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The availability of water in a semi-arid area such as California is a vital necessity, but by 1900 it was quite clear that California water development was being hampered by a classically confused system of water rights.1

For those unfamiliar with the California scene, a review of its two contradictory types of water rights may be helpful. The early placer miners had devised a workable system for taking or appropriating water from the streams. It was, most simply, a first-come, first-served arrangement. After the intention was recorded in county offices, water could be diverted and carried long distances away from the stream, used as desired, and abandoned without concern. The only stipulation was that water be used diligently. The right was forfeited with non-use. These were called appropriative rights, a useful system in dry areas where land is commonly without other sources of water.

An opposing system of water rights was common in more humid areas where the major concern was maintaining the flow rate of water in the stream. This system, called riparian rights, stipulated that diverted water be returned to the stream after use. Such rights were assigned

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automatically with the ownership of land adjacent to a stream and were not lost through non-use.

Through an unfortunate fluke, when English common law was adopted in California at the time of statehood the riparian system was included as part of the unexamined legal baggage even though this system of water rights had not previously been used in California. A hasty adjustment had to be made to legalize formally the appropriative system, already the quasi-legal custom in mining areas.

Thus California struggled along with two contradictory systems. The riparian system was never suited to California, and the appropriative system (before 1914) did not have an orderly and effective method of administration: the rights were too easily obtained and there was no centralized system for registration. Efforts by concerned citizens to clear up the wasteful and constricting snarl of water rights litigations repeatedly ran afoul of vested interests on either side of the question. What was obviously needed was legislation to set up a fair and efficient system of water rights.

In 1900, a group of distinguished citizens under the name California Water and Forest Association prevailed upon the renowned irrigation expert Elwood Mead, then chief of the U.S. Department of Agriculture's Office of Experiment Stations, to instigate an investigation of the water rights on selected California streams. The resulting report, now famous as Bulletin 100, "Irrigation Investigations in California", was published in 1901. It revealed that conditions were, if anything, worse than anyone had imagined. Virtually every stream was legally choked with oversubscribed or useless water claims.²

As a result, a bill was drawn up for California's 1903 legislative session, embodying recommendations contained in Bulletin 100 to alleviate these legal problems.
It included a general water code to systematize water procedures. But too much opposition was encountered, and the bill failed to pass. It was to take ten years and much more effort before an adequate Water Commission Act would be passed. The public had yet to be informed of the situation. As it happened, this first took place at the national level through the famous Conference of Governors called by President Theodore Roosevelt in 1908 to discuss national conservation.

California played a crucial role in setting up this famous conference. It happened in this way:

In 1907, the 15th National Irrigation Congress was held in Sacramento and to it came three members of the newly created U.S. Inland Waterways Commission. This commission was the brainchild of the Forester of the United States, Gifford Pinchot. In explaining the connection between forestry and irrigation, it might be useful to comment that in the earlier days of research on forests and floods, people working in watershed studies assigned a greater role to the forest in regulating stream-flow than we do now. In 1907 professionals in the fields of irrigation and of forestry almost unanimously believed that de-forested watersheds would spell ruin to downstream irrigators. They also, somewhat guilelessly, tended to believe the converse; that the presence of forests would ensure a water supply downstream. Thus, it was not surprising to find the famous forester, Gifford Pinchot, at the Irrigation Congress in Sacramento in 1907, as well as other commissioners, five state governors, and the ex-governor of California, George Pardee.

Pardee's interest in the Irrigation Congress was keen. He had been president of the previous year's congress in Boise, Idaho, and his presence as the former governor of California was important. Furthermore, he was
deeply concerned with the proper use of natural resources. Pardee came into politics via medicine, now law. A well-to-do man, he left a lucrative practice to enter public service. Like Pinchot, he had spent several post-graduate years in Germany, at that time in the forefront of forest conservation. He was strongly against the monopoly of natural resources by corporations or individuals. Resources, he believed, were "the capital of the people" and should benefit all, not merely a few.\(^7\) George Pardee seems to have been one of those truly public-spirited men who comes along now and then, and makes a difference.

The Inland Waterways Commissioners, in Sacramento for the Irrigation Congress, had been discussing what they conceived should be a national conference of experts on the relations of conservation to waterways. [At this time, incidentally, the term waterways was not necessarily confined as we use the term today, to navigable streams.] The presence of five state governors in one spot suggested that it might be more effective to direct the purpose of the conference, instead of to a few experts, to the nation's governors, who were the men most instrumental in effecting changes within their states. And so it came about, as a chance result of the Irrigation Congress in Sacramento.

President Roosevelt was, of course, most receptive to the idea of a conservation conference. He made himself the sponsor, and in his invitations to the governors he made clear his conviction that "the proposed conference, which is the first of its kind, will be among the most important gatherings in our history in its effect upon the welfare of all our people."\(^8\)

It was a truly national conference.

The planners of the Conference of the Governors took great care in selecting the people invited to participate as well as those invited to observe the conference. Their good
judgment thus ensured both the quality of the conference and the very wide dissemination of its message.

First, the governors were asked to bring with them from their states (or territories) three citizens to advise and consult with them. Recognized authorities were also selected and asked to prepare basic speeches on the major topics, with open discussion to follow.9

The Senators and Representatives were invited. The members of the Inland Waterways Commission were of course invited, and as time passed, so were a considerable number of other eminent citizens widely recognized as authorities on national aspects of the country's resources. The conference was deemed so important that even the Justices of the Supreme Court and the members of the Cabinet were asked to be present. Selected government bureaus were also represented.

In addition to the participants, a careful selection of observers was also invited. The daily press was represented by 40 selected reporters from the nation's leading papers. The periodical press was widely represented with men from 21 such diverse journals as the Proceedings of the American Society of Civil Engineers, the Farm Journal, Colliers Weekly, American Magazine, Conservation, Engineering News, and Farm and Fireside.

Representatives from every significant national organization were also invited to attend the conference. These included the American Association for the Advancement of Science, the American Bar Association, the American Federation of Labor (represented by Samuel Gompers, incidentally), the American Medical Association, American Newspapers Publishers' Association, and many others, 40 in all. Most of these organizations had publications of their own reaching altogether millions of Americans.
Thus when the Conference of the Governors convened at the White House on May 13, 1908, for a three-day meeting, probably every participant who could have been there was there. This meeting, recognized as being of landmark importance even in its own time, was observed and reported by a uniquely complete range of observers from the press, both daily and periodical, and from important national organizations. It would have been an isolated citizen indeed who would not have known from several sources the reports and substantive information from this conference.

Not the least of those present at the Conference of the Governors was the Hon. George C. Pardee, M.D., keynote speaker at the Fourth Session (on Irrigation). The ex-governor of California, an ardent advocate of conservation, knew exactly what he wanted to tell the conference. "Probably nowhere in the world, certainly nowhere else in this country is the interdependence of the resources of the land more clearly shown than in California," Pardee said. He itemized the state's resources and those activities dependent on its water supply. Then he turned to the question of careless and prodigal unregulated commercial operations.

If, as has been done in other States, these Californian wealths of forest and streams be allowed to fall into the merciless hands of private monopoly, rapid exhaustion of them all will soon follow.... Being the property of the People, they should be so administered that they will best serve the People, not only in the present but for all time to come.

Furthermore, in support of the conservative notion of sustained yield, he said of these national resources, "They are the People's capital, which should not be impaired, only the income being used for the People's benefit." And again the theme of water reform: "As the coal and petroleum production both decrease, the absolute need of the
preservation, conservation, and protection from monopoly of the water power of the country will become more and more apparent."  

Reflecting on the conference, Joseph Carey, judge, ex-Senator from Wyoming, and author of the immensely influential "Carey Act" which resulted in government subsidy for reclamation of millions of acres, said: "The people of the country will be astonished by the facts which have been disclosed by those participating in this Conference concerning the great national resources, and the public sentiment which will be created must bring good results."  

It took more than two years for the message of the Governor's Conference to permeate the legislative halls in Sacramento. Nevertheless, when it finally did in 1911, the California legislature established the California Conservation Commission, with George Pardee as chairman. The Conservation Commission's purpose was to investigate and gather data concerning: forestry, water, the use of water, water power, electricity, electrical and other power, mines and mining, mineral and other lands, dredging, reclamation, and irrigation. Its further purpose was to revise, systematize, and reform laws of this state concerning those subjects.  

With George Pardee as Chairman, the Conservation Commission swung into action immediately, employing a staff of consultants largely from Federal agencies: the Geological Survey and the Department of Agriculture. Many had been active in the 1903 California Water and Forest Association. Thus their recommendations were virtually the same as had been proposed ten years earlier. The report of the California Conservation Commission was submitted the next year.
As an immediate consequence, a State Water Commission was established in 1912 to administer water rights for power purposes,\textsuperscript{16} and a comprehensive Water Commission Act covering all uses of water was enacted the next year. Opponents of the Water Commission bill managed to delay its passage by demanding a referendum on it, but this time, with public support, it was approved at the next general election and became effective in December 1914.

Briefly, what the 1914 California Water Commission Act accomplished was the regularization of appropriative procedure. It reviewed all the old water rights, threw out invalid ones, and it established a permit procedure for new rights that was fundamentally different from the procedure in that no longer was priority given to the first applicant on a stream. Preference was mandated to the most widely beneficial of all claims for water use, and hearings were established to ascertain which they were.\textsuperscript{17}

Furthermore, for the first time it became possible to determine exactly how much unappropriated water remained in the State. Now long-range planning could take place.\textsuperscript{18}

In summarizing this background to the passage of the 1914 Water Commission Act we may well ask if it could have succeeded without the tremendous publicity of the Conference of the Governors, or without the devoted and persistent work of George Pardee.

The answer is--probably not; at least not for a long time.

As an epilogue, it should be noted that without the Water Commission Act, California's present comprehensive water planning would have been seriously delayed and gravely impaired.
NOTES


⁵Sacramento Bee, September 2-5, 1907.


⁹Ibid., p. x.


¹¹Ibid., p. 140.

¹²Loc. cit.


