

IRRIGATION AND WATER QUESTION

REPORT OF EXPERT
PRESENTED IN HOUSE

The Whole Subject Dealt With
at Length by Prof.
Carpenter.

(From Wednesday's Daily.)
Yesterday afternoon in the legisla-
ture, the report on irrigation was pre-
sented. It is as follows:

Feb. 10, 1908.
To the Honorable James Dunsen,
Lieutenant-Governor of British Col-
umbia, Victoria, B. C.

Sir—In accordance with the require-
ments of the commission dated the
19th day of August, 1907, issued to Pro-
fessor Louis G. Carpenter of Fort
Collins, Colorado, and myself, empow-
ering us to inquire into the irrigation
of land in the province of British Col-
umbia, as chairman of the commission,
I have the honor to report to you as
follows:

Your commission, accompanied by
Mr. R. F. Child as secretary, left Victoria
for the interior of the province on
the 20th day of August, 1907, and
visited the following places, viz: Ash-
croft, Kamloops, Vernon, Kelowna,
Penticton, Osoyoos and Greenwood,
each place being selected as being
typical of the general condition exist-
ing in the arid belt of the province.

Arriving at Ashcroft on the after-
noon of the 21st, August we drove out
past Judge Cornwall's ranch almost
as far as the Basque Ranch, this part
of the country furnishing a good illus-
tration of the irrigable bench
the dry belt. The next day we drove
up the Bonaparte as far as Hat creek,
on the way back calling at the Domini-
on ranch owned by Mr. Semlin. From
Ashcroft we proceeded to Kamloops
and spent the afternoon inspecting the
irrigation ditch and works of the Cana-
dian Real Properties on the west side
of the North Thompson river. This
company has had a system in opera-
tion since 1904, having a ditch some
seventeen miles long intended to sup-
ply some 5,500 acres of land. The
day we drove up the South Thompson
river and round by Campbell's creek,
where a number of small holdings are
being irrigated by separate individual
ditches. On the 24th we proceeded to
Vernon and spent two days inspecting
the Earl of Aberdeen's Coldstream
ranch and the sub-divisions which
have been made there. On the 26th we
inspected the scheme of the White Valley
Irrigation and Power Company which
is intended to supply some 20,000 acres.
On the 27th, accompanied by Mr. Price
Ellison, M. P., we drove down to
Long lake to Kelowna, noting during
the drive thousands of acres of val-
uable land which are expected in the
near future to be brought under irri-
gation. The following day we drove
round Kelowna and the Mission Valley
and on to the benches above Mis-
sion creek, and had pointed out to us
the wonderful capabilities of that dis-
trict. On the 30th we took the steamer
down Okanagan lake to Penticton, and
the next day drove round inspecting the
irrigation scheme of the South Okana-
gan Land Company, which has shown
much energy and expended a very
large amount of money in developing
its scheme, and is able to show some
orchards in splendid condition. On the
following day we drove to Osoyoos ac-
companied by Mr. L. W. Shatford, M.
P., observing some 15,000 or 14,000
acres which the South Okanagan Land
Company intend shortly to bring under
ditch. When this is done what is now
sterile pasture land will become most
valuable fruit and garden land. On the
3rd September we drove along the
Similkameen where we looked over the
scheme of the Kereomes Land Com-
pany which proposes to irrigate some
6,000 acres and which had its ditch al-
ready partly constructed and a large
force of men at work. From Kereomes
we returned by way of Penticton and
Squamish to Victoria, where Professor
Carpenter spent some time in exam-
ining the system of water records and
the statutes relating thereto.

Subsequently in the month of Sep-
tember I left for Colorado, reaching
Greeley on September 23rd, where I
was joined by Professor Carpenter. We
there met a number of prominent men
who had for years been connected with,
and made a study of irrigation mat-
ters, and discussed many of the lead-
ing features in connection with the
matters we had been commissioned to
inquire into. From Greeley we drove
to Fort Collins, taking some two days
in that district, examining various ir-
rigation systems, some of which have
been in operation for years, also in
interviewing a number of practical and
experienced men in such matters. From
there we went to Denver, where we
spent a day or two interviewing irri-
gation engineers and lawyers and ex-
amining the system of State Water
Decrees. I left Denver for Victoria on
the 28th September.

The views of Professor Carpenter, in
which I fully concur, are set out at
length in his personal report submitted
herewith. I have the honor to be, sir,
your obedient servant, Chairman of
Irrigation Committee.

Expert's Report.

Professor Carpenter's report is as
follows:

In considering the present and desir-
able laws of British Columbia, I have
considered especially the laws of Colo-
rado and of the other western states
of the Union, with which I have pre-
viously been acquainted, and in addi-
tion the laws of many other countries,
especially of the various British colonies.
I have been acquainted for a good
many years with the conditions in
western United States, and have seen
the development of much of their sys-
tem, and of the development of the
laws as applicable to their condition.
From the examination of the laws of
all the countries, and a knowledge of
the general conditions, I come to the
general conviction that those of the

western United States are as a whole
the ones which best meet the general
conditions that have developed and are
likely to develop in British Columbia.
These will be discussed more at length
later in this report.

The commission visited the southern
portion of British Columbia, especially
that between the Canadian Pacific
Railway and the International Bound-
ary. This was because the problem
which has arisen in connection with
the irrigation had mostly developed in
this section. Some parts were therefore
typical of the situation which was
arising. A knowledge concerning the
other portions of the province (so far
as one member of the commission is
concerned) was obtained through var-
ious means—by conversation, by study
of reports, especially of the Canadian
Geological Survey and the interpreta-
tion of these facts by various meteor-
ological conditions. It was a great sur-
prise to find

The Mild Climate
and the great possibilities in the
growth of fruit, and especially of
wine, and the fact that the climate is
already made and the experience already
acquired show beyond question that
large areas can be devoted to the
growth of peaches and fruit of like
character, besides the harder fruits,
like apples.

Speaking generally, this portion of
the province is bounded both east and
west by high ranges of mountains, and
the extensive intermediate area with
mountain masses of much lower eleva-
tion. These are largely isolated, ex-
tending to the elevation of from 10,000
feet to 15,000 feet, generally wooded
and form sources of many small
streams. The larger streams like the
Fraser, Thompson, and the Columbia
are cut down below the elevation of
the country and are largely out of con-
sideration for use for irrigation. The
smaller streams must be the source of
water for irrigation. The land in the
low mountain masses is separated by valleys
of moderate extent, but of great fertility
when supplied by water. The land then
command a price of from \$100 to
\$200 per acre, and more, almost as soon
as water is available—an increase
which is remarkable.

The location of the land on benches
above the main streams in relatively
small tracts makes the construction of
gravity ditches on a large scale al-
most out of the question. The cost of
the excessive cost. The natural develop-
ment is by irrigation from the side
stream or by some system which will
take the water from the main stream
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Inducement For Irrigation
and is bound to develop to a very
great extent in the immediate future.
I think that everyone will agree that
it is the part of wise statesmanship
to encourage the development of these
natural resources. Of a source of
wealth that which depends upon agri-
culture is the most stable, varies least
from year to year and furnishes a pop-
ulation whose interest is always on
the side of good government and forms
an element which is always in favor of
good citizenship.

The communities which depend upon
irrigation are particularly stable and
of high character because the very
fact of irrigation reduces even such
risks as are inherent in the growth
of crops. The fact that irrigation
gives opportunities for the exercise of
skill, less upon chance, and thus
makes the returns much more certain
than in the case of crops raised under
the conditions of the open field. The
difference between such agricultural
communities and those dependent
upon mining is noticeable throughout.
The former are stable. While the latter
have brilliant periods of high pros-
perity, they also have great periods of
depression; the population is transient;
the communities are subject to great
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The resources of British Columbia
in this line are very great. Undoubt-
edly the province has some 35,000,000
acres of land at an elevation less than
two thousand feet may be turned into
productive land of high value, certainly
if water can be supplied. It may be
expected that from three to five acres
of watershed will be required to irri-
gate one acre of land, but the limit can
be put to the future development.
The casual examination of Southern
British Columbia would in-
dicate that several hundred thousand
acres might reasonably be expected to
be developed within a reasonable time.
The

Question of Development
is largely an economic one, and thus
the limit changes from year to year.
Land which cannot be developed now
under changed conditions might just-
ly develop as the tendency is for the
values of land to increase and the cost
of development to decrease—the limit
is constantly extending. More-
over, the limit which is set by the
available water supply also tends to
increase, because it is well known
that a given amount of water will
serve more land after the land has been
irrigated for a few years; this is both
because either the land has decreased
and the skill in the use of water has
increased.

It is therefore evident that British
Columbia is destined to be an exten-
sive area of irrigated land, and the
price and which will be divided into
small holdings, and thus maintain a
large population. The part of wis-
dom is to encourage the development
of this system, and to foster this develop-
ment. Up to the present time, such develop-
ment has taken place has been an
important part of the history of the
province. In that respect, it has been
typical of the experience of almost all
other commonwealths. It has reached a
point where difficulty has arisen in the
application of laws that have been
the statute books and also conflicting
interests have arisen which neither
precedent nor law has been able to
settle. This is a knowledge of the
general conditions, I come to the
general conviction that those of the

for the past few years in almost all
countries is the

Struggle Over Water:
the great growth of cities; the devel-
opment of large manufacturing indus-
tries has made necessary for water one
of the important ones.

In earlier conditions, and in a more
humid country very little question of
this character arose, but now with the
larger settlements it becomes a pri-
mary question, and has been the subject
of parliaments and courts had to meet
the question, and communities have
found it necessary to go to great ex-
pense to bring water for domestic and
manufacturing supply. Such require-
ments cannot be entirely foreseen, but
the general needs can be anticipated
and provision made for the conditions
shown by experience.

The statute laws, as well as judicial
decisions, are generally an outgrowth
of conditions, and there is a marked
growth in both to meet changing con-
ditions. Communities under the same
situation are apt to go through, per-
iods of development of much the same
character. It is because of this that
the study of the history of the water
rights in Colorado, which has gone through
stages of progress in its irrigation develop-
ment, which is the same as those of
British Columbia, is of great value.
Likewise, the study of the history of
the United States to feel the need of
special legislation; the first to feel that
the Riparian doctrine to the common
law was not applicable, and thus the
first systematic development in its at-
tempt to fit the needs of an Anglo-
Saxon community to the conditions of
the arid region. Its laws have come in
steps as the needs have been recognis-
ed; its development has been made
much more extensive than other states,
and the conditions of the arid region
of progress. Other states have follow-
ed the same path, have in some cases
avoided the difficulties which experi-
ence had shown in Colorado, but as a
whole have gone through the same
stages.

Periods of Development.
The application to the present case is,
not in recommending their laws as laws
to be followed, but by being instruc-
tive instances of progress of develop-
ment, and the conditions which have
most often been met. The study of the
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The individual period of develop-
ment is the first, where individuals are
struck with a desire to take up agri-
culture and choose the land which can
be irrigated, that is, on the small streams
or large falls where short ditches can
be made. The next stage is where the
individual effort or with the help of
only a few. This is prior to the time
when capital is available.

After a time the locations which
can be irrigated are largely taken up and
it is realized that more extensive enter-
prises are necessary. This means large
areas of land and large capital, and either
the co-operation of owners of a large
tract, or the construction of a canal by
combined capital; thus it may be either
a co-operative enterprise on a large
scale, or a ditch built as an investment.
In Colorado, the first of the co-opera-
tive ditches were built about 1871, and
the ditch by the investment of capital
about 1875.

The settlement of the country and
the greater pressure on the water sup-
ply. The comes the period when the
current water supply is insufficient. Farm-
ers are forced to look for a large part
of the year. They realized that potatoes
were a profitable crop, forced the com-
munity action, the first reservoir, and
when it was found that the profits were
greater than the cost, the community
brought an immediate demand for a
large increase, thus within a dozen
miles of Fort Collins the farmers have
themselves invested some \$3,000,000
or more in the construction of reservoirs.
It has also revealed the fact that many
supplies of water which were consid-
ered small and negligible are of great
value when collected in reservoirs.

The Consolidation Period
is one which has yet been developed
out of the history of Colorado, but I think
the tendency, however, is evident. The
occasion arises from the fact that during
the construction of the early enterprises,
the protectors had only a small
amount of capital, and the enterprises
were limited often and built a ditch
whose cost would be within their
means. Perhaps they built a ditch to
cover as much land as they thought
would ever be used, but with the de-
velopment of the country someone else
found it profitable to build another
ditch that would parallel the first and
cover a large amount of land; then
probably comes a third enterprise, and
maybe a fourth, paralleling each other,
duplicating their management; often
two or more ditches supply water for
the same tract, and thus proving an
economic waste. Even after this
comes evident that economy would re-
sult in the combination of these ditches
to supply the same land, local jealousies
often prevented the consideration of
such a question. Such considerations
are not entirely effective, but in the
tendencies are manifest, and I an-
ticipate before many years that many
of these ditches now parallel will unite
in general basins, and the work of
co-operation so that water may be
run through the ditch best prepared to
supply a given tract of land. The de-
velopment which takes place in the
construction of the natural outgrowth of
the situation and comes mostly from
a realization of the community of in-
terest.

These periods are such as are being
passed through in British Columbia.
The condition of the province has
made the first stage at present the
principal one. The physical conditions
of the province have been such that
the large canals out of the question
but would render experienced enter-
prises necessary. The construction

of reservoirs is already upon you; the
water with low supplies of water in
summer, a time when the needs of
fruit call for an available supply and
the great value of the fruit crops force
this condition with added emphasis.
While the above give the steps in
the development of the law, the laws
themselves may be divided into differ-
ent classes.

The first class may be considered
those which have to do with determin-
ing the right to water. In Colorado
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store any flood, or excess water, and
in defining the limit of their rights.
It was originally stated that they had
no right to store during the irrigation
season, and consequently that the right
of canals was superior to the right of
storage. In the course of years con-
ditions changed. The importance of
reservoirs has been increasingly evi-
dent, and there is a tendency more es-
pecially noticeable in court decisions to
recognize the right of a reservoir to
store at any time. The recognition of
ditches as having superior rights to
reservoirs resulted in placing even of
recent date prior to reservoirs that
have been built many years, and as
with the development of the state, the
reservoirs are producing more public
wealth by raising higher priced crops,
it has been increasingly felt that their
prior rights should be respected.

This doctrine is not as yet fully de-
veloped, but the tendency, I think, is
unmistakable.

The right of a reservoir to use a por-
tion of the bed of a stream as a reser-
voir was largely recognized in a court
decision.

Right to Carry Water
In a stream from a reservoir to the
head gate of a canal was first an out-
growth of practice and subsequently
incorporated in statute.

The right to condemn land for reser-
voir purposes has always existed, on
the same footing as the right to con-
demn land for ditch purposes.

There has also developed an import-
ant right of exchange water. Some-
times a canal having an early right of
record to the running water of the
stream has been situated down stream.
They might not need water at all times,
but the right to carry water, and as
primary, the reservoirs above would be
prevented from storing. Newer canals
nearly all start further up the streams.
They could build reservoirs, and fill
them through their ditch. By then us-
ing reservoir water to compensate the
ditches with earlier rights below, the
upper ditches could take water from
the main stream in exchange. This
has led to an elaborate system of ex-
change, so that in some cases the up-
per ditches obtain water at their head-
gate which is the result of some ex-
changes.

Several of these rights, and especial-
ly the last one, are instances of de-
velopment to meet local conditions. A
few years ago they might not have
been considered. The law in regard to
the practice has developed in some
communities by common consent, in
order to meet the situation which many
felt was necessary, and subsequently
has been incorporated in statute. These
are illustrations of the point I
above mentioned, that the law will to
a great extent develop to meet the con-
ditions.

A number of other laws have de-
veloped because of the necessity to
protect the rights of others. These are
essentially such as to see that the
reservoirs do not store water so as
to infringe on the rights of others, and
to see that the reservoirs do not take
advantage of their position of their in-
accessibility to capture water as it goes
by at the expense of others. Some
reservoirs have been prone to do this
when the stream ran through their
basin. The state engineer may put in
measuring head-gates, may require
gauge rods, and may cause a survey
to be made of the capacity of the reser-
voir at the expense of the owners
when the reservoirs are a natural
stream.

There is a constant tendency to
recognize the increasing importance of
reservoirs and their value. It has been
found, as a matter of experience, that
many insignificant streams of water
become of importance when stored.
While the public and the courts have
been slow to prevent any encroach-
ment on the rights of others, it is now
recognized that a

Canal May Store Water
which has been used previously in
direct irrigation. This is a recognition
of the general right to do almost any-
thing that does not conflict with the
rights of others.

Practically the difficulty in this is
that the amount of water which has
been previously used has been so poorly
defined and the right to appropriate
water is so general, that the result has
often been unjust.

A fourth class of laws is of more
recent development. These are the
ones relating to water districts, and
modelled essentially on the Australian
law. In effect it gives the community
authority to organize a municipal or-
ganization, and power to construct or
buy irrigation works for the benefit
of the whole area, to contract in-
debtedness and to raise the cost of
taxation. One of the principal benefits
at present is that the land of a com-
munity can join together, and often
may be combined in joint work
which would otherwise be almost im-
possible. There has been in some
cases evidence of a tendency for dis-
tricts of this character to be formed
to purchase existing works. In most
cases this has been so far to purchase
reservoirs to supplement a supply
which they already possessed.

Besides the laws mentioned in the
above classes there have been in-
numerable laws and decisions which
scarcely fall into any general class,
and are not of particular importance,
so far as indicating the development
of the system. For instance, such
laws as determine the method of the
payment of the water commissioners,
or the mode of raising the cost of
taxation, and many others, which are
matters of minor detail and prac-
tically give a rule of action.

The summary given above, of Colo-
rado laws, is rather to illustrate the
development, not to carry the idea
that they are perfect. Some mater-
ial defects have been evident, but as
a whole her system of laws has been
recognized as one of the most perfect,
because it has fitted the conditions.
Senator Stewart, of Nevada, spoke of
them as being the most perfect of any
system.

One of the most serious defects in
the Establishment of Decrees,
corresponding to the record of British
Columbia. This largely arose from
the lack of knowledge of water and
ignorance of terms, especially those
relating to measurements at a time
when water rights were determined.
This led to excessive grants which
have been a source of most serious

troubles which have arisen, and trou-
bles are not yet ended. This condition
has become a serious one, and while a
corresponding situation has developed
in British Columbia, it is much easier
to rectify. The difficulties would have
been lessened or possibly entirely pre-
vented had the state been represented
with a qualified engineer, or had the
hearing been before someone acquaint-
ed with water conditions.

A second defect has arisen from the
fact of continuity of service of water
officers, therefore, there has been no
cumulative experience for the benefit
of the public. All subordinate officers
have been appointed for a short time.
Experience in water matters has
not been a necessary qualification, and
the result is that there has been a
constant change of officers. Each offi-
cer has had to practically learn the
duties of his position and come in con-
tact with troubles without the aid of
the experience of his predecessor; hence
it is that some districts are more ad-
vanced than they were 20 years ago.

Other districts are now meeting prob-
lems that other regions of the state
solved to their satisfaction many years
since. At very great progress has been
made, but it is almost certain that the
have been provided for.

As a consequence of the system of
appropriation and decrees already
mentioned, there has been a very
serious over appropriation of streams.
When in addition to this, there has
been recognized a right to transfer wa-
ter from one canal to another, a very
serious situation has developed, espe-
cially from the indefiniteness of the
former records, and the difficulty of
determining the amount to which a claim-
ant should justly be entitled. We may
for instance, have had a record of five
cubic feet per second, but have applied
it to an area of land that might not
have needed more than two or three.
When transferred to another canal, the
physical limitations are removed, and
in court procedure it has been diffi-
cult to establish limitations which
have been otherwise fixed by the phys-
ical situation. The excess decrees in
themselves would not be so bad in
many cases if the transfers were not
admitted, or the transfers would not
be so bad were it not for the excess
decrees. The combination of the two,
however, has revealed a weakness that
is the subject of much irritation, and
must lead to some move to remedy.

The law in regard to decrees or re-
cords provides that after the decree of
the court has been rendered that no
appeal can be made unless entered
within four years. Inasmuch as the
justice is not generally known, and
it is long after that time the decrees
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