

**The Political Allocation of Water for Future Needs:
A Partial History of the Water Resources Planning Act**

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Abstract

After a long process of study, negotiation, bargaining, and compromise between forces representing national comprehensive planning and state control of water resources, Congress passed and the President signed into law the Water Resources Planning Act of 1965. Various task forces, congressional committees, executive agencies, and party platforms incorporated numerous ideas to make them acceptable to a sufficient coalition of concerned powerful interest groups.

Key Terms

1964, Arthur Bentley, Congress, Council of State Governments, David Easton, election, executive agencies, First and Second Hoover Commissions, influence, interest groups, law, political parties, politics, President, states' rights [sic], water

With today's rapidly increasing population and per capita consumption of water we are constantly reminded, particularly in the West, that one of the planet's most precious resources is becoming more and more scarce and, therefore, more and more valuable.

Because of its value, water is the subject of numerous conflicts. Some contests are settled economically, some legally, some politically. Many disputes have combined these means of settlement. Contestants wisely attempt to settle conflicts in those arenas where they believe they have the advantage. This means often that an initial struggle occurs most strenuously over the location of the formal confrontation. Once the location is settled, the outcome of the battle may be virtually determined. Economics, law, and politics each has its own characteristics favoring one party over another.

There are two different bases of conflict adjustment that go under the name economic allocation. First, there is the popular connotation that economics favors the side with the most material resources. An economic decision, in this sense, is determined strictly by wealth—the haves versus the have-nots and those who have usually get more. This may occur in the legal and political realms as well as in the market place. Second, there is the special meaning of the term economic allocation favoring the most efficient use, or highest use of a social value. In this case there are two problems of introducing favoritism. One, in order to arrive at an efficient conclusion all input and output data must be quantified. In many cases the quantification is at best superficial and at worst arbitrary. The decision may be determined by the quantifier, not by an interplay between absolutely, naturally quantified data. In reality, the values of the quantifier are often favored. Second, even if a perfectly objective economic allocation could occur, efficient use is favored over inefficient use even when contending parties may desire inefficient uses.

The law places a premium upon precedent in the settlement of disputes. Legal allocation favors those who have tradition, custom, form, and procedure on their side. Also, large fees paid to expert attorneys to carry pleas to higher tribunals have not been unknown to win a case for more wealthy litigants, combining the first meaning of economics with law.

In his seminal work, *The Political System*, David Easton tells us that the study of politics is concerned with “the authoritative allocation of values for society.”¹ Those who desire the adjustment of disputes over the distribution of social values, who feel discriminated against by economic and legal allocation may turn to politics, which favors those who have the most governmental influence, or an ability to persuade legislators, administrators, or judges to support their claim.

Influence may take three forms. A government official may influence others and be influenced himself by authority, power, or force. Authority is accepted by persons who are influenced because they believe the influencer has the *right* to influence. This right may be acquired by position (which may be inherited, elected, or appointed) or by meritorious performance. Power is exercised by giving or withholding rewards or meting out punishments. Finally, force is influence by

¹ David Easton, *The Political System: An Inquiry into the State of Political Science* (New York: Alfred A. Knopf, 1953), p. 129.

inflicting or threatening to inflict physical pain. Domestic American politics usually involves only the first two types of influence.

Introduction. The purpose of this address is to describe some of the politics that has taken place in a significant water allocation controversy—the Water Resources Planning Act of 1964. It offers a strictly limited case study—political allocation is only one method of allocating resources, water politics is only one type of political resource allocation, and the Water Resources Planning Act is only one instance of water politics. But its process is not unlike that found among other public issues.

A legislative history implies more than just a narrative of the events in the halls of national or state capitols. At the turn of the 20th Century Arthur Bentley raised a caveat for students of legislative behavior when he wrote: “Not until the actual lawmaking is traced from its efficient demand to its actual application, can one tell just where the real law-creating work is done, and whether the legislature was Moses the law-giver or merely Moses the registration clerk.”² Thus a complete study of the politics involved in the passage of the Water Resources Planning Act (WRPA) should include attention to all political machinery—campaigns and elections, legislative acts and treaties, interest group pressures, administrative rules, interstate compacts, and judicial decisions—which focus influence upon the securing and enforcing of the WRPA. These remarks do not pretend to exhaust all means of influence; it is meant to be illustrative, not definitive.

Like most histories, there is no real beginning nor end. An astute scholar might link the “efficient demand” for the Act with the Creation and discern its “actual application” in the Millennium. I shall narrow this scope by confining my remarks to some major American political events from 1949 to the present. Specifically, we shall focus on some recommendations of the First and Second Hoover Commissions, the 1960 Democratic and Republican Party Platforms, the proposed WRPA of 1961, the Senate passage of the 1963 WRPA, and the present deliberations in the House of Representatives.

Commission on Organization of the Executive Branch (1949). Despite the fact that several other study groups had reviewed government organization and management prior to 1949,³ and many others had reported on natural resources,⁴ the post-World War II period presented a chaotic picture of topsy-turvy functional and bureaucratic growth for government in general and resource administration in particular. Approximately 25 agencies, 18 offices and bureaus and 16 congressional committees dealt with water policy. Most significant among them were the Bureau of Reclamation, U.S. Army Corps of Engineers, Tennessee Valley Authority, Forest Service, Federal Power Commission, U. S. Public Health Service, and the House and Senate Committees on Appropriations and Interior and Insular Affairs.

² Arthur L. Bentley, *The Process of Government: A Study of Social Pressures* (Chicago: University of Chicago Press, 1908), p. 163.

³ Senate Select (Cockrell) Committee, 1888; Berkeley Commission, 1893; Taft Commission on Economy and Efficiency, 1910; Joint Committee on Reorganization, 1920; and President’s Brownlow Committee on Administrative Management, 1936.

⁴ Secretary of the Treasury Albert Gallatin’s Report on Internal Improvements, 1808; President’s Inland Waterways Commission, 1908; President’s National Conservation Commission, 1912; and Natural Resource Planning Board Studies, 1930s and 1940s.

In 1947 the Lodge-Brown Act established the 12-member Commission on Organization of the Executive Branch of the Government. Under the Chairmanship of former President Herbert Hoover it divided its labors into major administrative areas and made information-gathering assignments to 22 task forces. The full Commission reviewed the task force reports and presented separate recommendations to Congress. In 1949 the Commission issued its proposals for the Department of Interior by recounting the defects in the organization of water development and use—its duplication of efforts, conflicts with others, and lack of comprehensive screening of program designs.⁵ Its general advice was that the Department of the Interior should be granted “more clearly the mission of development of subsoil and water resources.”⁶ It recommended:

... the creation of a Board of Impartial Analysis for Engineering and Architectural Projects which shall review and report to the President and the Congress on the public and economic value of project proposals by the Department. The Board should also periodically review authorized projects and advise as to progress or discontinuance. The Board should comprise five members of outstanding abilities in this field and should be appointed by the President and be included in the President’s office.⁷

Further, it called for the creation of a Waster Development and Use Service.

As a whole, the Commission’s work was heralded as a triumph of reform. Citizen committees praised it and convinced the public, the President, and Congress to implement almost all its recommendations by statute, reorganization plan, or executive order. The major exceptions were those related to natural resources, where influence and the rules of the game prevented change. One feature of our political system, which becomes immediately noticeable, even to the casual observer, is its protection of the status quo. The system is designed so that it usually takes less influence to maintain the existence of established organization and policy than it does to change them.

Commission on Organization of the Executive Branch (1955). The period between 1949 and 1955 was not devoid of water policy studies by government agencies. There were a host of more reports echoing the phrases of the First Hoover Commission. But with President Eisenhower’s election in 1952 and the installation of the first Republican administration in twenty years in 1953 a major stocktaking was in store.

The 1953 Ferguson-Brown Act created a second Commission on the Organization of the Executive Branch of Government. Herbert Hoover again served as its chairman, and it employed the same task force system as the 1949 study group. Instead, however, of dealing with organizational reform, as did the first commission, after two years of study and debate among its members, the Commission revealed it was mostly concerned with public policy. Its recommendations aimed at reducing the role of the central government in American life. It opposed the centralizing features of the first commission’s proposals and recommended:

⁵ The Commission on Organization of the Executive Branch of the Government, *Reorganization of the Department of the Interior* (Washington, D.C.: U.S. Government Printing Office, 1949), pp. 26-27.

⁶ *Ibid.*, p. 1.

⁷ *Ibid.*, pp. 2-4.

- (a) That water resources should be developed to assure their optimum use
- (b) That water resources development should be generally undertaken by drainage areas—locally and regionally.
- (c) That the Federal Government should assume responsibility when participation or initiative is necessary to further or safeguard the national interest or to accomplish broad national objectives, where projects because of size or complexity or potential multiple purposes or benefits, are beyond the means or the needs of local or private enterprise. Under other circumstances the responsibility for development should be discharged by state or local governments, or by local government, or by local organizations or by private enterprise.
- (d) That in participating in water resources and power development, the Federal Government without waiving its constitutional rights [sic] should take account of the rights [sic] and laws of the separate States concerning apportionment use, control, and development of waters within their boundaries.

It is proposed that the President's present Committee on Water Resources and the Interagency Committee on Water Resources be transformed into a Water Resources Board to be located in the Executive Office of the President. This Board is to be created from among the Cabinet members, together with five public members, presided over by a non-governmental chairman; that the public members be recruited from engineers, economists, and others of recognized abilities. The Board's primary purpose would be to determine the broad policies for recommendation to the President, and with his approval, to the Congress. It would have actions of the agencies both at the Washington level and in the field....⁸

Most of the recommendations of the Second Hoover Commission were a dismal failure compared with the success of the first commission. The Democratic 84th Congress resented the creature of the Republican 83rd Congress telling it what new policies to adopt and what old policies to discard. The organizational status quo was preserved—and the old struggle between national and state power in water politics was officially resurrected.

The 1960 Party Platforms. The controversy over central or regional control of water resources continued in the 1960 presidential election as the two major party platforms contained contradictory planks.

The Democrats meeting in the Los Angeles Sports Arena on July 12 adopted a strong stand on the need for centralization:

Water and Soil. An abundant supply of pure water is essential to our economy. This is a national problem.

Water must serve domestic, industrial and irrigation needs and inland navigation. It must provide habitat for fish and wildlife, supply the base for much outdoor recreation, and generate electricity. Water must also be controlled to prevent floods, pollution, salinity, and salt.

The new Democratic Administration will develop a comprehensive national water resource policy. In cooperation with state and local governments, and interested private

⁸ Commission on Organization of the Executive Branch of the Government, *Water Resources and Power* (Vol. I; Washington, D.C.: U.S. Government Printing Office, 1955), pp. 36-38.

groups. the Democratic Administration will develop a balanced multiple-purpose plan for each major river basin, to be revised periodically to meet changing need.

.....
Government Machinery for Managing Resources. Long-range programming of the nation's resource development is essential. We favor creation of a council of advisors on resources and conservation, which will evaluate and report annually upon our resource needs and progress.⁹

Two weeks later in Chicago the Republican National Convention presented an equally strong stand on decentralization:

Natural Resources. A strong and growing economy requires a vigorous and persistent attention to wise conservation and sound development of all our resources.

.....
We pledge:

- Use of the community watershed as the basic natural unit through which water resource . . . programs may best be developed, with interstate compacts encouraged to handle regional aspects without federal domination.
- Development of new water resource projects throughout the nation.
- Support of the historic policy of Congress in preserving the integrity of the several states to govern water rights.¹⁰

Party platforms, while dismissed by the cynic as mere campaign window dressing, often provide a real key to the analysis of elections and particularly to the politics that follows the installation of a new administration. Although not all campaign promises are honored and not all partisans share the same sentiments and vote alike in legislative halls, enough promises are kept and there is enough party cohesion to identify partisanship in about half the major controversial measures in Congress and often more than half in many state legislatures. The question of national supremacy and States' Rights is a major distinction between Democrats (except Southern Democrats) and Republicans.

The Water Resources Planning Act of 1961. Hardly before President Kennedy settled in office, on January 9, 1961, Representative Wayne N Aspinall (D. Col.) introduced H.R. 2202, "A bill to redefine the authority of the Secretary of Interior and others with respect to the formulation and evaluation of projects for the development of the Nation's water resources, to establish a Water Resources Commission, and for other purposes."¹¹ It was referred to the Committee on Interior and Insular Affairs of which the bill's author was chairman,¹² but was superseded in six months by H.R. 8177, also introduced by Representative Aspinall.¹³

⁹ Democratic National Convention, Committee on Resolutions and Platforms, "The Democratic Platform: The Rights of Man" (Los Angeles, July 12, 1960), pp. 37-40.

¹⁰ Republican National Convention, "Building a Better America: Republican Platform 1960" (Chicago, July 27, 1960), p. 14.

¹¹ *Congressional Record*, 87th Congress, 1st Session, 107: 448.

¹² *Ibid.*, 107: 519.

¹³ *Ibid.*, 107: 12749.

On January 30, 1961, the highly respected Senate Select Committee on National Water Resources, under the chairmanship of the now late Robert Kerr (D. Okla.) and co-chairmanship of Thomas Kuchel (R. Calif.), presented its anxiously awaited final report.¹⁴ It recommended that:

1. The Federal Government, in cooperation with the States, should prepare and keep up to date plans for comprehensive water development and management for all major river basin in the United States....
2. The Federal Government should stimulate more active participation by States in planning undertaking water development and management activities by setting up a 10-year program of grants to the States of water resources planning. A minimum of \$5 million should be made available for matching by States....
3. The Federal Government should make a coordinated scientific research program on water.
4. The Federal Government should prepare biannually an assessment of the water supply demand outlook for each of the water resource regions of the United States....
5. The Federal Government in cooperation with the states should take steps to encourage efficiency in water development and use.¹⁵

This report has influenced the deliberation of water policy for the last three years; and since the death of the Select Committee's chairman, it has been treated almost reverently.

The Select Committee goes back to April 20, 1959, when it was created by S. Res. 48, sponsored by Mike Mansfield (D. Mont.):¹⁶

Resolved, That there shall be established a committee which shall make exhaustive studies of the extent to which water resources activities in the United States are related to the national interest, and the extent and character of water resource activities, both government and non-government, that can be expected to be required to provide the quantity and quality of water for use by the population, agriculture, and industry between the present time and 1980, along with suitable provision for related recreational and fish and wildlife values, to the end that such studies and recommendations based thereon may be available to the Senate in considering water resources policies for the future.¹⁷

On introducing this Resolution, January 27, Senator Mansfield stated that he felt a select committee would "make a substantial contribution to the Senate's legislative work in the field of water-resource conservation and development."¹⁸ The membership of the committee was enlarged from the original proposal—three members from the Interior and Insular Affairs Committee, three from Public Works, and two from Interstate and Foreign Commerce—by amendments from Interior and Insular Affairs and the Rules Committee to include a third from Interstate and Foreign Commerce and three from Agriculture and Forestry.

¹⁴ Select Committee on National Water Resources, U.S. Senate, 87th Congress, 1st Session, "Report of the Select Committee," Report No. 29 (Washington, D.C.: U.S. Government Printing Office, 1961), p. 147.

¹⁵ *Ibid.*, pp. 17-19.

¹⁶ *Congressional Record*, 87th Congress, 1st Session, 105: 6307.

¹⁷ *Ibid.*, pp. 105: 1161.

¹⁸ *Ibid.*, pp. 105: 1156.

When the Senate considered passage of the Mansfield Resolution, then Senator Lyndon Johnson (D. Tex.) and Senator Frank H. Moss (D. Utah) among others offered their views. Senator Johnson said:

The list of those who have lent their support to this resolution is long, but I should like to commend particularly the National Reclamation Association, which under the guidance of its president, my good friend, Guy C. Jackson, of Anahuse, Tex., was particularly active in behalf of this resolution before the Senate Interior Committee.¹⁹

Senator Moss urged the adoption of the resolution by recounting the importance of water in Utah, “since the pioneers descended Emigration Canyon and diverted City Creek for the irrigation of potato planting.”²⁰

The Select Committee began field hearings in Bismarck, North Dakota, on October 7, 1959, and visited 29 locations, including Salt Lake City. Among the distinguished witnesses appearing before Chairman Moss at the Newhouse Hotel on November 24 were Governor George D. Clyde (R. Utah), Senator Wallace F. Bennett (R. Utah), and President Daryl Chase of Utah State University. Both Governor Clyde and Senator Bennett stressed decentralization, while President Chase emphasized the role of the university in water development but all also alluded to the grassroots.

Governor Clyde said:

Future development will have to be characterized by a joint effort of State and Federal activities. It should be required that State initiative be utilized as far as possible. The Federal Government will need to render assistance on projects that go beyond the boundaries of State lines, and involve interstate streams, and those projects which are desirable from a national point of view, but whose costs are beyond the ability of the state.²¹

Senator Bennett remarked:

First of all, the Federal Government should not embark on programs which the local people can accomplish by themselves.... Even in these partnership efforts (such as Upper Colorado River and Weber Basin projects) between State groups and the Federal Government, the Federal agencies should be required to cooperate much more with local interests, particularly the State government.... The States should have a real voice in decision planning.²²

President Chase testified:

A national policy should insure that the greatest ingenuity and resourcefulness and be exercised at the smallest practical subdivision of society.²³

¹⁹ Ibid., 105: 6304.

²⁰ Ibid., 6302.

²¹ U.S. Senate, Select Committee on National Water Resources, Hearings, p. 2108.

²² Ibid., p. 2148.

²³ Ibid., p. 2149.

On February 23, 1961 President Kennedy sent his Natural Resources Message to Congress in which he emphasized the need to conserve water:

Our Nation has been blessed with a bountiful supply of water; but it is not a blessing we can regard with complacency. We now use over 300 billion gallons of water a day, much of it wastefully. By 1980 we will need 600 billion gallons a day.²⁴

Water politics remained invisible until the heat wave of summer, when on July 13 the President acted again. In a letter to then Vice President Lyndon Johnson and Speaker of the House John McCormack, President Kennedy quoted from his Natural Resources Message and added:

Maximum beneficial use of water rests upon comprehensive and coordinated planning by both federal agencies and states.

.....
We have a national obligation to manage our basic water supply so it will be available when and where needed and in acceptable quality and quantity—and we have no time to lose.²⁵

With his letter to the presiding officers of the two chambers of Congress, the President sent a draft of a bill, titled the Water Resources Planning Act of 1961.

The next day Senator Clinton P. Anderson (D. N. M.) introduced S. 2246, “A bill to provide for the optimum development of the Nation’s natural resources through the coordinated planning of water and related land resources, through the establishment of a Water Resources Council and river basin commissions, and by providing financial assistance to the States in order to increase State participation in such planning; to the Committee on Interior and Insular Affairs.” In his speech introducing the bill Senator Anderson identified it as “the President’s water resources bill” and as the “recommendation of the Select Committee on Water Resources.”²⁶

Three days later Representative Wayne Aspinall (D. Col.) introduced a bill identical to S. 2246, H.R. 8177, into the House. Representative Aspinall said:

President Kennedy transmitted this legislation to the Congress last Thursday and recommended its enactment. The legislation was developed through the cooperative efforts of the executive and legislative branches of Government and incorporates principles and procedures already included in a number of bills pending before Congress. The legislation implements the recommendation of the President in his message to the Congress on Natural Resources.

.....
Existing laws would not be modified or superseded and the construction and operation of works and improvements would continue to be the responsibility of appropriate Federal agencies, States, or local groups.²⁷

Both Anderson and Aspinall realized that their respective committees’ jurisdictions on water were not unchallenged. Senator Anderson scheduled joint hearings with his committee and the Committee on Public Works. Representative Aspinall made a point of his committee welcoming

²⁴ U.S. House of Representatives, 87th Congress, 1st Session, House Document No. 94, p. 996.

²⁵ *Congressional Quarterly*, 19: 1292-1293, July 21, 1951.

²⁶ *Congressional Record*, 87th Congress, 1 Session, 107: 12535-12536.

²⁷ *Ibid.*, pp. 12723-12324.

advice from Public Works and Agriculture and pledged to keep them informed on the activities of Interior and Insular Affairs.

When the joint hearings of the two Senate committees began on July 26, 1961, three members of the President's cabinet were present to support S. 2246. Secretary of Interior Stewart Udall repeated the call for conservation—the United States is “clearly in arrears” in water management and if not corrected soon could bring the nation “face to face with water bankruptcy.”²⁸ Secretary of Agriculture Orville Freeman contended that the proposed legislation would help provide “the major need for organization and direction in an area which become a classic example of how conflicting and fragmented viewpoints splinter authority and prevent action.”²⁹ Pollution eradication was the major point of Secretary of Health, Education, and Welfare Abraham Ribicoff.³⁰

The Administration also received support from some private association representatives in the Senate hearings. Richard G. Longmire of the National Association of Soil Conservation Districts said S. 2246 was “an important step in the right direction.”³¹ He suggested that a full-time Presidential advisory council should be created to cover the entire area of resources and conservation. Andrew J. Biemiller, representative of the AFL-CIO, maintained that S. 2246 would achieve “unified policy and unified comprehensive planning as foundations of the Federal Government's resources activities.”³² He wanted to go further and cover all resources, not just water.

Those who opposed S. 2246 are normally considered allies of the Republican Party. Robert C. Wylie of the U.S. Chamber of Commerce criticized the bill as “tending to nationalize all water resource planning and development.” He called it “hasty legislation” and said that it “might restrict rights [sic] of the states to control, allocate and distribute water to users within their boundaries according to state laws.”³³ He argued that it was better to rely on interstate compacts and have Congress retain the duties proposed for a President's Council. Virgil W. Cothorn of the National Lumber Manufacturers Association opposed the bill saying, the Council will become a “powerful additional level of Government between federal natural resource administrators and local areas” and “would lead to a Presidential control over state forest and other resource laws.”³⁴ William G. McFadsean of the National Association of Manufacturers said the bill would curtail Congress's own powers and that the best coordination of water resources could be achieved by “revision, correlation and improvement of statutes relative to natural resources.”³⁵ He emphasized that any legislation should contain a declaration of states' water rights [sic] and recognize states' authority over the “control, appropriation, use and distribution of water within their boundaries . . . and required that federal agencies comply with state [water] laws.” John I. Taylor and Matt Triggs of the American Farm Bureau Federation commented that the Council would be able to “set its own rules and

²⁸ U.S. Senate, Committee on Interior and Insular Affairs and Committee on Public Works, Joint Hearings, July 26, 1961, p. 12.

²⁹ *Ibid.*, p. 19.

³⁰ *Ibid.*, p. 41.

³¹ *Ibid.*, p. 63.

³² *Ibid.*, p. 103.

³³ *Ibid.*, p. 127.

³⁴ *Ibid.*, p. 72.

³⁵ *Ibid.*, p. 108.

regulations without even a review by the Congress” and that it would be “wrong in principle and involve an unnecessary delegation of congressional responsibility to the executive branch.”³⁶

Senator Gale McGee (D. Wyo.) was one of the Administration’s star witnesses. On August 16 he combined national security and water resources in a stirring appeal to adopt S. 2246:

The President has recognized not only that the task of water resource development must be done, but also that it makes a critical difference how the task is done.... The ability of America to face up to the two-fold challenge of communism and revolution . . . depends upon the adequacy of our economy to provide the tax dollars to support the base public programs in foreign aid, in defense, and in the building of our own society which alone will do the job. The ability of our economy to support these programs (foreign aid and defense) is based squarely upon the extent to which we conserve and develop our natural resources, and the most indispensable of these resources is water.

. . . [U]nless we do this job of water resource planning, development and construction, we will have placed a limit upon our own capacity to grow, which is many times more suffocating and restricting than any limit which could be imposed by the forces of communism and revolution.

. . . [T]he question is not whether we can produce enough weapons. It is whether the economic and political institutions which we have created can find within themselves the vitality and resurgent strength which will give us confidence.³⁷

He pointed out that our potential lags dangerously when within the 17 reclamation states three-fourths of the water flows to the sea and at least 1,000 important water projects are yet unstarted.

On August 23, Senator Ernest Gruening (D. Alaska) spoke for S. 2246 on the floor of the Senate during a foreign aid debate. He described S. 2246 as “an orderly, planned development of our great national water resources to the utmost degree.” He contended that “resource development, in all its aspects, development of human and material resources—at home— is absolutely essential to the carrying out of our responsibilities as a nation, indeed to our survival as a free people.”³⁸

The Senate Interior and Insular Affairs Committee again convened to hear testimony on S. 2246. On March 2, 1962, the Interstate Conference on Water Problems of the Council of State Governments presented its newly completed survey of state views on the proposed planning bill. The federal-state conflict appeared so great at the time that no further action was taken by the 8th Congress. The proposed WRPA of 1961 died in committee. The states objected to the presidential appointment of River Basin Commissioners and the establishment of a River Basin Commission (RBC) whenever only one state in the basin requested it. They believed two-thirds of the states involved should be in agreement before the establishment of an RBC. Further, the states wanted to appoint the commissioners themselves and have guaranteed in legislation that their interests would be considered primary.

The Water Resources Planning Act of 1964. In his Budget Message to Congress in January 1963, President Kennedy renewed the battle for a Water Resources Planning Act. He wrote:

³⁶ Ibid, p. 28.

³⁷ Ibid., pp. 55-56.

³⁸ *Congressional Record*, 87th Congress, 1st Session, 107: 16763-16764.

Major emphasis is being given within the Federal Government to coordinate planning of river basin development and research on water resources. In addition, legislation is again recommended to provide for comprehensive and coordinated water resources planning by Federal and State agencies and to authorize limited grants to strengthen State planning.³⁹

On February 7, 1963, Representative Leo W. O'Brien (D. N. Y) introduced H.R. 3620, titled Water Resources Planning Act of 1963. It was referred to Representative Aspinall's Interior and Insular Affairs Committee, and hearings were held on it by the Subcommittee on Irrigation and Reclamation, chaired by Walter Rogers (D. Tex.) only last week.⁴⁰

Senator Anderson introduced S.1111 with the same title as H.R. 3620 on March 15. He addressed the Senate on the problems of Federal-State water relations, making the point that S. 1111 is a revision of S. 2246, which failed to pass in 1961. He said the new bill was negotiated with the Council of State Government's Interstate Conference on Water Problems. The compromise includes a provision that the President may establish an RBC only when the Federal Water Resources Council and one-half the states involved agree, and that while the President appoints the Commission chairman, who has one vote, a vice chairman, having one vote also, will be selected by state representatives on the Commission. Senator Anderson concluded by exclaiming:

To the extremists in the State-Federal water rights issue, who would prefer to waste our water resources than to concede a drop of authority or jurisdiction to their antagonists, I would like to say they are hopelessly behind the times.⁴¹

Most of the same arguments on both sides of the issue were repeated when Senator Moss convened his Subcommittee on Irrigation and Reclamation to hear witnesses on S. 1111 on September 11 and 12, 1963. Theodore M. Schad, Staff Director of the Select Committee on National Water Resources, assured the committee that S. 1111 would carry out the recommendations of his Select committee.⁴²

In so far as we are aware, the proposed Federal-State structure for river basin commissions would establish a novel pattern for furthering integration and cooperation.

.....
We believe that the concept of Federal-State cooperation in river basin planning and development, as proposed in the bill, is not only desirable but consistent with sound principles of intergovernmental relations in our Federal system.⁴³

Each of the executive agencies involved asked for amendments favoring its particular interest. The Department of Interior recommended that the lack of an RBC in an area should not be considered a valid reason for opposing a Federal project there.⁴⁴ The Department of the Army asked

³⁹ *Congressional Record*, 88th Congress, 1st Session, 109: 4321.

⁴⁰ *Ibid.*, 109: 2009.

⁴¹ *Ibid.*, 109: 4322.

⁴² U.S. Senate, Committee on Interior and Insular Affairs, Subcommittee on Irrigation and Reclamation, 88th Congress, 1st Session, Hearings on River Basin Planning Act of 1964, p. 30.

⁴³ *Ibid.*, p. 40.

⁴⁴ *Ibid.*, p. 10.

that more pay be given retired servicemen who become Commissioners.⁴⁵ The Civil Service Commission wanted GS 18s to be determined under the merit system.⁴⁶ The Federal Power Commission sought a representative on the Federal Council.⁴⁷ And the General Accounting Office felt that the terms for ending an RBC were ambiguous and that a system of uniform accounts and audits should be established for all RBCs.⁴⁸

The Council of State Governments and the National Association of Manufacturers harped the same tunes:

That any proposals for increased State-Federal coordination in the field of water resources protect the interests of the States, their rights [sic] and laws....⁴⁹

And

The Congress should not enact legislation which could be used to coerce the States into a nationalized pattern of water resources policy.⁵⁰

With Senator Gordon L. Allott (R. Col.) introducing several amendments on the floor, S. 1111 passed the Senate of the United States on December 4, 1963, and was referred to the House Committee on Interior and Insular Affairs, there to rest with H.R. 3620 until April 20, 1964, when hearings were held.⁵¹ As far as I know no further action has taken place as of this date.

Summary and Conclusion. If you would like a prediction on the outcome of this legislation, I would refer you to the poetics of California Justice Jackson Temple, who in handing down the court's decision in a California water case quoted William Wordsworth's "Rob Roy's Grave:"⁵²

The good old rule
Sufficeth them, the simple plan,
That they should take who have the power,
And they should keep who can.

In this case those who favored the status quo defended state power and those who sought change championed national government planning and development. Both sides appealed to their allies who testified before Congress and worked behind the scenes to influence legislators and the public to support their positions. This issue, like many others, harks back to the differences between

⁴⁵ Ibid., pp. 15-16.

⁴⁶ Ibid., pp. 21-22.

⁴⁷ Ibid., pp. 17-19.

⁴⁸ Ibid., pp. 19-20.

⁴⁹ Ibid., p. 58.

⁵⁰ Ibid., p. 165.

⁵¹ *Congressional Record*, 88th Congress, 1st Session, 109: 22133.

⁵² *Katz v. Walkinshaw* (141 Cal. 116, 1903) and William Wordsworth, "Memorials of a Tour of Scotland, Rob Roy's Grave," *The Complete Poetical Works of William Wordsworth* (New York: Thomas Y. Crowell, 1888)

those who were satisfied with state sovereignty under the Articles of Confederation and those who sought a “more perfect union” under a new Constitution that greatly expanded power of the national government. It is highly likely that this same basic conflict will persist throughout American politics.

Postscript, 1965. The Water Resources Planning Act finally passed Congress and was signed into law by President Johnson July 22, 1965.⁵³ The passage resulted partly from Democrats increasing their strength in the 1964 election and partly from repeated bargaining between proponents and opponents. Johnson was elected to his first full term in November 1964, winning 61 percent of the popular vote (compared to 49 percent for President Kennedy in 1960), 486 of the 538 votes in the Electoral College, and carrying 44 states plus the District of Columbia. His party gained two seats in the Senate from 66 to 68, and 37 seats in the House from 258 to 295. Despite systemic forces such as separation of powers and bicameralism that make it more difficult to adopt new policies and procedures rather than keeping existing ones, the perseverance and skill of the proponents paid off. Once a leader of the opposition became clear, in this case the Council of State Government’s Interstate Conference on Water Problems, the White House and congressional leaders used their skill to reach a compromise. Neither side attained all it wanted, but each gained a bill it could accept.

⁵³ Public Law 89-90, 79 Stat. 224-254.