

In this connection attention may be called to the necessity of stringent provisions to compel the proper registration, within a limited time, of water rights by individuals or companies going into irrigation enterprises. A neglect of this precaution has caused no end of litigation in the State of Colorado.

Whether irrigation be left to private enterprise or be made the subject of Government control, there is one important preliminary principal which should without delay be established, without the recognition of which no comprehensive scheme can be carried on. This principal is, that water is the property of the public. I venture to quote on this point from the legislation of the State of Colorado concerning irrigation:

"Sec. 5. The water of every natural stream not heretofore appropriated within the State of Colorado is hereby declared to be the property of the public, and is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

"Sec. 6. The right to divert unappropriated waters of any natural stream for beneficial uses shall never be denied. Priority of application shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the services of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have the preference over those using the same for manufacturing purposes."

This principal is opposed to English law, and may at first appear repugnant as calculated to interfere with private rights. It appears to have aroused considerable opposition in Colorado when first established, but those who were formerly its bitterest opponents are now found ready to confess its wisdom and the advantages it has resulted in. When it is remembered that in our Mining Regulations we adopt practically the same principal the novelty of it disappears. At present there are few vested interests to be interfered with, and no time is more favorable for passing the necessary legislation than the present. Where any private rights to water can be shown to have been acquired previous to the legislation in question, it will be possible to deal with them by means of expropriation should occasion require.

To avoid the round-about process which expropriation entails, the Government might consider the advisability of reserving a right of way for the construction of irrigation canals and other works when granting patents for land in the districts where irrigation may be necessary or advantageous; otherwise it may be possible for selfish land-owners to delay works of great public benefit. It is the custom of the Government to reserve right of way for railway purposes and also for stock-watering purposes when issuing patents, and a reservation such as now suggested cannot therefore be regarded as unusual or arbitrary.