in order to irrigate them, and that the Imperial irrigation district and the Coachella Valley County water district issue their bonds and turn over to the Secretary of the Interior their proportionate cost in cash. There a fund will be assured for the building of that project, and as Mr. Tallman and Mr. Finney have stated to this committee, it would be an adequate amount to build this canal and a business way to obtain it.

Now, the Coachella Valley is desirous of having her lands developed on any equitable basis that is reasonable and that they can stand; but under bill 11553 it is their conclusion that it is not equitable, and they can not stand it.

Now, as to the soldier provision in this bill, I will state, no one wants to defeat any claim that the soldiers might have there, or defeat any benefits that they could derive from it, but as I look at it as a business project, the districts can not finance the irrigation of the entire mesa lands and allow that to go to the soldiers; and as long as Congress will not appropriate for the benefit of those lands for the financing of this project, I think it defeats the project. If Congress is going to appropriate on this project for the soldiers, they had better appropriate for all the soldiers under a general bill, rather than to appropriate a sum and only allow a few soldiers to receive the benefits from the appropriation, for at most they could only accommodate a small portion of the soldiers that are entitled to relief.

The CHAIRMAN. How many would you estimate?

Mr. YAGER. Approximately 200,000 acres of land—if they were permitted 160 acres of land, that would be about 1,500 soldiers.

The CHAIRMAN. You say 160 acres? You would not favor as large tracts as that?

Mr. YAGER. Well, at 80 it would be but a small number of the soldiers, anyhow.

Mr. BARBOUR. That would be 2,500.

Mr. YAGER. It would not be over 3,000 soldiers as against 4,000,000 that are entitled to benefits. Furthermore, as our soldier friend has said, most of the soldiers are in a condition financially that they can not put any money into it. He said that they could not even buy an overcoat. Well, gentlemen, a \$30,000,000 scheme is not a poor man's scheme; it takes money to finance it, and it requires money to build that, and it is lamentable to think that they would not be able to get in on it, but if they can not they can not. But I will suggest this as my conclusion, that the Coachella Valley County water district and the Imperial irrigation district could finance the soldier to a portion of that land, but I don't believe over 50,000

acres there at most. If we are compelled to finance them for 200,000 acres, the project is defeated, as I see it.

The CHAIRMAN. I will say for the benefit of the members who have just arrived, Mr. Hernandez and Dr. Summers, that Mr. Yager now is talking in behalf of the bill introduced by Mr. Smith for the solution of this problem, and his position is that it will not be feasible to get an appropriation through Congress under the committee's bill here. I am not giving sanction to either side, but I am simply stating it so you will understand what he is discussing.

Mr. HAYDEN. Let me ask you a question, Mr. Yager. If you were convinced that the Congress of the United States would not permit the East Mesa lands to be sold three or four years in advance of settlement for the benefit of speculators; that such a scheme could not be carried out; that the sentiment in Congress was favorable to the soldier as against the speculator; that the friends of the returned soldiers intended to see that the exservice men have a preferential right of entry whenever this land is opened to settlement, which would be at the time water was available, what would you say then?

Mr. YAGER. Well, Mr. Hayden, in the first place, if I may be permitted, in answer to that, I am not convinced that Congress will appropriate money—in fact, I am convinced that they will not appropriate money; so under those circumstances if you give the mesa lands to the soldier our project is defeated.

Mr. HAYDEN. I am not referring to whether Congress will appropriate money or not; I am talking about the proposition to sell the public land on the East Mesa in advance of settlement; to sell it now, three or four years ahead of the time when water will be available for its irrigation. Congress will not approve of that policy, so there will be no chance for a speculator to buy this land and hold it to sell at an advanced price to somebody else. We are going to see that that does not happen. Such being the case there are only two ways in which the irrigation of the East Mesa can be financed: One is by an appropriation by Congress; the other is to wait until the all-American canal is constructed to a point where water is practically available, then open the land to soldier settlement, let the soldiers organize an irrigation district and furnish their bonds the same as the Imperial irrigation district proposes to furnish its bonds. That is the plan proposed in the bill introduced by Mr. Kettner.

Mr. YAGER. Mr. Hayden, if they organize a district it will take at least 500 inhabitants out there to do that, and under the bill the land is not open for settlement until the water is there. Now, the question is, who is going to put the water there? It is up to the Imperial irrigation district and the Coachella Valley County water district to put water out there. If they can put water out there, they don't need to come to Congress to get legislation, but they can't organize the district until that land is settled, and people can't live there without water. Now, if the water is there and the land is under cultivation they need no legislation.

Mr. HAYDEN. The only difference between us is that you are insisting that the water shall be delivered to each tract of land. I claim that if the all-American canal is constructed with funds obtained by the sale of the bonds of the Imperial irrigation district to a

point where the main canal reaches the east mesa, and then if enough land is entered to permit the organization of a new irrigation district, 500 settlers are required, as you say, that there is no question but that the bond buyers would be glad to purchase bonds of the east mesa district if they knew that the Secretary of the Interior was to immediately expend the proceeds of the bonds to put the water on the land. There can be but a very short space of time in which the project might have to be financed by the Government.

Mr. YAGER. Well, it is my conclusion that they can't organize a district there and sell bonds on an arid piece of ground until they at least have water there—at least, until they have a population out there; until they have made some showing. Bond buyers would not buy without any security there, and even if they would, it would take at least a year or two years to form a district and float their bonds before they can get any money.

Mr. HAYDEN. There may be a brief period of time, as Mr. Kibbey says, when it might be necessary for Congress to appropriate some sum of money to tide the project over, but in any event if the main canal is constructed from Laguna Dam through the sand hills to the edge of the east mesa, and that can be done by the money raised by the Imperial irrigation district for its share of the work with water that close to the east mesa lands, it seems to me there ought to be very little difficulty in selling bonds enough to make possible the delivery of water to each tract of land. It is provided in the bill that a majority of the acreage of the public lands may be included in such an irrigation district.

Mr. YAGER. Well, if the land is to stand its proportionate cost, what could be the objection of selling it for at least enough to stand that proportionate cost?

Mr. HAYDEN. If the land is sold now, as you propose, three or four years in advance of settlement, it will be sold to men who happen to have money enough to carry that financial load over that period of time, and those who would purchase the land are not the kind of men who would be willing to go out there and make a farm; they will only buy the land, and sell it when water is available to somebody else. This committee and Congress, in my judgment, does not propose to allow the speculators to make that profit; Congress is going to let the actual settler get in on the ground floor.

Mr. YAGER. The Secretary of the Interior is authorized under Mr. Smith's bill to make such rules and regulations as are necessary to carry this out. They would not necessarily require the full amount of the purchase price of that land to start with. He could extend the payments for the lands over a period of time until water was actually delivered there, as the money is expended by the department in building the project as needed. I can not see why it would be speculation. The Imperial irrigation district is settled up under the homestead and desert land laws, and paid for its irrigation without any speculation; the land has been sold; The Coachella Valley has been settled up in the same manner without any great amount of speculation, and we have a good class of citizens there. We don't consider the people speculators.

Mr. HAYDEN. To-day a large percentage of your land is held by absentee landowners who are renting it to tenants. Complaint has

been made to me about the land being cultivated by Hindus and that the owners live in other parts of the United States and have no interest in the community. They care for nothing except to get the highest possible rent out of the land or sell it for the highest possible price to some settler. The experience on every irrigation project in the West where that kind of an arrangement has been permitted has been that it is a detriment to the proper development of the community.

Mr. SMITH of Idaho. Does not that condition exist in Iowa and Illinois and everywhere else, where the farmers find that they can make just as much money by renting to somebody who will work, instead of working themselves? There is nothing new about that proposition. Down on your own project the people who bought your land at \$225 an acre are not all going to work it. They are going to rent it, or sell it should they have a chance to sell it to advantage.

Mr. HAYDEN. But everybody recognizes that tenantry has a very bad effect on our agricultural situation.

Mr. SMITH of Idaho. But how are you going to control it? You can not compel a man to live on a farm and work it if he does not want to.

Mr. HAYDEN. Why not let the settler in on the ground floor, getting the land at its actual cost of reclamation; then a poor man has a very much better chance to prosper than if he buys the land at a fancy price from some one else who had money enough to get in early and hold it for the inevitable advance.

Mr. SMITH of Idaho. I want him to get in on the ground floor, but he may not want to stay there.

Mr. EVANS. Well, even renting enables a poor man to get a start. A broken man can go to work, rent a place, and eventually get himself a home. You should encourage that; it is a very good thing in many cases, fine for promoting industry and reclaiming the land.

Mr. SMITH of Idaho. It is the only chance a poor man has to get a start in farming, to rent a farm. Out in the Twin Falls country the farmers that have been there for 10 years, a lot of them, are renting their farms at \$6, \$10, or \$15 an acre, and turning over all of their equipment, and often a man coming in without a dollar of capital can take hold of a proposition and make it go.

The CHAIRMAN. You mean they buy it?

Mr. SMITH of Idaho. No; by simply renting it—if he is the right sort of a man.

Mr. EVANS. They rent on shares, like they do in Nebraska.

Mr. SMITH of Idaho. If he has the confidence of the people there he does not need any capital.

The CHAIRMAN. I didn't know but what you meant he could by that means finally buy the land.

Mr. SMITH of Idaho. He may, if he makes enough out of the crops.

Mr. YAGER. This project, however, is limited under Mr. Smith's bill to ownership of 160 acres.

Mr. SMITH of Idaho. I think it ought to be limited to 80 acres.

Mr. YAGER. Limit it to 80 acres. The average farm in Imperial Valley is not over 80 acres, or in the Coachella Valley. That was taken up under the homestead act, and the people are making a go of it. They are making a living and are making money, and the tenants in Imperial Valley and Coachella Valley are good citizens.

Mr. HUfspETH. Mr. Yager, what will 80 acres there usually produce per annum?

Mr. YAGER. Well, Mr. Hudspeth, in the Coachella Valley this last year we have approximately 8,000 acres under cultivation and it paid net to the farmers \$125 an acre. Their onion crop this year, some of it, sold for \$1,000 an acre, according to when they sold—the average was over \$500 per acre.

Mr. HUfspETH. I am not familiar with your section as I am with the Imperial Valley. Can you take water out of this all-American canal and run it by gravity over your land?

Mr. YAGER. Yes; there is about 155,000 acres susceptible of irrigation in the Coachella Valley from the gravity flow of the Colorado River. At the present time they are getting it from wells. About the northern part of the Salton Sea there seems to be a check across the valley, and it creates an artesian basin in there. On this side there is no such basin, but they have a limited amount of water. They have about 8,000 acres under cultivation at the present time, and, as I say, the average net income to the farmer this year was \$125 an acre over the 8,000 acres.

Mr. HUfspETH. That is net to them?

Mr. YAGER. That is net.

Mr. HUfspETH. It wouldn't take him long to pay for the land at that rate.

Mr. YAGER. Some of the farmers bought land this year off of what they made on the crop.

Mr. HUfspETH. They did that in my section in Texas, too, in the Pecos Valley.

Mr. YAGER. I say this land produced \$125 over the entire 8,000 acres; all of that is not under cultivation. A great deal of it is in young date trees and young grapes. So I think it is entirely a reasonable proposition when land right alongside of it will pay \$125 an acre, that this Government land will pay as much as soon as water is on it, and if they will sell it and get the money into the Treasury to build the project, that land will pay for itself.

Mr. SMITH of Idaho. I would like to ask Mr. Yager a question or two.

Mr. BARBOUR. Before you start, Mr. Smith, would you mind stating the principal points of difference between your bill and Mr. Hayden's bill so that briefly we will have the two before us?

The CHAIRMAN. Well, ask your question first, Mr. Smith.

Mr. SMITH of Idaho. I want to ask Mr. Yager what he thought about this proposition. As I understand it, there are about 200,000 acres of new land that will be available if this all-American canal is constructed?

Mr. YAGER. There are about 500,000 acres, Mr. Smith, outside of the Imperial irrigation district susceptible of irrigation under this project. Of that 500,000 acres at least 200,000 acres is good Government land that could be sold.

Mr. SMITH of Idaho. Supposing we set aside 40,000 acres for the State of California for its soldier-settlement plan. We have no Federal legislation for helping the soldiers; we do not know when we are going to get it, and in my judgment it would not be any favor to a soldier to put him down there on that land unless he has got some

capital. Without Federal legislation he must be dependent then on his friends or on this soldier-settlement plan of the State of California. Supposing we turned over 40,000 acres of these 200,000 acres to the State of California under the soldier-settlement plan, and which I understand from Dr. Mead they will finance, and then take 160,000 acres and sell it as the land was sold down on the Yuma project, at not less than \$75 an acre.

Mr. YAGER. I believe that would finance it.

Mr. SMITH of Idaho. That would raise a fund of, say, \$3,000,000 a year from this 160,000 acres, and the State of California would put up money for the 40,000 acres for the soldiers. That would furnish ample money, then, for the new lands; then let the districts come in and raise their proportionate share of the money by bonding their districts and selling bonds.

Mr. YAGER. I believe that could be financed. I believe the districts and that land could carry 40,000 acres, or perhaps 50,000 acres, for the benefit of the soldiers, but to carry the full amount for the benefit of the soldiers I believe defeats the proposition.

Mr. SMITH of Idaho. I have no interest in any particular piece of legislation; this is simply a suggestion following out the plan under the law enacted at the request of Mr. Hayden, which I remember when he put it through Congress was one of the biggest things for his project, and the land has been sold there. I do not understand why he is opposing the plan to apply it elsewhere, when it works so well in his own district.

It seems to me that we have got to get together here in some way to make these lands pay their proportionate share, and according to Mr. Kibbey the land that is now unoccupied would bring nothing until it was settled, because you could not organize a district until you get settlers there, and you can not get settlers there until you get the water there; so that unoccupied land would absolutely contribute nothing for four years toward this work. In the plan proposed by my bill they would commence immediately to contribute and make the reclamation as proposed, I think, absolutely possible, without delay.

Mr. KIBBEY. Do you want me to reply to that, Mr. Smith?

Mr. SMITH of Idaho. Yes.

The CHAIRMAN. Let us hear from Mr. Barbour first. Do you want to be enlightened any further from Mr. Smith?

Mr. SMITH of Idaho. I will answer Mr. Barbour. It looks to me like we are up against a stone wall with reference to getting these bonds sold under the Kettner bill. When you suggest that municipal bonds be turned over to the Secretary of the Interior to sell, you are suggesting something that is a new policy entirely and one, in my opinion, that will not appeal to the Members of Congress. I believe that it would be impossible to get legislation of that character, because any bonds that are sold by the Secretary of the Interior, or through his office, will be regarded practically as secure as Government bonds, and that the Government is practically behind the bonds; if the Secretary sold the bonds he would be expected to see that they are paid, principal and interest, and I don't believe it is possible to get that sort of a provision on the statute books.

Mr. HAYDEN. Would it be feasible to provide that the bonds of the Imperial irrigation district and other districts would be deposited

with the Secretary of the Interior as security for appropriations made by Congress; that in the event that any district could sell the bonds at par they might withdraw them from the hands of the Secretary of the Interior and deposit the cash in lieu thereof?

Mr. SMITH of Idaho. But you certainly never have known of anything of that kind being done?

Mr. HAYDEN. Yes; there is now on deposit with the Secretary of the Interior the bonds of an irrigation district in the State of Washington as security for the appropriations made by Congress for the construction of the project works.

Mr. SMITH of Idaho. Under some specific law?

Mr. HAYDEN. Under the reclamation extension act, which allows the Secretary of the Interior to deal with an irrigation district and accept the bonds of the district as security for the payment of the construction charge. If the district could sell its bonds at par, why not withdraw them from the hands of the Secretary of the Interior and turn the cash into the Treasury, and thus the transaction is closed? It seems to me that it is a very logical step to take. I do not see how anybody can object to it if you concede to begin with that the bonds of the district are better security for an appropriation made by Congress than the obligation of individual water users, as was the former custom.

Mr. SMITH of Idaho. Well, as I say, I don't care which bill becomes a law, but I think we should get together in some way and bring relief to those people there and get those unoccupied lands under cultivation.

Mr. HAYDEN. That, of course, is really the issue, Mr. Smith, which we often forget in discussing the reclamation of the outside lands. We are making the small thing look like the big thing. The real thing necessary to be done is to provide immediate relief for the people now living in the Imperial Valley. The use to be made of the outside lands is a secondary consideration. If we can agree upon a plan that is satisfactory to all concerned, let us do so; but we must do something for the people in the Imperial Valley. That is particularly true with reference to the Coachella district.

Mr. SMITH of Idaho. There is no question, Mr. Hayden, but what this land would sell readily at \$75 an acre?

Mr. HAYDEN. There is a grave doubt in my mind about it.

Mr. SMITH of Idaho. I know there are enough men in the State of Idaho to buy it, who would be glad to buy it. Every time we have an opening there the men come in and subscribe over and over the quantity of land that is available, at prices of over \$100 an acre.

The CHAIRMAN. Now, I believe Mr. Yager wants to say something more.

Mr. YAGER. I was going to say that the land out there is better land than the Yuma mesa land that sold for \$230 an acre, average, and the land right alongside of it in the Coachella Valley is paying \$125 an acre every year on crops.

Mr. EVANS. How much higher is the mesa land than the irrigated land of Imperial Valley?

Mr. YAGER. In the neighborhood of 30 feet, I believe.

Mr. ROSE. It starts on the same level and runs to 134 to 138 feet, as against the highest land in the present irrigation district of 34 feet. But practically all of the present land is below sea level.

Mr. EVANS. The East Mesa averages 40 to 50 feet higher than the Imperial Valley now in cultivation.

Mr. ROSE. It averages 50 feet higher.

The CHAIRMAN. Gentlemen, Director General Davis is here. The committee would be pleased to hear from you now, Mr. Davis. Have you seen this bill of Mr. Smith's that we have been discussing?

STATEMENT OF MR. ARTHUR P. DAVIS, DIRECTOR OF RECLAMATION SERVICE.

Mr. DAVIS. Yes, sir; I have examined it personally and I have talked with members of the committee from Imperial Valley about it. I know its provisions. It provides for the sale of the public land in advance.

Mr. TAYLOR. Tell us, Mr. Davis, what is your idea about this thing. How are we to get harmony or agree on what we ought to do and get a bill out of here and do something? Now, give us your concrete judgment as to what is what and what we ought to do.

The CHAIRMAN. Just a moment, Mr. Davis; I want to supplement that a little—perhaps with the same meaning, the same purpose—that is, what is the most practical thing to do, knowing that it is so difficult to get money appropriated, and what, in your judgment, is the best course to pursue which will be a reasonable thing to do?

Mr. DAVIS. Mr. Chairman, the Smith bill that has been under consideration this morning is in its larger features substantially what was proposed by the Kettner bill originally. There are some differences, but it proposes to sell a very large tract of public land in order partially to finance the irrigation of that and other lands—to put through the all-American canal, in other words. The discussion on the original bill showed an immense amount of opposition, and I am satisfied that the State of California officially opposes this Smith bill—you have already heard Dr. Mead in opposition to it, and he is the official representative of the land settlement board in California.

Mr. SMITH of Idaho. Let me ask you, Mr. Director, do you think they would oppose it if they got 40,000 acres set aside for the soldier settlement of California?

Mr. DAVIS. That would probably go a long way to remove their opposition, and for their immediate purpose; but I do know that Dr. Mead, and I am sure that his supporters in California, oppose the sale of public lands on a speculative proposition of this kind. That seems to me fully to offset the improbability of the other bill passing. I can't see that there is very much choice as to the probability of passing, but you gentlemen are much better acquainted with the sentiment in Congress than I.

Mr. HAYDEN. Mr. Davis, one reason why the sale of the land on the East mesa is advocated is that the Congress by the passage of the Yuma mesa bill authorized the sale of lands. I would like to have you tell the committee just what part of the Yuma mesa was offered for sale and what success you are having with the sale, so that we may use your experience as a basis for judging how this the East mesa lands would sell.

Mr. DAVIS. The scheme on the Yuma mesa is for about 40,000 acres total, and we offered for sale first, after advertising for months,

about 6,400 acres. About four-fifths of that has been sold; not quite enough yet sold to justify the Secretary in making expenditures under it.

Mr. SMITH of Idaho. That is because of the exorbitant price, \$225 an acre. That is the reason it don't sell.

Mr. DAVIS. The reason on the other side, however, is that the land is close to the growing town of Yuma and along a trans-continental railroad.

Mr. SMITH of Idaho. But is not the expense of pumping water up there very high—isn't that a factor?

Mr. DAVIS. That is what makes it costly.

Mr. SMITH of Idaho. That is not a gravity proposition.

Mr. WELLING. What will the annual charge for that water be?

Mr. DAVIS. We can't tell accurately in advance, but it will be relatively high.

Mr. WELLING. \$5 an acre?

Mr. DAVIS. More than that.

Mr. WELLING. What is the annual charge usually under gravity systems out there?

Mr. DAVIS. Well, that varies widely—probably \$3 or \$4 an acre in most places of that section. That is about the figure on the Yuma project. That, of course, is very different from what it was five years ago. Everything costs about double what it did then.

Mr. SMITH of Idaho. What is the annual charge on the Minidoka project, on the gravity portion?

Mr. DAVIS. I don't know the charge there now, the Government is not handling the operation, except the reservoir and diversion works.

Mr. SMITH of Idaho. It is not much over \$1.

Mr. DAVIS. I think it is probably about \$1.50. It is doubtless higher than it was originally, because the price of everything has gone up. But that is a very cheap system.

Mr. HAYDEN. Presuming that the water could be placed by gravity on the east mesa for half the cost, or less than half the cost of the expense of placing it on the Yuma mesa, that would mean a charge of \$75 to \$100 an acre?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. At that price do you believe that 200,000 acres of land could be sold in advance of the delivery of water?

Mr. SMITH of Idaho. 160,000 acres.

Mr. DAVIS. I can't see any reason to think it would, but of course I may be wrong about that. It would depend very much upon fortuitous circumstances. We can not predict that, and it would depend upon whether it was well advertised and what kind of impressions got out about it. But with the assurances which must be given, I don't think it is safe to assume that it would.

Mr. TAYLOR. It would be entirely out of the range of any ordinary poor man to pay \$75 an acre and wait 5 or 6 or 10 years to get water.

Mr. DAVIS. Yes; it makes it purely a speculative proposition.

Mr. WELLING. Do you think it would be five years?

Mr. DAVIS. Yes; I feel positive that it would not be a day less than five years.

Mr. WELLING. Do you think, then, we are manifesting good faith toward the soldiers in putting a provision in this bill holding out

the bait to them that we are going to give them soldier settlement and keep them off the land five years?

Mr. DAVIS. I am not trying to keep anybody off the land. You have got to wait for the organization of the districts, the issue and sale of bonds, and then it is a big job to build it.

Mr. TAYLOR. You have to test it in the courts; you have got to have litigation and all sorts of contingencies that you don't know anything about.

Mr. WELLING. The only thing I am trying to show is that the provision in this bill for the relief of soldiers don't amount to anything.

Mr. TAYLOR. Yes, it does; but it takes time to construct an irrigation plant, and that is something that the soldiers can't complain of.

Mr. SUMMERS. In that connection I think it is a fact that the home-steading after the Civil War by the soldiers occurred mostly from 1870 to 1880.

Mr. SMITH of Idaho. That is because they did not have any railroads out in that country. If they had had the railroads they would have gone out right after the war was over.

Mr. SUMMERS. I beg pardon. I happen to have known a great many of them that went out in covered wagons, but they didn't get into the notion of going until some years after the war closed; and if we can't get ready short of five years, let's give them a chance then.

Mr. DAVIS. I went west myself in 1872 in a prairie schooner.

Mr. SMITH of Idaho. You would have gone sooner, though, if you had had a railroad to carry you out there in two or three days.

Mr. DAVIS. The railroad would have cost too much.

Mr. TAYLOR. Well, Mr. Davis, you feel that the bill—have you got any further suggestions to make to this committee about the bill? That is the second redraft of the Kettner bill, and do you think that that is what we ought to report out now? Is that your judgment as Director of the Reclamation Service?

Mr. DAVIS. With slight modifications I think it is. I think that this bill (11553), introduced by Mr. Kettner and now before the committee, fills the conditions well and is the best thing that I have seen suggested, both from a financial and legislative standpoint, and from a practical working field standpoint, but to answer your question I must go on record, Mr. Chairman, emphatically against the provision in the last portion of section 19 of that bill. It goes outside of the functions of the bill.

The CHAIRMAN. I wanted to call your attention to that.

Mr. DAVIS. Answering the question of the gentleman from Colorado directly upon this bill, that is the only serious objection I see to it.

The CHAIRMAN. We discussed that yesterday and concluded we would have your advice about it.

Mr. DAVIS. This provision reads:

The construction charge per acre as heretofore fixed by the Secretary of the Interior for the lands of the Yuma reclamation project shall be proportionately reduced by the sums to be paid by the Imperial Irrigation district for the right to use the Laguna Dam, as provided in section 9 of said contract.

That is a change of existing law, a subversion and a revolution of the theory of the reclamation law, and is the first definite, serious piece of legislation that I know of, that has any chance of getting through, at any rate, to enter upon a program of repudiation. That

money has been spent wisely for the benefit of that valley. The law, as at present interpreted by the Solicitor for the Interior Department and by the Attorney General of the United States, makes it necessary in order to do that, to pass this law—that is, it is a change of existing law, and there isn't any reason, either in law, equity or justice, or anything else that I can see, for that provision.

The Secretary has already announced the charges upon that land; the money has been spent; nobody questions but that it has been spent wisely and has been absolutely essential to the safety of the valley to build protection works there; and now, because there is an opportunity to collect that money by the use of some works for which the Government has spent its money and which it now owns, the provision is inserted here to prevent the collection of the money from the Imperial Valley for the defrayment of that expense; or, in other words, to pay that money over to the Yuma water users.

The charge per acre on the Yuma project as announced on the part of the project to which this applies is \$75 per acre. The people on that project are now in a lawsuit with the Government, undertaking to upset that—but they are not going to succeed, in my judgment, because I don't think they have either law or equity on their side; but, of course, that is to be determined by the decision of the court. The trial was held last spring, but the decision has not yet been rendered.

The CHAIRMAN. That is the amount of the water charge?

Mr. DAVIS. Yes, sir.

Mr. WELLING. They are trying to reduce the charge?

Mr. DAVIS. They are trying to have it cut down.

Mr. HAYDEN. The basis of the suit in the Federal court is that the original reclamation act stated that settlers should pay the estimated cost of the construction of a project. It is the contention of a part of the water users under the Yuma project that the Secretary of the Interior did make an estimate of cost, upon which they acted in good faith in subscribing as shareholders in the association. The Secretary insists that certain statements and reports to which these water users refer was not an official estimate within the intent of the law. That is a question for the courts to decide. My judgment is the court will hold that the people on the project must pay the total construction charge as fixed by the Secretary of the Interior.

On July 16, 1918, the Secretary of the Interior fixed the total construction charge for the Yuma project and announced it in a public notice as \$75 an acre. In arriving at the charge of \$75 an acre, certain items of cost were included. Among the items was the construction of the Laguna Dam, which was set forth at about \$1,750,000.

When it was proposed that the Imperial irrigation district be permitted to obtain the use of the Laguna Dam at a compensation of \$1,600,000, the water users of the Yuma project, through their representatives, said that they were willing to agree to the arrangement, provided their part of the construction charge be reduced by a like amount. The Secretary of the Interior, after listening to the arguments pro and con—at that time Mr. Davis opposed the idea—concluded that the contention of the representatives of the Yuma project was just, and said that he would allow the Yuma water users this

credit, if permitted to do so under the law. The matter was referred to the Attorney General, who rendered an opinion that the Yuma water users could not be given credit for the \$1,600,000 under existing law since legislation is necessary, I therefore submitted the matter to the Secretary of the Interior and received this letter from him:

Such a controversy arose in the department as to our right to credit the Yuma reclamation project with any moneys received from the Imperial project with any moneys received from the Imperial irrigation district for the privileges of connecting with and using the Laguna Dam, that I referred the matter to the Attorney General of the United States for opinion. I am now in receipt of his opinion dated September 16, 1919, copy inclosed, wherein he holds that under the law this credit can not be allowed. I am of the opinion that Congress should authorize the receipts from the Imperial irrigation district or other districts for the use of the Laguna Dam to be applied as a reduction of the charges assessed against the Yuma projects. I recommend that such legislation be enacted.

It was in pursuance of that recommendation made by the Secretary of the Interior that I have asked to have included in section 19 of this bill the provision to which Mr. Davis objects.

The CHAIRMAN. Now, just permit me—I suppose this was quite similar to the conditions with other projects. In the case of the North Platte project of Nebraska and Wyoming, the estimates on that project, in the first place, were for \$35, I believe it was, and they were increased twice, first to \$45 and finally to \$55 per acre. Of course there was some dissatisfaction about that, but they are all paying the \$55 an acre, and they are getting rich by doing it.

Mr. TAYLOR. I think Mr. Davis will recall, too, that the Uncompahgre project in Colorado was probably the most insistent one in the United States, as it was the first one. They had a direct statement from the department that the maximum cost would be \$25 an acre; now it is up to about \$75 an acre, and, of course, there are a lot of kickers that have always been contending that the Government ought to be held to that original proposition.

Mr. DAVIS. I will say, Mr. Chairman, that while what has been said regarding original estimates is true, when those estimates were announced in Yuma—I was present—as in many other places, they were accompanied by a statement that the law required this fund to be a revolving fund, that whatever the cost it would have to be repaid, and when the contract was finally drawn in each case it so provided. The contract being so drawn, it enabled us to do a great many things that were not included in the original estimate, and we did. As Mr. Hayden will remember, on his own project we started out with the idea of building only the Roosevelt Storage Dam. We afterwards built a great many things in addition. We bought canal systems, etc., and where they expected that the cost would be about \$4,000,000—\$3,850,000 was the amount, I believe, for which they incorporated—it came to about \$11,000,000. But that has all been thrashed out fully. We bought big canal systems, enlarged them; we built a power plant, as Mr. Taylor remembers, on the Uncompahgre project. The figure that has now been announced there as the book cost includes a large number of things; for example, the purchase of all those canal systems that were not included in that first estimate at all. They have been purchased, they have been rebuilt and enlarged, very similarly to what we have done upon the Salt River.

Mr. TAYLOR. And they did waive those original agreements anyhow, and virtually threw the thing wide open for the Government to go ahead and complete the project, so that they are estopped anyhow.

Mr. HAYDEN. I do not doubt but that the Federal court will decide that the Yuma water users must pay the announced charge, as fixed by the Secretary of the Interior.

Mr. BARBOUR. Upon what do they base their claim to relief?

Mr. DAVIS. Just what Mr. Hayden says.

Mr. TAYLOR. They built and paid for a very large and expensive dam, and now you people in California want to come in and use it, and they believe you ought to pay for it.

Mr. DAVIS. The price announced—\$75 an acre—when announced by the Secretary of the Interior, did not include the entire cost, because it was expected that a portion of the cost of the Laguna Dam would be paid by the mesa, which we are now trying to get on, and if we don't carry out that mesa project that part of the cost will be lost. We took that chance in announcing this cost. We charged some of it to the mesa, and likewise we expected to collect from the Imperial Valley money for the connection with the Laguna Dam. We have been in correspondence for the last 11 years with the officials of the Imperial irrigation district, applying for this connection, and on the basis, for the entire 11 years, of an acreage charge that would be distributed pro rata upon the acreage adjoining the connection.

Mr. WELLING. Now, Mr. Davis, you have made a very strong statement here. I don't know that I sensed it properly. Will you please restate just your objections to refunding a portion of this money to the Yuma project for connecting with the Laguna Dam?

Mr. DAVIS. Because that has already been taken into consideration in fixing the price that they are now obligated to pay. That will be giving them credit twice.

Mr. WELLING. Where do you want that money to go?

Mr. DAVIS. Into the reclamation fund, where it came from when the dam and the levees were built.

Mr. WELLING. In other words, if the Imperial Valley or the east mesa in the Imperial Valley, or the Coachella Valley, or anybody else, gets water from the Laguna Dam, such funds as are collected for that connection should go to the reclamation fund rather than to the Yuma project?

Mr. DAVIS. Up to the amount that the Yuma project has already been credited. Of course I can conceive there might be sums that would be received in addition to this for that connection which justly might be credited, and the contract that we now have with the Imperial irrigation district looks to that. This sum that is mentioned here, and that I referred to, is the sum that the Imperial irrigation district agreed to pay for connection of Laguna Dam, \$1,600,000. That much was deducted from the actual cost of the Yuma project in fixing the acreage charge upon the lands now announced. Now, if the Coachella Valley, and some other areas, pay for a connection with the Laguna Dam, the present contract with the Imperial irrigation district provides that that money shall be expended in storage construction.

Mr. WELLING. Let me see if I understand you now. Your contention is that the Yuma project has already had the benefit of \$1,600,000?

Mr. DAVIS. Exactly.

Mr. WELLING. On account of the contemplated connection with the Imperial irrigation district?

Mr. DAVIS. Yes, sir; that is exactly the truth.

Mr. TAYLOR. And you want that money for storage up above, which will necessarily inure to the benefit of more or less of all of them.

Mr. DAVIS. It should be so expended under the provisions of the reclamation act. It, however, belongs to the reclamation fund, because that is where it came from and the bill provides that the fund shall be a revolving one. Now, then, from the standpoint of justice and equity—this charge of \$75 an acre is only about two-thirds of the annual gross product in that valley to-day. I know of one individual who owns 320 acres in that valley, who has leased his land for a period of three years at \$30 per acre per annum, and will in that three years receive \$90 in lease money, while his total charge is \$75 for the only thing that makes that land valuable, and that charge is spread over 20 years. Those facts came out in the trial, and the principal witness for the plaintiff in that case was the man I refer to, and he acknowledged the truth of what I say. Other leases have been made at \$50 and \$60 per acre per annum, I am told.

Mr. SMITH of Idaho. Yet they didn't want to pay the \$75?

Mr. DAVIS. No. There have been numerous other cases of rentals, I am told, though I am not so sure, but I am told that as high as \$60 an acre has been paid there—and mind you the renter in that case has to pay the annual operation and maintenance charge that the Government charges for delivery of water.

Mr. HAYDEN. You made the statement a moment ago that it was contemplated in fixing the construction charge of \$75 an acre on the Yuma project that connection with the Laguna Dam was to be made by the Imperial Valley. I would like to know just how you can prove that statement by the records.

Mr. DAVIS. The records on the subject are quite voluminous, and I have brought a condensation of them here. We have been in correspondence on that subject for 11 years, as I say. The experience of the California Development Co. with its treacherous canal heading in the Colorado River near Pilot Knob has kept prominently in the foreground the necessity of a more permanent heading for the Imperial Canal, and it has been from the first the belief of most engineers acquainted with the conditions that this would eventually be connected with Laguna Dam.

The landowners of Imperial Valley were accustomed to dispute this for some years, but repeated water shortages and difficulties with their heading created a sentiment in the valley in favor of such connection, and correspondence looking to this end was initiated in 1909 by Mr. H. J. Messenger, president of Imperial Water Co. No. 11. This correspondence was followed by communications from the officers of Imperial Water Co. No. 1 and other residents of Imperial Valley.

On February 26, 1910, a letter addressed to the Secretary of the Interior and signed by Webster, Blair, Strieby, Reisser, and Haz-

zard, a committee representing the various mutual water companies, requested a definite proposition, as follows:

These companies have appointed the undersigned a committee to ascertain from the proper Federal authorities upon what plan or basis it would be possible to have our water diverted from the Colorado River through the Laguna Dam system.

If such arrangements could be made, we wish to know what proportion of the cost of Laguna Dam we would be expected to assume or what charge per second-foot or acre-foot would be required to pay for service through the Laguna Dam system.

A similar request was made by letter of March 2, 1910, by F. S. Webster, president of the Associated Water Cos. On February 16 Imperial Water Co. No. 5, through its secretary, addressed a similar request to the Secretary of the Interior.

Just about 10 years ago the policy was announced. Secretary Ballinger signed a letter which read as follows under date of March 1:

Section 4 of the reclamation act requires that the building charges "shall be proportioned equitably." It appears that a reasonable interpretation of the intent of the law would be that each acre sharing in the benefit of the Laguna Dam should pay the same for such benefit as is paid by every other acre.

If an acreage approximating 300,000 acres in Imperial Valley should desire the benefit of this dam, the equitable share would be in the neighborhood of \$5 per acre.

And this has been the policy of the Government ever since.

There has been a contract providing for such connection under negotiation more or less constantly for about five years. At any rate the matter had taken definite form, figures had been made, and a price named several years before the issue of public notice on the Yuma project.

Mr. HAYDEN. The question at issue here is: Did the Secretary of the Interior, in fixing the construction charge at \$75 per acre on the Yuma project, take into consideration the fact that money was to be received from the Imperial irrigation district or from some other source to help pay for the cost of Laguna Dam? My understanding is that the Secretary fixed the construction charge on the Yuma project on the recommendation of a board which he appointed to visit all of the various reclamation projects, ascertain what expenditures had been made that should not be charged to the water users, and determine what the construction charge should be. That was done for every project in the United States. Is there anything in the records of that board, which fixed the charge for the Yuma project, or is there anything in the record made when the Secretary of the Interior fixed the Yuma project construction charge to show that consideration was given to the fact that money might be received from some such outside source?

Mr. DAVIS. I am not sure about that. The local board that met at Yuma to study this project was dissolved and the matter was considered finally by a board consisting of Gen. Marshall, Elwood Mead, and Mr. O'Donnell. Two members of the board joined in a recommendation that \$60 an acre was all the land would stand, and Gen. Marshall announced that \$75 an acre could be paid by them. That, however, was not a recommendation for any public notice or anything else in conformity with the law, but simply an expression of opinion. Later he was shown to be very much mistaken on that, because of subsequent developments in the valley.

I don't know and I can't state what the mental processes of Secretary Lane were when he signed that public notice. I do know what my own mental processes were when I recommended it, and I do know that we considered from the first that connection with the Laguna Dam by the Imperial Valley was just about as certain as connection with the dam by the Yuma Mesa, and they are put on the same basis. We charged a portion of the cost to the Yuma Mesa; if we don't get that back, we lose it. We charged a proportion of the cost—or at least we failed to charge to the Yuma project—because of the probability of collecting it from the Imperial Valley, \$1,600,000, and now this bill proposes that the reclamation fund shall lose that.

Mr. HAYDEN. Is it not a fact, Mr. Davis, that in arriving at the \$75 an acre, a schedule was made showing the various items of the cost of construction, including the Laguna Dam, which totaled a certain sum of money and that sum provided by the acreage under the Yuma project made \$75?

Mr. DAVIS. The project manager made such a computation, but the secretary did not have it before him when he signed this notice. It did not include all the facts; it simply assumed some knowledge on my part in making that report and did not include the probability of connecting with the Imperial Valley.

Mr. HAYDEN. I have a copy, though not at hand, of the report of the Board of Engineers, recommending \$75 an acre as the charge for this project, and in that report there is a schedule which shows the items of construction for which \$75 an acre was mentioned.

Mr. DAVIS. Does it show \$75 to be the cost of those items?

Mr. HAYDEN. It shows \$75 covers those items.

Mr. DAVIS. On that, Mr. Chairman, I beg to say this: That from my own knowledge I know that either it does not show that it covers all these items or the items do not include all the expenditures, because \$75 an acre does not cover the cost of the system for these lands that are under public notice. To make up the cost requires this \$1,600,000 which is in the contract with the Imperial irrigation district. If that is not recovered in the reclamation fund—and it will not be if this bill passes in the form it is—the reclamation fund will lose that much expenditure which has been made in good faith and has been useful for the Yuma project.

The CHAIRMAN. Now, pardon me there, what did the Laguna Dam cost?

Mr. DAVIS. A little over \$2,000,000. That is, with the appurtenances, the sluice works, etc.

The CHAIRMAN. Now, what part of that was imposed upon the Yuma project?

Mr. DAVIS. The balance of the cost above \$1,600,000.

The CHAIRMAN. It cost \$2,000,000 in all?

Mr. HAYDEN. Unfortunately I was not aware that Mr. Davis intended to present this matter this morning, but I shall bring to the committee and place in the record an itemized statement made up by the engineers at the time the construction charge of \$75 an acre was fixed for the Yuma project. The way I know that it was fixed on that basis is that the representatives of the water users under the Yuma project presented the question in that light to the Secretary

of the Interior and convinced him that morally and equitably they were entitled to this relief. The Secretary said that he would be glad to give them credit for any money received from the Imperial irrigation district for the privilege of connecting with the Laguna Dam if he had authority of law to do so. Since he has not authority of law he now recommends in this letter than Congress enact legislation to reduce the charges assessed against the water users of the Yuma project by the amount received for the use of the Laguna Dam from the Imperial irrigation district or other districts.

Mr. DAVIS. That is true.

YUMA, ARIZ., February 26, 1917.

From: Project Manager.

To: Director and Chief Engineer, Washington.

Subject: Determination of costs, second unit, Yuma project.

1. This office is in receipt of your telegram dated February 24 advising that public notice of the second unit has not yet been approved and requesting that this office write or wire our basis for the construction charge of \$75 per acre.

2. In considering the total cost per acre for construction charges the various features which make up this charge will be discussed, as follows:

3. *Diversion.*—The cost to date of the Laguna Dam and headworks is \$2,100,-845. This cost prorated over the entire project of approximately 130,000 acres results in a diversion cost per acre of \$16.16.

4. *Main canal.*—The main canal from Laguna Dam to the Colorado River siphon has sufficient capacity for the area, including the Indian reservation, Yuma Valley, and the Yuma mesa, a total of 105,000 acres. The cost of this feature was \$607,307, resulting in a cost per acre of \$5.75. The Colorado siphon, which has a capacity for 50,000 acres for Yuma Valley and 40,000 acres of the Yuma mesa, a total of 90,000 acres, cost \$605,000, or (per acre) \$7.70.

5. *Laterals.*—There has been expended for laterals and canal structures in the Yuma Valley \$983,000. Using an area of 50,000 acres in the Yuma Valley, we have a cost per acre of \$19.66 for laterals. At the present time there are yet to be completed some small laterals and structures which we estimate may cost \$25,000, giving us a per-acre cost for the lateral system not yet expended of 50 cents, or for the lateral system a total cost of \$20.16.

6. *Drainage.*—The expenditures to January 1, 1917, for this feature cover only such preliminary work as is necessary to lay out the main drain in Yuma Valley, and construction work has practically just begun on this feature. Our estimate per acre for the construction of the main drainage canals and main laterals is \$15.

7. *Examination and surveys.*—The total of this amount, which includes some miscellaneous construction, is \$283,114 for the entire project. This divided by the project area of 130,000 acres is, per acre, \$2.17.

Farm-unit surveys.—There has been expended on farm-unit surveys of the Indian reservation and Yuma Valley \$31,821.15. This prorated over the 65,000 acres gives a cost per acre of 49 cents.

Surveys and examination for upper-river projects have been deducted, and the amount stated is the result obtained by eliminating such surveys, examination, and inspection as were not properly chargeable to the Yuma project.

8. *Telephone lines.*—Lines built in the Gila and Yuma Valleys and Indian reservation cost \$11,160. The area is 70,000 acres. Cost per acre, 12 cents.

9. *Deficit, operation, and maintenance.*—The operation and maintenance costs have been, since the completion of the siphon, between 75 and 90 cents per acre. Our water-rental contracts in the Yuma Valley are in force at the rate of 50 cents per acre-foot. Included in this deficit which has accumulated is the amount of the deficit accruing in the period between 1908 and 1912 in the operation of the pumping plants in Yuma Valley. The total deficit to January 1, 1917, was \$295,229. We estimate that the continuance of the present water-rental contracts at 50 cents an acre-foot will create a deficit during the present year of \$25,000, which gives a total of \$320,229 to January 1, 1918. With an area of 50,000 acres, the cost per acre for this feature would be \$6.50.

10. Miscellaneous preliminary investigations, 130,000 acres (total for project), divided into an expenditure of \$119,528.92 cents.

Total, \$74.97.

11. It will be noted that one of the principal construction features of the Yuma project work, namely, that of the levees and their rock protection, has not been included in this statement. To date \$2,354,000, or over \$18 per acre, has been expended on this feature, and to properly revet the existing levees the total cost will be in the neighborhood of twice this amount. This protective feature is not completed, and this office does not believe it is a proper charge against the project lands, but rather one which should be repaid by Federal appropriation, especially on account of the precedent established in work done for the protection of the Imperial Valley.

L. M. LAWSON.

Cost of Yuma Valley unit—Yuma project.

	Total.	Cost per acre.
Examination and surveys, area 130,000 acres.....	\$133,073.00	\$1.02
Diversion works, area 130,000 acres.....	2,100,845.00	16.16
Main Canal, dam to Colorado siphon, area, reservation, Yuma Valley and Mesa, 105,000 acres.....	607,307.00	5.75
Colorado River siphon, area, Yuma Valley and Mesa, 90,000 acres.....	695,000.00	7.70
Yuma Valley laterals:		
Area, 50,600 acres.....	983,000.00	19.66
Estimated to complete system.....	25,000.00	.50
Drainage system, estimated per acre.....		
Deficit, operation and maintenance under water rental:		
To Dec. 31, 1916.....	205,229.00	
Estimated deficit, 1917.....	25,000.00	
Total, on area, 50,000 acres.....	320,229.00	6.50
Farm unit surveys, area, reservation and Yuma Valley, 65,000 acres.....	31,821.15	.49
Permanent improvements and land, area, 130,000 acres.....	150,041.00	1.15
Telephone system, area, reservation, Gila and Yuma valleys, 90,000 acres.....	11,160.00	.12
Miscellaneous preliminary investigations, area, 130,000 acres.....	119,328.00	.92
Estimated total cost per acre in the Yuma Valley.....		74.97

Mr. WELLING. In connection with that, if Mr. Hayden insert such a statement in the record—and I quite agree that it ought to be done under the circumstances—I suggest that an analysis of that statement be made by Gen. Davis, and he be given an opportunity to put that into the record also.

Mr. DAVIS. I can state right now, Mr. Chairman, what the difference is. The statement, I think, that Mr. Hayden referred to is the one I am familiar with, and the essential feature of it is that it does not include any of the levee or river front protection.

The CHAIRMAN. And that was how expensive?

Mr. DAVIS. Approximately, this \$1,600,000. There is a little less than that in the actual expenditures for this part of the valley in construction; but there is a lot of maintenance work which comes on it that makes it more than that.

Mr. HAYDEN. Is it not true, Mr. Davis, that in assessing the costs to be charged to the water users under the various reclamation projects in the United States, under the direction of the Secretary of the Interior, a board of engineers was appointed which had authority to examine into all the expenditures made on any project, and whenever in their judgment any expenditure had been made which the water users under the project should not be required to pay they eliminated such expenditures?

Mr. DAVIS. No; I beg pardon.

Mr. HAYDEN. There was an elimination, for instance, on the Salt River project of between \$300,000 and \$400,000.

Mr. DAVIS. Not by the board. They had no authority to eliminate anything. They made recommendations to the Secretary of the Interior.

Mr. HAYDEN. I agree that the Secretary alone had authority to do the final act of elimination, but under his direction they were given authority to report to him what eliminations should be made on the various projects, and eliminations were made on practically all of the projects, were they not?

Mr. DAVIS. No, sir; very few.

Mr. HAYDEN. On about how many?

Mr. DAVIS. Salt River is the only one I know of.

Mr. HAYDEN. Are you sure that was the only one?

Mr. DAVIS. No; I am not; but I will say it is the only one I know of.

Mr. HAYDEN. The report of the board covering all of its activities would show all the eliminations made?

Mr. DAVIS. No; they had no authority to eliminate. As one of them expressed it, "We didn't eliminate because we had no eliminators."

Mr. HAYDEN. They made recommendations to the Secretary of the Interior.

Mr. DAVIS. Yes; but the Secretary didn't make any except the Salt River, as I recall it. There may be others, but they are very few.

Mr. HAYDEN. There was a reduction in the construction charge on the Salt River and Yuma projects.

Mr. DAVIS. I don't think he eliminated anything in here.

Mr. HAYDEN. The Secretary of the Interior must have eliminated some of the costs charged to the Yuma project, because the total amount carried on your books at the time the construction charge was fixed per acre on the Yuma land was greater than the announced cost of the project as fixed by the Secretary, so there was an elimination.

Mr. DAVIS. No; that is not an elimination; it is of the same nature as the extra cost of the Shoshone Dam, that is not yet assessed against any land opened, because it will serve lands that have not yet been opened, and that is the case with the Laguna Dam, it will serve other lands than those to which the public notice applies, and consequently a portion of its cost was excluded from that public notice. That is just the whole thing in a nutshell. Part of the Laguna Dam was charged to the Yuma mesa and will be eventually, we hope, repaid by the Yuma mesa; part of the Shoshone Dam was charged to the Willwood unit, on which we have never collected a dollar, and if we never build we will never get it back, but if we build we expect to get it back. That would be a parallel case if it were proposed to relieve those new lands of that charge, or rather credit, back to lands that have already been relieved of part of it. For example, if we build the Willwood unit in the Shoshone project we could just as reasonably demand that a portion of the money collected from the Willwood unit be credited back to the lands that have already been opened, when they have borne only their just share of the dam. It is a parallel case.

The CHAIRMAN. In other words, they would get theirs for nothing after a while.

Mr. DAVIS. Yes, sir; exactly a parallel case.

Mr. HAYDEN. Is there anything that you have said to this committee to-day with respect to this controversy that you did not say to the Secretary of the Interior at the time the representatives of the water users under the Yuma project were here insisting that they obtain this relief?

Mr. DAVIS. These illustrations that I have just given, I did not give the Secretary of the Interior.

Mr. HAYDEN. But the substance of your argument to-day was made at that time, and the Secretary of the Interior decided against you?

Mr. DAVIS. Yes, sir.

Mr. SMITH of Idaho. Following the suggestion of the chairman that they would get the lands for nothing eventually, under those conditions isn't it true that the Yuma settlers are getting water for nothing anyhow because of the receipts from the sale of power generated?

Mr. DAVIS. No; you are getting that mixed with the Salt River.

Mr. SMITH of Idaho. Is that true of Salt River?

Mr. DAVIS. That is true of Salt River. They are not paying anything.

Mr. SMITH of Idaho. They are not disputing what they should pay, are they?

Mr. HAYDEN. No.

Mr. SMITH of Idaho. They are not in litigation about it?

Mr. DAVIS. No.

The CHAIRMAN. That is, the power makes it free for them?

Mr. DAVIS. The net receipts from power are more than the construction charges per annum to-day.

Mr. HAYDEN. That they have the benefit of the receipts from the sale of power is due, Mr. Davis, in part to the fact that the water users under the Salt River project assessed themselves to the extent of \$1,200,000 to complete the power plants?

Mr. DAVIS. No, sir.

Mr. HAYDEN. Now, there is one other matter in connection with this bill, Mr. Davis, upon which I would like to have your opinion.

The Secretary of the Interior transmitted a letter to the chairman of this committee to this effect:

In connection with my report to your committee of even date herewith upon H. R. 11553 I inclose for your consideration a petition filed with me by Mr. Mark Rose, president of the Imperial-Laguna Water Co., which petition, in my opinion, presents matters more properly determinable by your committee and by Congress than this department.

What Mr. Rose desires is that the bill be amended to provide that the certain area of land which is now included in the lands to be reserved on the east mesa for the use of soldiers be set aside for the benefit of the Laguna Water Co., of which he is an officer. I would like to have your opinion as to whether Congress should care for Mr. Rose in the way that he thinks he should be cared for, and what you think of his claims?

Mr. DAVIS. It is true that Mr. Rose and his associates have spent a great deal of time and money in promoting the all-American canal and bringing about conditions under which the East Mesa here would be irrigated by gravity from the Colorado River and the Laguna Dam, and I think no one will question the fact that they ought to be

recouped for their legitimate expenditures in that connection. I understand that is the universal desire in the Imperial Valley and that they are willing to submit the matter to arbitration, and that the district—this is all informal—is willing to pay such award as might be made under those circumstances. I do not regard it as a matter that should be necessarily regarded as a duty of Congress to see that that adjustment is properly made; and the Government is under no obligation whatever in the matter, legal or otherwise. There is existing a contract on the subject between the Secretary of the Interior and the Imperial Laguna Water Co., and that contract provided for an investigation by Mr. Rose of the project of watering these lands, and provided that the land on the East Mesa should be restored to entry under certain conditions, provided certain other conditions were followed up. In pursuance of that contract Mr. Rose and his associates made certain surveys. They did not make the surveys thorough at all. This long, heavy cut from Pilot Knob through to the Imperial Valley [indicating] was explored only in a very superficial manner because, presumably, of the large expense of doing it thoroughly. The surveys were not extensive.

It was very superficial all around, and owing to that fact the Secretary of the Interior entered into a contract with the Imperial irrigation district to make such part as the district was interested in—that is, this part, not including the long canal [indicating]—the subject of a thorough investigation. There was \$45,000 for the purpose, \$15,000 of which was put up by the reclamation fund and \$30,000 by the Imperial irrigation district, and that examination was made under a board of three engineers, one representing the district, one representing the Government, and one representing the University of California as a sort of an umpire in the case. The board consisted of Dr. Elwood Mead, Mr. Grunsky, and Mr. Schlecht.

The contract with Mr. Rose for his investigations contained in section 5 the requirement that when he submitted his final report one of three things should be done.

First, additional investigations might be required by the Secretary if he thought them necessary.

Second, he might reject the plan entirely; in which case the contract would be brought to an end;

Third, he might accept and approve, in which case the company should have the right to connect with the Laguna Dam, and virtually the stockholders of that company would have had a preferential right to file on the public lands of the East Mesa.

The CHAIRMAN. To what extent?

Mr. DAVIS. To the extent of the existing laws.

The CHAIRMAN. A preferential right?

Mr. DAVIS. Of course, the Secretary did not in terms give anybody such a preferential right. The correspondence shows that very clearly, and everybody understood that; but the effect would be just the same, because—

The CHAIRMAN (interposing). The practical effect.

Mr. DAVIS. The practical effect, and that was claimed, I believe, and justly so, by Mr. Rose and his associates. However that is, I am not criticizing but am simply explaining the provisions of the contract,

Now, the final report was made by the Laguna Mesa Water Co. That report, as I say, did not have sufficient evidence upon which to base an estimate of the cost. It had very little examination of the material to be moved in the great cut through the sand hills; it did not provide for nor even discuss the need of storage; and in view of those lacks of this final report I recommended to the Secretary of the Interior that the project be rejected entirely and the contract ended, according to the second alternative in section 5, provided under those circumstances.

Mr. TAYLOR. When did you make that recommendation?

Mr. DAVIS. That recommendation was made early in 1918; I think in February; I haven't the correspondence here, but I can put it in the record if desired.

Mr. SUMMERS. What action was taken under that recommendation?

Mr. DAVIS. No direct action was taken under that recommendation, but it was under consideration a while. My principal reason for that recommendation was this: The absolutely essential character of storage. In such a hot, dry country as that to attempt to irrigate land without sufficient water I consider wrong. It would mislead settlers and would lead to suffering, and at the same time by bringing in a vast acreage without water in some years there would be a strong pressure to use the water already appropriated by Imperial Valley and by the Yuma project, and thereby incur a great diminution in their water supply. Mr. Hayden will recall that they did that in the Salt River Valley when such a condition as that existed, when new canals without any shadow of legal right to water actually took it and divided with the rest of the valley, causing them all to suffer, and millions of dollars worth of property was destroyed in that way.

Now, it was claimed by some of the Government employees in the service—not in the Reclamation Service but in other bureaus—that in entering into the contract with Mr. Rose the Secretary approved in advance his plan to build this project without storage. I was very much surprised to find the opposition to my argument for the cancellation of the contract based upon the supposition and the claim that it was now too late to object to that feature because that was known in advance. Now, the terms of the contract do not bear that out at all. It says he must present a feasible project, and I understood—although I was not present when the final negotiations took place on that contract—that the whole question could be considered *de novo* when he brought his plan in. I didn't know what it should do, nor did I have any control over what it should cover; I found, however, that my attitude had been misunderstood, and in order to set myself right and bring the facts clearly before the Secretary I wrote his assistant the following letter, which I will read with your permission:

DEPARTMENT OF THE INTERIOR,
UNITED STATES RECLAMATION SERVICE,
Washington, D. C., April 3, 1918.

Hon. E. C. BRADLEY,

Assistant to the Secretary.

Department of the Interior.

DEAR MR. BRADLEY: Recent conferences have impressed me with the grave importance of clearing up an evident misunderstanding which in my view places the honor of the department in some peril, but which can be removed if prompt and decisive action is taken in the right direction.

On May 3, 1916, at the request of Secretary Lane, I placed in the form of a letter my views concerning the proposed contract with Mark Rose, in connection with the Laguna Dam, Yuma project, Arizona-California. This letter included the following paragraphs:

"I am utterly unable to indorse the view of Mr. Rose and Mr. Frisbie that the water supply for the large acreage they propose to irrigate is sufficient, or anywhere near sufficient, without storage. I am reliably informed that there was an actual shortage of water in the autumn of 1915 for a short period for the lands now under irrigation, and while the shortage was not serious, it shows that the limit of safe use without storage is nearly reached, and that a reasonable increase in use of this water upon projects where appropriations have been confirmed by heavy expenditures in the Imperial Valley, in the Yuma Valley, and in the Uncompahgre and Grand Valleys, makes it absolutely certain that no new tract of any consequence can be safely and permanently irrigated without storage.

"Feasible storage sites are known to exist in the basin of the Colorado River, and storage development should be an integral part of any extensive irrigation development from the lower river."

On March 26, 1917, at the suggestion of Commissioner Tallman, I again placed of record, in the form of a letter to the Secretary of the Interior, my views concerning the engineering features of the proposed contract with Mark Rose. As my former letter had not been convincing, I took occasion to reiterate my views concerning the water supply and to reinforce it by quotations from other authorities, in the hope of proving my point to the satisfaction of all. I quoted:

Gen. William L. Marshall; Dr. Elwood Mead; a board consisting of Joseph Jacobs, D. C. Henny, and Elwood Mead; board of governors, Yuma Water Users' Association; Holtville Commercial Club.

In addition to the above I made the following statement:

"Late in 1915 Imperial Valley diverted the entire flow of the Colorado, and yet suffered a water shortage for a short period. While the shortage was not serious, it shows that the safe limit of use without storage has been reached or nearly so."

In the last interview which I had with you and others interested, prior to signature of the present contract, I reiterated my views that there was no feasible project on the Imperial Laguna mesa without storage, and you will recall that Mr. Gates, attorney for Mark Rose, accused me of holding that storage was necessary if Mark Rose built the project but not necessary if built by the Government. I denied this and made the emphatic statement that I had always held storage necessary whoever built the project, and when pinned down to it Mr. Gates admitted that this was true.

It was my understanding when the existing contract was entered into with Mark Rose that the engineering features might be considered anew and without prejudice when the surveys that he was to make were completed.

In view of the above records and statements I was astonished recently to hear the statement that in making the present contract with Mr. Rose, the secretary admitted that the water supply was sufficient for the Rose project and that I had agreed to this.

This presents an imminent peril to the good name of the department as countenancing an impracticable project, which is sure to lead to hardship and disaster if carried out as planned by Mr. Rose, and to bring discredit to those who indorse the plan.

If the contract is indeed susceptible of such an interpretation, it should be abrogated as early as possible for the good name of the Government and its officers, as it commits the Government to possible fraud upon settlers which will be justly criticized and bitterly resented when the day of reckoning comes.

It also jeopardizes the rights of the Yuma project and of the Imperial Valley: if hundreds of thousands of acres go short of water there will inevitably come a tremendous pressure for this developed region to divide its water supply with the sufferers, and it will be just as impossible to resist this as it has been to resist the illegal damming of the Colorado River to save Imperial Valley.

Mr. Rose has utterly failed to carry out the requirements of his contract for detailed surveys, specifications, and estimates of an all-American canal; he has not data enough to make any estimate whatever, detailed or otherwise. This fact is recognized by the contract recently entered into with the Imperial Valley by which it is provided that \$45,000 will be spent in getting this estimate

on merely a portion of the project involved in Mark Rose's contract. He has been given considerable extension of time and has submitted his final report, and the department now can, without breaking faith or doing any legal or moral wrong, adopt one of the alternatives required by the contract and abrogate it entirely.

Under my interpretation of the contract, the chief difficulty is that he has not presented a feasible project, because he does not propose any storage; but under the interpretation proposed to be given to this contract this objection disappears, it being held that this point was settled when the contract was signed. There is, however, another valid reason for canceling the contract, and thus extricating the Secretary from this dilemma without violating any legal or moral obligation, namely, the lack of compliance with the requirement "to make a complete and detailed survey, specifications, and estimates of cost." If extension of time is granted this defect will be reduced and may be entirely corrected. There will then be nothing left to do, if the department insists that the water supply is adequate but to accept alternative (c) and "accept and approve same in their entirety as representing a practical and sufficient plan and scheme of works and reclamation for the purpose of this contract," and then it will be impossible to escape a just charge that the department has been a party to the indorsement of the project under which settlers will be induced to settle in a very hot, sandy, and arid country with an insufficient water supply, and a menace will be created to the supply of both Imperial Valley and the Yuma project.

I do not wish to be understood as criticizing anything that the department has done in the past, but the recent astonishing revelation has proved the importance of placing my views on record in such a manner that they can not be misunderstood.

For the above reasons I recommend the immediate abrogation of the contract with the Imperial Laguna Water Co. substantially in accordance with a letter which I drafted for this purpose and sent to the department March 28, 1918, for the Secretary's signature.

Respectfully submitted.

A. P. DAVIS,
Director and Chief Engineer.

Mr. SMITH of Idaho. What is the date of that letter, Mr. Davis?

Mr. DAVIS. April 3, 1918. That is only a week later than the first recommendation.

Mr. SMITH of Idaho. No action has been taken?

Mr. DAVIS. The contract has not been abrogated.

The CHAIRMAN. Let me ask this. With the enactment of this bill, 11553, what extent of storage would be contemplated?

Mr. DAVIS. The additional lands that have not been irrigated would all be supplied with storage. The sites vary in quantity and require study that has not been completed. We are now investigating various reservoir sites on the upper Colorado, and one on the lower Colorado below the Grand Canyon, and those estimates and examinations can be completed by the time the irrigation district is organized. It will probably cost somewhere in the neighborhood of between \$10 and \$20 per acre for storage, possibly more than that. I am not able to quote figures on it for two reasons; one is that I have not in mind what we do know about it in detail, and the other is that the investigation is not completed.

The CHAIRMAN. Where would those storage sites probably be located?

Mr. DAVIS. That has not been determined. There are some in the upper river and one on the lower river that we investigated.

Mr. WELLING. Mr. Davis, referring to your recommendation that the Rose contract be abrogated in April, 1918, have the Rose representatives done anything since that time to make their contract &

more valid contract? Have they done anything that has reinstated the contract so that it would be a more valid contract?

Mr. TAYLOR. Have they furnished any additional data?

Mr. WELLING. That is what I mean.

Mr. DAVIS. They have not furnished any additional data. They have, however, cooperated in furnishing such data as they could. I have no criticism to make of the action of the company in that matter: they have not, so far as I know, made any additional surveys, have you?

Mr. ROSE. No; but you recall a letter written to me just after the date of this letter probably 10 days, in which the Secretary said that he would suspend action awaiting the result of the other survey, to see whether my plans were correct?

Mr. DAVIS. I think so.

Mr. ROSE. And the suggestion that I cooperate with the other districts to get all the interests together in order to build this all-American canal?

Mr. HAYDEN. I have here a copy of that letter. Perhaps I had better read it into the record.

DEPARTMENT OF THE INTERIOR,
Washington, April 16, 1918.

Mr. MARK ROSE,
President Imperial Laguna Water Co.

Mr. WOODLAND GATES,
Attorney, Colorado Building,
Washington, D. C.

MY DEAR MR. ROSE: Your letter of January 30, 1918, and report transmitted by your chief engineer and two consulting engineers, under contract with the Secretary of the Interior, dated July 6, 1917, have been given careful consideration.

The most important provision of the contract is the requirement to "make a complete detailed survey, specifications, and estimates of cost" for the works listed in the contract. An examination shows that the data furnished fails to fulfill these requirements and that such data does not afford a sufficient basis for any reliable estimates on which further procedure under the terms of the contract could be approved at this time.

Under the contract the duty of the Secretary of the Interior is to adopt one of three courses: No. 1. "(a) Require further or additional surveys, specifications, and estimates or a changed or modified plan in whole or in part to be made and submitted, together with such other requirements as may by said Secretary be deemed necessary to insure the permanency and success of the enterprise, all within such time or times as said Secretary may prescribe, whereupon the plans, surveys, specifications, and estimates as so modified and amended may be rejected and disapproved or accepted and approved in their entirety, as provided in subdivisions (b) and (c) of this section; or (b) reject and disprove of said surveys, specifications, and estimates in their entirety, for any reason in his judgment deemed sufficient, in which case this contract shall be and become void and of no further force and effect whatsoever; or (c) accept and approve same in their entirety as representing a practical and sufficient plan and scheme of works and reclamations for the purpose of this contract, in which event the company shall have the right to connect its said proposed irrigation system with the said Laguna Dam and to enlarge said main canal of the United States on compliance and in accordance with the terms and conditions of this contract."

From the foregoing it is apparent that alternative (c) can not be exercised at this time. The question therefore presents itself as to whether further or additional surveys, specifications, and estimates should be required under the alternative (a) or whether the surveys and estimates heretofore presented should be rejected and disproved under alternative (b).

As you are aware, there have been extensive negotiations and conferences with representatives of the Imperial Valley Irrigation district with a view to a connection with the Laguna Dam and the construction of an All-American canal for the irrigation of the lands in the Imperial irrigation district, and to

that end a tentative contract has been drafted and submitted to the Imperial Irrigation district. It is apparent that construction and operation under both of these contracts can not proceed independently. Mr. Holt, the representative of the district, repeatedly represented to the department that he is favorably disposed toward inclusion of the mesa lands, or a part thereof, in the irrigation district, and of making provision for the reclamation of such lands to be reclaimed through an all-American canal.

It has become more and more apparent in the course of these negotiations that an all-American canal is an extensive and expensive proposition, in the construction of which all interests that may possibly be benefited thereby should cooperate and contribute, and the department is favorably disposed toward working out some feasible plan of accomplishing this object. The Reclamation Service is now, in cooperation with the Imperial Irrigation district, making a survey with a view to determining the feasibility of an all-American canal. To require you to proceed at this time under alternative (a) might result in a useless duplication of work. Under the circumstances, therefore, it is deemed advisable at this time not to take action under either alternative (a) or (b), but rather to grant your request for more time by suspending further action at the present. This will give an opportunity to consider the results of the surveys and investigations now in progress and will afford your company and the people of the Imperial Irrigation district an opportunity to consider further the advisability and ways and means of bringing in the mesa lands.

Cordially, yours,

E. C. BRADLEY,
Assistant to the Secretary.

Mr. ROSE. I would like to ask Mr. Davis just one question there.

Mr. HAYDEN. Let me ask him one first, if you please.

Do you consider that the contract which was entered into by the Secretary of the Interior with the Imperial Irrigation district, authorizing connection with the Laguna Dam, is in conflict with the contract of Mr. Rose?

Mr. DAVIS. I think it is somewhat. It seems to me so.

Mr. HAYDEN. Then the statement in this letter that it is apparent that construction and operation under both of these contracts can not proceed independently is correct?

Mr. DAVIS. Yes, sir; they ought not to, is the meaning of that—that is, there would be duplication and waste.

Mr. HAYDEN. So that if the contract with the Imperial Irrigation district is carried out it would certainly be necessary to modify the Rose contract to some extent, wherein there was conflict?

Mr. DAVIS. You mean the contract with the Imperial Irrigation district?

Mr. HAYDEN. To connect with the Laguna Dam, the existing contract; if it was carried out, the Rose contract could not be carried out?

Mr. DAVIS. There are to some extent two contracts for the same thing, and they conflict.

Mr. HAYDEN. Both providing for the all-American canal?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. In this connection, Mr. Chairman, I also desire to read into the record a letter by the Acting Secretary of the Interior, Mr. Vogelsang, under date of April 27, 1918, written shortly after the letter which I just read:

DEPARTMENT OF THE INTERIOR,
Washington, April 27, 1918.

The REGISTER AND RECEIVER,

United States Land Office, El Centro, Calif.

GENTLEMEN: The attention of the department has been directed to the fact that inquiries have been made at your office as to whether persons who at pres-

ent purchase stock in the Imperial Laguna Water Co. will be granted preference rights to file on public lands of the United States in the event the company's irrigation system is constructed.

July 6, 1917, the Secretary approved a form of contract providing for preliminary surveys and investigations for the project of the Imperial Laguna Water Co. and for the carrying forward of its plan if found feasible. Section 7 of the contract expressly provided that pending completion of all payments to be made to the United States under the contract or pending the prior termination of the contract the company should not dispose of any of its stock or rights to the use of water, except upon such terms and conditions as shall have been approved by the Secretary of the Interior.

Section 8 provided that sales of stock or rights to the use of water or contracts therefor by the company might be in amounts sufficient to furnish a water supply appurtenant to 160 acres of land and no more to any one person at a price not exceeding actual and necessary cost of the system. Section 9 provided that the first payments on account of the purchase of such stock or rights should be not less than \$10 per acre of irrigable land, the entire amount of the first payment to be deposited in escrow in such national banks as the Secretary of the Interior may designate. Section 11 provided that in the event of the rejection of the plans, specifications, and estimates of the company, or in case the plans should fail, the Secretary of the Interior might direct the escrow-holding banks to repay the amounts deposited to the respective purchasers of stock or water rights, or their successors in interest.

None of these provisions and no other portion of the contract authorizes the statement that persons buying water stock from this company would thereby secure a preference right to enter any particular tract of public land. No such statement was made, either in writing or verbally, by this department or any of its officers, so far as I am advised.

The contract, however, did contemplate that public lands of the United States within the areas susceptible of irrigation by the company's proposed works would be opened in such manner that entries would be made only by those who were able to secure water for the irrigation thereof. This might have resulted, had the company's plan been successful, in the acquisition of lands by persons holding stock in the company, but, as intimated, they would get no preference right to any particular tract of land, but would have to participate in a drawing or whatever other plan was adopted by the department for the opening of the lands.

The situation with respect to the said company at present is that the department has found the preliminary surveys and investigations to be too meager and unsatisfactory to warrant further favorable action, and that rejection of the plan pursuant to section 5 of the contract may be made at any time, action thereon having been merely suspended by the department because of the fact that there was some thought that a complete and comprehensive plan for the irrigation of the lands involved and of other lands in the Imperial Valley, including the existing Imperial Irrigation district, might be provided for under an arrangement with the Imperial Irrigation district and other parties in interest.

You are authorized to state specifically to any person making inquiry that the purchase of Imperial Laguna water stock will not entitle them to a preference right to enter any public land, and that up to the present time the company has made no such showing to the department as would indicate the feasibility of its scheme of irrigation.

Very truly yours,

ALEXANDER T. VOGELSANG,
Acting Secretary.

I would like to ask Mr. Rose how much stock has been sold in the Laguna Water Co.?

Mr. ROSE. There has not been one single share sold. In 1914 and prior to that there were about 10,000 shares of stock sold.

Mr. HAYDEN. At how much a share?

Mr. ROSE. It varied all the way from \$5 to \$15.

Mr. HAYDEN. Then how much money has been raised altogether by the sale of shares?

Mr. ROSE. I should judge about \$75,000 has been actually paid in on that stock.

Mr. HAYDEN. Where is that \$75,000?

Mr. ROSE. It has been sunk in surveys and general work to carry this on—running a newspaper, for one thing very largely, and several other things, to bring about the all-American canal and the irrigation of these lands.

Mr. HAYDEN. As I understand the situation, any stock sold prior to your contract in 1914?

Mr. ROSE. Yes.

Mr. HAYDEN. Can claim no rights under it, because the contract was not in existence.

Mr. ROSE. The department, the men who drafted that contract knew the existence of that stock, and they thoroughly understood it was outstanding and would be a part of the stock which the Imperial Laguna Water Co. would use as a mutual water company. That was explained to the department. I think that Mr. Davis will say that that was known.

Mr. HAYDEN. If you sold stock in a mutual water company that you organized yourself in 1914 and made the sale at that time and you did not obtain the contract from the Secretary until 1917, any person who bought stock in 1914, or prior to July 6, 1917, can have no claim of equity under the contract, because it was not in existence at the time they bought the stock.

Mr. ROSE. They certainly can, because their money was spent to bring about the very thing that brought about the contract. Before we came here to contract we did run a preliminary survey, both through Mexico and here [indicating], and we brought that report to the department to show what the conditions really were, and we worked continuously to get that contract and bring it about. That land had lain idle since 1902, not only the public land, gentlemen, but thousands of acres of school land among it.

Mr. HAYDEN. Have you sold any stock since the contract was made?

Mr. ROSE. Not one share; no, sir.

Mr. HAYDEN. How many stockholders have you?

Mr. ROSE. I could not answer that exactly. There are several men in the valley like Mr. Forrester and other men, who have several sons, and who have ranches in the valley, who got behind this proposition.

Mr. HAYDEN. There is a list on the books somewhere that shows who the stockholders are, isn't there?

Mr. ROSE. I could get the list.

Mr. HAYDEN. Are there 20 or 30 or 40?

Mr. ROSE. I suppose on the books there are 50 or 60.

Mr. HAYDEN. You think 50 or 60 people are interested in this matter?

Mr. ROSE. There are more than that, because a great many of those men have sons who have put up money.

Mr. HAYDEN. Well, how many do you think?

Mr. ROSE. About 100.

Mr. HAYDEN. You think there are 100 people who have some interest in your company?

Mr. ROSE. Absolutely. About 15 of them are soldiers that bought stock before the war a long time.

Mr. HAYDEN. Can you furnish the committee with the names and addresses of those people?

Mr. ROSE. I could in a week or so, by writing out there.

Mr. HAYDEN. You have no such record here?

Mr. ROSE. No.

Mr. HAYDEN. If it is agreeable to the committee, Mr. Chairman, I think we ought to know just who belongs to this company, where they live, and what interest they have in it.

Mr. SMITH of Idaho. Why would that be relevant to the consideration of this bill? We might just as well know who owns the land down in Mexico, the people that are trying to hold up this development.

Mr. HAYDEN. I would like very much to know that, too. I think a list of both of them would be very pertinent.

Mr. TAYLOR. I would like to get those fellows, too.

Mr. HAYDEN. The point I want to bring out by questioning Mr. Rose is this: That on his own statement the maximum number of people interested in his project are not more than 100, and that these 100 people are insisting that 50,000 or 60,000 people residing in the Imperial Valley shall conform to their wishes in the passage of this legislation.

Mr. ROSE. We are not insisting on any such thing. Mr. Hayden: we are insisting on this, that the people who live inside of Imperial Valley have no interest in that outside land excepting as it helps them to build a canal for their own lands and their own use. There isn't a man here that ever represented Imperial Valley that owns or represents or ever did represent one acre of land outside of that valley, and the only interest that Imperial Valley has, gentlemen, is this: This report shows that Imperial Valley can build a canal for its own use, 6,000 second-feet capacity, for \$26,000,000; or it can get the same canal by joining with the outside lands at \$17,000,000, and that is really the only interest that Imperial Valley has in this matter. When you come right down to it, that is their interest, to save \$9,000,000 for themselves.

Mr. HAYDEN. Of course, there is bound to be an advantage in co-operating and bringing all interests together.

Mr. ROSE. Yet they are refusing to cooperate. They want a hand-picked cooperation.

Mr. WELLING. Of course, Mr. Rose represents not only the Laguna Water Co. but also the Coachella Valley County water district among these 100 men that he refers to.

Mr. HAYDEN. No.

Mr. ROSE. They are to this extent: That we made the first survey that ever showed those people what could be done. We brought them here; we went among them and made surveys and showed them what they could do. We also did the same thing with the east side, which I represent here, which is entirely either lands that have been filed on or private lands. I represent them here; they were brought into this thing by the showing made by the Imperial Laguna Water Co. I think Mr. Yager will bear me out in that statement; and he is here.

Mr. WELLING. I would like to ask Gen. Davis a question here. It is a little apart from the trend the discussion has taken.

Section 13 of this bill, H. R. 11553, provides for storage. Now, I can understand, and I have understood all along, the danger that now confronts the Imperial Valley. I can understand the anxiety of my friend Kettner in pressing this legislation, and these gentlemen who represent the irrigation companies. I can understand the efforts of my friend Hayden here all through this measure in protecting the interests of the people that he represents; but I want to call attention to the fact that all the storage that goes—all the stored water that goes into the Imperial Valley, or into any other project on the lower waters of the Colorado River has to be stored in the States of Colorado and Utah. I want to know if there ought not to be inserted in this bill somewhere a provision that the people living adjacent to these storage areas in Utah and Colorado may have some opportunity to cooperate with the Reclamation Service in the use of the stored water before it goes down there to save the Imperial Valley and the Yuma project?

Mr. SMITH of Idaho. While Mr. Welling is occupied, I wish I might ask a question. Mr. Hayden has stated that Mr. Rose is insisting on an amendment to the Kettner bill which will protect him and his associates, and I would like to ask Mr. Rose whether or not he will insist on the same sort of a provision in the bill I have introduced, should it be adopted?

Mr. ROSE. I would not. That bill leaves it absolutely open with the Secretary to allow us to go ahead and build the lateral system, and we would not insist there.

Mr. HAYDEN. The reason why that could not be done under this bill, H. R. 11553, is that all of the East Mesa land, a part of which Mr. Rose desires to develop, is reserved for soldier settlement.

Mr. SMITH of Idaho. There isn't any land reserved for soldier settlement there.

Mr. HAYDEN. Yes; all of the land south of the third standard parallel.

The CHAIRMAN. Just a moment there—I understand Mr. Davis directly to say that this committee would have nothing to do with the Rose contract—that is, Congress would not, not this committee.

Mr. DAVIS. Certainly I see no obligation. Of course, Congress could do anything it chose in regard to it.

The CHAIRMAN. Suppose we go right along here and this committee proceed regardless of that contract; where is it going to leave Mr. Rose?

Mr. DAVIS. I haven't any doubt, though, that the Imperial irrigation district will make some settlement with Mr. Rose. They expect to treat him right, I think.

The CHAIRMAN. Then, if the committee should act and pass this bill, he would be left to the Imperial irrigation district as a moral proposition rather than a legal liability?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Now, let Mr. Davis answer Mr. Welling's question.

Mr. DAVIS. As I understand it, Mr. Chairman, answering the question propounded by Mr. Welling, the gentleman from Utah suggests the insertion of some proviso enabling or requiring the secretary to make such arrangements as may be feasible for the use of a portion of the stored water in the vicinity in which the reservoir is constructed.

Mr. WELLING. Providing, of course, those people pay any assessed charges that may be made against them.

Mr. DAVIS. That is exceedingly desirable, and the widest possible cooperation, of course, is necessary in order to get this done in the cheapest and most feasible manner. I think, however, that the present law, so far as the legal power is concerned, is already vested in the secretary.

The CHAIRMAN. That was just what I was going to suggest.

Mr. DAVIS. Under the Warren Act he could make cooperative agreements with the irrigators to share in this storage, just as he has under the Pathfinder and other reservoirs that have been constructed under the reclamation act, and under which the water is delivered under the Warren Act to various districts interested.

Mr. TAYLOR. Let me interrupt you there. Supplementing what Mr. Welling has said, as I understand it, you have one power site withdrawal already up in Grand County, in Colorado, near my home, and if that dam should be put into the Grand River there, which is the Colorado River—the Colorado River is the Grand River—if that should be put in, it not only covers above one-third of the whole county, but covers the city of Kremling 85 feet deep in water and destroys an immense amount of property in my State, and I was wondering whether or not there ought to be some provision in here that would protect our people against this vast storage proposition for the benefit of the people down below, and more especially in section 15, which provides that the natural flow of the Colorado shall first belong to the Imperial Valley, and the second right to these other mesas. Some of our people up there have been irrigating for a great many years before anybody was in the Imperial Valley.

Mr. DAVIS. Well, Mr. Taylor, this section 15 provides for the natural flow of the river "diverted under the provisions of this act."

Mr. TAYLOR. I understand.

Mr. DAVIS. That does not apply to anything above.

Mr. TAYLOR. Well, probably that is the construction, but we are a little bit skeptical about this act of Congress ignoring, as you might say, all the rest of the river up there and legislating for this Imperial Valley country.

I may say, Mr. Davis, that we have the impression that we ought to add some little proviso there, to just carry out what you say is the law anyhow, but to allay the possibility of any fears that our reclamation projects and our irrigation works up in Colorado have, and more particularly the lands and towns that will be flooded if this storage proposition is carried out.

Mr. DAVIS. Mr. Chairman, in answer to the gentleman from Colorado, I think the best answer is the one that I made previously, a year ago before this committee, and which I think it is not undesirable should be enacted into law, and that is this: That with my knowledge of the physical conditions in the Colorado Basin I do not consider it physically feasible to interfere with the water supply of the lower river by developments on the upper river.

Mr. WELLING. You have said that before to this committee, and I am glad to have you repeat it.

Mr. DAVIS. If any inhibition could be written into this that would make that the permanent policy of the Government, I think it would be a good one.

Mr. HAYDEN. Let Mr. Davis prepare such an amendment.

Mr. TAYLOR. I would like to have something of that kind go into this bill, because it will satisfy Wyoming, Colorado, and Utah, those three States up there.

Mr. DAVIS. I want to say this much in addition, provided the water is not carried out of the basin, and provided that the flow of the river is not stored during the low-water months.

The CHAIRMAN. What was that last proviso?

Mr. DAVIS. That the water is not stored in the additional storage reservoirs on the headwaters in the low-water months. Of course if they begin storing water in August it would interfere with the people below, but nobody wants to do that.

Mr. TAYLOR. No; they store water in May and June.

The CHAIRMAN. The economical and equitable way is, that the whole Colorado River must be treated as a unit pretty much, I would say.

Mr. DAVIS. Yes.

The CHAIRMAN. And all of the reservoirs.

Mr. DAVIS. Yes. And the effect of storing water during May and June, which are the high-water months, and during the spring and winter, for that matter, but especially in May and June, and using that upon the upper lands is not injurious to the lower valley, because it stores it in months when they have an excess, and there is some return seepage. If it is not taken out of the basin, that augments the flow in the fall, and especially there is a benefit in such months as October, when the return flow would probably be as great as any other month, and when they don't use any water for diversion in those colder countries.

The CHAIRMAN. In other words, regulate and equalize the distribution.

Mr. DAVIS. It has that tendency; yes, sir.

Mr. HAYDEN. Would it be feasible, Mr. Davis, for you to prepare an amendment to the bill which would amount practically to the reenactment of the existing law with respect to the right to sell surplus water, etc., wherever reservoirs are constructed and provide for these other matters you have mentioned?

Mr. DAVIS. Possibly. I think that we could. If we should say that nothing in this bill should interfere with the provisions of the Warren Act, that might be sufficient for that part. Then, as to the other part, that neither shall it interfere with the water right, the storage, and use of water.

Mr. HAYDEN. Yes.

The CHAIRMAN. There is something here about the Republic of Mexico, but that does not bear on this necessarily. That is section 16:

SEC. 16. That for irrigation of lands in the Republic of Mexico the Secretary of the Interior is hereby authorized and empowered to dispose of any waters which are or may become available under the terms if this act and not now or in the future necessary for irrigation of lands lying within the United States, on such terms as said Secretary may prescribe, without incurring any obligation for delivery of any specific quantity of water at any future time, conditioned upon the right being given to the United States, or its citizens, to maintain protective levees in Mexico jointly with the Government of Mexico or property owners therein.

Mr. HAYDEN. That is designed only to take care of the Mexican situation?

Mr. DAVIS. Yes; that is all that is for.

Mr. HAYDEN. There has been some discussion here as to what section 15 means; and since we have the advantage of the presence of Mr. Bien, who is the attorney for the Reclamation Service, I would like to have him discuss that section a moment for the benefit of the committee, if he will.

The CHAIRMAN. Very well; Mr. Bien will be heard.

STATEMENT OF MR. MORRIS BIEN, ASSISTANT TO THE DIRECTOR OF THE RECLAMATION SERVICE.

Mr. BIEN. The section reads:

SEC. 15. That as to the natural flow of the Colorado River diverted under the provisions of this act, all lands in the State of California outside the present boundaries of the Imperial irrigation district reclaimed by means of the works constructed hereunder shall have a water right secondary to that of the lands within the present boundaries of said Imperial irrigation district.

Now it is my understanding that that section merely provides that the water now diverted on behalf of the Imperial irrigation district should be recognized as of a higher order of priority than the waters that are carried to any of the other lands contemplated by this act. It relates solely to the natural flow, which excludes any consideration of stored water.

Mr. TAYLOR. Mr. Bien, of course it provides for storage, which we contemplate making rather elaborately, I expect, and the question was whether or not you can always determine what is natural flow and what is storage if we are going to make the greatest use of the drainage of this basin out there. Of course, it does involve a great deal of storage, and we want to help that in every way we can, of course, for the benefit of that whole country. We don't want to allow it to be open to litigation as to whether or not some of the storage water is natural flow or whether they are claiming natural flow at one time of the year and using storage at another, or some other questions that might be construed by some courts to mean that Congress, by reason of its supposed jurisdiction over the Colorado River and its tributaries, has gone in and passed an act here that was a blanket over everybody else, and that might be jeopardizing the rights of the other States or the irrigators in other States to store water on that river themselves or use the water they already have on the river, like the Grand River project up there at Grand Junction or the other projects all along the river there.

There are a great many canals and ditches in this stream up there in my country, and I was just sort of inquisitive to know whether or not we ought to have some saving clause in here. I do not want to be any dog in the manger on the thing at all; I have always been insisting on section 8 of the reclamation act going into these acts, going into the Hetch Hetchy act, going into the water-power bill, and all the other bills, so as to reserve inviolate our State rights to appropriate waters and use them in our States under our State laws, rather than allowing Congress to come in and control our water rights. I don't think Congress has got any business legislating on

water rights very much. I have always been a pretty strong stickler for our State rights to control the water, and I don't want the Forest Service or the Interior Department or Congress to be taking them away from us.

Mr. SMITH of Idaho. Is not that the effect of section 15?

Mr. TAYLOR. What do you mean?

Mr. SMITH of Idaho. To be legislating with reference to the control of water rights which come within the control of the States?

Mr. TAYLOR. That is what I am asking about. I am rather leery, to use the popular expression, of those provisions there for storage and for determining—Congress regulating the water flow. Now, if that is the law of California, which undoubtedly it is, the prior rights of appropriation and beneficial use will give these Imperial Valley people a right ahead of the others, and it would seem to me that on hereafter diversion they may have to prorate to that, but the appropriation heretofore made under the State law ought to be sufficient, and I was wondering if we just added to this bill that section 8 of the reclamation act—that nothing in this act shall be construed to interfere with the States rights to determine it on priority and its own question of appropriation and diversion and beneficial use, etc., if that wouldn't be enough for those Imperial Valley people and for these east mesa people without Congress legislating on that subject. That is what I am a little bit skeptical about. I do have the impression that the Reclamation Service has been kind of grasping and reaching out to get control of this water business, and we have always been rather reluctant to allow them to take that away from us, to control the water rights.

Mr. BIEN. The object of this section, as I understand it, was to recognize the right of Imperial Valley to use the natural flow of the river as they have used it heretofore. There has been a question regarding the legality of their right to take that water, because the Colorado is a navigable stream, and I think it is the underlying idea of the section to validate that right. The application of this section in practice means, as I understand it, simply that rights which have been established heretofore by Imperial Valley should be prior to the rights of the new lands brought in under this same system.

Mr. TAYLOR. That would go, as a matter of course, in any court, wouldn't it? Everybody would have to recognize that.

Mr. BIEN. I would say yes.

The CHAIRMAN. Now, this is just to preserve their existing right to water and recognize it as the right, a legal right.

Mr. BIEN. It is to give a standing to a right that has been questioned.

The CHAIRMAN. In other words, it would legalize the right, then?

Mr. BIEN. Yes.

Mr. SMITH of Idaho. If that right is contested, though, Mr. Bien, would the matter come up in the State courts?

Mr. BIEN. Being dependent upon a Federal statute the Federal court would have jurisdiction. The question is a contest between the Imperial Valley and the new lands brought in. It doesn't involve any other rights. The rights in Colorado and Utah that have been established from the natural flow of the Colorado River would not be affected by this clause, as I see it.

Mr. TAYLOR. Would it hurt anything to put a clause in there to that effect?

Mr. BIEN. No; not at all; for the reasons given by Mr. Davis, that the physical effect would not be felt below; and the other reason that the natural flow is pretty well established at this time on the lower Colorado River.

The CHAIRMAN. Now, let me ask a question right there. The purpose, as I understand you, is not only to preserve whatever rights that they did have, but to really legalize the right that they have been exercising all the time, which has been questioned heretofore, not under State law but under Federal law, because this is the Colorado River from which the water is taken, and it is a navigable stream; therefore, the weakness of their water-right title has been wherein it involves Federal law, not State law, because it is a navigable stream?

Mr. BIEN. That is my idea.

The CHAIRMAN. Now, that was, wherein existed the weakness of their title to this water right, as I understand it, and this would now legalize that; and let me ask you further, why should you not legalize this right that they have been exercising, since you are going to distribute this same right to take water from the Colorado River to other land and new water users? Why not do natural justice here in conformity with the irrigation law, namely, priority in time; that is, whoever has a prior right, whoever has first exercised the right to the use of the water, that that shall give him a priority over any subsequent comer? It is all in conformity with irrigation laws in general, isn't it?

Mr. BIEN. Yes, sir. This section has special value in this case in order to forestall possible controversy between the lands in the Imperial district and new lands as to their respective water rights. The Imperial Valley has, by practice at least, established the use of certain water. Now, it is conceivable that the new lands hereafter coming in may question the legality of the Imperial district water right, and I think such a controversy should be forestalled. Whatever may be the legality of the Imperial Valley water right, we must recognize the fact that it has been actually used for 18 years back and to a very large extent for the last 12 or 15 years.

The CHAIRMAN (interposing). Just a moment, if you will permit me. And a whole community, a large community, and a prosperous community with great production has been built up on that, upon the use of that water?

Mr. BIEN. Yes, sir.

The CHAIRMAN. And it would be against public policy to just ruin this community, which would be the result, to question the legality of their title?

Mr. BIEN. About 16 years ago Congress started to do that and passed a resolution calling upon the Secretary of the Interior to report on the conditions existing in Imperial Valley and its water rights and to make a recommendation as to what should be done. The Department of the Interior made such a report, but Congress took no action.

Mr. HAYDEN. Have you a copy of that report available?

Mr. BIEN. We have it in our records, I am sure.

Mr. HAYDEN. I think that ought to be inserted in the record.

The CHAIRMAN. What was the report? What was the tenor of it?

Mr. BIEN. The report was made by the Secretary of the Interior January 6, 1905, reporting on joint resolution approved April 28, 1904 (32 Stat., 591), and was printed as House Document No. 204, Fifty-eighth Congress, third session, copy herewith.

[House Document No. 204, 58th Cong., 3d sess.]

USE OF WATERS OF THE LOWER COLORADO RIVER FOR IRRIGATION.

DEPARTMENT OF THE INTERIOR,
Washington, January 6, 1905.

THE SENATE AND HOUSE OF REPRESENTATIVES:

Joint resolution approved April 28, 1904 (32 Stat. L. 591), provided:

"That the Secretary of the Interior is hereby directed to institute an investigation of and report to the Congress on the various questions involved in connection with the use of the waters of the lower Colorado River for the irrigation of arid lands in the State of California and the Territory of Arizona, with the view of determining the extent to which the waters of the said stream may be made available for the said purpose through works under the national irrigation act and by private enterprise, and as to what legislation, if any, is necessary to grant or confirm to present and future appropriators and users thereof perpetual rights to the use of said waters for irrigation."

The investigation was confided to the Director of the Geological Survey, who made report under date of December 22, 1904, a copy of which is inclosed.

Under existing conditions neither navigation of this stream nor irrigation interests dependent upon the use of its waters is receiving needed and adequate protection. It is clear, however, that with intelligent and effective control of the stream, whereby the flood waters may be stored and loosed when needed, the navigability of the river can be greatly improved, and at the same time water sufficient for the reclamation of large tracts of arid lands may be diverted and applied for that purpose. This effective control can be secured only by governmental supervision. It is very probable that the use of the river for navigation will decrease, while the necessity for the use of its waters for irrigation will increase, so that the former use will eventually give way to the latter. Whether this results or not, the fact remains that effective control of the river and its waters is demanded by all interests.

In some instances private appropriation of water from the lower Colorado has been effected, and inasmuch as this has been allowed it would perhaps only be just to confirm such appropriations. Any such confirmation should, however, be limited to the quantity of water heretofore actually diverted and beneficially used. The act of June 17, 1902 (32 Stat., 388), commonly known as the "reclamation act," provides, that the right to the use of water acquired thereunder shall be appurtenant to the land irrigated. This is a salutary rule and should be made applicable to water rights conferred or granted by the United States.

Attention is called to the recommendations made by the Director of the Geological Survey, which meet with my approval.

It is proper in this connection to state that this department has been informed by the Department of State that the Mexican Government has presented a protest against the construction in the Colorado River of any works that will interfere with the navigation of that stream.

Very respectfully,

E. A. HITCHCOCK, Secretary.

DECEMBER 22, 1904.

SIR: In accordance with your instructions of May 16, 1904, I have the honor to submit the following report upon public resolution No. 32, approved April 28, 1904 (32 Stat. L. 591). This resolution is as follows:

"That the Secretary of the Interior is hereby directed to institute an investigation of and report to the Congress on the various questions involved in connection with the use of the waters of the lower Colorado River for the irrigation of arid lands in the State of California and the Territory of Arizona, with the view of determining the extent to which the waters of the said stream may be made available for the said purpose through works under the national irrigation act

and by private enterprise, and as to what legislation, if any, is necessary to grant or confirm to present and future appropriators and users thereof perpetual rights to the use of said waters for irrigation."

INVESTIGATION AND REPORT.

The investigation ordered by the above resolution has been carried on by the Reclamation Service, the principal facts being obtained by Mr. J. B. Lippincott, supervising engineer, and his assistants. His work has been confined mainly to the lower river. Additional information concerning reservoir sites and irrigation possibilities has been gathered by various other engineers of the Reclamation Service located in Colorado, Wyoming, Utah, and Arizona.

This investigation is supplemental to systematic work which has been and is being carried on in the survey of reservoir sites, measurements of streams, and related investigations authorized originally in 1888 and described in full in the various annual reports of the Geological Survey and in the series of water supply and irrigation papers. The information obtained is very voluminous, and the details can be found in the various documents referred to and in the first, second, and third annual reports of the Reclamation Service.

The present report is intended to give in the briefest form possible the more important facts and the general conclusions of the studies of Colorado River carried on through many years by various individuals.

VARIOUS QUESTIONS INVOLVED.

The resolution directs that the report shall cover the various questions involved in connection with the use of the waters of the lower Colorado River for the irrigation of arid lands in the State of California, the Territory of Arizona, etc. These questions naturally fall into two groups, viz. physical and legal. The physical questions, namely, those of topography and water supply, have been the subject, as above stated, of long and careful study. The legal questions have been given general consideration such as is necessary from the standpoint of the engineer or business man, but these matters are recognized as pertaining more properly to the cognizance of the legal officers of the department.

PHYSICAL CONDITIONS.

The Colorado River is one of the largest and most important streams of the arid regions. It has its principal sources in Wyoming, Colorado, New Mexico, and Utah, and flows through the Territory of Arizona, forming a portion of the boundary between Arizona and the States of Nevada and California. It then becomes part of the international boundary between the United States and Mexico, and finally crosses a portion of the latter Republic, discharging into the Gulf of Mexico.

The waters of this drainage system are utilized for irrigation of lands in the five States and two Territories named and in the Republic of Mexico. Upon the utilization of its waters is dependent the prosperity of agricultural communities which have been established and are annually expanding in various localities in these political divisions.

The river in its flow varies widely from the high floods of the early spring to the extreme low water of late summer. The discharge during flood months has averaged about 53,000 cubic feet per second and during low-water months 2,500 cubic feet per second. For nine months of each year the flow has usually been below 10,000 cubic feet per second. The average annual discharge has been about 8,000,000 acre-feet.

In its unregulated condition there is not enough water flowing in the stream during the irrigation season to supply the future demands of the fertile but arid agricultural lands along its course. The stream, to reach its full value to the country, must, in the future, be regulated by storage works, so that the large amount of water discharged by the stream will be available at the times when it can be used for irrigation, such storage works being placed at suitable points on the headwaters for the benefit of lands farther downstream.

The river in its natural condition is navigable in its lower course during a considerable part of the year. The navigation is relatively small, and, in the opinion of the Army engineers, it is not advisable to attempt improvements of the channel; nevertheless, the navigation of the river is an important factor in the development of the country. As railroads and other facilities are provided,

the river navigation will become less important, but under good management the river will always remain navigable between the head works of the larger irrigation systems to be installed in the future.

Under a wise and businesslike control of the entire stream, the interests of irrigation and navigation can be fully protected, and vast tracts of land now desert can be converted into densely settled and prosperous communities of small landowners. If, on the contrary, development proceeds in a haphazard fashion and without plans for the future, the resources of the country will be greatly diminished and the creation of thousands of homes will be prevented. In other words, by neglecting to build storage works at suitable places, or by allowing vested rights to accrue without system or plan, the great resources of this river will be seriously impaired.

LEGAL CONDITIONS.

It is generally recognized that the control and distribution of the water appropriated for irrigation from the upper tributaries of Colorado River is carried on under the operation of State laws. Various systems have been adopted by the States of Colorado, Wyoming, and Utah for apportioning and settling disputes as regards the utilization of the waters necessary for the continuous irrigation of arid lands. The lower part of the stream, however, being navigable, is under the control of the United States, and diversions of water for irrigation, although tolerated, have not been expressly sanctioned by law or by Executive action. Various ditches have been constructed to take water from the navigable part of Colorado River, and in one case permission was sought from the Secretary of War. Reply was given that the Secretary of War declined to grant formal permission, but informed the company applying that the War Department would not interfere with its operations, provided they were so conducted as not injuriously to affect the interests of navigation.

While not presuming to discuss the legal conditions, it is necessary to state that the control of diversions from Colorado River to lands in Arizona and California is obviously under the administrative supervision of the United States, and owing to the scarcity and great value of the supply must necessarily remain so if the larger future interests of the people as a whole are to be guarded.

The water which can be stored and regulated in Wyoming, Colorado, New Mexico, and Utah can be used in part within their limits, while the remainder can be used only for the development of arid lands in Arizona, California, and the Republic of Mexico, and in maintaining for a number of years at least the navigation interests in the rapidly developing lower country.

IRRIGATION IN CALIFORNIA AND ARIZONA.

The resolution calls for an investigation and report on the various questions involved in the irrigation of arid lands in the State of California and Territory of Arizona through the use of the waters of the lower Colorado River. As before stated, irrigation canals and ditches have been taken out on both sides of the lower river, those on the right bank covering areas of agricultural land in California and those on the left bank similar areas in Arizona. Appropriation of the water has been made by the simple process of posting notices and recording these, such notices serving to give information of intention to construct works and to claim various amounts of water. The waters thus filed upon are usually stated in large terms, and, in fact, the aggregate of the paper claims to water filed in California and Arizona exceeds by many times the available flow.

Actual construction of the existing canals and ditches has proceeded to various degrees of completion. The large amount of sediment brought down by the river and the slight fall of the ditches result in rapid clogging of these artificial channels, and as a result each year the amount of land under irrigation is dependent upon the stage of the river and the energy of the settlers in cleaning out or practically reconstructing the irrigation systems.

The total area now actually irrigated is very small and almost insignificant in comparison with possibilities of future development through regulation of the waters of Colorado River by storage and by suitable dams placed across the stream, serving to raise the water and make practicable the maintenance of permanent headworks and the handling of the silt. The large and irregular fluctuations of the river, combined with the enormous amount of earthy material in partial suspension, renders the effective utilization of the stream a matter of great difficulty and expense.

EXTENT OF NATIONAL DEVELOPMENT.

The resolution calls for a report with a view to determining the extent to which the waters of Colorado River may be made available for irrigation through works under the national irrigation act and by private enterprise. The act referred to—that of June 17, 1902 (32 Stat., 388)—sets aside the proceeds from the disposal of public lands for the survey, examination, and construction of reclamation works. Under the terms of this act extensive surveys have been made along the river and all the irrigable lands along its lower course have been mapped, showing that under various conditions of cost, great areas can ultimately be reclaimed by the construction of reservoirs on the headwaters and by placing dams across the stream, taking water out upon the adjacent areas by gravity and by pumping. The details of this work are given in the first, second, and third reports of the Reclamation Service.

After a full consideration of all the conditions, recommendations have been made to begin this work of reclamation by constructing a dam across Colorado River at a point a short distance above Yuma. Plans and specifications have been completed and submitted to the department and authority asked for advertising for bids. It is assumed that this work of construction will be pushed at an early date, as it is not directly involved in any of the questions now under consideration.

It is expected that under the terms of the reclamation act above noted it will be practicable to take up and complete a number of similar projects on portions of the river where it forms a boundary between Arizona and California, and elsewhere, reclaiming many thousands of acres of fertile lands capable of intensive cultivation.

The amount of lands which can be irrigated by the complete conservation of the waters of the river and its tributaries, such as would be possible under the reclamation act by systematic and logical development, is not less than 2,000,000 acres, and the annual discharge of the river indicates that a much greater area will eventually be irrigated.

AVAILABILITY BY PRIVATE ENTERPRISE.

Up to the present time all development has been by private enterprise, the proposed Yuma project being the first investment of national funds. As a rule private enterprise has been greatly hampered by the magnitude of the construction involved and the great difficulties of effectively controlling the stream. The experience of these enterprises is such as to discourage further investment, especially in view of the fact that under the terms of the reclamation act the Government will probably construct large and permanent works, utilizing all of the available resources. The principal large enterprise is that of the California Development Co., taking water at or below the international boundary on the California side and carrying it through the Republic of Mexico for about 60 miles to points where it is returned, in part, northerly into the United States.

Here in the southern end of San Diego County, Calif., is a great sink, or depression, extending to a depth of nearly 300 feet below sea level.

The waters from Colorado River, conducted through Mexico, are distributed over part of this area through canals owned by the farmers. The lands lie at altitudes from those slightly above sea level, sloping very gently toward the north or west, to the Salton sink. The entire area has been frequently overflowed in recent geologic times, both by the waters of the Gulf of California and by the waters of Colorado River. In fact, the depression is simply the upper end of the Gulf of California, cut off from the salt waters by a broad expanse of fine sands or clays, the sediment brought down by the Colorado River.

This depression, being the bed of a former estuary or brackish lake, contains all of the salts or alkali which was left by the evaporation of the water. This alkaline content ranges from a slight or inappreciable percentage to 3 per cent or more. The reports of the Bureau of Soils of the Department of Agriculture cover this point fully and illustrate the difficulties and dangers encountered by the settlers in this area.

The lands within and around this depression have been filed upon principally under the terms of the desert-land act, and to a less extent under the homestead act. The holdings are usually from 160 to 320 acres or more, and irri-

gation has been attempted on many of these, with greater or less success, dependent upon the amount of alkali in the soil and the skill of the farmer in distributing the available supply.

The use of the waters of this river upon lands which are very strongly alkaline, or which for other reasons can not be permanently reclaimed and made to produce remunerative crops, is a waste and not a beneficial use. The waters of the Colorado River have in some cases been applied to lands of this character, and the public interest requires that such use of its waters should be prevented as being wasteful.

LEGISLATION NEEDED.

The object of the resolution appears to be to ascertain what legislation, if any, is necessary to grant or confirm to present and future appropriators and users perpetual rights to the use of the waters of Colorado River for irrigation.

As thousands of acres of both public and private lands in Wyoming, Colorado, Utah, Nevada, New Mexico, Arizona, and California, as well as a large area in Mexico, are dependent upon a comprehensive development and utilization of this stream, it would be manifestly improper to permit further appropriations by individuals or corporations as in the past, because the existence of their improvements will render it more and more difficult to carry out the proper development of the waters of the river, unless Congress takes early action to control and regulate the matter.

It is generally conceded that legislation is necessary, because, the lower part of the river being navigable, its waters are not subject to appropriation, and notices filed in conformity with the customs of Arizona and California are not valid. In this connection attention is called to office letter of March 19, 1904, reporting to you upon Senate bill 4193. It has also been suggested in a letter to you dated March 22, 1904, that the legislation needed is along the line of protecting all of the interests and not conferring a monopoly upon any one corporation or interest.

The following interests are to be guarded:

1. That of the people of the United States who are the owners of much of the irrigable land along the river and of the waters of this navigable stream.

The public in general is deeply concerned to secure the establishment upon these lands of the largest possible number of prosperous homes by the best use of the waters of this river.

2. The settlers upon the arid lands have already put to beneficial use a part of the waters of Colorado River. The appropriations which they have made should be recognized, limited, however, to the extent to which the water has actually been diverted and beneficially used upon lands capable of producing remunerative crops.

3. The corporations or investors who have spent various sums of money in the construction of works, in the hope of making large profits out of the enterprise.

Their interest is solely that of getting the largest return for the least investment, and may or may not be consistent with the public welfare.

The legislation adopted should be along the line of guarding the present navigation interests and gradually modifying them under the supervision of governmental agencies as the country is developed and more water is needed for irrigation.

Such legislation should provide that in granting rights to the use of water to private parties due consideration should be given to the preservation and maintenance of the navigability of the river; and in order that these interests of the settlers upon the public lands may be properly protected, the law should provide that all grants of rights or privileges to divert and use portions of the water of the river shall be upon condition that the plans of all the irrigation and reclamation works for diversion, regulation, or control of the waters shall be subject to the approval of the Secretary of the Interior.

The waters already put to beneficial use should be devoted to the lands which have been reclaimed and made appurtenant to them, and the large and irregular supply of the river should be controlled by storage works.

The diversion of water from the lower Colorado River where it is navigable is without authority of law, and in order to protect those parties who are using such waters for beneficial purposes their rights to the use thereof should be confirmed to the extent of their actual beneficial use upon land capable of producing remunerative crops up to the end of the irrigation season just passed,

which may be fixed, for convenience, as October 1, 1904. The quantity of water so applied to beneficial use can readily be ascertained, because the reclamation service has during the past year made a number of careful surveys, and has mapped substantially all of the cultivated areas in the lower courses of the river.

The further appropriation of water from the Colorado River in Nevada, Arizona, and California should be allowed only with the approval of the Secretary of the Interior, and all appropriations of water heretofore or hereafter allowed for irrigation purposes should be appurtenant to specific tracts of land, and beneficial use should be the basis, the measure, and the limit of the right.

Those who have already constructed canal systems would be fully protected by this arrangement, as they will be allowed to carry the water already beneficially used, making reasonable charges therefor as in the past, and would be allowed to extend their systems subject to the approval of the Secretary of the Interior.

The report is submitted in duplicate.

Very respectfully,

CHAS. D. WALCOTT, *Director.*

THE SECRETARY OF THE INTERIOR.

MR. BIEN. It was substantially that Congress should establish some means of determining the land that was actually irrigated at the time, and recognize the water rights for those lands.

The CHAIRMAN. As valid?

Mr. BIEN. As valid.

MR. HAYDEN. In that connection, objection was made yesterday—and it seemed to me with some force—by Mr. Yager, representing the Coachella district, that if such a priority was to be recognized, that it should be limited to the lands now irrigated, inasmuch as the total area included within the boundaries of the Imperial irrigation district is larger than the land actually in cultivation. It seems to me that that fault could be cured by inserting in line 15, after the word "land" the words "now irrigated"; so that it would read: "Shall have a water right secondary to that of lands now irrigated within the present boundaries of the Imperial irrigation district." That would confine the bill to a recognition of a priority acquired by actual application of water to the land.

The CHAIRMAN. Yes; and just permit me—and would exclude lands within the district which have not been irrigated.

MR. HAYDEN. Yes; it would put such dry lands on a parity with the lands outside of the Imperial irrigation district, because that is their actual physical condition now.

MR. BIEN. That raises a large question for the Imperial irrigation district. It is under obligation to furnish water to all the lands within the district, and have built the works with that in view, and except in occasional years of shortage would have sufficient water to irrigate all the irrigable lands within the district. At least, that is my understanding. I have never seen any thorough study of it, but it is claimed that they would be able to furnish an ample water supply to all the irrigable lands within the district.

MR. HAYDEN. Your idea is based upon the theory that an appropriation of water may be acquired by commencing construction and pursuing it diligently with a view to finally placing water on the land. Do you think, so far as the Imperial irrigation district is concerned, they have done enough to acquire an appropriation of water for lands not yet irrigated that such lands should be granted a better right to water than lands for which no work has been undertaken up to this time?

Mr. BIEN. That was the claim, and I think it is well substantiated by the history of the district.

The CHAIRMAN. You would not recommend any amendment at all restricting to the lands that have now already been watered, but would just leave it as it is?

Mr. BIEN. I would not like to say, because I have not studied that phase of it.

The CHAIRMAN. Don't you think it would be very dangerous to do so?

Mr. BIEN. There should be no drastic legislation to cut out lands that are not now being irrigated without thorough study of the conditions.

Mr. TAYLOR. We don't want to cut them out, but the question is whether or not, if there was 150,000 acres in the Imperial district right now that have never had a drop of water on them, why should they be given a prior right to other lands just outside of that line, that have never had any water on, and that will be irrigated by this new construction the same as this land in the Imperial Valley would be irrigated? And the question is whether or not these lands not heretofore irrigated should all stand on the same basis as to priority right, assuming that there would be enough water hereafter for all of them, but if for any unforeseen emergency—suppose all the dams wash out some year, the question is then whether or not east mesa should be dried up absolutely in order to furnish water for a lot of other lands that have not yet had water on them, that were brought in at the same time they were brought in?

Mr. BIEN. I understand that much of this land has been paying charges, for the water right, but for one reason or another they have not been using it.

Mr. TAYLOR. I don't think we want to go to settling that in this committee anyhow.

The CHAIRMAN. Would it be your judgment that it would cause most perplexing complications to undertake to restrict it to the lands that have already been irrigated in the district?

Mr. BIEN. I think it would. It is my understanding of the working of this bill that if there is a large area within the irrigation district that is short of water they would have to buy stored water. There is nothing in the bill that would prevent it, but the irrigation district is limited to the natural flow, and if that should ever be insufficient the district would necessarily make arrangements to get stored water, so that the matter would work itself out automatically.

Mr. TAYLOR. Let me ask you another question, Mr. Bien, still referring to section 15. My understanding is that the object of putting this section in here is first because this water is diverted on a navigable stream over which Congress has jurisdiction, and Congress has never yet formally or officially given permission, has it, to do that?

Mr. BIEN. No.

Mr. TAYLOR. That is the first thing. The second is that it runs around through Mexico, into a foreign country, and comes back into the United States, and that further complicates the matter. Now, they want to change the point or diversion and go up the stream and divert it through a new structure entirely, and by means of a different route through the all-American canal, they now, for those

three reasons, feel that there might be some ground for litigation as to their priority right, and they put this section in. Now, couldn't we put in a clause specifically saying that so far as the United States is concerned, all three of those reasons combined should not be taken in any manner to jeopardize or affect the priority rights of the Imperial Valley to whatever amount of water it has heretofore been entitled to by appropriation—something of that kind—so that we would make a disclaimer by the Government of United States of any right to interfere with their prior right, owing to these three contingencies that might otherwise affect them? In that way we would validate and legalize, so far as the Government can, their right without legislating upon the subject of water rights direct that are under the jurisdiction of the States?

Mr. BIEN. I think that would accomplish what is intended.

Mr. TAYLOR. And it would not be setting a precedent of Congress saying what one party shall have the priority right to water, and that this other person shall have a priority right, and it shall be divided so and so. In other words, I don't like the precedent of Congress dividing the water of any stream.

Mr. YAGER. I would like to ask Mr. Bien, if, in his opinion, Congress has the right to legislate a water right—has the power to legislate a water right? If they have a water right, certainly we can not interfere with it, but by giving the Imperial irrigation district and legislating them a water right, they are discriminating against the outside lands. Now, if they have a water right, we can not touch it nor do we care to.

Mr. TAYLOR. But what harm would there be in Congress by virtue of the fact that this appropriation was made from a navigable stream without authority of Congress, and by virtue of the fact that it runs through a foreign country, and by virtue of the fact that under the provisions of this bill they seek to change the point of diversion and the place of use of a part of it, we might say—or at least the manner of use and distribution, the carrying of the aqueduct—that those facts shall not be construed, so far as the United States is concerned, as interfering with their right.

Mr. YAGER. My contention, Mr. Taylor, if I may make myself clear, is that that is a question for the judicial branch of this Government to determine whether they have a water right or whether they have not a water right; and that the legislative branch has not the power to legislate any specific water right.

Mr. TAYLOR. I fully agree with you on that, but at the same time the State court of California has no right to come in and say that by reason of this company never having obtained permission of Congress to connect with this river, that therefore "we don't give them a water right." That is a matter for Uncle Sam to do, and the fact that it runs around through Mexico—this is probably a case that could not occur any place else in the United States; it is a unique proposition, but I was thinking of merely a disclaimer by the Government of estopping people's rights by reason of these things over which the United States has control.

Mr. ROSE. There is just one question on that—

Mr. BIEN (interposing). I would like to answer Mr. Yager's questions, but I want also to disclaim any idea of entering into a con-

troversy with Mr. Taylor. I do believe that Congress can legislate a water right, and that it has done so. It is, of course, a very big question that some day will have to be decided by the Supreme Court of the United States.

Mr. HAYDEN. As a matter of fact, did not Congress legislate a water right to the Yuma project?

Mr. BIEN. I would not say that it legislated that right but it gave authority to divert the water from a navigable stream. It has done that in two other cases in connection with the work of the Reclamation Service on the Lower Yellowstone in Montana and on the Rio Grande in New Mexico.

The CHAIRMAN. And no such right would have existed without the act of Congress.

Mr. BIEN. Not to divert from a navigable stream.

The CHAIRMAN. That is why I say it is proper here to recognize this right.

Mr. TAYLOR. It has a perfect right to permit them to divert water the same as to build a bridge across a navigable stream, but whether or not they can give a right that will deprive vested rights under the State laws, that is a question.

The CHAIRMAN. I don't think it aims to do that.

Mr. TAYLOR. No; I don't think it aims to do it.

The CHAIRMAN. But it will reconstrue—if they have no right to do it, it will be construed that way, that you didn't undertake to do what you could not do.

Mr. WELLING. Did not the Imperial irrigation district come to Congress for the right to divert water from the Colorado River?

Mr. BIEN. My own understanding of the history of the matter was that they originally made their contract with the Government of Mexico.

Mr. HAYDEN. The statement that was made at the former hearing by Judge Swing is that the original promoters of the Imperial Valley irrigation enterprise first came to Congress and asked authority to divert water from the Colorado River within the United States. Hearings were held, but no action was taken by Congress. Then Judge Swing told us that these same parties went to the City of Mexico and obtained a concession from the Government of Mexico to divert water from the Colorado River in Mexico and carry it into the United States. The original intention was that the diversion works should be in Mexico, but a better point of diversion was found in the United States and they simply went there and placed their head gates north of the Mexican boundary line and have diverted water from the Colorado River, a navigable stream, without any authority from Congress.

Mr. WELLING. Then they have got no water right.

Mr. HAYDEN. Legally they have no water right that has been recognized by the Government of the United States; that is, no right to divert water from a navigable stream. Their sole claim to a water right is the actual application of water to the lands within the United States for the past 18 years.

Mr. WELLING. The Army engineers are now forbidding the putting in of a weir to divert water at that point. Isn't that true?

Mr. HAYDEN. The Imperial irrigation district has been granted permission from year to year, and I presume that they will come

again and ask for the same permission when the river goes down this spring. The Army engineers have a perfect right to refuse to issue a new permit if they so desire, because Congress never assented to the diversion of any water from the Colorado River by the Imperial irrigation district.

Mr. WELLING. And you people are suing them in the courts?

Mr. HAYDEN. The people under the Yuma project insist that the maintenance of the weir in the stream, which is of rock, is a menace to their farms, because in the event that a sudden flood should come down before the weir is removed the river will very likely wash around the Arizona end of the weir and destroy a vast acreage of land in the Yuma Valley.

The CHAIRMAN. Now, Mr. Bien, was there anything further?

Mr. HAYDEN. I wanted to make one other point clear by a question to Judge Bien.

Section 15 says that as to the natural flow of the Colorado River, diverted under the provisions of this act, all lands in the State of California, outside of the present boundaries of the Imperial irrigation district, shall have a secondary water right. Now, do we understand by the term "diverted under the provisions of this act" that it refers to any water which may hereafter be diverted by works constructed under authority of this act?

Mr. BIEN. That is the understanding of the Reclamation Service.

Mr. HAYDEN. In the State of California, on the Yuma Indian Reservation, there is a tract of land that is now irrigated from the Laguna Dam, but that land will continue to be irrigated, not under the provisions of this act but under the provisions of the reclamation act authorizing the construction of the Yuma reclamation project.

Mr. BIEN. Yes, sir; and in section 19 there is a further provision that nothing in the act shall be construed as amending the contract of October 23, 1918, between the United States and the Imperial irrigation district, which makes a rule for distributing the water at Laguna Dam between the Yuma and the Imperial project.

Mr. HAYDEN. We recognize in section 19 the contract of October 23, 1918. Supposing that contract should lapse, what would then be the status?

Mr. BIEN. I should say it would be held that this provision of the contract would be perpetuated by this legislation.

Mr. HAYDEN. You are satisfied of that?

The CHAIRMAN. What contract do you mean?

Mr. BIEN. The contract between the Imperial Valley and the Secretary, which contains a provision regarding the amount of water that shall be turned down for the Imperial district, and protecting the interests of the Yuma water right. I should say that where Congress has recognized a rule of that kind it is lifted out of the contract and is really embodied in the law.

Mr. TAYLOR. That was one reason why I was anxious to have whatever the law was carefully guided. I don't think there is any question but what Congress has got a right to permit somebody to divert water from a navigable stream, but that don't give them the water if there is none there for them. If it is all appropriated otherwise, if somebody else has got a prior appropriation to that water, the fact that Congress lets them take some off does not necessarily guarantee

that they are going to get aid. That is the point I wanted to bring out.

Mr. HAYDEN. I think we are all agreed on what should be done, and that is the recognition of the fact that water has been beneficially applied to lands in the Imperial Valley, and that to that extent their appropriation should be prior to any land subsequently irrigated. Just how to state that proposition so as not to do more than we intend to do, or less than we intend to do, is a very difficult matter. I would suggest, Mr. Taylor, that if possible you might prepare what you think would accomplish the desired result, and then confer with the attorney for the Reclamation Service and see if you can not agree upon an amendment which will do just what is intended.

Mr. WELLING. Suppose we didn't say a word about it?

Mr. HAYDEN. Then it would be necessary to have these contentions decided by the courts: First, that the Imperial irrigation district had no water right; why? Because Congress had never given them the right to divert water out of the Colorado River, a navigable stream.

Second, because they have previously obtained water through a concession granted by the Republic of Mexico and now propose to secure it by another method.

For the third reason that they had changed their point of diversion.

All of which means a lawsuit, and what the courts would decide nobody knows.

Mr. WELLING. They are going to have a lawsuit anyway. This won't prevent a lawsuit. No State court would recognize that as proper appropriation or disposition of water within the State.

Mr. HAYDEN. The State courts would recognize this provision in section 15 to be at least an assertion by Congress that the people of the Imperial Valley had lost nothing by changing their point of diversion, and that Congress had given them authority to divert water from the Colorado River. Now, I am satisfied their appropriation would be adequately protected, and if we can state it in Mr. Taylor's way I would be glad to do so.

Mr. SUMMERS. In regard to this request, Mr. Rose, that the occupation and address of the stockholders of the Laguna irrigation district be furnished—there has been a request made, and I understand you are going to comply with it.

The CHAIRMAN. Yes. We will adjourn now until Friday morning. (Whereupon at 4.30 o'clock p. m. the committee adjourned until 10 o'clock a. m. Friday.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Wednesday, March 3, 1920.

The committee met at 10.30 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. The committee will come to order. I want to announce first to the members of the committee that I spoke this morning to Mr. Fordney, chairman of the Committee on Ways and Means, and I have been continuing the effort to get a hearing there of our Committee on Irrigation in behalf of the bill for an appropriation for the reclamation fund, pursuant to the request made by the governors, pursuant to the understanding had with the association of

governors who were here. The Committee on Ways and Means are going to hear the soldier representatives first and complete that, except that they will now hear the constituents of Mr. Smith of Idaho, because they are a long ways from home, and they will defer hearing the members of our committee in behalf of this appropriation or some means of replenishing the reclamation fund; they will defer that until after they get through with the soldier representatives and have heard these gentlemen from Idaho. They will hear them this week.

Mr. SMITH of Idaho. They expect to hear them to-morrow.

The CHAIRMAN. Yes; but the members of this committee can not get a hearing before that committee before next week, probably, but they will hear us. I wanted to say that it is important that all the members of the committee be present before the Committee on Ways and Means, and that you hold yourselves in readiness for next week, and Monday if possible.

Mr. LITTLE. What is it we want?

The CHAIRMAN. We want the reclamation fund replenished, and we are to have a hearing in accordance with the understanding had by the governors when they were here representing the Association of Western States, organized for the purpose of storing water.

Mr. LITTLE. Does that \$250,000,000 take care of Imperial Valley? Will it do that?

The CHAIRMAN. Well, perhaps it will.

Mr. LITTLE. I don't believe I would support it if it did not.

The CHAIRMAN. They may not need it, and they might need some of it.

Mr. BARBOUR. It was suggested at the meeting of governors that the Imperial Valley project should be kept separate.

Mr. LITTLE. That would not be satisfactory to me.

The CHAIRMAN. The committee has met this morning, gentlemen, to consider H. R. 12537, and the Secretary of the Interior has reported as follows upon it:

DEPARTMENT OF THE INTERIOR,
Washington, February 25, 1920.

Hon. M. P. KINKAID,
*Committee on Irrigation of Arid Lands,
House of Representatives.*

MY DEAR MR. KINKAID: I have your letter of February 18 transmitting copy of a bill, H. R. 12537, with request for report thereon. The bill is entitled as follows:

"A bill to provide for an examination and report on the condition and possible irrigation development of the Imperial Valley in California."

You state that the bill was introduced after a conclusion had been reached that neither the Kettner bill (H. R. 11553) nor anything like it could be passed at this session. The bill proposes to authorize an appropriation not to exceed \$20,000, under which no expenditure shall be made or obligation incurred until provision has been made for the payment of one-half the cost of the examination provided by the bill by associations and agencies interested in the irrigation of lands in the Imperial Valley.

On February 16, 1918, I made a contract with the Imperial irrigation district providing for investigations, surveys, and cost estimates of an all-American canal from Laguna Dam, Arizona-California, into Imperial Valley, which contemplated an expenditure of \$45,000, of which the Imperial district furnished \$30,000. This report has just been printed, and I inclose herewith a copy for the committee.

This report was devoted largely to the engineering features of the proposition. The bill in question will authorize a more general study of the character of the lands and their availability for irrigation, together with a number

of other important details regarding the feasibility, necessity, and advisability of the undertaking.

In view of the conditions regarding the possibility of passing an appropriation for construction of the works as presented by the committee, it seems to me that the best thing which can be done at the present time to advance the interests of this proposition, which I regard as meritorious, would be to appropriate further moneys for the necessary investigations which would be preliminary to construction.

I therefore suggest favorable action upon the bill.

Cordially yours,

FRANKLIN K. LANE, Secretary.

Mr. Kettner is to be here at the meeting this morning. He wishes to be here and support this bill. He is not here yet, and, as Mr. Kibbey is present, we might just as well hear a few words from him, and then we want to hear Director Davis.

STATEMENT OF MR. WALTER B. KIBBEY, REPRESENTING THE IMPERIAL VALLEY IRRIGATION DISTRICT.

Mr. KIBBEY. Mr. Chairman, I took the matter of the bill up at the time of its introduction with the people of Imperial Valley. They held a mass meeting last Saturday of representatives of the American Legion and the irrigation district board—in fact, they say "Imperial Irrigation District, Interpost Council of American Legion and affiliated organizations."

Mr. SMITH of Idaho. Where is that from?

Mr. KIBBEY. From the board of directors of the Imperial irrigation district.

Mr. SMITH of Idaho. But from what city?

Mr. KIBBEY. From El Centro. It is addressed to me in care of the Washington Hotel, dated February 29, and reads as follows:

EL CENTRO, CALIF., February 29, 1920.

WALTER KIBBEY.

Care the Washington, Washington, D. C.:

The board of directors of irrigation district, Interpost Council American Legion, and affiliated organizations, which have been urging the passage of the Kettner bill, 11553, met to-day and considered your committee report and statements from Washington that neither this bill nor any other bill for the relief of Imperial Valley can be considered this session of Congress, excepting only the Kinkaid bill, which directs the Secretary of the Interior to make additional surveys, and gather complete data on construction costs, amount of lands affected, and apportionment of costs contemplated by our bill, and to make his report to Congress, with recommendations, not later than December 6 next. We reaffirm our belief that the provisions of the Kettner bill, 11553, more fully and adequately cover the needs of this valley than any measure heretofore presented or considered; that the needs of the valley urgently require the passage of such bill in substantially its present form; that the valley will at the next session of Congress again urge such bill for passage. We believe, however, that the provisions of the Kinkaid bill, if passed at this session, will provide needed data which will be helpful to the valley whenever the Kettner bill is finally considered by Congress. We must regard the provision of the Kinkaid bill when passed as a pledge given at this time that Congress will pass legislation to carry into effect whatever recommendations for the relief of Imperial Valley shall be contained in the report required by this bill to be made to Congress by the Secretary of the Interior. You are therefore directed by this board to urge Congress to pass the Kinkaid bill at this session, and you are authorized to pledge this district to pay to the Secretary on demand one-half of the cost of the work provided for by said bill.

BOARD OF DIRECTORS IMPERIAL IRRIGATION DISTRICT.

I take it that if Congress passes this bill they are morally bound to give the Imperial Valley some relief.

The CHAIRMAN. All this means—their expression is that we are acting in good faith.

Mr. SMITH of Idaho. Excepting the passage of this bill does not mean that Congress must pass another bill.

Mr. KIBBEY. No; of course not.

The CHAIRMAN. Now, gentlemen, I will read the bill:

[H. R. 12537, 66th Cong., 2d sess.]

A BILL To provide for an examination and report on the condition and possible irrigation development of the Imperial Valley in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to have an examination made of the Imperial Valley in the State of California, with a view of determining the area, location, and general character of the public and privately owned unirrigated lands in said valley which can be irrigated at a reasonable cost, and the character, extent, and cost of an irrigation system, or of the modification, improvement, enlargement, and extension of the present system, adequate and dependable for the irrigation of the present irrigated area in the said valley, and of the public and privately owned lands in said valley not now under irrigation, which can be irrigated at a reasonable cost from known sources of water supply.

SEC. 2. That the said Secretary shall make report to Congress not later than the 6th day of December, 1920, of the result of his examination, together with his recommendation as to the feasibility, necessity, and advisability of the undertaking, or the participation by the United States, in a plan of irrigation development with a view of placing under irrigation the remaining unirrigated public and privately owned lands in said valley, in connection with the modification, improvement, enlargement, and extension of the present irrigation systems of the said valley.

SEC. 3. That the said Secretary shall report in detail as to the character and estimated cost of the plan or plans on which he may report; and if the said plan or plans shall include storage, the location, character, and cost of said storage, and the effect on the irrigation development of other sections or localities of the storage recommended and the use of the stored water in the Imperial Valley.

SEC. 4. That the said Secretary shall also report as to the extent, if any, to which, in his opinion, the United States should contribute to the cost of carrying out the plan or plans which he may propose; the proportion of the total cost that should be borne by the various irrigation districts or associations or other public or private agencies now organized or which may be organized; and the manner in which their contribution should be made; also to what extent and in what manner the United States should control, operate, or supervise the carrying out of the plan proposed, and what assurances he has been able to secure as to the approval of, participation in, and contribution to the plan or plans proposed by the various contributing agencies.

SEC. 5. That, for the purpose of enabling the Secretary of the Interior to pay one-half of the cost of the examination and report herein provided for, there is hereby authorized to be appropriated not to exceed the sum of \$20,000: *Provided*, That no expenditure shall be made or obligation incurred hereunder by the Secretary of the Interior until provision shall have been made for the payment of one-half the cost of the examination and report herein provided for by associations and agencies interested in the irrigation of the lands of the Imperial Valley.

We will now hear Mr. Kettner just briefly. You have examined the bill that I introduced here, H. R. 12357, for investigating the Imperial Valley situation?

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STATEMENT OF HON. WILLIAM KETTNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. KETTNER. I have read the bill, Mr. Chairman.

The CHAIRMAN. Well, will you state to the committee whether you favor the bill as a solution of the problem at this time?

Mr. KETTNER. Mr. Chairman, I think it is evident to every member of the committee that Congress must do something for the Imperial Valley, and as this is the only solution, in my opinion, at this time, I strongly favor it and for the reason that the Imperial Valley people must take steps to prove to the people of Yuma that they are in earnest and that they want to remove the very serious situation which occurs every year at high water.

The CHAIRMAN. You mean remove the menace?

Mr. KETTNER. Remove the menace, yes; which is very serious; at least, they are thoroughly convinced, in my opinion, that it is very serious.

Mr. TAYLOR. It hangs over them like the sword of Damocles.

Mr. KETTNER. Yes, sir. It is very true that it is very serious with the people of Yuma and also the people of Imperial Valley.

Mr. EVANS. It seems to me this is putting it off a long time. We had all hoped ever since last summer that Imperial Valley might be relieved more immediately. Why can we not get faster action on this?

Mr. KETTNER. Mr. Evans, I would freely give everything I have on earth if we could give immediate relief to the people of Imperial Valley.

Mr. EVANS. It is a disappointment to me, this delay.

Mr. KETTNER. In my opinion, that is impossible at the present time, and as this is the very best we can do—at least I have reached that conclusion after thorough investigation—I think the committee should act immediately and grant us at least this small relief, which, I hope, will prove to the people of Yuma that we are doing everything we can.

Mr. SUMMERS. Mr. Kettner, in view of the fact that an investigation would have to be made before progress could be made on the work, even if your bill were passed, we are not particularly delaying, it seems to me, in providing for the investigation in this bill and the reporting back at a very early date—December 6.

Mr. KETTNER. The people of Imperial Valley have made several surveys, and they think that the Government should go ahead and make an appropriation; but the committee, I understand—or, at least, a number of them—are not satisfied with the surveys that were made, and they want a survey made directed by the Congress itself.

Mr. SUMMERS. But, Mr. Kettner, isn't it a fact that those surveys have mostly been in that part of the country, and that they have not taken into consideration all of the damage that may be done by storage and the cost of storage and various things of that kind on the upper river? And those things will have to be investigated before the work can proceed in the lower valley?

Mr. KETTNER. That is very true.

Mr. SUMMERS. That part of the investigations, as I understand it, had not been fully made at any time by anybody.

Mr. KETTNER. I do not believe the comprehensive survey that should be made—or at least, that some members of the committee with whom I have talked think should be made—has been gone into as thoroughly as it would if the Government would take hold as they are doing now and would direct the Department of the Interior to go over the whole situation. In other words, do not put in a part of the system and not consider the other part or what damage it would do. There is a great deal in the contention taken by a number of the members of the committee whom I have conversed with, but the people of the Imperial Valley have been threatened with an injunction, and to shut off that water would mean that the 400,000 acres now being irrigated would dry up in a very short time.

Mr. BARBOUR. Isn't it a fact, Mr. Kettner, that an investigation of the question of storage and a solution of the storage problem would really be for the best interests of all the irrigationists along the Colorado River?

Mr. KETTNER. This is very true, provided that by taking this action—and I am living in hopes that it will prove to the people of Yuma that we are doing the best we can—it will not shut off the water in the meantime to the people of the valley.

Mr. BARBOUR. We all hope that.

Mr. TAYLOR. Has there been any other investigation, any official investigation of this matter before?

Mr. KETTNER. Yes.

Mr. TAYLOR. How many?

Mr. KETTNER. If I remember correctly, Mr. Taylor, the Department of the Interior appropriated from the general fund, I think, \$15,000 or \$20,000, and the people of Imperial Valley appropriated a number of thousand dollars to make this investigation; but I believe, as Mr. Summers stated, it was only in regard to crossing the sand hills; it was not in conjunction with the dams and water sites and the scheme taken as a whole.

The CHAIRMAN. We will have Director Davis tell all about that very soon.

Mr. KETTNER. Now, are there any other questions, gentlemen?

The CHAIRMAN. I think that is all. We are very much obliged to you.

Mr. KETTNER. I want to thank you and the committee very much for this opportunity.

STATEMENT OF MR. ARTHUR P. DAVIS, DIRECTOR UNITED STATES RECLAMATION SERVICE.

The CHAIRMAN. Now, Director Davis, we will hear you.

Mr. LITTLE. How long is Director Davis going to speak?

The CHAIRMAN. Well, I don't know. I think we had better hear him while we can.

Mr. DAVIS. I haven't much to say myself, unless there are questions by the committee.

Mr. LITTLE. I want to say a word myself before I go, if I can. I have a dispatch here that I want to read. I would like to hear Director Davis, too.

Mr. DAVIS. Mr. Chairman, you have read the bill and have also read the favorable report made by Secretary Lane in reply to your

question asking his opinion of the bill, in which he recommends the passage of the bill, and you have also heard a long telegram from the Imperial irrigation district and the American Legion in the Imperial Valley in favor of it.

I have here a letter received this morning from Dr. Elwood Mead, who has appeared before this committee on this subject. He says:

"DEAR SIR: Your letter of the 18th was followed by one from Mondell, sending me a copy of the Kinkaid bill.

"That is the bill under consideration.

I think that is the best solution of the Imperial Valley matter and hope that it will go through. Some people from the Imperial Valley were in yesterday to ask my advice as to whether they should accept the Kinkaid bill as a satisfactory solution. I advised them to do this.

Sincerely, yours.

ELWOOD MEAD.

Now, Mr. Chairman, the project of building an all-American canal from Laguna Dam to Imperial Valley has been under consideration, to my knowledge, about 17 years. It was first investigated in a superficial manner by the Reclamation Service under Mr. J. B. Lippincott, and he reported in a rough way substantially along the lines that we now know, that it would be a very expensive process, and at that time it was considered hardly feasible on account of the cost and on account of some question as to the feasibility of maintaining a canal through the sand hills after building it. At a subsequent time the president of the Imperial irrigation district requested me to take up the question with the Secretary of the Interior and the Secretary of State concerning the menace to their water supply by diversion in Mexico. A canal running through Mexico is at the mercy of the irrigators in that country, who can take all the water if they choose, and under a concession negotiated by private parties, not binding on anyone in this county, in my belief, the Mexican authorities have the alleged right to take half of the water and will undoubtedly take at least that much as soon as they want it. That constitutes a severe and very dangerous menace to the water supply.

Mr. Le Roy Holt, of the Fresno irrigation district, requested me to take up with the State Department, through the Interior Department, the question of inducing the Mexican Government and the Mexican landowners to limit their requirements. I replied that I thought there was no use in that until we knew what could be done in case of failure of those negotiations, and that the only alternative to the success of such negotiations was an all-American canal, one that did not cross the line.

We did not at that time have data upon which that could be said to be feasible at all. It was widely believed to be not feasible. There had been no investigation of any thorough character made at that time, and on the basis of that the Imperial Valley requested the Secretary of the Interior to join with them in an investigation. They made a contract with the Secretary of the Interior by which the Imperial irrigation district put up \$30,000 and the reclamation fund put up \$15,000, making \$45,000 altogether, and that has been expended in examinations and surveys. They are not all complete; they are as thorough as the amount of money would permit. The money was all spent for that purpose, not in propaganda or for any

other purpose, but it is a big problem. The results of that investigation are embodied in the pamphlet that was transmitted with the Secretary's report.

This investigation was made under a board representing the Imperial Valley, the Reclamation Service, and the University of California, three members of the board, Mr. Grunsky, Mr. Schlecht, and Mr. Mead, and embodies the best and by far the most comprehensive knowledge that has ever been obtained on this subject. But, as a project, the investigation or the knowledge is by no means complete.

There is absolutely no feasible or advisable extension of irrigation in the Imperial Valley of any considerable magnitude without storage. The present irrigated lands have repeatedly been short of water, not seriously but frequently enough and to a sufficient extent to show that any large addition to the irrigated area means that either storage must be provided or its irrigation will be a menace to the irrigation interests in Imperial Valley and in the Yuma Valley. To divert from Laguna Dam would have the potentiality of taking the water supply from the lands already irrigated, and that in such a dry, hot country is disastrous.

The CHAIRMAN. What is the most that can be accomplished by the investigation contemplated by the bill?

Mr. DAVIS. There are two things that are most important. First is storage.

We have investigated a number of storage reservoirs in the Colorado Basin, and we believe from those investigations that that storage is feasible and have proceeded, in favoring legislation, on that supposition. We do not know exactly how much it will cost; we do not know approximately how much it will cost; we simply know that it is feasible, but where is the best place to construct storage has not been determined. Those investigations are still in progress but are greatly hampered for lack of funds, and this bill would materially help complete those investigations.

Mr. SMITH of Idaho. Do you think the amount would be sufficient, Mr. Director?

Mr. DAVIS. It would not be sufficient to absolutely complete them, but I think it will be sufficient to get information that Congress needs for legislation.

Mr. WELLING. I believe you said you have already expended \$45,000?

Mr. DAVIS. Yes, sir.

Mr. WELLING. And this bill comprehends a total appropriation from the Imperial Valley and the Treasury of \$40,000?

Mr. DAVIS. Yes, sir.

Mr. WELLING. Do you think that will give you enough money to make the investigation?

Mr. DAVIS. I was just coming to that. I think it would be wise, Mr. Chairman, although it is not in the Secretary's report, to put a proviso in that the Imperial Valley might contribute a larger amount if it chose. I don't think that that is absolutely necessary, because they probably can do that anyway.

The CHAIRMAN. Certainly they can. There is nothing to hinder them from doing that.

Mr. DAVIS. The requirement is that they must put up at least that much.

The CHAIRMAN. That implies that they may put up more, of course. They must put up at least that much.

Mr. DAVIS. And I think it would be very wise and very easy to get them to do that. Now, it is my belief that the most feasible point for storage of water for the Imperial Valley is in the Boulder Canyon, below the Grand Canyon, and it is the only reservoir of promise below the Grand Canyon.

The CHAIRMAN. How large is the capacity there for storage?

Mr. DAVIS. We have made surveys there for a high dam, and we were pursuing them until driven out partly by exhaustion of funds and partly by high water, and that survey needs completing. We have not made any investigation for foundation, which is the most important thing, and this bill would permit us to do that.

Mr. HAYDEN. Just where is that reservoir?

Mr. DAVIS. It is on the Colorado River, where it forms a boundary between Nevada and Arizona, about 20 miles below the mouth of Virgin River, just above the point where the river changes from a westerly course to a southerly course.

Mr. SUMMERS. About how far from the Laguna Dam is it?

Mr. DAVIS. From the Laguna Dam it is probably 300 miles. One of the very important features of that is that it is the nearest to the irrigated land of any large reservoir that we believe to be feasible.

Mr. WELLING. Wouldn't it fill up with silt in time?

Mr. DAVIS. In time it would, if not prevented.

The CHAIRMAN. You say it is how many miles distant from the dam?

Mr. DAVIS. About 300 miles, by the river's course.

Mr. TAYLOR. It is 300 miles from the dam, but only 12 miles from some creek?

Mr. DAVIS. From the Virgin River. It is, however, the nearest available site. Now, the other reservoirs that have been investigated are above the Grand Canyon and are 2,000 miles or more from the land to be irrigated, and that means that it would take several weeks, perhaps months, for the water, when it was turned out of the reservoir, to reach the land to be irrigated by it, and it would be necessary to foresee all the conditions that far ahead. That can not be done, and it would lead to large waste of water, and would also lead to more or less dissatisfaction with the service, undoubtedly. Our experience indicates that it is desirable to have a storage supply very much closer than it is possible to get it in this case, but it is nevertheless important to get it as close as possible.

Mr. WELLING. Mr. Davis, if you stored the water up there upon the headwaters of the Colorado, it surely would be proposed also to use that water for irrigation, would it not?

Mr. DAVIS. So far as it can be; yes, sir. One of the important features of having the reservoir below the canyon is that by having it there you do not interfere with very large possibilities of power development on the upper river; if you build a reservoir on the upper river for irrigation purposes, that water must be handled in accordance with irrigation, and must be stored in the winter and used in the summer. That is antagonistic to power purposes, but if

the principal storage for irrigation is on the lower river, then the water above—all the water above—can be used for power; and there are vast possibilities for power, and it is going to be valuable in those mining regions. The water can all be used for power, turned on at the time when it is most convenient for power uses and caught in the reservoir below without injuring irrigation in the least.

The CHAIRMAN. That is, it would have time to travel down to the lands to be irrigated after it is used for power purposes?

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Then it is your purpose to make a thorough investigation of all possible reservoir sites on the lower Colorado River, below the Grand Canyon?

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. And your present intention is to not make investigations up there in Colorado, Utah, or Wyoming, up at the headwaters?

Mr. DAVIS. Most of our investigations have been made up there, and we know some very good reservoir sites up there. They are important for irrigation in that region, and they are also valuable for power purposes.

Mr. TAYLOR. Of course, if our legislation ultimately contemplates reservoirs, of course we will have to have some adjustment or some understanding or some provisions that will be satisfactory to those States up there.

Mr. DAVIS. Yes, sir.

Mr. TAYLOR. For the use of that water in power and irrigation?

Mr. DAVIS. Yes, sir. And in consideration of the power value of those sites up there, it is important to have storage below the canyon, because there can be no question, no claim, on any water except what came down. Any water used above would unquestionably belong where it is used.

Mr. WELLING. Will not the hundreds of thousands of tons of silt that goes down there every year fill up your storage site?

Mr. DAVIS. It will in time, if not prevented.

Mr. TAYLOR. I was going to ask you, what about the sediment? To the members who have never seen that river I will say it is just a rolling mass of mud down there in that country a very large part of the time, and it must necessarily fill up a reservoir, even if the dam is a thousand feet high.

Mr. SMITH of Idaho. Has there never been any plan evolved to take silt out of these reservoirs?

Mr. DAVIS. Yes, sir. I will describe that here, if the committee wants to take the time.

The CHAIRMAN. Very well, Mr. Taylor's question also elicits that.

Mr. DAVIS. All these questions are on the same subject. We have built a large reservoir on the Rio Grande. There is a picture of the dam on the wall.

Mr. HERNANDEZ. Elephant Butte Dam?

Mr. DAVIS. Elephant Butte Dam; yes. That is the largest structure so far built by the Reclamation Service.

Mr. LITTLE. That is at El Paso?

Mr. DAVIS. About 300 miles above El Paso. And the Rio Grande is one of the muddiest rivers that flows. The capacity of the reser-

voir is over two and a half million acre-feet, and the solution of the mud problem that has been devised for that reservoir I consider applicable to the Colorado in the same way, and it is this:

In the first place we build a reservoir of large capacity so that it will be perhaps a century, at least half a century before sufficient mud is collected in the reservoir to seriously impair its value as a storage reservoir—that is, it has a surplus capacity built in advance. It is possible to build that dam higher, and that may be what will be done at that time. But the time will come, if the project is continued, when the accumulated sediment in that reservoir will reduce its capacity below the point that is necessary for the service of the lands below. That will mean in that case that there will be a long reservoir, 45 miles long, and most of the sediment will be deposited at the upper end, a large part of it, and a great deal of it above the water line, because when a river is in flood it backs up on account of the obstruction of the dam, and a very large capacity will be filled above the flow line of the reservoir.

Mr. LITTLE. Do I understand you to say that the mud, most of it, starts way above the dam?

Mr. DAVIS. All of it starts above the dam; yes, sir.

The CHAIRMAN. Where the water overflows—backs up?

Mr. LITTLE. Of course, it goes slowest when it gets to the dam, and isn't more mud deposited around the dam?

Mr. DAVIS. No; the large quantity is deposited all the way up and down there back of the dam.

Mr. TAYLOR. The water backs up there 5 or 6 miles where it is perfectly still, and the mud commences to drop as soon as it strikes that still water.

Mr. LITTLE. I had a lawsuit about it one time, and I found that most of the mud was deposited around the dam, according to the witnesses.

Mr. DAVIS. It has been our experience that where a stream carries sediment it begins to deposit it some distance above the dam. I can show you on the Pecos River, and on the Salt River, and at various other places, where there are large deposits of sediment at a higher elevation than the spillway of a dam where the water runs over, as much as 11 feet, which means that the water has been 11 feet over the top of that spillway. The water at the head of the reservoir was a little higher, enough to make it run.

The CHAIRMAN. Isn't one explanation that there is much more sediment being carried; that the farther up you go, the more sediment is being carried, and that is being reduced all the time—the percentage to draw from?

Mr. DAVIS. Whenever turbid, running water is checked it begins to deposit sediment.

Mr. LITTLE. How do you account for the fact that in a lawsuit that I had, which went to the Supreme Court—in fact, I have had five or six of them, and all the witnesses testified that there was more mud down at the dam than there was anywhere else?

Mr. DAVIS. I don't know what the circumstances were. That might have been true in that case.

Mr. TAYLOR. Was that Kansas mud?

Mr. LITTLE. It was just a mill dam in Kansas, a couple of them.

Mr. DAVIS. The time will come, of course, when the accumulated sediment in the reservoir, in spite of devices that will be used to dis-

charge part of the sediment—several devices to postpone the day have been devised, and I think will be carried out, but when the time does come, when the reservoir does not accomplish its purpose by reason of lack of capacity, it will exhibit that by running dry when it is needed. Whenever the reservoir runs empty the stream will cut down through the thread of the reservoir, a distance in that case of 45 miles, and carry out that mud were it runs out of the opening through the dam. It will carry out a large amount of mud whenever it is in that stage; that is, there will be no pond in the reservoir when the water is running through, and when that happens, when that time comes, we will build another reservoir, a smaller one, on the headwaters, where the stream is clearer, and then in handling those two reservoirs in conjunction we will always draw on the lower one whenever there is water in it. We will draw on that until it is empty, and then turn water out from above, and as the water runs through it will wash out a great big channel there.

The accumulated mud contributes a large amount of seepage all the time. It is thoroughly watersoaked and there is a great mass of swamp land, seepage land, and whenever the water goes down below the level it cuts a channel through. Freshly deposited mud cuts very easily and rapidly by running water, and whenever the reservoir is empty and water is being drawn from the natural flow of the river or from the reservoir above, it will cut out the sediment. Now, if that reservoir being handled in connection with the main reservoir is not sufficient, another can be built. There are small reservoir sites on the headwaters of the Rio Grande, as there are on the headwaters of the Colorado. The time is long in the future when they will have to be built, but they can be built at less cost than the lower ones, and serve in that way and eventually we will get a system of operation and a quantity of storage capacity which will maintain its equilibrium by cutting out the sediment as rapidly, on an average, as it is brought in by the flow of the stream.

Mr. SMITH of Idaho. If you have reservoir sites your plan is all right, but if you do not have reservoir sites up the river then the reservoir eventually becomes useless.

Mr. DAVIS. Yes, sir; we must have reservoir sites on the upper river in order to make that possible. That would be comparatively clear water.

The CHAIRMAN. It may be a century or half a century before they will need that reservoir.

Mr. DAVIS. Yes, sir.

Mr. LITTLE. How do they avoid the collecting of so much mud from the dams on the Nile so that they become useless?

Mr. DAVIS. In the Assuan dam on the Nile it is handled in this way: There are 187 large openings—gates—in the dam, and whenever the river is in flood they open all those gates. When the river is in flood it carries most of the sediment and they let all that flood water run to the ocean and while that is running through it is carrying its heavy load of sediment and it also cuts out previously deposited sediment. Then when the river is on a decline and is not carrying so much mud they close the gates and they still have enough water with which to irrigate.

The CHAIRMAN. Is that sediment still used along the Nile to fertilize the lands?

Mr. DAVIS. Yes, sir.

Mr. LITTLE. Is that the system used at the other dams on the Nile?

Mr. DAVIS. The other dams are simply low diversion dams that do not store any water. They are filled all the time; simply a channel through them. In the case of a diversion dam it does not matter if it does fill up. Laguna dam filled up with sediment the first year.

Mr. LITTLE. Now, I don't know what you mean by that. If they are filled up with sediment, of what use are they?

Mr. DAVIS. It simply diverts the river; it doesn't store any water; that is the case with the Laguna Dam.

Mr. LITTLE. There is one on the Nile below Cairo that has been there for 70 or 80 years, and part of the year it is closed up, and there must necessarily form some body of water there.

Mr. DAVIS. It is filled with sediment, though.

The CHAIRMAN. Now, Director Davis, you deem that the provisions of this bill will give them a more comprehensive report than anything that has yet been made in regard to surveys of the valley as one proposition; that is, taking it altogether, the other surveys—the information that you have gained from the other surveys has all been combined?

Mr. DAVIS. Yes, sir; the information existing has been well combined in the last report issued by this board, of which you have a copy.

I wanted to make another statement, Mr. Chairman, of the work that is necessary. Next to the investigation of storage, which is vital, in my opinion next in importance is an investigation of the soil. The Imperial-Laguna Mesa is a very large tract of practically unknown land, very sandy and difficult to travel over in an automobile, not because there is any brush in the way, because there isn't, but on account of the sand. The physical appearance is similar to the Yuma mesa and its formation is probably somewhat similar. We have examined the Yuma mesa fairly well, and we believe that to be good soil, although it greatly needs humus. But that is the only line that we have on the value of the Imperial-Laguna mesa. There should be a thorough investigation made of the physical and chemical characteristics of that soil before a vast amount of money is spent in irrigating it. It may be that some parts will have to be eliminated.

Another thing that ought to be investigated is the areas that can be irrigated feasibly by this canal system. Those areas have not been classified into irrigable and nonirrigable lands, and that should be done, so that we will know how large to build the canal and how much land we will have to draw on and the character of the land. Now, this soil survey is necessary for an intelligent classification of the irrigability of that land, how much of it is irrigable, and what class it belongs to, and whether it is first class or second class; and there are questions as to whether the various districts, Coachella district, will come in and cooperate, and so on.

The CHAIRMAN. You want to apportion off, though, the contribution that each agency will make if it does participate?

Mr. DAVIS. Yes, sir; this bill requires that, and that, of course, is one of the questions inseparably linked up with the one of who will

cooperate. That depends largely on what terms they can obtain. If they have to take a secondary water supply they will pay so much and if they take a first water supply they will pay so much.

Mr. TAYLOR. In that connection, the thought has been running through my mind here as to whether or not it would be advisable or whether we ought to embody in this bill something about the Secretary of State—ask him to join in negotiations with the Mexican Government about that condition down there, or is this entirely our own affair on our side of the border without any consideration of the people below us?

Mr. DAVIS. Of course it is impossible to eliminate the Mexican menace from this problem without some action. I don't believe that there is any necessity at the present time of covering that in the bill.

Mr. TAYLOR. It seems to me that it would be a good idea to make some definite arrangement, if we can have it, with the Mexican Government, that would be enforceable, and something that is tangible, so that we will know where we are at on this thing, so that we will not be shooting all the time in the dark, so far as Mexico is concerned.

Mr. SUMMERS. Let me call attention to section 2, which says that the secretary shall make a report to Congress not later than the 6th day of December, 1920, as to the result of his examination, together with his recommendation as to the feasibility, necessity, and advisability of the undertaking of the participation by the United States in a plan of irrigation development with a view of placing under irrigation the remaining unirrigated public and privately owned lands in that valley. Under that it seems to me that one secretary will have authority and will be supposed to call on the other where there was an international question involved.

Mr. HAYDEN. Mr. Davis, you spoke a moment ago about provision, which begins on line 25, page 2: "The proportion of the total cost that should be borne by the various irrigation districts, or associations, or other public or private agencies now organized, or which may be organized; and the manner in which their contributions should be made." Is it your understanding that that would require the Secretary of the Interior in making this report to definitely determine exactly the contribution that should be made by each organization, or would the secretary make only an approximate estimate?

Mr. DAVIS. I should think it would be merely a recommendation on his part, and that it would be subject to modification afterwards.

Mr. HAYDEN. It appears to me, the way it reads, to be a very rigid direction. The bill says that the said Secretary shall also report the proportion of the total cost that shall be borne by the various irrigation districts now organized or which may be organized, and the manner in which their contributions shall be made. If he made a finding to that effect, it certainly should be subject to review. It seems to me that the bill should read "the approximate amount," so that there would be a little leeway.

The CHAIRMAN. It says "in his opinion." That is a mere recommendation.

Mr. DAVIS. Yes; that is what I understand it to be.

Mr. HAYDEN. My idea is that it would be better to say "approximate proportion."

The CHAIRMAN. That is all it could be, anyhow, an approximation.

Mr. DAVIS. I suggest, Mr. Chairman, that in line 16, page 3, the words "at least" be inserted between "of" and "one-half," so that it will read: "Provision shall have been made for the payment of at least one-half the cost of the examination."

The CHAIRMAN. I think that is a good suggestion. It occurred to me when we were speaking of that before.

Mr. SUMMERS. Then you will have to modify that "one-half" to "not to exceed one-half" in the eleventh line of the same page.

Mr. HAYDEN. Make it "not to exceed one-half."

Mr. SUMMERS. That would make it specific as to the gross amount.

Mr. HAYDEN. There is one other question I wanted to ask Mr. Davis about the bill. On lines 3 and 4, page 2, it reads lands "which can be irrigated at a reasonable cost from known sources of water supply." Is there any other known source of water supply than the Colorado River and will not all the water be diverted at the Laguna Dam?

Mr. DAVIS. It would; there is possibly some well water that might be pumped. I don't know why that was so expressed.

Mr. HAYDEN. The idea I have is this: That the people of the Imperial Valley have in mind a definite proposition; that is, they want to connect their present irrigation system with the Laguna Dam; they want to get water from the Colorado River from no other source. It seemed to me it would be easier to explain the bill to all concerned if instead of saying "known sources of water supply" we would say, "which can be irrigated at reasonable cost from the Colorado River by diversion of water at Laguna Dam."

Mr. DAVIS. I think that would be better.

Mr. SUMMERS. What line is that?

Mr. HAYDEN. Lines 3 and 4, page 2.

Mr. BARBOUR. Might not that have the effect, Mr. Hayden, of restricting operations?

Mr. HAYDEN. If there was any other known source of water supply, I would say yes, but there is not.

Mr. BARBOUR. Then, if there is not, why change it?

Mr. HAYDEN. It is better always to state the concrete facts, if possible. Now, if there is, in Mr. Davis's opinion, any other known source of water supply, it might be necessary to use the broader terms, but since he has expressed the opinion that all that anybody intends to do is to connect the present irrigation system in Imperial Valley with the Laguna Dam, why not say so?

Mr. DAVIS. I don't see any objection to your suggestion. One thing that might occur to some is that water is carried to Volcano Lake, for example, from Colorado River, and then is carried from there into Imperial Valley.

Mr. HAYDEN. That would require the construction of canals in Mexico, which nobody intends to do.

Mr. DAVIS. Yes, sir.

Mr. SUMMERS. Doesn't this contemplate the headwaters of the Colorado, the Grand, or something of that kind? Isn't that what it indirectly refers to?

Mr. DAVIS. The storage might be up there but it does not contemplate any irrigation except the Imperial Valley.

The CHAIRMAN. "Known sources of water supply" includes storage with the other means. That includes storage.

Mr. DAVIS. I suppose that is what it was intended to cover.

The CHAIRMAN. I understand that is the signification of it—that is, that it includes storage.

Mr. DAVIS. Yes, sir.

Mr. SMITH of Idaho. Following out Mr. Hayden's suggestion, if I understand it, he wants to insert after the words "diversion of the waters of the Colorado River at Laguna Dam" the words "or from any other known sources of water supply." That would leave it open so you could get it from anywhere else.

Mr. HAYDEN. I want to make the terms of the bill perfectly clear so that the people who are most interested will not fail to understand that nothing else is contemplated except a connection with the Laguna Dam. Let them know that we had only that plan in mind.

There is also another question that I want to ask. It seems to me that in simply saying "the Imperial Valley," as it appears in several places in the bill, it might be construed that the bill applied to what is technically known as the Imperial Valley; that is, the land now irrigated in the Imperial irrigation district, while as a matter of fact the project will include the east mesa, the west mesa, and possibly the Coachella Valley, which are not now known as part of the Imperial Valley. It seems to me that where that term "the valley" or "Imperial Valley" is used, we should add the words "and adjacent thereto." For instance, in line 12, section 2, "the remaining unirrigated public and privately owned lands in said valley." We should add the words "and adjacent thereto" before the words "in connection with the modification improvement," and so forth.

Then at the end of section 3: "the storage recommended and the use of the stored water in the Imperial Valley." Would it not make it certain that stored water is to be used in the east mesa to add "and adjacent lands"?

Mr. DAVIS. It might. You refer to the question as to whether the mesa would be, and the Coachella Valley would be considered part of the Imperial Valley?

Mr. HAYDEN. Yes. Look on a General Land Office map of the United States and you will see that the term Coahuila Valley is used to designate the whole area sometimes called the "Colorado Desert," or the "Salton Sink." The term Imperial Valley means only that part of the Coahuila Valley which is now included within the Imperial irrigation district. What is really intended is to not only examine land within the Imperial irrigation district, but also adjacent lands on the two mesas, and in the Coachella Valley.

Mr. DAVIS. Yes, sir. I don't think anybody would question it, but it would not hurt anything to put that in.

The CHAIRMAN. The Imperial Valley—how is that properly understood? Is it not understood to comprehend all of those other lands, the mesa, and those adjacent lands?

Mr. DAVIS. That is the definition meant by this bill, of course.

The CHAIRMAN. The Coachella Valley also?

Mr. DAVIS. This bill so means it, but Mr. Hayden brings up the point that that might be disputed by somebody.

The CHAIRMAN. Well, what is the general understanding?

Mr. DAVIS. The Imperial Valley people are a better authority on that than I am.

Mr. ROSE. There is a division known as Imperial Valley and Coachella Valley, commonly spoken of as the land lying in Imperial County, of course, and Coachella Valley lies in Riverside County.

The CHAIRMAN. Does it not all lie in Imperial Valley?

Mr. ROSE. In speaking of the country in general it is generally spoken of as Salton Sink, or in those terms. It is not generally spoken of as Imperial Valley. What is spoken of as Imperial Valley is that land now under cultivation.

Mr. TAYLOR. Then we might just as well have Mr. Hayden's amendment go in there.

Mr. DAVIS. Yes, sir.

Mr. HAYDEN. Simply say: "In said valley and adjacent thereto."

The CHAIRMAN. It will not hurt anything to put in the words "lands adjacent."

Mr. SMITH of Idaho. Or "contiguous."

Mr. HAYDEN. No; the word "contiguous" means actually touching. "Adjacent" is the better term.

Mr. DAVIS. Are there any other questions from the gentlemen of the committee?

The CHAIRMAN. On the whole, you regard the enactment of this bill as useful in the determination of the question of what legislation should be afforded the valley, do you?

Mr. DAVIS. It certainly is. It is very wise to have it. I would prefer, of course, to have more comprehensive legislation, but in the absence of or the possibility of that, this certainly is very wise and very necessary, and removes one of the great arguments against more comprehensive legislation at the present time, and I want to give an illustration, Mr. Chairman, from my own experience and that of the whole country, to illustrate this.

I was connected with the investigation of the Nicaragua Canal route in 1897 and 1898. At that time that route had been largely exploited and favored all over the country for years, and the claim was made that very thorough information existed regarding it, that we knew exactly how much it would cost, and everything of that kind, and an attempt was made to get legislation through to build that canal right away—the Nicaragua Canal—but it did not pass. Legislation similar to this bill was passed providing for an examination by a board of engineers headed by Gen. Ludlow, the other members being Mr. Noble and Admiral Endicott.

They made an investigation with a trifling amount of money compared with the magnitude of the problem, and they found that the estimates were totally inadequate; that the scheme as proposed was totally inadvisable, in their opinion; that a great deal more information had to be obtained, and I think they recommended the appropriation of something like half a million dollars to investigate the Nicaragua Canal route. Congress made an appropriation, first of \$250,000 for that purpose and afterwards \$100,000 more. At any rate, there was \$350,000 in the two appropriations for that investigation of the Nacaragua Canal route, which was made by the Nicaragua Canal Commission under which I served.

The CHAIRMAN. Then, these engineers recommended a further appropriation, a further investigation with an appropriation of \$1,000,000 thereafter?

Mr. DAVIS. Half a million, I think. I don't remember how much they recommended, but \$350,000 was the amount appropriated, and that Nicaragua Canal Commission expended that money in investigations in Nicaragua and made an estimate of nearly double what had been previously estimated as the cost, and also proved beyond question that the entire scheme formerly approved and proposed by the Nicaragua Co. was infeasible absolutely. The high dam that they had proposed was not feasible for lack of foundation and other things of that kind. Then, it was thought that that information was absolutely sufficient. The people wanted the canal and they all favored a big appropriation for the Nicaragua Canal, and Senator Spooner introduced a resolution which prevented the passage of the bill, making appropriation of \$1,000,000 to investigate all Isthmian canal routes, and when asked, when that resolution was put in, whether that was a wise move or not, I said it was the wisest move possible under the circumstances, and events have proved that to be the case. That appropriation of \$1,000,000 was made; further investigations were made in Nicaragua, and investigations were made at Panama, with the result that it was found that Panama was the best place to build the canal, and that is where it has been built, and it has been exceedingly fortunate that those investigations were made before the country was committed to a canal in Nicaragua.

The CHAIRMAN. Then, from an engineering standpoint you regard it as a very wise precaution that this investigation be made?

Mr. DAVIS. Absolutely; yes, sir.

The CHAIRMAN. As provided by the bill?

Mr. DAVIS. Yes, sir; very important.

Mr. SMITH of Idaho. Mr. Director, how long would it take to make these investigations? Do you think it would be wise to defer this and have it come in in the sundry civil bill available on the 1st of July, or should it be made immediately available as soon as we can?

Mr. DAVIS. If it could be passed quickly, it would do some good to make it immediately available. If we were authorized at once to make an investigation, we could make a preliminary report in December; but it would probably take a few months longer to make a complete report.

Mr. SMITH of Idaho. If we get this bill through immediately so that you could go to work in 30 days, would that probably give you sufficient time?

Mr. DAVIS. Yes, sir.

Mr. SMITH of Idaho. To make a comprehensive report?

Mr. DAVIS. But beginning the 1st of July would not give us time enough.

There is this thought, **Mr. Chairman:** One of the most important things required is borings at the foundation of the high dam, as proposed in the Boulder Canyon, and it is not feasible to undertake those borings until after high water. It could be undertaken by the 1st of August.

Mr. TAYLOR. Ought we not to change this date from December to January?

Mr. SUMMERS. Make it the earliest feasible date; that would be better.

Mr. TAYLOR. I think it ought to be January, anyhow.

The CHAIRMAN. In fixing the date December 6 I did not want to put it over to another year. I did not want to go into 1921.

Mr. DAVIS. We can begin those borings in August, and if this appropriation passes undoubtedly by the 1st of December we can have very valuable information and probably settle the feasibility of that site; and I have no doubt we can give a valuable report in December, as called for in this bill. That may settle the feasibility, and we can give a still more valuable report in January, a month later.

Mr. WELLING. How many men do you expect to put to work on this project, Mr. Davis?

Mr. DAVIS. I don't know, sir. We would probably have a party of 30 or 40 in the surveys of the dam site and borings in the canyon, and then we would have other parties on the mesa investigating the soils, and other parties carrying out the surveys of the canals in greater detail.

The CHAIRMAN. Can not all of this work, Mr. Director, other than the investigating for reservoir sites, be disposed of any time that we get the money ready?

Mr. DAVIS. Absolutely. We could begin on that right away.

The CHAIRMAN. And will not a report on that practically determine what the legislation should be?

Mr. DAVIS. Yes, sir; that is true.

The CHAIRMAN. So that a report on that could be made by December 6?

Mr. DAVIS. In that view and for that purpose it would be very important to have this appropriation immediately available, if it can be passed soon.

Mr. SMITH of Idaho. Do you not think the appropriation should be a little larger than \$20,000 to do all the work and employ all the men you contemplate employing?

Mr. DAVIS. It would be better. If it were \$25,000 or \$30,000, on the supposition that Imperial Valley would put up twice as much as that—as they did the other time—we can make a pretty good investigation with this amount.

Mr. SUMMERS. There is one question I would like to ask. Doesn't this appropriation, and the work to be done—isn't it all hinged on that 6th day of December? Under this would you have authority to go ahead with investigations and so on, and spend money after the 6th day of December? I don't believe you would, so it seems to me that since we all desire this should be pushed along as rapidly as possible, but that it might not be handicapped at the last, that the reading "at the earliest feasible date" would be advisable.

Mr. DAVIS. I don't think this language would limit the expenditure of money to the 6th of December at all.

Mr. SUMMERS. This says "shall make report to Congress not later than the 6th day of December, 1920, of the results of his examination, together with his recommendation, as to the feasibility, necessity, and advisability of the undertaking," etc.

Mr. DAVIS. The secretary is required to make a report the 1st of December of every year on the reclamation fund, and nobody ever

question the authority to pay out more money after that report is made. I think this is practically the same thing.

Mr. SUMMERS. Well, that may be.

Mr. BARBOUR. It simply limits the time within which the report shall be made.

Mr. DAVIS. Yes, sir; it does not limit the time for making expenditures.

The CHAIRMAN. We can fix that so it will be flexible enough. It is very easy to fix that.

Mr. LITTLE. Mr. Chairman, if this bill appears to be the best that we can do, of course, we are all for it. The Chair has had some suggestions to improve the wording a little, and I hope he will do so. I am sorry we can not do more for the Imperial Valley now. I have received a telegram from there in regard to the bill which I will read in a moment, but in a general way I want to say a word, in view of what the Judge suggested as I came in, with regard to going before the Committee on Ways and Means.

I may say this on this bill, however: That if this bill is intended to have the Reclamation Service put in a lot of time finding out whether they can build a dam up on the Nevada line somewhere, and if this project is to wait on that, I would not consider it keeping faith with those people. There is plenty of water at Laguna Dam and Yuma Dam to supply this valley and everybody around there. We don't need to wait on any dam up in Nevada, and I trust that this bill is not prepared with the intent of stalling these people any longer. We have fooled away some time now, and eventually probably that will be very useful and probably necessary, though they would have gotten along pretty well as they have, walking on one leg, with the Laguna Dam, and if they get a little decent consideration they can take care of themselves.

Now, as to this Committee on Irrigation going before the Ways and Means Committee, I don't think it comports with the dignity of this committee or its utility for it to go rambling around after some other committee and telling them something that they don't know anything about and never will. If we have any views on irrigation, I think we should present them to the House and then let the Appropriations Committee of the House decide about it. Furthermore, the thought does not appeal to me particularly anyway, and I may say this in order to keep good faith with the committee, that if there is going to be an attempt of this committee to get \$250,000,000 this year for western irrigation that does not include and care for the Imperial Valley, I shall not consider myself bound to support it and reserve the right to oppose it.

Imperial Valley, as I understand it, is the greatest irrigation project, the most successfully irrigated district, in the United States. It has been done by poor people without any assistance from the Government of the United States. The Government of the United States, as near as I can learn, has done everything it could to destroy that project, to do those people all the harm it could. I think it is time for Congress to take hold of the matter and make some amends.

If we are going to spend \$250,000,000, this outfit that went in there, poor people, and accomplished something, more than any-

body else has accomplished; who have never had a nickel's worth from the Government—and the rest of them did have—and which has been greatly embarrassed by several departments of the Government, ought to have consideration. As to the question of Mexico, if you read the Elephant Butte decision by the Supreme Court of the United States, Mr. Taylor, you will find there isn't any question there to discuss at all. Mexico has no legal rights at all that would interfere in any way with the building of a project of the kind these people seek. There is nothing to that. The Supreme Court said it was the law anyway.

Now with these preliminary remarks I am going to read a telegram here from the Imperial Valley, which I received this morning. This gentleman is a soldier, too, and a member of the society, I believe, of Veterans of Foreign Wars, a man who has had very good experience for his country across the seas—the Pacific seas, though perhaps not the Atlantic. He was sent here as a delegate to represent those people the last time they were represented here, and he is a man of very high character, a settler, a farmer there. The last line here is a little personal in its nature, in the nature of personal comment, so I will not read that, but he says:

Although we see no reason to oppose the Kinkaid bill, yet we see no hope to be derived or obtained from such a measure, and would therefore have to look to some other source for relief for this great valley.

MIKE LIEBERT.

I think the committee will remember Mr. Liebert. He presented their case very fairly. Now I don't join with Mr. Liebert in his feeling that there is nothing to be derived from this. I have high hopes that it will be the beginning of a great move for this valley, to take care of them in a businesslike, sensible way, and I am going to support it upon that theory, the theory that the committee is in good faith, that the House will be in good faith, that Congress will be in good faith with those people down there who have done more for irrigation than anybody else in the United States, and who need some help worse than anybody else in the United States, and who have made themselves worthy of help.

Now with that proposition in view, with that understanding in view I am going to tell Mike Liebert that he is mistaken; that this does mean something; that he can derive some hope from it, and in my judgment there isn't any other way, unless it would be that they can hook on with some \$250,000,000 project to help a lot of people who have already been helped by millions and have never done anything for themselves without Government help, and who don't need it as the Imperial Valley does.

The CHAIRMAN. It is 12 o'clock, gentlemen. Mr. Rose, you wanted to be heard on this bill?

Mr. MARK ROSE. Yes; but it will take some little time for me.

Mr. SMITH of Idaho. I think we ought to hear Mr. Rose. How much time do you want? It seems to me we would continue the meeting this morning and finish it, so that at the next meeting we can report the bill out.

The CHAIRMAN. Well, we will hear you now, Mr. Rose.

STATEMENT OF MR. MARK ROSE, OF IMPERIAL VALLEY, CALIF.

Mr. ROSE. I have considerable land holding in the present irrigated area of the Imperial irrigation district, and also am interested both in land and in companies outside which are interested in an all-American canal.

The CHAIRMAN. You came here several months ago to work in behalf of the Kettner bill?

Mr. ROSE. No; I came here in behalf of the Imperial-Laguna Water Co., and was appointed after I came on by the Imperial irrigation district as a member of their committee to represent the district.

Mr. HAYDEN. Are you a member of that committee now?

Mr. ROSE. Yes, sir.

Mr. HAYDEN. By appointment from the board of directors of the district?

Mr. ROSE. No; I am not.

Mr. HAYDEN. They have revoked the commission formerly given to you?

Mr. ROSE. They have revoked the committee entirely, the former committee.

The CHAIRMAN. It is a new committee now?

Mr. ROSE. I suppose so; yes, sir.

The CHAIRMAN. And you are not a member of the new committee?

Mr. ROSE. No; I am not.

The CHAIRMAN. Now you are speaking in behalf of your own interests and some other interests?

Mr. ROSE. And the general interests of the valley, where I have been ever since the valley first started. I saw the first water come in there. Now, I have this objection to this bill, gentlemen: It appears to me that it is a delay that does not get us anywhere. Practically two years ago—in fact, considerably over two years ago—there was a large meeting held, at which Mr. Davis was present, in Imperial Valley, and Mr. Davis urged further investigation then, as he does now, and he thought that \$45,000 would probably make the necessary investigation, and I made a motion that that money be provided. If the Government put up one-third of it, all right; if they did not, that the valley put up the entire \$45,000, and it carried. We understood at that time that the report probably could be handed to us in six months.

However, it was handed to us in approximately 18 months. Now, that was the investigation on 60 miles of the canal route, and the money was immediately made available, so there was no delay, as this money will be if it goes on, no doubt. But the situation that I want to bring up is simply this, that you are asking to-day 10 months' delay. Now, that throws us into what? Into a short session of Congress. When Congress finishes this session it convenes again on the first Monday in December and is annihilated by law on the 4th day of March. Now, there is not, in my judgment, in my experience—and I have been here—well, I have had more or less close knowledge of Congress for the last five or six years. They do very little of this kind of work in those short sessions—just winding up things. Then

Congress would convene again under the law on the first Monday in December, 1921. Now, this might mean untold delay.

Here is another thing that the people have been told here, that the present system, if it was connected with Laguna dam, would do us no good. The bill you have here provides specifically for the investigation of the present system and the extension and enlargement, etc. The people of the Imperial Valley have got one thing in mind, and I think even the representative will say that, that is an all-American canal. There isn't a word in this investigation that comes back to that.

Now, there was something said on the soil investigation. I haven't it with me, unfortunately, because I would like to present it to this committee, but in 1902 and 1903 the United States Government made a very careful soil survey of Imperial Valley, and in that report—it is a Government document—they reported that two-thirds of Imperial Valley would not grow barley more than two years, and that it was a failure, and I would be glad to file it with you so that it can go into your record, that it was an absolute failure; that that country, at least two-thirds of it, would go back; that it would sprout nothing but barley, and none of it would sprout garden stuff; and they are producing more garden stuff there now than in any other spot of its size on the face of the earth to-day. Not one acre has gone back, either. Now, that report was made in 1902 and 1903. I took those documents into Mr. Kettner's office not long ago, and of course I can obtain them and get them here, because they are a Government document. That might spell something to you.

The CHAIRMAN. You contend that that report is not true, that it has been demonstrated that it was untrue?

Mr. ROSE. That is correct, absolutely.

The CHAIRMAN. Then, we don't want to slander the valley with it.

Mr. ROSE. Here is the situation, Judge: Supposing they would make another report exactly the same; wouldn't it offer an excuse against this? That is the situation. If the Government of the United States makes one such report against a country and it has to overcome it by a hard fight, does it invite another one?

Mr. SMITH of Idaho. This bill does not contemplate making any soil survey. There is nothing in here that provides for that.

Mr. ROSE. I think so.

Mr. SMITH of Idaho. Where is it?

Mr. ROSE. I think it says "investigations of the soil."

Mr. SMITH of Idaho. No; that is not in here. That was just an incidental remark by the director. In any event, it would come under another department.

Mr. DAVIS. I will have something to say about that when I get a chance.

The CHAIRMAN. You have had the benefit of experience in the growing of crops on this soil, and you know what it grows.

Mr. ROSE. Then, why spend the money? And the people of Imperial Valley have spent probably eighty or ninety thousand dollars on investigations in the last three or four years, and what they really are striving for all the time is not investigation; it is to do something. They don't get anything; they don't get anywhere.

Here is the situation: If you delay this a year, gentlemen, what have you got? There is water enough to irrigate the present area

now, and it is very doubtful if we started the all-American canal to-day that by the time it could be completed that Imperial would not be losing millions of dollars a year owing to the fact that interests south of the line are diverting the water. I see that Mr. Nickerson, president of the district, just the other day made a statement to a meeting in which he said that 50,000 acres, additional acres, will go in there this year. Now, if you delay this it simply means that at the last end another 50,000 acres in the Imperial Valley will have to go dry. If it came up on the 1st of December, we possibly would not lose much. I don't believe myself that Congress will pass any legislation this session; neither do I believe they will in the fall session—and I have watched the thing pretty closely. The people of Imperial Valley are very strongly in favor to-day of voting a \$30,000,000 bond issue and attempting this thing themselves, and I don't like the idea of putting into the hands of the allies of the Mexican interests in Imperial Valley an opportunity to say "let's wait." That is my principal objection to this bill.

Mr. Kibbey made the statement that Mr. McNabb said that the San Francisco banks would take these bonds at $5\frac{1}{2}$; we can even vote a 6 per cent bond if necessary, but we are going to lose millions of dollars on the last end if Imperial Valley delays the building of this canal if we should start to-day, if the present development keeps up south of the line, and I don't really see the need for further investigation of reservoirs, which my judgment is that we will not need if the all-American canal is built, for a great many years after it is completed—I see nothing to be gained by it, because it has been investigated and investigated and investigated. The people in the district first spent \$16,000 of their own money in 1914; the Imperial-Laguna Water Co. spent about \$25,000. The district and the Government spent \$45,000, and there have been various other surveys, and I don't see where the investigation is called for now.

Mr. SMITH of Idaho. Now, you have been in close touch with Mr. Mondell and other leaders in Congress, and you know that it is impossible to get any legislation other than this for the relief of the Imperial Valley?

Mr. ROSE. I think that is true, and I don't think this is a pledge, as has been stated, either. I believe, Mr. Smith, that that same thing will be more true the next session. I can see to-day a reason why they might favor the people over there, because it is a political year, but after election is over and Congress is going to be harder up for money than they are now—they will probably have to spend some of that money on passing appropriation bills which they would not otherwise pass if it was not a political year. My opinion is that they are going to be harder up for money and less apt to pass it afterwards than before, particularly in the short session of Congress.

Mr. SMITH of Idaho. If you want legislation and an appropriation by Congress, you must realize that before we can get a bill passed it is necessary to have some report from the Interior Department as to the engineering feasibility of the project.

Mr. ROSE. The Interior Department has spent, jointly with the Imperial irrigation district, Mr. Smith, \$45,000, and the Secretary of the Interior has reported favorably upon every bill here, and I

haven't heard a member of this committee raise that question until after it looked like the other bills were absolutely defeated. I haven't heard it raised anywhere, and I have spent some time on the matter; as I say, I was on the former delegation and spent months here, and I haven't heard that question of not sufficient data raised before. There has been a report made on the all-American canal, and it would no doubt serve the Imperial Valley if it was built, and I don't know that this anticipates going any further upon that investigation.

There have been at least two engineering boards reported on this canal. It was first reported on by a board composed of James Reagan, E. S. Alverson, and Charles G. Frisbie, for the Imperial-Laguna Water Co.; Mead, Grunsky, and Schleicht for this joint survey, and all of them have said it was feasible. They have not raised the question; the Secretary says it is feasible because of their report, and I doubt very much if we are getting anywhere by any further investigation.

Mr. SUMMERS. Let me ask you a few questions there.

Do you agree with the director that storage is necessary in the ultimate consummation of this plan?

Mr. ROSE. I think probably after the amount of land in cultivation has reached 800,000 acres, which is under cultivation, that possibly it will be. However, I think that depends very largely upon the development of the upper Colorado River. I think if the people on the upper Colorado River would put under irrigation another half million acres during the time we were putting that under irrigation it would not be necessary; but if they do not we will probably need some storage. The fact is that they don't irrigate up there at the time of the year that we are short, and the natural return from their irrigation comes back, and if they would put in another half million acres up there I am perfectly satisfied that the entire area in the United States to be covered by the all-American canal could be irrigated. But if that did not happen I think it would require storage.

Mr. Rockwood, who was on the river 26 years, made a report to the Imperial irrigation district—he was then engineer for the district—in 1915, in which he said that there would never be any possible shortage with a million acres under irrigation. I filed that report with the committee, but I don't know that I could go that strong. I believe, possibly, that with proper diversion you could get up to between eight and nine hundred thousand and be perfectly safe; and, as I said, if more irrigation is extended on the upper Colorado River and seepage becomes a little greater during the time they don't irrigate possibly we can reach a million acres without storage. But at least it will be several years after the all-American canal is built, because when you build a canal to cover new country it doesn't all go under irrigation at once. Imperial Valley has got 585,000 acres in its boundaries to-day. It started in 20 years ago, and it has got 400,000 acres of that—possibly 410,000 acres—under cultivation. So you see it is not all irrigated yet. It will take several years. They will probably irrigate fifty or sixty or seventy thousand acres the first year, then each year it will go slower. They will irrigate the nicest, smoothest land first, and after

that it will progress very much slower. So after you built the all-American canal you probably wouldn't have 250,000 acres under cultivation in less than 5 years and the other 250,000 acres in 15 years. It is slow. It is a different proposition from what you might imagine.

Mr. SUMMERS. But even if it is slow, Mr. Rose, you have to plan all the way through for the future before you spend \$30,000,000.

Mr. ROSE. Well, you have to plan for the future, that is very true; but my point was, Mr. Summers, that you have a great many years during the time you are constructing the all-American canal to plan, and there is nobody disputes at this time that there is sufficient water and that there are sufficient storage sites to store enough water to irrigate the entire area. So you have a number of years in which to run.

Mr. SUMMERS. I understood Director Davis to say that you get dangerously close to a shortage of water on the present area sometimes now.

Mr. ROSE. If the committee wanted to hear that I could go into it again and say this: That that is true in the month of September, but during that month Mexico is taking 36 per cent of the water which we divert. Now, we were irrigating 400,000 acres with approximately 64 per cent of the water. We were diverting that on American soil, and had we had that same amount of water it would have irrigated 200,000 acres more, properly handled, in months of July and August, when we had abundance of water in the river, any amount of it.

We were trying to put in this temporary weir, which you can't put in until the river recedes down to 20,000 second-feet, and it drops very rapidly, as the people who live on the Colorado know, and it takes two or three weeks to construct this dam, 900 feet in length, built of rock, and while they were getting the rock out there and dumping them we were two or three weeks without enough water, and then for a period of three or four days after it got to us, maybe there would be five or six thousand second-feet of water that would be used filling up sloughs and one thing and another; where if we had had normal use of water during the months of July and August we wouldn't have been using 2,000 second-feet of water, and we were diverting the entire river at that time. Probably we were not using over 1,500 second-feet of water on the American lands.

The CHAIRMAN. Now, Mr. Rose, I want you to finish your statement, but I want to hear Gen. Davis after you do finish, for just a few minutes, perhaps about the soil investigations.

Mr. SMITH of Idaho. I would like to ask Mr. Rose that it is impossible to get the Kettner bill or the Smith bill or any of these other bills that have been introduced enacted into law this session, do you think, in view of that fact it would be still better not to pass this bill and to do nothing?

Mr. ROSE. Well, I am very much inclined to think this bill has this tendency, gentlemen, of delay. Mr. Kibbey has said to you the people of the valley believe this is a pledge of Congress to pass the Kettner bill; that is the reason the people of Imperial Valley have indorsed this bill very largely; they are farmers and they believe that this Government is going to do it. I don't believe it is.

I believe if Imperial Valley understood the real situation as you people here understand it, as you gentlemen around this table understand it, they would immediately start to help themselves, and if you hold out an inducement to them that you are going to do something later on for them, without you are pretty sure that you are going to do it it is going to delay the situation for at least 12 or 14 months, and then they are going to find themselves in identically the same situation that they are in to-day.

The CHAIRMAN. Will you take the responsibility, Mr. Rose, of saying here, knowing that there will be no other bill recommended by the committee at this session, that we should do nothing at all with this bill and should drop the Imperial Valley proposition?

Mr. ROSE. I am on record, just as my statement here is, that I am opposed to it, gentlemen. I am willing to take any responsibility that appears to me to be necessary and the best thing for my people. I have no fear of responsibility. I am interested where I live and where my property is, in trying to find a solution to save that property, and I don't want to lose any time. I will answer the question frankly; I will take the responsibility and I am willing to go back and tell the people of Imperial Valley, and tell them why; I am willing to go back and tell them what I think of this situation absolutely. I always have done that and they know that is my way of doing business.

The CHAIRMAN. Now you represent whom?

Mr. ROSE. I answered that, but I represent to-day the Imperial-Laguna Water Co., and I represent myself as a landholder in Imperial Valley, and I have telegrams which I could read to this committee saying that the people of Imperial Valley were not in favor of this bill, although they thought the board of directors were cramming it down their throats.

Mr. SMITH of Idaho. You think it is possible for people in Imperial Valley to handle the situation without legislation from Congress?

Mr. ROSE. I do, absolutely.

Mr. SMITH of Idaho. You have changed your mind in reference to it?

Mr. ROSE. I don't know that I have. I told Mr. Kibbey when they came here two and a half months ago that I thought that would be the only relief Imperial Valley would ever get, would be for the valley themselves to handle it, because I have come to that conclusion and I have watched the situation pretty fairly closely.

The CHAIRMAN. If this bill is in good faith—

Mr. ROSE (interposing). I am not charging it is not in good faith, Judge.

The CHAIRMAN. But if it is in good faith and it is expected that Congress will act upon the report made next December, pursuant to the bill, and go along and pass legislation which the report will recommend, then you would not stand in the way of this?

Mr. ROSE. If I felt that Congress would pass the legislation according to the report, and it was a pledge on their part, as Mr. Kibbey said, to do it, I would not stand in the way of it, but I don't believe it.

The CHAIRMAN. Now, if there is nothing else, we will hear Gen. Davis.

Mr. ROSE. By the way, I would like to ask permission to file with this committee, whether you ever publish them or not, the soil reports if I feel like doing that.

Mr. SMITH of Idaho. I do not think that would be advantageous to the Imperial Valley to file that report and have it circulated around as a public document.

Mr. WELLING. It would not be advantageous to the fellow that made the report, but it would not hurt the valley.

Mr. ROSE. It would not hurt the valley, because it is too well known.

Mr. SMITH of Idaho. Intending settlers might read the report and be misinformed.

Mr. DAVIS. I think, Mr. Chairman, it is true that a soil report on the Imperial Valley was once made by one of the departments of the Government, not the department that I was in, but another, and it was made before I knew it was in progress, at all; that had some mistakes in it, but it is not true that all the land that they condemned is good land. There is a lot of land there that is not good land in the Imperial Valley, right around the town of Imperial, which was partly under cultivation when they were examining it, and that land to-day is not under cultivation—or was not the last time I saw it. There is a considerable area besides that, I am told—I don't know where it is, but I am told that there are about 20,000 acres of land in other places where there is alkali rising, and I know the land around Imperial that was in cultivation at that time and is now idle is some of the land that the Holmes report, which has been discussed here, referred to. Probably there are some errors in that report. I don't doubt it at all, but if you are going to condemn all future investigation because somebody has made a mistake, the report that Mr. Rose made on the Imperial Canal condemns all subsequent investigations. He made a report there that it could be built for a very small amount of money, only a fraction of what it would cost to build it. I don't criticize him nor his engineer for that. They did not have much information to base it on, but that doesn't mean that we don't want to know the facts because somebody has made a mistake regarding the facts. It means we must learn those facts. The same thing is true of the soil. The Imperial-Laguna Mesa has not been examined. There hasn't been a soil survey made of that land, and it is totally different in character, as everybody knows.

The CHAIRMAN. That contains how large an area?

Mr. DAVIS. I presume it is half a million acres in area; not all irrigable but a good deal of it is. There are probably three or four hundred thousand acres of irrigable land there, but we don't know how much.

The CHAIRMAN. That is irrigable by gravity?

Mr. DAVIS. Yes; but some of it could be pumped on, too.

Mr. WELLING. Gen. Davis, why do you say that it never has been examined? It may, according to that theory, be worthless. Still you come to us representing the Secretary of the Interior, recommending bills to water it all.

Mr. DAVIS. The soil has not been examined; but, as I said in my previous talk, I would like to see legislation go through providing for the all-American canal, because of the urgency of saving the Imperial Valley.

Mr. HAYDEN. That is, prior to building laterals from the all-American canal you would have time to examine the soil and find what was good land?

Mr. DAVIS. If the Kettner bill passes, proposing this entire proposition, I still think that one of the first things we should do under this bill is to make a soil examination, so as to classify the land, and the other things contemplated in this bill should be done then, and our plans could be corrected as we go along. We find that this information is insufficient, and Members of Congress object to buying a pig in a poke, to making an appropriation that has got to be spent on information to be obtained in the future. It will put that legislation in stronger shape to have that information available; it will put the district in stronger shape, if it has to finance itself, to have more information available. You can't get money put as readily on a proposition that is not thoroughly investigated as you can on one that is, if it turns out to be favorable.

The CHAIRMAN. Now, unless some one else wishes to make a further statement, the hour of adjournment has arrived.

Mr. ROSE. I have something more that I want to say. Mr. Davis intimated to this committee that the only lands those people condemned was a little spot around Imperial, on the east side. I want to file that report with this committee. I wish some of you gentlemen would look it over.

Mr. SMITH of Idaho. Bring it in and we will look at it.

Mr. HAYDEN. Mr. Chairman, why not perfect this bill and report it to the House if that is all that can be done?

Mr. BARBOUR. Why not meet in the morning for a few minutes? It is long after 12 o'clock now.

Mr. KIBBEY. I have just one word to say in reply to Mr. Rose's statement, that a telegram was received by me this morning from the Imperial irrigation district, which says:

You will please deny in strongest possible terms the statements made by Rose that the Imperial Valley can or will undertake to build the all-American canal without legislation, or in any wise without definite and certain Government control and assistance guaranteed by appropriate legislation.

That is signed by the Imperial irrigation district.

The CHAIRMAN. Do you want to answer that, Mr. Rose?

Mr. ROSE. The only answer I have to that is that I have seen Imperial Valley do that stunt several times. They ousted the board one time and gave them 15 minutes to get out, and if they want to build this canal the farmers will build it without any regard to the board.

The CHAIRMAN. This will close the hearings, gentlemen, and we are very much obliged to you, and we will now recess until 2.30 o'clock this afternoon.

(Whereupon, at 12.20 o'clock p. m., the committee recessed until 2.30 o'clock p. m. this day.)

COMMITTEE ON IRRIGATION OF ARID LANDS,
HOUSE OF REPRESENTATIVES,
Friday, March 5, 1920.

The committee met at 10.30 o'clock a. m., Hon. M. P. Kinkaid (chairman) presiding.

The CHAIRMAN. Gentlemen, I have called the committee together this morning for the purpose of hearing the draft of the report I have

been instructed to prepare in reporting out from the committee H. R. 12537, being a bill to provide for an examination and report on the condition and possible irrigation development of the Imperial Valley in California.

The report contains all the amendments suggested at our meeting of the 3d instant, and which I will now read.

If there are any omissions, corrections, or further suggestions regarding the report, we will now hear them and dispose of them.

Mr. BARBOUR. I think the report covers the ground thoroughly and should be the unanimous report of the committee.

The CHAIRMAN. I will submit this report to the Congress as the unanimous report of the committee at to-day's session.

[Report to accompany H. R. 12537.]

The Committee on Irrigation of Arid Lands, to whom was referred the bill (H. R. 12537) providing for an examination and report on the condition and possible irrigation development of the Imperial Valley in California, begs leave to report it back to the House with the following specified amendments, with the recommendation that the amendments be agreed to and as amended that the bill do pass.

The committee recommends the following amendments to the bill, namely:

1. On page 2, line 2, after the word "valley" insert "and adjacent thereto."
2. On page 2, line 4, after the word "supply" strike out the period and insert a comma, and thereafter the words "by diversion of water from the Colorado River at Laguna Dam."
3. On page 2, line 5, strike out the word "make."
4. On page 2, line 7, strike out the word "of" at the beginning of the line.
5. On page 2, line 12, after the word "valley" insert "and adjacent thereto."
6. On page 2, line 21, after the words "Imperial Valley" strike out the period and insert "and adjacent lands."
7. On page 2, line 25, after the word "the" and before the word "proportion" insert "approximate."
8. On page 3, line 11, after the word "pay" insert "not to exceed."
9. On page 3, line 13, strike out the words "not to exceed."
10. On page 3, line 16, after the word "of" insert "at least."

The bill as finally considered, passed upon, and approved by the committee with its recommendation that it do pass, is as follows:

" [H. R. 12537, Sixty-sixth Congress, second session.]

" [Omit the part struck through and insert the part printed in italic.]

" **A BILL** To provide for an examination and report on the condition and possible irrigation development of the Imperial Valley in California.

" *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to have an examination made of the Imperial Valley in the State of California, with a view of determining the area, location, and general character of the public and privately owned unirrigated lands in said valley which can be irrigated at a reasonable cost, and the character, extent, and cost of an irrigation system, or of the modification, improvement, enlargement, and extension of the present system, adequate and dependable for the irrigation of the present irrigated area in the said valley, and of the public and privately owned lands in said valley *and adjacent thereto* not now under irrigation, which can be irrigated at a reasonable cost from known sources of water supply, *by diversion of water from the Colorado River at Laguna Dam.*

" SEC. 2. That the said Secretary shall make report to Congress not later than the 6th day of December, 1920, of the result of his examination, together with his recommendation as to the feasibility, necessity, and advisability of the undertaking, or the participation by the United States, in a plan of irrigation development with a view of placing under irrigation the remaining unirrigated public and privately owned lands in said valley, *and adjacent thereto* in

connection with the modification, improvement, enlargement, and extension of the present irrigation systems of the said valley.

"SEC. 3. That the said Secretary shall report in detail as to the character and estimated cost of the plan or plans on which he may report, and if the said plan or plans shall include storage, the location, character, and cost of said storage, and the effect on the irrigation development of other sections or localities of the storage recommended and the use of the stored water in the Imperial Valley, and *adjacent lands*.

"SEC. 4. That the said Secretary shall also report as to the extent, if any, to which, in his opinion, the United States should contribute to the cost of carrying out the plan or plans which he may propose; the *approximate* proportion of the total cost that should be borne by the various irrigation districts or associations or other public or private agencies now organized or which may be organized; and the manner in which their contribution should be made; also to what extent and in what manner the United States should control, operate, or supervise the carrying out of the plan proposed, and what assurances he has been able to secure as to the approval of, participation in, and contribution to the plan or plans proposed by the various contributing agencies.

"SEC. 5. That, for the purpose of enabling the Secretary of the Interior to pay *not to exceed* one-half of the cost of the examination and report herein provided for, there is hereby authorized to be appropriated ~~not to exceed~~ the sum of \$20,000: *Provided*, That no expenditure shall be made or obligation incurred hereunder by the Secretary of the Interior until provision shall have been made for the payment of *at least* one-half the cost of the examination and report herein provided for by associations and agencies interested in the irrigation of the lands of the Imperial Valley."

The bill H. R. 12537 was referred to the Secretary of the Interior for his consideration and report thereon, and on February 25, 1920, Hon. Franklin K. Lane, Secretary, made the following report:

"DEPARTMENT OF THE INTERIOR,
"Washington, February 25, 1920.

"Hon. M. P. KINKAID,

"Committee on Irrigation of Arid Lands,

"House of Representatives.

"MY DEAR MR. KINKAID: I have your letter of February 18 transmitting copy of a bill, H. R. 12537, with request for report thereon. The bill is entitled as follows: 'A bill to provide for an examination and report on the condition and possible irrigation development of the Imperial Valley in California.'

"You state that the bill was introduced after a conclusion had been reached that neither the Kettner bill (H. R. 11553) nor anything like it could be passed at this session. The bill proposes to authorize an appropriation not to exceed \$20,000 under which no expenditure shall be made or obligation incurred until provision has been made for the payment of one-half the cost of the examination, provided by the bill, by associations and agencies interested in the irrigation of lands in the Imperial Valley.

"On February 16, 1918, I made a contract with the Imperial irrigation district providing for investigations, surveys, and cost estimates of an all-American canal from Laguna Dam, Arizona-California, into Imperial Valley, which contemplated an expenditure of \$45,000, of which the Imperial district furnished \$30,000. This report has just been printed and I inclose herewith a copy for the committee.

"This report was devoted largely to the engineering features of the proposition. The bill in question will authorize a more general study of the character of the lands and their availability for irrigation, together with a number of other important details regarding the feasibility, necessity, and advisability of the undertaking.

"In view of the conditions regarding the possibility of passing an appropriation for construction of the works as presented by the committee, it seems to me that the best thing which can be done at the present time to advance the interests of this proposition, which I regard as meritorious, would be to appropriate further moneys for the necessary investigations which would be preliminary to construction.

"I therefore suggest favorable action upon the bill.

"Cordially yours,

"FRANKLIN K. LANE, *Secretary.*"

It has been made to appear to your committee by an abundance of evidence that there exists urgent necessity for the relief of the present water users in Imperial Valley, Calif., from the serious obstacles with which they contend in securing water for the irrigation of their farms by the present imperfect system of carrying the water, first, by canal from the Colorado River in the State of California south across the international boundary line into the Republic of Mexico; thence by an old river bed west in Mexico for 60 miles, whereby physical control by American water users is suspended; thence north across the international boundary line into Imperial Valley, Calif. Imperial Valley water users have been and are obliged to deliver water to Mexican irrigators at nominal prices. It has also been necessary to construct and maintain expensive levees on the Mexican side to safeguard American holdings from being flooded, and additionally to pay exorbitant duties to the Mexican Government for conveying into the Republic the immense amount of American material used in the construction of such levees, as well as for all of the horses and mules and other property taken into Mexico for temporary use.

An acute condition has arisen between the patrons of the canal which supplies Imperial Valley and the water users of the Yuma Reclamation Project in Arizona by reason of the fact that in order to divert water by gravity from the Colorado River into the canal, the Imperial Irrigation District of California has annually, for the several years last past, found it expedient to construct at very great expense, during the period of low water, a temporary diversion dam, or wier, across the river, which to prevent disaster by flooding the Yuma water users, must be annually removed before the high-water period. But it is the opinion of reclamation engineers that the existence at any time of the wier dam imperials the safety of the Yuma project and property thereon; also the safety of the Laguna Dam, constructed by the Government, on account of the possibility of a sudden rise in the river, resulting in the flooding of the Yuma project and the backing of the water up the river against the dam.

It is contemplated that the solution of the problem is the building of an all-American canal, with the route through Mexico entirely abandoned, and surveys by competent engineers make that appear to be feasible.

Your committee is convinced of the great productivity of the soil in Imperial Valley and its exceptional merits as an agricultural proposition, with water properly applied to the planted and growing crops. On the irrigated lands in the Imperial Irrigation district, comprising about 430,000 acres, there was realized last year from the sale of their surplus productions over the local demand and home consumption, about \$60,000,000.

According to reliable estimates there remains in the Imperial Valley, irrigable lands not yet provided with water, 250,000 acres owned by the Government, and an equal amount in the hands of private owners, so that with all of the irrigable lands in the valley reclaimed, the area would amount to nearly a million acres.

While your committee is convinced there is a very pressing demand and necessity for relief to be afforded to the present water users in Imperial Valley, it is yet deemed a prudent precaution to require the investigation and report thereon, provided by H. R. 12537, for the better information of the Congress in the premises.

In conclusion your committee unanimously recommend the passage of H. R. 12537, when amended as herein suggested.

Whereupon, at 10.45 a. m., the committee adjourned.

APPENDIX.

The following is a tabulation of the receipts and shipments in carload lots of merchandise in and out of the Imperial Valley during the year 1919:

Imperial Valley.

CARLOADS RECEIVED.	CARLOADS RECEIVED—continued.
Automobiles -----	183 Seed barley ----- 6
Barley -----	34 Salt ----- 36
Brick -----	79 Sugar ----- 67
Beans -----	6 Seed ----- 8
Beverage and liquors -----	96 Wood ----- 72
Bags -----	17 Tractors ----- 32
Cement, lime, and plaster -----	287 Vegetables ----- 278
Cotton -----	113 Water ----- 23
Canned goods -----	84 Wire ----- 6
Coal and coke -----	17 Wool ----- 1
Cotton seed -----	221 Vehicles ----- 4
Cottonseed hulls -----	4 Wheat ----- 1
Cottonseed cake -----	4 Tires, auto ----- 2
Cottonseed oil -----	19 Tomatoes ----- 2
Emigrant -----	12
Flour -----	242
Fuel oil -----	27
Green fruit -----	9
Gasoline distillate -----	148
Grain -----	25
Hay -----	47 Alfalfa ----- 612
Implements -----	50 Asparagus ----- 25
Ice -----	1, 877 Automobiles ----- 5
Iron -----	2 Barley ----- 415
Lumber -----	1, 224 Barley, rolled ----- 1
Live stock -----	1, 020 Bones ----- 1
Lettuce -----	1 Bottles ----- 24
Merchandise -----	2, 280 Butter ----- 305
Miscellaneous -----	1, 022 Brick ----- 80
Milo maize -----	2 Cantaloupes ----- 7, 809
Manure -----	6 Cement lime and plaster ----- 1
Nails -----	1 Cotton ----- 1, 378
Oil and gasoline -----	917 Cotton linters ----- 19
Oats -----	4 Cotton seed ----- 1, 093
Pipe -----	9 Cottonseed hulls ----- 207
Paper -----	8 Cottonseed meal ----- 190
Potatoes -----	116 Cottonseed oil ----- 60
Posts -----	24 Cotton bolls ----- 19
Pea drums -----	11 Dredgers ----- 2
Plaster board -----	2 Emigrant ----- 23
Rice -----	44 Flour ----- 1
Stone, sand, and gravel -----	930 Grapes ----- 247
Shook -----	506 Grapefruit ----- 4
Rock -----	1 Honey ----- 31
Seed wheat -----	3 Hides ----- 1

CARLOADS SHIPPED—continued.

Ice	647
Implements	1
Junk	1
Live stock	2,263
Lettuce	919
Lumber	15
Manure	2,763
Miscellaneous	437
Merchandise	966
Milo maize	1,266
Oats	5
Onions	16
Oil	27
Ostriches	3
Pipe	1
Pears	12
Pumice	67
Peas, green	80

CARLOADS SHIPPED—continued.

Potatoes	2
Paper	1
Spinach	103
Stone, sand, and gravel	4
Straw	2
Shooks	23
Seed cotton	8
Sugar	1
Tomatoes	114
Vegetables	269
Watermelons	1,154
Wheat	544
Wool	11
Wood	3
Total carloads shipped from Imperial Valley, 1919	24,281

Gross value, 1919, Imperial Valley and Lower California farm products.

Alfalfa	\$220,000
Asparagus	56,000
Barley	986,040
Butter	3,377,000
Cantaloupes	9,208,000
Cotton	20,713,000
Cotton linters	22,000
Cotton seed	3,222,000
Cottonseed hulls	
Cottonseed meal	
Cottonseed oil	
Grapes	494,000
Grapefruit	8,000
Honey	260,400
Hides	10,000
Live stock	4,752,300
Lettuce	1,176,000
Manure	221,000

Miscellaneous	\$437,000
Merchandise	966,000
Milo maize	2,532,000
Oats	10,000
Onions	17,000
Pears	6,000
Pumice	67,000
Peas, green	295,000
Spinach	132,000
Tomatoes	57,000
Vegetables	132,500
Watermelons	276,960
Wheat	1,479,000
Wool	111,000
Cheese	105,339
Turkeys	160,000
Grand total	51,509,539

Acreage under cultivation, Imperial Valley, 1919.

UNITED STATES SIDE.

Alfalfa	108,762
Asparagus	464
Barley	66,860
Cotton	76,663
Cantaloupes	14,088
Grapes	1,201
Grapefruit	92
Lettuce	2,425
Milo maize	102,863
Onions	32
Oranges	13
Pears	5
Peas, green	180
Tomatoes	650
Vegetables	2,104
Wheat	25,234
Watermelons	654
Corn	8,930
Fruits	241
Miscellaneous	4,392
Rhodes grass	574
Potatoes	35
Apricots	12
Dates	40

UNITED STATES SIDE—continued.

Oats	120
Strawberries	8
Gum trees	65
Apricots	20
Sweet potatoes	9
Peas	40
Orchard	1,375
Total acres	418,151

MEXICAN SIDE.

Total acres (practically all in cotton)	136,580
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Grand total number of acres, both sides in- ternational boundary line	554,731
NOTE.—Irrigation district shows	588,250
This difference caused by water companies not reporting new land be- ing leveled for irrigation and cultiva- tion.	

Coachella Valley, 1919.

CARLOADS SHIPPED AND GROSS VALUE.

	Car-loads.	Value.		Car-loads.	Value.
Beans and peas.....	3	\$3,000	Merchandise.....	2	\$500
Cotton.....	5	125,000	Onions.....	425	459,000
Cotton seed.....	5	17,500	Pipe.....	1	
Emigrant.....	2		Sweet potatoes.....	4	1,600
Grapes.....	33	66,000	Stone, sand, and gravel.....	6	12,600
Grapefruit.....	1	1,000	Spinach and vegetables.....	87	87,000
Grain.....	2	3,800	Shooks.....	1	
Hay.....	10	3,600	Tomatoes.....	11	5,500
Iron.....	1		Wood.....	8	1,600
Ice.....	77		Water.....	18	
Live stock.....	9	18,000	Wheat.....	17	46,240
Manure.....	6	120	Dates.....		300,000
Miscellaneous.....	38	19,000	Total.....	782	1,175,060
Melons.....	4	4,000			

CARLOADS RECEIVED.

Automobiles.....	4	Merchandise.....	333
Brick.....	1	Manure.....	3
Bananas.....	2	Oil.....	51
Cement, lime, and plaster.....	35	Pipe.....	10
Date palms.....	6	Potatoes.....	1
Emigrant.....	1	Shooks.....	53
Flour.....	10	Stone, sand, and gravel.....	169
Grain.....	2	Salt.....	1
Hay.....	19	Sugar.....	2
Ice.....	8	Vegetables.....	1
Lumber.....	31	Well casing.....	2
Live stock.....	4	Total carloads received.....	870
Miscellaneous.....	121		

Imperial Valley, Year 1919.

Dairy cows.....	17,500	Date palms.....	trees	13,875
Young cows.....	5,000	Apricots.....	do	13,330
Steers on feed.....	44,300	Fig.....	do	9,330
Sheep, ewes.....	140,000	Olive.....	do	6,980
Lambs.....	90,000	Peach.....	do	2,725
Hogs.....	29,000	Pear.....	do	8,460
Poultry.....	dozen 10,572	Plum.....	do	1,501
Bees.....	stands 17,784	Lemon.....	do	2,240
Grapefruit.....	trees 43,975	Orange.....	do	7,170

The only items on which we have figured the value are the ones which we have knowledge of having been shipped out of the valley. Believe that fully \$5,000,000 should be added to the gross value of Imperial Valley crops, 1919. This to cover less-than-carload shipments which moved out of the valley by express or trucks, of which aim not in position to figure the value.

Shipments from Imperial and Coachella Valleys, season 1919.
[Carload lots.]

	Cantaloupes.				Grapes.				Water-melons.		Tomatoes.		Miscel-	Total.	
	Freight.		Ex-		Freight.		Ex-		Freight.		Freight.		Freight.		
	E.	W.	E.	W.	E.	W.	E.	W.	E.	W.	E.	W.	E.	W.	
Stations:															
Brawley.....	3,063	596	99	4	8	...	30	...	19	238	3	92	111	116	4,179
Calexico.....	222	27	...	...	5	35	...	1	16	58	3	...	...	...	310
Coachella.....	7	...	...	...	5	35	...	1	16	2	...	...	...	...	64
Calipatria.....	...	...	...	...	...	...	...	...	...	2	...	...	...	...	2
El Centro.....	1	2	...	...	10	...	34	...	3	178	1	...	...	...	229
Grape.....	235	24	...	...	5	...	3	...	1	41	2	...	...	...	311
Heber.....	805	202	14	...	2	...	31	...	16	87	2	...	...	...	1,159
Holtville.....	14	...	...	...	4	...	7	...	...	...	...	...	...	...	25
Imperial.....	583	71	11	...	1	...	19	...	4	120	...	...	...	...	809
Indio.....	5	11	...	...	...	...	...	...	7	158	5	...	...	...	5
Kimura.....	...	...	...	...	8	1	13	...	...	...	1	...	...	...	181
Meloland.....	...	...	...	...	5	...	15	...	...	...	9	...	...	...	23
Mecca.....	...	...	...	...	...	...	...	...	...	...	9	...	...	...	29
Poppy.....	360	49	...	...	...	...	...	...	...	11	1	...	...	...	421
Rockwood.....	292	9	...	...	1	3	7	...	7	135	1	...	...	...	443
Thermal.....	...	...	...	...	...	...	...	...	...	...	1	...	...	...	12
Westmoreland.....	888	215	...	...	...	...	...	...	6	38	...	3	7	42	1,156
Total.....	6,454	1,227	124	4	44	9	194	...	64	1,088	3	111	18	18	9,358
RECAPITULATION OF PREVIOUS YEARS' SHIPMENTS.															
1918.....	3,576	762	81	3	13	3	197	2	87	396	...	98	596	220	5,534
1917.....	4,009	891	83	8	53	2	106	1	54	440	...	77	32	5,756	
1916.....	3,716	823	72	6	112	10	50	3	125	593	...	114	1	30	5,655
1915.....	3,677	973	69	3	125	11	...	1	18	771	...	88	6	58	5,803
1914.....	3,636	756	55	1	112	30	37	4	6	465	...	20	9	4	5,135
1913.....	2,814	630	53	5	63	15	55	5	...	510	...	10	41	4	201
1912.....	2,243	604	40	...	87	20	31	...	...	296	...	...	...	...	3,321
1911.....	2,179	358	43	...	87	11	9	...	...	151	...	...	13	...	2,851
1910.....	1,196	382	43	...	77	...	1	...	...	...	...	...	...	...	1,699
1909.....	1,059	319	33	...	62	...	...	...	...	...	...	...	...	...	1,473
1908.....	1,464	396	31	...	20	...	...	...	...	...	...	...	...	...	1,911
1907.....	438	149	57	...	...	...	...	...	...	...	...	...	...	...	644
1906.....	406	134	37	...	...	...	...	...	...	...	...	...	...	...	577
1905.....	178	77	42	...	...	...	...	...	...	...	...	...	...	...	297

¹ Includes 1 casaba, 10 honey dews.² Includes 12 casabas, 4 honey dews.³ Includes 7 honey dews.⁴ Includes 2 honey dews.⁵ Includes casabas, which are shown separately on previous statements.

E.—East. W.—West.

Increase in live stock, crop acreages, and property values in Imperial County.

The following table is compiled from official reports of the State board of equalization, which are based on the annual census of county assessors:

	1910	1912	1914	1916	1918	1919
Total assessed property value.....	\$12,148,180	\$19,067,433	\$25,739,973	\$30,744,665	\$35,859,028	\$40,350,460
Field crops:						
Alfalfa.....acres..	32,703	85,000	109,653	95,562	98,274	196,040
Barley.....do.	43,573	116,000	71,915	83,540	69,761	75,292
Cotton.....do.	6,538	8,000	38,810	44,116	77,216	61,217
Cantaloupes.....do.	1,111	5,500	11,801	13,043	12,214	13,392
Milo.....do.	4,327	...	12,482	52,207	81,648	67,816
Wheat.....do.	...	...	...	1,866	9,050	37,288
Live stock:						
Cattle.....number..	14,063	42,238	43,896	61,920	59,622	72,563
Hogs.....do.	34,292	52,320	20,262	48,262	34,194	29,127
Sheep.....do.	14,825	21,508	11,972	35,843	47,595	107,886
Poultry.....dozen..	2,844	4,341	5,187	11,446	9,920	10,572

¹ Alfalfa, 125,000 acres. "In the alfalfa our showing is for old alfalfa only and does not take into consideration the alfalfa which is sown in 1919, which probably would be 25,000 or 30,000 more." (Wiley Weaver, Imperial County assessor.)

Other figures from the 1919 census are as follows:

A bird's-eye comparison of Imperial Valley.

		1900	1910	1919
Population.....		0	13,591	50,000
Assessed valuation.....		0	\$12,148,180	\$40,350,450
Value of products.....		0	\$5,000,000	\$50,000,000
Value of school property.....		0	\$270,978	\$1,116,030
Asparagus	acres	824	Bees	stands
Tomatoes	do	725	Apricots	trees
Lettuce	do	3,306	Figs	do
Beans	do	310	Olive	do
Onions	do	375	Peach	do
Potatoes	do	326	Pear	do
Melons (other than can-			Plum	do
taloupes)	do	1,280	Lemon	do
Oats	do	726	Orange	do
Sudan grass	do	786	Grapefruit	do
Rhodes grass	do	840	Date	do
Mules	number	4,845	Table grapes	acres
Horses	do	11,903		1,960

CALIFORNIA LAND SETTLEMENT ACT AS AMENDED IN 1919.

SECTION 1. The legislature believes that land settlement is a problem of great importance to the welfare of all the people of the State of California and for that reason through this particular act endeavors to improve the general economic and social conditions of agricultural settlers within the State and of the people of the State in general.

SEC. 2. The object of this act is to provide employment and rural homes for soldiers, sailors, marines and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the Central Powers and have been repatriated, and who have been honorably discharged, to promote closer agricultural settlement, to assist deserving and qualified persons to acquire small improved farms, to demonstrate the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement, and to provide homes for farm laborers.

To carry out the objects herein stated there is hereby created a State land settlement board to consist of five members appointed by the governor to hold office for a term of four years and until their successors have been appointed and shall have qualified: *Provided, however,* That of the members first appointed two shall be appointed to hold office until the 1st day of January, 1918, one until the 1st day of January, 1919, one until the 1st day of January, 1920, and one until the 1st day of January, 1921.

The governor shall designate one of the members as chairman of the board and director of land settlement. The secretary may or may not be a member of the board. The board shall appoint such expert, technical, and clerical assistance as may prove necessary, and shall define their duties. It shall fix the salaries of all employees, with the approval of the State board of control.

The four members of the board shall receive a per diem for each meeting attended, and the chairman shall receive a salary, said per diem and salary to be fixed by the State board of control, with the approval of the governor. The members shall also receive their actual necessary traveling expenses in the discharge of their duties.

The said land settlement board shall have power to cooperate with and to contract with the duly authorized representatives of the United States Government in carrying out the provisions of this act.

SEC. 3. The State land settlement board, hereinafter called the board, shall constitute a body corporate with the right on behalf of the State to hold property, receive and request donations, sue and be sued, and all other rights provided by the constitution and laws of the State of California as belonging to bodies corporate.

Three members of the board shall constitute a quorum and such quorum may exercise all the power and authority conferred on the board by this act.

Sec. 4. For the purposes of this act, the board may acquire on behalf of the State by purchase, gift, or the exercise of the power of eminent domain, all lands, water rights, and other property needed for the purposes hereof, and may take title in trust and shall without delay improve, subdivide and sell such land, water rights, and other property with appurtenances and rights to approved bona fide settlers; the board shall have the authority to set aside for townsite purposes a suitable area purchased under the provisions of this act, and to subdivide such area and sell or lease the same for cash, in lots of such size, and with such restrictions as to resale, as they shall deem best: *And provided further*, That the board shall have authority to set aside and dedicate to public use such area or areas as it may deem desirable for roads, school-houses, churches, or other public purposes.

Sec. 5. Whenever the board believes that private land should be purchased for settlement under this act, it shall give notice by publication in one or more newspapers of general circulation in this State, setting forth approximately the area and character of the land desired and the conditions that shall govern the proposed purchase, and inviting owners of land willing to enter into a contract of sale on the conditions proposed to submit such land for inspection.

* * * * *

Sec. 6. Within 30 days thereafter the board shall direct an officer or officers in its employ, or one or more persons who may at its request be designated by the dean of the college of agriculture of the University of California, to inspect and report on all tracts of land suitable for closer settlement which are so submitted.

Sec. 7. The board shall give not less than one week's notice of the approximate date when tracts submitted will be inspected and every report of such inspection shall as far as practicable specify the—

- (a) Situation and brief description thereof;
- (b) Extent and situation of land comprising so much of any tract as it is proposed to acquire;
- (c) Names and addresses of the owners thereof;
- (d) Character of water rights;
- (e) Nature of improvements;
- (f) Crops being grown on land;
- (g) Appraisement of value of land, water rights and improvements.

Sec. 8. On receiving the reports on all of the land examined the board shall decide which of the areas is best suited to the purposes of this act. Before so deciding the board may examine the land, or it may employ one or more competent valuers to fix the productive value of the land and report the same in writing; the owner or his agent may give evidence as to its value.

Sec. 9. If from the evidence submitted or from the results of its personal inspection, the board is satisfied that one or more of the tracts submitted are suited to intensive, closer settlement and can be acquired at a reasonable price, it shall submit to the governor its report, giving the reasons for recommending the purchase, and on the approval of the governor the board shall be authorized to purchase the same: *Provided*, That before such purchase is made, the attorney general shall approve the title of such lands and any water rights appurtenant thereto, and the State water commission shall certify in writing as to the sufficiency of any water rights to be conveyed.

Sec. 10. All sales to settlers of land under this act shall be made under such terms and conditions as shall give to the board full control of any subdivisions thereof until all moneys advanced by the State for the purchase, improvement, or equipment of such subdivisions are fully repaid, together with interest thereon as herein provided.

Sec. 11. Immediately upon taking possession of any land purchased as above, and after deducting any areas to be set aside for townsites or public purposes in accordance with section 4 of this act, the board shall subdivide it into areas suitable for farms and farm laborer's allotments, and lay out, and where necessary, construct roads, ditches, and drains for giving access to and insuring the proper cultivation of the several farms and allotments. The board, prior to disposing of it to settlers, or at any time after such land has been disposed of, but not after the end of the fifth year from the commencement of the term of the settler's purchase contract, may—

- (a) Prepare all or any part of such land for irrigation and cultivation;
- (b) Seed, plant, or fence such land, and cause dwelling houses and outbuildings to be erected on any farm allotment or make any other improvements not

specified above necessary to render the allotment habitable and productive in advance of or after settlement, the total cost to the board of such dwellings, outbuildings, and improvements not to exceed \$1,500 on any one farm allotment;

(c) Cause cottages to be erected on any farm laborer's allotment and provide a domestic water supply, the combined cost to the board of the cottage and water supply not to exceed \$800 on any one farm laborer's allotment;

(d) Make loans to approved settlers on the security of permanent improvements, stock, and farm implements, such loans to be secured by mortgage or mortgages, deed or deeds of trust on such permanent improvements, stock, or farm implements, and the total amount of any such loan, together with money spent by the board on improvements as above specified, not to exceed \$3,000 on any one farm allotment, or \$2,000 on any one farm laborer's allotment.

Sec. 12. Authority is hereby granted to the board, where deemed advisable, to operate and maintain any irrigation works constructed to serve any lands purchased and sold under the provisions of this act. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom, shall be deposited in the land-settlement fund created by this act and shall become available for the payment of any costs, expenses, or other charges authorized in this act to be paid from said land-settlement fund.

Sec. 13. After the purchase of land by the board under the provisions of this act and before its disposal to approved bona fide applicants the board shall have authority to lease such land or a part thereof on bonded or secured lease on such terms as it shall deem fit.

Sec. 14. Lands disposed of under this act, other than lands set aside for town-sites or public purposes, shall be sold either as farm allotments, each of which shall have a value not exceeding, without improvements, \$15,000, or as farm laborers' allotments, each of which shall have a value not exceeding, without improvements, \$1,000. Before any part of an area is thrown open for settlement there shall be public notice thereof once a week for four weeks in one or more daily newspapers of general circulation in the State, setting forth the number and size of farm allotments or farm laborer's allotments, or both, the prices at which they are offered for sale, the minimum amount of capital a settler will be required to have, the mode of payment, the amount of cash payment required, and such other particulars as the board may think proper and specifying a definite period within which applications therefor shall be filed with the board on forms provided by the board. The board shall have the right in its uncontrolled discretion to reject any or all applications it may see fit and may readvertise as aforesaid as often as it sees fit until it receives and accepts such number of applications as it may deem necessary.

If no applications satisfactory to the board are received for any farm allotment or farm laborer's allotment following such advertising, the board at any time prior to readvertising, may sell any such farm allotment or farm laborer's allotment at the prices at which they were so offered for sale, without the necessity of readvertising.

The board shall also have the power in dealing with any such farm allotments or farm laborer's allotments for which there has been no such application satisfactory to the board, to subdivide or amalgamate any one or more of such allotments as it may see fit, and fix the prices thereon, provided that the limitations of \$15,000 for a farm allotment and \$1,000 for the farm laborer's allotment, as in this section set forth, are not violated. Such subdivision or amalgamation may be had without the necessity of readvertising.

The board may also sell at public auction, under such conditions of sale and notice thereof as the board may prescribe, any areas which the board may determine are not suitable for farm allotments or farm laborer's allotments, whether or not included in any subdivision into farm allotments or farm laborer's allotments: *Provided*, That if such area has been included in such a farm allotment or farm laborer's allotment, then such sale at public auction can be made only after a failure to receive any application satisfactory to the board after the advertising thereof, as required by the terms of this section.

Sec. 15. Any citizen of the United States, or any person who has declared his intention of becoming a citizen of the United States, and who is not the holder of agricultural land or of possessory rights thereto to the value of \$15,000, and who by this purchase would not become the holder of agricultural land or of possessory rights thereto exceeding such value, and who is prepared to enter within six months upon actual occupation of the land acquired, may

apply for and become the purchaser of either a farm allotment or a farm laborer's allotment; *Provided*, That no more than one farm allotment or more than one farm laborer's allotment shall be sold to any one person; *Provided, further*, That no applicant shall be approved who shall not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for.

The board may, in offering for sale farm allotments or farm laborer's allotments, cooperate or contract with the duly authorized representatives of the United States Government and other public corporations or agencies generally. The board is hereby authorized to perform all acts necessary to cooperate fully with the agencies of the United States engaged in work of similar character, and with similar boards and agencies of other States. In any such sales made in cooperation with such representatives or agencies of the United States Government preference must be given to soldiers, sailors, marines, and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in Allied Armies against the Central Powers, and have been repatriated, and who have been honorably discharged. The board may likewise, whether or not acting in cooperation with the duly authorized representatives of the United States Government, give such preference to any of such citizens of California, who as soldiers, sailors, marines, and others have served with the armed forces of the United States, as in this section described.

SEC. 16. Within 10 days after the final date set for receiving applications for either farm allotments or farm laborer's allotments the board shall meet to consider the applications, and may request applicants to appear in person: *Provided*, That the board shall have the power and the uncontrolled discretion to reject any or all applications.

SEC. 17. The selling prices of the several allotments into which lands purchased under this act are subdivided, other than those set aside for townsite and public purposes, shall be fixed by the board, so as to render such allotments as nearly as possible equally attractive, and calculated to return to the State the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving, subdividing, and selling such lands, including the payment of interest, and all costs of engineering, superintendence, and administration, including the cost of operating any works built, directly chargeable to such land, and also the price of so much land as shall on subdivision be used for roads and other public purposes, and also such sum as shall be deemed necessary to meet unforeseen contingencies.

SEC. 18. Every approved applicant shall enter into a contract of purchase with the board, which contract shall among things provide that the purchaser shall pay as a cash deposit a sum equal to 5 per cent of the sale price of the allotment and in addition not less than 10 per cent of the cost of any improvements made thereon, and such applicant shall, if required by the board, enter into an agreement to apply for a loan from the Federal land bank under provisions of the Federal farm-loan act for an amount to be fixed by the board, and shall pay to the board the amount of any loan so made as a partial payment on such land and improvements. The balance due on the land shall be paid in amortizing payments extending over a period to be fixed by the board, not exceeding 40 years, together with interest thereon at the rate of 5 per cent per annum. The amount due on improvements shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding 20 years, together with interest thereon at the rate of 5 per cent per annum. The repayment of loans made on live stock or implements shall extend over a period to be fixed by the board not exceeding five years; *Provided, however*, In each case, that the settler shall have the right, on any installment date, to pay any or all installments still remaining unpaid.

SEC. 19. The number and amount of yearly or half yearly installments of principal and interest to be paid to the board under contracts of purchase shall be calculated according to any table adopted or approved by the Federal Farm Loan Board.

SEC. 20. Every contract entered into between the board and an approved purchaser shall contain among other things provisions that the purchaser shall cultivate the land in a manner to be approved by the board and shall keep in good order and repair all buildings, fences, and other permanent improvements situated on his allotment, reasonable wear and tear and damage by fire excepted. Each settler shall, if required, insure and keep insured against fire all buildings on his allotment, the policies therefor to be made out in favor of the

board and to be in such amount or amounts and in such insurance companies as may be prescribed by the board.

The board shall have power in its own name to insure and keep insured against fire all buildings or other improvements on any of the lands under the control of the board, and any contract of insurance heretofore made by the board is hereby ratified and confirmed. The board shall likewise have the power in any contract of purchase under which the board purchases lands as authorized in this act, to provide for the return by the board to the owner so selling to the State of any insurance premiums or taxes which may have been paid on said property by such owner, or for which such owner may have become obligated to pay, and any such agreement or contract of purchase heretofore made by the board is hereby ratified and confirmed.

SEC. 21. No allotment sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet in whole or in part, without the consent of the board given in writing, until the settler has paid for his farm allotment or farm laborer's allotment in full and complied with all of the terms and conditions of his contract of purchase.

SEC. 22. In the event of a failure of a settler to comply with any of the terms of his contract of purchase and agreement with the board, the State and the board shall have the right at, its option, to cancel the said contract of purchase and agreement and thereupon shall be released from all obligation in law or equity to convey the property, and the settler shall forfeit all right thereto and all payments theretofore made shall be deemed to be rental paid for occupancy. The board may require of the settler such mortgage or deed of trust or other instrument as may be necessary under the terms and conditions of the contract of purchase in order to adequately protect and secure the board. There may be included in such contract of purchase, mortgage, deed of trust, or other instrument any conditions with reference to sale of the property or reconveyance back to the board or notice of such sale or reconveyance as may in the discretion of the board be required to be so included in such contract of purchase, mortgage, deed of trust, or other instrument, in order to so adequately protect the said board in the premises; and any such contracts of purchase, mortgages, deeds of trust, or other instruments heretofore executed are hereby confirmed. The failure of the board or of the State to exercise any option to cancel, or other privilege under the contract of purchase for any default shall not be deemed as a waiver of the right to exercise the option to cancel or other privilege under the contract of purchase for any default thereafter on the settler's part. But no forfeiture so occasioned by default on the part of the settler shall be deemed in any way, or to any extent, to impair the lien and security of the mortgage or trust instrument securing any loan that it may have made as in this act provided. The board shall have the right and power to enter into a contract of purchase for the sale and disposition of any land forfeited as above provided, because of default on the part of a settler, and this right may be exercised indefinitely without the necessity of advertising.

SEC. 23. Actual residence on any allotment sold under the provisions of this act shall commence within six months from the date of the approval of the application and shall continue for at least eight months in each calendar year for at least 10 years from the date of the approval of the said application, unless prevented by illness or some other cause satisfactory to the board: *Provided*, That in case any farm allotment disposed of under this act is returned to and resold by the State, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

SEC. 24. The power of eminent domain shall be exercised by the State at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams, and reservoirs necessary or desirable for carrying out the provisions of this act; and on request of the board the attorney general shall bring the necessary and appropriate proceedings authorized by law for such condemnation of said water rights or rights of way, and the cost of all water rights or rights of way so condemned shall be paid out of the land settlement fund hereinafter provided for. The board shall have full authority to appropriate water under the laws of the State when such appropriation is necessary or desirable for carrying out the purposes of this act.

SEC. 25. For the purpose of carrying out the provisions of this act the sum of \$260,000 is hereby appropriated out of any moneys in the State treasury not otherwise appropriated. Of this amount, the sum of \$250,000 shall constitute a revolving fund to be known as the "land-settlement fund," which is calculated to be returned to the State with interest at the rate of 4 per cent per

annum within a period of 50 years from the date of the passage of this act, on the daily balances representing the amounts drawn out of such fund and thus depleting the fund to an amount less than said sum of \$250,000, which said daily balances shall be so calculated only on the amounts so drawn out of such fund, from the date of the passage of this act. The remaining \$10,000 shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purposes from the sales of land as provided for in this act.

SEC. 26. The State board of control is hereby auhtorized to provide for advances of money to the board needed to meet contingent expenses to such an amount, not exceeding \$5,000, as the said board of control shall deem necessary.

SEC. 27. The money paid by settlers on lands, improvements, or in the repayment of advances shall be deposited in the land-settlement fund and be available under the same conditions as the original appropriation.

SEC. 28. The board shall have authority to make all needed rules and regulations for carrying out the provisions of this act.

SEC. 29. The board is hereby authorized to investigate land settlement conditions in California and elsewhere and to submit recommendations for such legislation as may be deemed by it necessary or desirable.

The board shall render an annual report to the governor and a copy thereof to the Secretary of the Interior, which report shall be filed and printed as required by sections 332, 333, 334, 336, and 337 of the Political Code, with the exception that they shall be so filed and printed annually instead of biennially, as provided in said sections.

SEC. 30. The act of the legislature entitled "An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits and making an appropriation therefor," approved May 17, 1915, is hereby repealed.

SEC. 31. This act may be known and cited as the "land settlement act."

For the purpose of carrying out the provisions of this act and of the act amended by this act the sum of \$1,000,000 is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, which sum of \$1,000,000 is calculated to be returned to the State within a period of 50 years from the date of this appropriation of \$1,000,000 going into effect, with interest at the rate of 4 per cent per annum on the daily balances representing the amounts drawn out of such appropriation, and thus depleting the appropriation to an amount less than said sum of \$1,000,000. The State controller is hereby authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the State board of control, and the State treasurer is hereby authorized and directed to pay such warrants.

The following communications were referred to the committee and made part of the record:

IMPERIAL IRRIGATION DISTRICT,
El Centro, Calif., November 28, 1919.

Hon. MOSES P. KINKAID,

Chairman Arid Lands Committee,

333 House Office Building, Washington, D. C.

DEAR SIR: A committee of five members has been appointed by the Imperial Irrigation District to go to Washington on behalf of the district to urge the passage of Kettner bill (H. R. 6044), and to supplement the work done by the former committee.

The substitution of new members to the committee for those having served last summer is not significant of a change in policy of the work outlined by the former committee, but merely a means of equalizing the responsibility and burden attached to such work. The time given to this work by the members is gratis, and their personal business affairs would not permit the unlimited time required.

Certain amendments will be presented to the Arid Land Committee affecting the disposal of public lands under the principle of State and soldier land settlement and to provide sufficient waters therefor.

This status of principles of the latter committee is identical with those of the former, including the amendments mentioned, and at the request of Mr. Libert take this occasion to so inform you.

The members of the last committee named are Mr. J. S. Nickerson, president Imperial Irrigation District; Mr. R. D. McPherrin, director of Imperial Irrigation District; Mr. O. N. Shaw, member of former committee; Mr. Walter Kibbey, representing the district, also the American Legion; and Mr. Arthur M. Nelson, representing the district and the American Legion.

Yours, very truly,

J. S. NICKERSON, President.

MORT RIESER Co.,

El Centro, Calif., January 17, 1920.

Hon. RICHARD YATES, M. C.,

Washington, D. C.

DEAR SIR: As a former resident of Chicago, having been born at Thirty-second and Prairie Avenue, worked in my younger days for Morris & Co. in the stockyards, and having served in the First Regiment, National Guard, under former Capt. Al Lott and Lieut. Able Davis, and being now a resident of Imperial Valley, Calif., I am taking the liberty of writing you in the interest of the passage of the Kettner all-American canal bill (H. R. 11533), and trust you will give it due consideration for the benefit not only of Imperial Valley, but the country at large, as in times of stress it has been demonstrated that ultimately Imperial Valley can feed the United States, providing we get the additional acreage under cultivation that is now lying idle.

Thanking you for your courtesy, I am,

Yours, very truly,

MORT REISER.

EDISON ELECTRIC APPLIANCE Co. (INC.),

Chicago, Ill., January 19, 1920.

Mr. RICHARD YATES,

House of Representatives, Washington, D. C.

DEAR SIR: Our attention has been called to the Kettner bill, H. R. 6044, providing for the temporary financing of a canal designed to tap the Colorado River for irrigation purposes and give relief to the people of Imperial Valley, Calif., from the dependence they are now under to the Mexican Government for water supply to irrigate their lands.

This seems entirely a meritorious project and one that should have the approval of all good Americans, and having taken this view of the situation, we certainly are very much interested in seeing this measure supported, and if you can consistently do so, we would appreciate your action.

Very truly yours,

JNO. S. ROONTREE,
Assistant to President.

AMERICAN LEGION,

ARGONNE POST No. 14,

Rockville, Conn., January 20, 1920.

Congressman AUGUSTINE LONERGAN,

Hartford, Conn.

DEAR SIR: We have received resolutions from El Centro Post No. 25, of the American Legion of California, regarding a bill now before Congress, H. R. 6044, which is to create a soldier settlement in Imperial Valley, Calif., and to construct a canal from the Colorado River to irrigate such lands. The measure has the indorsement and support of the National American Legion, the California State American Legion, and the posts of Imperial Valley, all of which are usging its passage by Congress.

The bill is the first specific legislation asked by the legion from Congress which is in the nature of recognition of service rendered during the World War, and will serve as a valuable precedent if passed. It will furnish homes and create farms for between 5,000 to 10,000 former service men in one of the richest agricultural sections of the United States, under terms which can be easily met by the recipients. The land will be open to former service men in any State, and naturally our interest in the bill is as great as that of the people of California.

We ask that you vote for this bill, and do what you can to put it through. As Americans and members of the American Legion of Connecticut, we ask that you do what you can to help us, and as speedily as possible.

Very sincerely, yours,

ARGONNE POST NO. 14,
Rockville, Conn.
S. B. POLENSKA, Adjutant.

BEVERLY HILLS REALTY CO.,
Beverly Hills, Calif., January 29, 1920.

Hon. MOSES P. KINKAID,

Washington, D. C.

MY DEAR SIR AND FRIEND: I note by the Congressional Record that the Committee on Irrigation is still in good hands, and I wish to congratulate you on this fact.

I am writing you, to call your attention more particularly to what is known as the all-American canal, for the Imperial Valley.

This is for several reasons a very important matter. First, it will furnish water to irrigate 400,000 acres of land that can not be supplied with water from any other source.

Irrigated, this is very valuable land, without water it has practically no value. Land of like quality under irrigation and culture now rents for as high as \$50 per acre annual rental.

Under irrigation this land will furnish homes for many people, under exceptionally favorable conditions and produce a vast amount of food and also much raw material for manufacturing purposes.

The extent of the near-by markets, will make it an easy matter for the settlers on this land to pay the Government the assessments necessary to the refund of the money necessarily employed in its reclamation and leave them a nice margin of profit besides.

There are many advantages in such settlements of prosperous people that you realize as much as I do.

I fully believe that the Government can not afford to not avail itself of such an opportunity, to place so large a number of its citizens in a position to produce surplus food.

I hope that you and the full committee will get behind this project and push it through.

Please give my best wishes to any of the old crew as you meet them.

Sincerely, yours,

W. A. REEDER.

SOUTHBINGHAM, CONN., February 19, 1920.

Mr. AUGUST E. LONERGAN, M. C.,

Washington, D. C.

HONORABLE SIR: By the direction of the members of Kiltonic Post No. 72 of the American Legion, I herewith address you in the interest that they have to bill now before Congress, bill H. R. 6044, which is to create a soldier settlement in Imperial Valley and to construct a canal from the Colorado River to irrigate such lands.

As this is an ex-service man's proposition anything that you can do to further it will be appreciated by us. Thanking you for the interest that you will take in this matter, I am,

Very truly, yours,

ALLAN G. UPSON,
Adjutant Kiltonic Post No. 72.

The following list of stockholders was submitted by Mr. Mark Rose and ordered to be made part of the record:

LIST OF STOCKHOLDERS IN IMPERIAL LAGUNA WATER CO. AS GIVEN BY ITS SECRETARY
IN TELEGRAM TO MR. MARK ROSE, DATED EL CENTRO, CALIF., FEBRUARY 5, 1920.

Mark Rose, Holtville, farmer.

W. F. Gillette, Holtville, farmer (has one soldier boy: owner of school land).

F. G. Havens, Los Angeles, business man (owner of school land).

H. A. Havens, El Centro, policeman (owner of school land).

E. E. Bennett, Long Beach, real estate (has one soldier boy).
 C. D. Hartshorn, Holtville, farmer (has one soldier boy).
 E. E. Forester, El Centro, farmer (has two soldier boys).
 Lamar Holt, Holtville, farmer (recent soldier).
 J. G. Hamilton, El Centro (retired from business).
 Lester Bornt, Holtville, farmer.
 Mary Bornt, sister of Lester Bornt.
 Myra Bornt, mother of Lester Bornt.
 Hugh J. Crawford, El Centro, farmer (recent soldier).
 Estella M. Huebner, Holtville, wife of clerk.
 M. O. King, El Centro, business man.
 Charles G. Frisbie, Claremont, engineer, formerly of Imperial Valley, chief engineer of the company.
 A. J. Leonard, Holtville, farmer.
 Jasper L. Travers, El Centro, contractor.
 Anna M. Griffith, Holtville, wife of farmer.
 C. B. McCullough, Holtville, plumber (recent soldier).
 A. B. Cravath, Holtville, farmer.
 Ernest Edwards, Holtville, farmer.
 Anna M. Golden, Buena Park, wife of grocer.
 E. J. Norrish, Holtville, farmer (has one soldier boy).
 Nettie H. James, Holtville, farmer.
 Mazie Shaw, Holtville, wife of former supervisor and farmer.
 Paul J. Lehmer, Los Angeles, railroad man.
 Irene L. Brooks, El Centro, daughter of supervisor and farmer.
 William V. Willson, Imperial, clerk.
 Edward Accomazzo, Los Angeles, retail meat market.
 C. L. Gillette, Holtville, farmer.
 Jessie Poston, El Centro, wife of deceased farmer (has soldier son).
 Clara Pancake (address unknown), school-teacher.
 T. J. Thompson, Brownsville, Tex., farmer, formerly of Imperial Valley.
 Ernest Poston, El Centro, farmer (has one soldier boy).
 George Henry Banta, El Centro, attorney (recent soldier).
 J. Roy Wimp, Bakersfield, stock buyer.
 Ida May Walldrip, Holtville, wife of farmer.
 Thomas W. Pendleton, Holtville, farmer.
 W. E. Wyeth, Calexico, clerk.
 C. E. Hackelman, El Centro, clerk.
 Elmer W. Toney, Yuma, Ariz., business man.
 A. H. Smithson, Holtville, farmer.
 W. D. Acrey, Wichita Falls, Tex. (business unknown), formerly of Imperial Valley.
 C. M. Berry, El Centro, office man (has one soldier boy).
 S. W. Stewart, Imperial, clerk.
 Max D. Rookledge, Los Angeles, business man, formerly of Holtville, Calif.
 Cora Potter, Holtville, nurse.
 David A. Stevens, Holtville, physician.
 William Kuns, Holtville, farmer.
 J. W. Hough, Claremont, orange grower.
 A. L. Davenport, Cucamonga, orange grower.
 Charles G. Frye, Cucamonga, orange grower.
 Charles S. Wilson, Ontario, jeweler.
 Milton W. Davenport, Cucamonga, orange grower.
 U. S. Handley, San Diego, farmer.
 H. L. Welch, El Centro, lawyer (recent soldier).
 A. S. Fell, El Centro, farmer.
 William Lindsay, Los Angeles, farmer (owner of school land).
 John MacRae, Los Angeles, physician.
 Olga Noftziger, Los Angeles, school-teacher.
 Clement E. Reynolds, Imperial, business man.
 Ella M. Jackson, Riverside, daughter of business man.
 H. E. Followell, Los Angeles, clerk.
 J. M. Kepley, El Centro, court reporter (recent soldier).

NOTE.—Each and every one of the foregoing 65 stockholders put their money into the company in good faith and with the intent only of developing the land and making themselves homes, and most of stockholders whose sons served in the Army procured the stock for the purpose of giving it to their sons for homes.

TELEGRAMS.

HOLTSVILLE, CALIF., January 28, 1920.

HON. MOSES P. KINKAID,*Chairman Committee on Irrigation of Arid Lands, Washington, D. C.*

Holtsville Commercial Club heartily urge favorable consideration of bill 11553, the bill as approved by Secretary of State Robert Lansing and Secretary of Interior Franklin Lane. Meets with unanimity most favorable in this community as well as in Imperial Valley generally, and its speedy passage is our petition.

ARTHUR M. WILLIAMS, Secretary.

IMPERIAL, CALIF., January 28, 1920.

HON. M. P. KINCAID, Chairman,*Washington, D. C.*

To prevent any impression being given your honorable committee that Imperial Valley is not united in support of H. R. 11553, we wish to advise you that sentiment is overwhelmingly that this legislation will meet emergency it is intended to cover. This organization is against inclusion of any amendment to give preferential right to public land to the Laguna Water Co. or any other private interests. We respectfully urge that your committee report out said bill at earliest possible date.

IMPERIAL CITY CHAMBER OF COMMERCE.

IMPERIAL, CALIF., January 28, 1920.

HON. M. P. KINCAID,*Washington, D. C.:*

To prevent any impression being given your honorable committee that Imperial Valley is not united in support of H. R. 11553, we wish to advise you that the sentiment is overwhelmingly that this legislation will meet emergency it is intended to cover. This organization is against the inclusion of any amendments to give preferential right to public land to the Laguna Water Co. or any other private interests. We respectfully urge that your committee report out said bill at earliest possible date. Indorsed by Holbzkom Post, Imperial, No. 107, per O. B. Bates, secretary.

IMPERIAL CHAMBER OF COMMERCE.

HOLTSVILLE, CALIF., January 28, 1920.

HON. M. P. KINCAID,*Chairman Arid Land Committee, Washington, D. C.:*

Imperial Valley is unitedly supporting bill 11553, as drawn by your subcommittee and approved by various departments.

O. N. SHAW.

EL CENTRO, CALIF., January 28, 1920.

HON. MOSES P. KINCAID, Chairman,*Washington, D. C.:*

I returned to Imperial Valley from Washington this morning and have been engaged during the day in discussing H. R. 11553 with officials, ranchers, and business men. They are eagerly interested in the action of the Irrigation Committee on this legislation and are hoping that your committee will report the measure within the next few days. You will be interested and gratified to know that the valley is practically a unit for this bill. There is no evidence of dissension. The feeling regarding the request of the Laguna Water Co. of a preferential purpose right to certain public land is that whatever legal or moral basis, if any, for the Laguna Co. claim, it is a matter foreign to this legislation. I am not misinterpreting the sentiment when I say that Imperial Valley is against the inclusion of such preferential amendment for any private interest, as it certainly will handicap success of this measure. I can not impress it too strongly that the valley is united for H. R. 11553.

ARTHUR M. NELSON.

612 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

BRAWLEY, CALIF., January 28, 1920.

M. P. KINKAID,
Chairman House Irrigation Committee,
Washington, D. C.:

Brawley Post 60, American Legion, urges favorable report on Kettner bill. H. R. 11553. We vigorously protest granting any preference right to Imperial Laguna Water Co. or to any private interests. Let the Mesa lands be for the defenders thereof.

A. W. GREINER, *Secretary.*

EL CENTRO, CALIF., January 28, 1920.

MOSES P. KINKAID,
Arid Lands Committee, Washington, D. C.:

We have read new draft of Kettner bill, and it is satisfactory to us. We believe that we express the sentiment of majority of people of valley.

ALL-AMERICAN CANAL ASSOCIATION,
LEROY HOLT, *President.*

EL CENTRO, CALIF., January 28, 1920.

Hon. M. T. KINKAID,
Chairman Irrigation Committee, Washington, D. C.:

Holtville Post, American Legion, California, urges the passage of Kettner bill as it now stands, without compromise. We assure you this is also the wish of our community.

HOLTVILLE POST, 138, AMERICAN LEGION,
B. B. ROBERTS, *Chairman.*

IMPERIAL, CALIF., January 28, 1920.

Hon. M. P. KINKAID, *Chairman,*
Washington, D. C.:

The Board of Trustees of the City of Imperial has indorsed and urges the passage of H. R. 11553. Your committee will undoubtedly be glad to know that Imperial Valley is practically united for this bill, having the support of interests. We understand an effort is being made to insert an amendment to the bill giving the Laguna Water Co. a preferential right to certain lands, and it is our belief the said provision will be prejudicial to the passage of the bill.

IMPERIAL (CALIF.) CHAMBER OF COMMERCE

EL CENTRO, CALIF., January 29, 1920.

COMMITTEE ON IRRIGATION OF ARID LANDS,
House of Representatives, Washington, D. C.:

Whereas representatives of the Laguna Water Co. and other private interests have appeared before the Irrigation of Arid Lands Committee of the House of Representatives and asked that they be considered in the provisions of the Kettner bill, H. R. 11553; and

Whereas we believe that such consideration will tend to interfere with the passage of such measure; and

Whereas we further believe that the claim of Mark Rose and associates should be adjusted between Mark Rose and the Government and should not interfere with the passage of our bill: Therefore be it

Resolved, That we urge upon the Arid Lands Committee that it promptly and favorably report such bill to the House without the amendment sought by the said Laguna Water Co., and urge all Members of Congress to accept such bill as the united expression of the wishes of Imperial Valley and to as quickly as possible pass such measure. (Notify Kettner.)

EL CENTRO CHAMBER OF COMMERCE
By CLIFFORD COGGINS, *President.*

ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF. 613

EL CENTRO, CALIF., January 29, 1920.

Hon. MOSES P. KINKAID,
Chairman House Irrigation Committee,
Washington, D. C.

H. R. 11553, providing for the construction of the all-American canal and reservation for honorably discharged service men of public lands on the east mesa of Imperial Valley, was recently sent to American Legion posts in various parts of the country, and reports of endorsements are beginning to arrive. Word has been received that the Arkansas State Legion and the Connecticut State Legion have added their endorsements to that of the California and Kentucky departments and that of the beneficial legislation committee of the national convention. Letters and telegrams received during the last few days report that the following American Legion posts have endorsed said H. R. 11553: Eldon, Iowa; Summitsville, Ind.; South Amboy, N. J.; Manitou Springs, Colo.; Greene, Iowa; Long Beach, Calif.; Lynchburg, Va.; Bellevue, Ky.; Forrest Park, Ill.; Niles, Ohio; Montezuma, Ind.; Kankakee, Ill.; Chelsea, Mass.; Menominee, Mich.; Abilene, Tex.; Lewistown, Pa.; Van Buren, Ind.; Lima, Ohio; Elgin, Ill.; Rutherford, N. J.; Pekin, Ill.; Exford, Ind.; Lake Odessa, Mich.; Belleville, Ill. This is, of course, a premature list. Responses have just begun to arrive.

ARTHUR M. NELSON,
Executive Committeeman for Eleventh District,
American Legion of California.

EL CENTRO, CALIF., January 29, 1920.

Hon. M. P. KINKAID, *Chairman,*
Washington, D. C.:

The board of supervisors of Imperial County, after full consideration of H. R. 11553, has endorsed same as being satisfactory and adequate legislation to meet the vital and urgent irrigation problem confronting the Imperial Valley project, and respectfully urge upon your committee that it favorably report same with such recommendation as your committee deem advisable.

J. ROY ADAMS,
Chairman.

EL CENTRO, CALIF., January 29, 1920.

Hon. M. P. KINKAID,
Chairman House Irrigation Committee,
Washington, D. C.

Boyce Aten Post, No. 25, American Legion, of California, endorses resolution 11553, and is opposed to any amendment giving preference right to any private interests. This we know reflects general county opinion. Imperial Valley a unit in favor of bill, and urges early report.

JOHN M. KEPLEY, *Post Vice President.*

BRAWLEY CALIF., January 29, 1920.

ARID LAND COMMITTEE,
Washington, D. C.

The Imperial Valley is a unit for the Kettner bill as amended, and protest against any lands or remuneration being given to Mark Rose or Laguna Water Co.

BRAWLEY COMMERCIAL CLUB.

SEELEY CALIF., January 29, 1920.

Mr. KINKAID,
Chairman of Arid Lands Committee,
House Office Building, Washington, D. C.

Chamber of Commerce, Seeley Calif., approves the Kettner bill in its present form and believes that Imperial Valley as a whole favors and urges its passage at the earliest moment.

C. S. HILL,
President of Chamber of Commerce.

614 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

BRAWLEY, CALIF., January 29, 1920.

Hon. M. P. KINKAID,

Chairman Committee on Immigration of Arid Lands,

House Office Building, Washington, D. C.:

Imperial Valley ex-service men in six American Legion posts join all other interests, which are not united, favoring Kettner bill (H. R. 11553), asking favorable action; also protest any amendment granting Mark Rose or any private interest a preference right to any public lands.

PERRY L. HEDRICK,

President Interpost Council, American Legion.

ELCENTRO, CALIF., January 29, 1920.

Hon. M. P. KINKAID,

Chairman Committee on Irrigation of Arid Lands,

House Office Building, Washington, D. C.:

The Imperial irrigation district indorses and approves House bill 11553 and wishes to state that this measure has the solid support of a united Imperial Valley, and hopes your committee will not delay in reporting the measure.

IMPERIAL VALLEY IRRIGATION DISTRICT.

EL CENTRO, CALIF., January 29, 1920.

Hon. M. P. KINKAID,

Chairman House Irrigation Committee, Washington:

The Imperial County Farm Bureau, representing 14 center organizations and 1,000 ranches, indorses H. R. 11553, which has the solid support of the entire valley. Injection of any outside consideration should not mislead committee into believing any difference exists as to bill as now drawn. Imperial Valley is unit for it and respectfully urges that you report it speedily as possible.

IMPERIAL COUNTY FARM BUREAU.

EL CENTRO, CALIF., January 30, 1920.

COMMITTEE ON ARID LANDS,

House of Representatives, Washington, D. C.:

Board of directors of Imperial irrigation district are opposed to granting preferential rights to lands to Imperial Laguana Water Co., or any party or parties except soldiers, marines, and service men as provided for in Kettner bill (H. R. 11553).

BOARD OF DIRECTORS IMPERIAL IRRIGATION DISTRICT.

EL CENTRO, CALIF., February 6, 1920.

MOSES P. KINKAID,

Arid Lands Committee, Washington, D. C.:

Sixty thousand people dependent on passage of Kettner bill. We urge your favorable report to avoid crisis this year. Valley people as a unit favor bill, except land speculators. We are pledged to Yuma people to change our present intake from Hanlon heading to Laguna Dam. Big demand for water this year. Must have help.

S. NICKERSON,
President Imperial Irrigation District.

EL CENTRO, CALIF., February 6, 1920.

VALLEY WASHINGTON COMMITTEE,

Care R. D. McPherrin, Washington Hotel, Washington, D. C.

Stay on the job. We must have help. We are facing a crisis. Yuma people are uneasy—want us to move our Hanlon heading intake to Laguna Dam as

per agreement. The board and the valley are behind you. We won't take "no" for an answer. Sixty thousand people dependent on this bill. Valley unanimous for Kettner bill, except land speculators. I am leaving Saturday for Washington.

J. S. NICKERSON.

IMPERIAL, CALIF., February 9, 1920.

Hon. MOSES P. KINCAID,
Chairman Arid Lands Committee,
House of Representatives,

Washington, D. C.:

To-day at a meeting of the board of directors of Imperial Water Co. No. 1, a mutual water company composed of the owners of 125,000 acres of land in the Imperial irrigation district, the following resolution was adopted: *Resolved*, That Mark Rose and his followers represent only the private interests of the Laguna Water Co. and that we protest against giving any consideration in the way of lands or money to private interest at the expense of the property owners of Imperial County.

J. F. CARLSON, Secretary.

SAN DIEGO, CALIF., February 10, 1920.

ARID LANDS COMMITTEE,
Washington, D. C.:

Understanding that the Kettner bill is before your committee for investigation, and having intimate knowledge of water conditions in Imperial Valley, believe that recommendation of this bill by your body would give Imperial Valley opportunity to work out its water problems to advantage of entire district; believe that sentiment of San Diego and Imperial Counties is practically unanimous for adoption of this bill; my belief is that people of this entire district would greatly appreciate favorable action by your committee.

G. A. DAVIDSON,
President Southern Trust & Commerce Bank.

SAN DIEGO, CALIF., February 11, 1920.

ARID LANDS COMMITTEE,
House of Representatives, Washington, D. C.:

San Diego is greatly interested in Imperial Valley securing a full water supply controlled throughout its length by United States. Any district that produces sixty millions of products on lands worth forty millions deserves your best endeavors to protect. We believe the plan now outlined in Kettner bill (H. R. 11553), is best and will do most good, enlarging irrigable district and removing any part of canal from menace of Mexico. We are for the all-American canal.

MANUFACTURERS AND EMPLOYERS ASSOCIATION OF SAN DIEGO.

SAN DIEGO, CALIF., February 11, 1920.

ARID LANDS COMMITTEE,
House of Representatives, Washington, D. C.:

Merchants Association of San Diego respectfully urges you to favor passage of Kettner bill, No. 11553, favoring the all-American canal in Imperial County, believing that it will do greatest good for greatest number of residents and land owners.

MERCHANTS ASSOCIATION OF SAN DIEGO.
CHAS. W. WILSON, President.

616 ALL-AMERICAN CANAL IN IMPERIAL COUNTY, CALIF.

LOS ANGELES, CALIF., February 11, 1920.

Hon. MOSES P. KINKAID,
Chairman Arid Lands Committee,

House of Representatives, Washington, D. C.:

Whereas the most important thing in the Imperial Valley to-day is the question of water:

Resolved by the stockholders of Imperial Water Co. No. 1, representing 125,000 acres of land, in annual session assembled, That we urge upon your honorable body to report the Kettner bill in its amended form immediately, and we desire to impress upon you the importance of favorable report on this bill. We are behind it and for it to a man: Resolved, That Mark Rose and followers represent only the private interests of the Laguna Water Co., and we protest against giving any consideration in the way of lands or moneys to private interests at the expense of the property owners of Imperial County.

W. S. FAWCETT, *President.*
J. F. CARLSON, *Secretary.*

HOLTSVILLE, CALIF., February 11, 1920.

Hon. MOSES KINKAID,
Chairman Arid Lands Committee,

House of Representatives, Washington, D. C.:

Be it resolved, That the stockholders of Imperial Water Co. No. 5, a mutual water company within the Imperial irrigation district, irrigating 100,000 acres of land, at this its annual stockholders' meeting unanimously urge upon the Arid Lands Committee of the House of Representatives the absolute necessity for the needs of the entire Imperial Valley of an immediate and favorable report on the Kettner bill in its amended form as now before that committee. Be it further

Resolved, That the secretary be instructed to wire this resolution to the Hon. Moses Kinkaid, chairman of said committee.

IMPERIAL WATER CO. NO. 5.

CALIPATRIA, CALIF., February 12, 1920.

Hon. M. P. KINKAID,
Chairman Arid Lands Committee,

Washington, D. C.

The people of Imperial Valley urge your honorable body to report the Kettner bill in its amended form immediately, and we desire to impress upon you the importance of a favorable report now. Mark Rose and his few followers are discredited in this valley by every organization excepting the Laguna Water Co., and we do protest against giving any consideration in the way of lands or money to anyone at the expense of the property owners of Imperial County.

CALIPATRIA BUSINESS MEN'S ASSOCIATION.

CALIPATRIA, CALIF., February 12, 1920.

Hon. M. P. KINKAID,
Chairman Arid Lands Committee,

Washington, D. C.

The Board of Trustees of the city of Calipatria indorses the substance and recommendations of the telegrams forwarded to you by the civic and business organizations here in regard to the Kettner bill and ask for favorable action thereon.

J. A. GODWIN, *Mayor.*

SEELEY CALIF., February 12, 1920.

M. P. KINKAID,
Chairman Arid Land Committee,

Washington, D. C.:

The people of Imperial Valley urge your honorable body to report the Kettner bill in its amended form immediately, and we desire to impress upon you the importance of a favorable report now.

CHAMBER OF COMMERCE.

SAN DIEGO, CALIF., February 13, 1920.

IRRIGATION OF ARID LANDS COMMITTEE,

House Office Building, Washington, D. C.:

With intimate knowledge of Imperial Valley conditions and needs we have given careful consideration to Kettner bill (H. R. 11553), and this chamber unanimously indorses same and urges that your committee use every effort to secure its passage, believing that it is the logical solution of Imperial Valley water problems.

SAN DIEGO CHAMBER OF COMMERCE,
A. P. JOHNSON, President.

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